

*Article 13. Participation of society*

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

- (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
- (b) Ensuring that the public has effective access to information;
- (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;
- (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to such restrictions as shall only be such as are provided for in law.

## **CIVIL SOCIETY REPORT**

on the Implementation of

Chapter II (Prevention) & Chapter V (Asset Recovery) of the

## **UNITED NATIONS CONVENTION AGAINST CORRUPTION**

## **IN CAMBODIA**

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by Transparency International Cambodia

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The findings of this report are those of the author and do not necessarily reflect the views of the UNCAC Coalition and the donors who have made this report possible.

Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of 31 July 2021.

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*Transparency International Cambodia is a National Chapter of Transparency International, the global civil society organisation leading the fight against corruption in over 100 countries. In collaboration with the government, the private sector and civil society, we raise awareness about the negative consequences of corruption in Cambodia and work to design and implement effective measures to combat it.*

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## **Abbreviations**

ACI	Anti-Corruption Institution
ACU	Anti-Corruption Unit
AML	Anti-Money Laundering
AML Law	Law on Anti-Money Laundering and Combatting the Financing of Terrorism
Anti-Corruption Law	Law on Anti-Corruption
ASEAN	Association of Southeast Asian Nations
CAFIU	Cambodian Financial Intelligence Unit
CFT	Combatting the Financing of Terrorism
Civil Service Law	Law on Common Statute of Civil Servants
CSO	Civil Society Organisation
FATF	Financial Action Task Force
Judiciary and Prosecution Law	Law on the Status of Judges and Prosecutors of the Kingdom of Cambodia
MLA Law	Law on Mutual Legal Assistance in Criminal Sector
NAA	National Audit Authority
National Strategy	National Strategy for Combatting Money Laundering and Financing of Terrorism (2019-2023)
NCAC	National Council against Corruption
NGO	Non-Governmental Organisation
NRA	National Risk Assessment
PEP	Politically Exposed Person
Political Parties Law	Law on Political Parties
Public Finance Law	Law on Public Finance System
Regional Anti-Corruption Plan	Anti-Corruption Action Plan for Asia and the Pacific
RGC	Royal Government of Cambodia
RSA	Royal School of Administration
STR	Suspicious Transaction Report
TI	Transparency International
UNCAC	United Nations Convention against Corruption

## **I. Introduction**

Cambodia became a party to the United Nations Convention against Corruption (UNCAC) on 5 September 2007 (accession date).

This report reviews Cambodia's implementation of selected articles of Chapter II (preventive measures) and Chapter V (asset recovery) of the UNCAC. The report is intended as a contribution to the UNCAC implementation review process currently underway covering these chapters. Cambodia was selected by the UNCAC Implementation Review Group by a drawing of lots for review in the third year of the second cycle, meaning the peer review was originally scheduled to start in 2018.

**Scope.** The UNCAC articles and topics that receive particular attention in this report are those covering preventive anti-corruption policies and practices (Article 5), preventive anti-corruption bodies (Article 6), public sector employment (Article 7.1), codes of conduct, conflicts of interest and asset declarations (Articles 7, 8 and 12), reporting mechanisms and whistleblower protection (Articles 8.4 and 13.2), political financing (Article 7.3), public procurement (Article 9.1), the management of public finances (Article 9), judiciary and prosecution service (Article 11), private sector transparency (Article 12), access to information and the participation of society (Articles 10 and 13.1), and measures to prevent money laundering (Art. 14). Under Chapter V, the UNCAC articles and topics addressed in this report are those covering anti-money laundering (Articles 52 and 58), measures for the direct recovery of property (Articles 53 and 56), confiscation tools (Article 54), international cooperation for the purpose of confiscation (Articles 51, 54, 55, 56 and 59) and the return and disposal of confiscated property (Article 57).

**Structure.** The report begins with an executive summary, including the condensed findings, conclusions and recommendations about the review process, the availability of information, as well as the implementation and enforcement of selected UNCAC articles. The following part covers the findings of the review process in Cambodia as well as access to information issues in more detail. Subsequently, the implementation of the Convention is reviewed and examples of good practices and deficiencies are provided. Then, recent developments are discussed and lastly, recommendations for priority actions to improve the implementation of the UNCAC are given.

**Methodology.** The report was prepared by Lemarque Campbell (International Anti-Corruption Consultant) for Transparency International Cambodia with technical and financial support from the UNCAC Coalition and the Swedish International Development Cooperation Agency (Sida). The author and Transparency International Cambodia made efforts to obtain information for the report from government offices and to engage in dialogue with government officials.

The report was prepared using guidelines and a report template designed by the UNCAC Coalition and Transparency International for use by CSOs. These tools reflected but simplified the United Nations Office on Drugs and Crime (UNODC) checklist and called for relatively short assessments as compared to the detailed official self-assessment checklist. The report template included a set of questions

about the review process and, in the section on implementation, asked for examples of good practice and areas in need of improvement in articles of UNCAC Chapter II on prevention and Chapter V on asset recovery.

### **Description of the Process**

This report reviews Cambodia's implementation of selected articles of Chapter II (preventive measures) and Chapter V (asset recovery) of the UNCAC. The report is intended as a contribution to the UNCAC implementation review process currently underway covering these chapters. To gain input for the UNCAC review process, the Royal Government of Cambodia consulted with various stakeholders, including anti-corruption and access to information civil society organisations (CSOs); CSOs working on other issues; academia; and private sector representatives. Consultation sessions consisted of a one-hour meeting between CSO representatives and the official reviewers, and separate one-hour meetings between the private sector representatives and the official reviewers. The country visit by reviewers from Thailand and Eswatini took place from 30 October 2019 to 1 November 2019. Unfortunately, Cambodia's self-assessment checklist has not been published online or provided to civil society to-date.

### **Availability of Information**

For this report, most information was obtained from secondary sources available online, e.g., reports from the media, international organisations, CSOs and foreign governments. It was relatively easy to access online versions of relevant laws and regulations in both English and the Khmer language. To obtain further data and information for this report, formal requests for interviews were sent to eight government entities and four civil society representatives. Of the requests made, two civil society representatives and officials representing five government institutions accepted the invitation for an interview; whereas the Cambodia Financial Intelligence Unit (CAFIU) opted for giving written responses to a questionnaire that was provided to them. Government officials from the following public sector entities were interviewed for this report: the National Audit Authority; the Anti-Corruption Unit; the Ministry of Justice; the General Department of Economic and Public Finance Policy of the Ministry of Economy and Finance; and the General Department of Public Procurement of the Ministry of Economy and Finance. Unfortunately, there were difficulties obtaining relevant statistical data for this report. Cambodia does not have access to information legislation, which creates obstacles for the public to access information concerning the implementation of the UNCAC at the national level.

## **II. Executive Summary**

This civil society report aims to identify Cambodia's progress in implementing Chapters II on Preventive Measures and V on Asset Recovery of the United Nations Convention against Corruption from a practical perspective. This executive summary presents key messages for each chapter, which are not intended to be exhaustive but rather to identify the points that are considered as crucial - from the perspective of civil society - to achieve significant progress in achieving compliance with the Convention.

Cambodia has enacted a comprehensive anti-corruption legislation (the **Anti-Corruption Law**), and has developed three National Anti-Corruption Strategic Plans, along with other anti-corruption policies. However, enforcement of the Anti-Corruption Law remains weak; some observers have expressed concerns that the law is enforced in a discriminatory manner. There is no evidence to suggest that a transparent and meaningful formal consultation process to involve non-governmental stakeholders in the development of anti-corruption policies and practices has taken place. Key anti-corruption documents are not accessible to the public.

The Anti-Corruption Law established an **Anti-Corruption Institution (the ACI)**, which consists of the Anti-Corruption Unit (ACU), which is tasked with implementing measures of the law, and a National Council against Corruption (NCAC), which serves as an advisory body. In practice, while the ACU has tackled issues including ghost workers – inexistent government employees that were on the payroll – it has rarely investigated a high-level member of the ruling party, despite widespread allegations of corruption at senior levels of government. Observers describe the ACU as essentially being a public relations unit for the government that has been politically captured, lacking the power and independence to tackle high-level corruption, and being used as a political tool to eliminate rivals including those within the ruling party. The ACI is not accountable to the parliament and the public and its independence is not ensured, as its leadership is appointed by a royal decree at the request of the prime minister.

Cambodia's Civil Service Law, passed in 1994, established important provisions regarding the **employment of civil servants**, including, on standards for recruiting and promoting civil servants. However, reports suggest that corruption continues to be a challenge within the civil service, where appointments to the central bureaucracy are often made on political party lines and are generally immune to the rule of law. In practice, public sector positions are advertised and anyone can apply. However, those who actually get jobs reportedly often have friendships or familial ties to the senior staff in the affiliated ministry. Bribery is also a common way to gain access to appointments and promotions.

In law, public **funding of political parties** is awarded in a fair and transparent manner, detailing how state subsidies for political parties are calculated and awarded. State-controlled entities are prohibited from making financial or in-kind contributions to political parties, political candidates and election campaigns. Foreign donations to

political parties are banned. Political parties are required to keep records of all their revenue and expenditures.

However, political donations are inadequately regulated: there is neither a legal definition of what constitutes a donation nor a limit on contributions donors can make to political parties and candidates. There is no explicit ban of anonymous donations to political parties. Also missing are provisions guaranteeing public access to the financial reports of political parties and politically independent oversight of political financing. Furthermore, there is widespread misuse of state resources to support political campaigns.

Certain **senior public officials are required to declare details regarding their assets and liabilities** to the ACU in line with Chapter 4 of the Anti-Corruption Law. However, the law does not address the verification of asset declarations. The ACU claims that the compliance rate for the asset declaration system in Cambodia is almost 99.9% – these compliance numbers cannot, however, be verified by the public because asset declarations are kept highly confidential and remain sealed unless allegations of corruption are filed. Direct family members of public officials are not covered by the declaration requirements, raising concerns that the declarations may not provide a comprehensive picture of the assets held by officials and their families. Furthermore, declaration requirements have large gaps, undermining their use in detecting and prosecuting illicit enrichment. Only very few asset declarations forms have ever been unsealed.

A first **draft of a code of conduct for public officials** was developed by the ACU in 2018, but has yet to be finalised.

Cambodia **lacks a comprehensive whistleblower law**. While a limited reporting mechanism and whistleblower protection is stipulated in the Anti-Corruption Law, there is no available evidence to suggest that whistleblowers are adequately protected in practice in Cambodia. Protected disclosures and persons afforded protection are not clearly defined in the Anti-Corruption Law. There are no specified measures in place to include physical protection as well as protection from workplace or other retaliation. A provision in the Anti-Corruption Law that criminalises malicious or false reports on possible corruption cases and threatens up to six months of imprisonment and significant fines deters and endangers whistleblowers. Furthermore, there are no reporting obligations in place for civil servants and public officials who have knowledge of a corruption offence.

The Law on **Public Procurement** of 2012 has provided a foundational framework for State contracting. While procurement rules and practices may have improved over the years, the sector is still prone to corruption and malpractice, especially involving large scale projects, contracts and licenses. While the law does not require the public dissemination of procurement decisions, in practice those are often made public. Concerns remain about the independence of procurement committees and a lack of independent oversight of their work.

Due to the lack of a registry of contracts and procurement data, public monitoring of State contracts and purchases and compliance with the legal framework is not possible. Companies are not required to list their shareholders and beneficial owners when submitting a proposal for a tender.

While Cambodia has made efforts to increase **availability of budget information**, public participation and budget oversight by the legislature and the auditing institution remain weak.

Cambodia has no **access to information legislation** to guarantee public access to information held by Cambodian government bodies and to ensure transparency within the public administration. Furthermore, severe limitations on freedom of expression in Cambodia result in a restrictive environment that is not conducive for public discussions of corruption, the damages it causes and possible ways to tackle it.

The **independence of the judiciary** is guaranteed by the constitution and statute. Judges and prosecutors are mandated to abide by their respective Code of Ethics and the law establishes disciplinary measures for judges and prosecutors who show “contempt to honour, good morals and dignity.” Both judges and prosecutors are required to declare their assets.

In practice, the judiciary is widely seen as lacking independence, incompetent, and closely connected to the ruling party. The judiciary is regarded as one of the most corrupt public institutions in Cambodia. Accountability of members of the judiciary for violations of the ethics code is almost non-existent; disciplinary measures for judges and prosecutors are rarely enforced in practice.

The existing legal framework provides a relatively favourable environment for the creation and running of businesses. However, no information on the ownership structure of a business or how the business is controlled is required when registering a new business in Cambodia. Similarly, there is **no regulation in place that requires companies to report information on their beneficial ownership**. It has been reported that the seeking and offering of bribes is commonplace in the business sector.

In 2020, Cambodia improved its **anti-money laundering (AML) framework** to address the money-laundering risks identified in the country. Although the adoption of the AML laws and the creation of various government bodies responsible for implementing the laws represent a step forward, significant challenges remain.

Cambodia since 2019 has been on the list of jurisdictions under increased monitoring (the “grey list”) of the Financial Action Task Force (FATF).<sup>1</sup> The government in response has made a high-level political commitment to strengthen the effectiveness

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<sup>1</sup> Financial Action Task Force, 2021, Jurisdictions under Increased Monitoring: <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-february-2021.html>, accessed on 20.04.2021.

of its AML/CFT regime.<sup>2</sup> Until 2016, not a single case of money laundering had been prosecuted. A report from October 2020 suggests that Cambodia investigated 140 money laundering cases as of June 2020, 22 cases were sent to court, and five have gone to trial.<sup>3</sup> However, these cases involve only Chinese nationals bringing cash into Cambodia through airports. According to the information that is available to the public, Cambodia has never investigated possible cases of money laundering involving Cambodian nationals although such cases have been widely covered by international media.

The **Law on Mutual Legal Assistance** in Criminal Sector was promulgated in June 2020, stipulating the requirements and procedures for Cambodian authorities to process legal assistance requests in criminal matters from other nations. There is no publicly available information regarding completed and ongoing **asset recovery** efforts related to proceeds of corruption in Cambodia that have an international element. The AML Law provides for non-conviction based confiscation of assets and confiscation of assets where the predicate offences are committed abroad. In practice, there is limited freezing and confiscation of criminal proceeds, instrumentalities, and property of equivalent value being undertaken.

The Law on Mutual Legal Assistance also provides the Cambodian courts with the discretion to allow for assistance to be made in the repatriation of confiscated assets to foreign requesting jurisdictions. There is no mechanism in place for the return and disposal of confiscated property, and Cambodia has not yet repatriated confiscated assets to a foreign jurisdiction.<sup>4</sup>

## Implementation in Law and in Practice

**TABLE 1: Implementation and enforcement summary**

<b>UNCAC articles</b>	<b>Status of implementation in law</b>	<b>Status of implementation and enforcement in practice</b>
<b>Art. 5</b> – Preventive anti-corruption policies and practices	<b>largely implemented</b>	<b>poor</b>
<b>Art. 6</b> – Preventive anti-corruption body or bodies	<b>fully implemented</b>	<b>poor</b>

<sup>2</sup> Ibid.

<sup>3</sup> The Phnom Penh Post, 2020, Cambodia cracks down on money laundering, 2020: <https://www.phnompenhpost.com/national/cambodia-cracks-down-money-laundering>, accessed on 27.08.21

<sup>4</sup> The Asia/Pacific Group on Money Laundering (APG), 2017, Anti-Money Laundering and Counter-Terrorist Financing Measures - Cambodia Mutual Evaluation Report: <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/Cambodia%20MER%202017%20%20published%20version.pdf>, accessed on 02.04.2021.

<b>Art. 7.1</b> – Public sector employment	<b>largely implemented</b>	<b>poor</b>
<b>Art. 7.3</b> – Political financing	<b>partially implemented</b>	<b>poor</b>
<b>Art. 7, 8 and 12</b> – Codes of conduct, conflicts of interest and asset declarations	<b>partially implemented</b>	<b>poor</b>
<b>Art. 8.4 and 13.2</b> – Reporting mechanism and whistleblower protection	<b>partially implemented</b>	<b>poor</b>
<b>Art. 9.1</b> – Public procurement	<b>largely implemented</b>	<b>moderate</b>
<b>Art. 9.2</b> – Management of public finances	<b>largely implemented</b>	<b>moderate</b>
<b>Art. 10 and 13.1</b> – Access to information and the participation of society	<b>not implemented</b>	<b>poor</b>
<b>Art. 11</b> – Judiciary and prosecution services	<b>largely implemented</b>	<b>poor</b>
<b>Art. 12</b> – Private sector transparency	<b>partially implemented</b>	<b>poor</b>
<b>Art. 14</b> – Measures to prevent money-laundering	<b>largely implemented</b>	<b>poor</b>
<b>Art. 52 and 58</b> – Anti-money laundering	<b>largely implemented</b> (See responses above)	<b>poor</b> (See responses above)
<b>Art. 53 and 56</b> – Measures for direct recovery of property	<b>largely implemented</b>	
<b>Art. 54</b> – Confiscation tools	<b>largely implemented</b>	<b>poor</b>
<b>Art. 51, 54, 55, 56 and 59</b> – International cooperation for the purpose of confiscation	(See responses below)	(See responses below)
<b>Art. 57</b> – The return and disposal of confiscated property	<b>fully implemented</b>	<b>poor</b>

**TABLE 2: Performance of selected key institutions**

<b>Name of institution</b>	<b>Performance in relation to responsibilities covered by the report</b>	<b>Brief comment on performance</b>
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Anti-Corruption Institution (ACI), which comprises of the National Council against Corruption (NCAC) and the Anti-Corruption Unit (ACU)	<b>poor</b>	Independence of the ACI is questionable – its leadership appointed at the request of the prime minister; ACI is not accountable to parliament or the public. Concerns that the ACU is used as a political tool to investigate corruption matters against those who oppose the political elite.
The General Department of Public Procurement	<b>moderate</b>	Positive steps in implementing the Public Procurement Law; some transparency in the procurement process; Concerns about independence of procurement committees.
General Department of Economic and Public Finance Policy	<b>good</b>	Significant steps to increase budget transparency and the release of national financial reports; department also maintains a user-friendly website.
The Judiciary	<b>poor</b>	Widespread reports of a lack of integrity in the judiciary; understaffed, lacks qualified resources; receives insufficient financing, leading to widespread corruption.
Cambodia Financial Intelligence Unit (CAFIU)	<b>moderate</b>	CAFIU indicated that the CAFIU has adequate financial resources and independent decision-making authority. It has been reported that the capacity of the CAFIU to produce financial intelligence for competent authorities remains limited.

## Recommendations for Priority Actions

1. Strengthen the independence and accountability of the Anti-Corruption Unit: Amend article 13 of the Anti-Corruption Law to ensure that the Chairperson of the ACU presents its annual activity and financial reports to parliament, and that the reports are made publicly available in the following fiscal year; adopt a measure to ensure that the chairperson and vice-chairperson of the ACU are appointed by an open and competitive recruitment process, involving the input of civil society.
2. Facilitate inclusive anti-corruption efforts: Establish a transparent formalised public consultation process for the development of national anti-corruption policies and practices, and report to the public about such consultations and any public input considered.
3. Promote transparency of anti-corruption efforts:

- 1) Ensure that the National Anti-Corruption Strategic Plan (2020-2025) is made widely accessible to the public via the ACU's website;
  - 2) Increase the collection and publication of relevant data and statistics to provide the public with evidence of how legal provisions regarding anti-corruption, AML and the asset recovery of proceeds of corruption, are being implemented and enforced in practice.
4. Strengthen integrity in public hiring: Improve the rules and procedures to address conflicts of interest in the hiring process for public sector jobs, for example, through declaration of impartiality and absence of conflict of interest by the recruitment committee members, disclosure of specific scoring criteria for the evaluation of the applicants' qualification, and prohibition of family members from working in the same department/unit.
  5. Improve transparency and effective oversight of political financing: Disclose the financial reports of political parties to the public; adopt regulations on campaign spending by political parties, close regulatory loopholes that create numerous deficiencies in the political financing laws; establish and impose sanctions for violating political financing laws, including the use of state resources to finance activity of political parties' campaigns.
  6. Improve the asset declaration regime: Publish at least a summary of asset declarations submitted by public officials, especially for those with high discretionary powers, i.e., politicians; develop a process for the verification of asset declarations, with information on this process also being publicly accessible, as well as a set of proportionate and deterrent sanctions to ensure compliance. Address loopholes and regulatory gaps in the asset declaration regime.
  7. Advance protection of whistleblowers: Expand the whistleblower regime with provisions to provide for adequate protection for whistleblowers, in line with international best practice, and anonymous reporting of corruption through clearly defined channels; revise existing sanctions that may deter whistleblowers.
  8. Improve company ownership transparency:
    - 1) Develop a centralised Beneficial Ownership Register with a requirement that adequate and structured data on the ultimate owners of all legal entities in Cambodia be compiled and publicised on a free, searchable online database.
    - 2) Ensure free online public access to the company registry, including information on the directors and direct owners of companies;
    - 3) Require private entities to report their shareholders and beneficial owners when submitting a proposal for tender during public procurement processes.
  9. Advance transparency in public procurement: Publicly disclose the names of all private entities that have been blacklisted for public procurement

processes; require that procurement decisions and information on all stages of the procurement process be made public in easily accessible formats, including through web portals; enhance state oversight and public monitoring on the services or products delivered by the contractors.

10. Promote public access to information: Adopt and implement legislation, policies and practices to allow members of the public to obtain information on the organisation, functioning and decision-making process of public administration in Cambodia; enact and implement effective access to information legislation that meets international best standards.
11. Advance integrity in the judiciary: Ensure that the judiciary is accountable to a completely independent body and that any ethics violations within the judiciary can be reported and are investigated, addressed and sanctioned.
12. Strengthen anti-money laundering efforts:
  - 1) Continue to strengthen the operational independence and capacity of the Cambodian Financial Intelligence Unit;
  - 2) Enhance the dissemination of financial intelligence to law enforcement authorities in line with high-risk crimes;
  - 3) Enhance the AML oversight of non-financial sectors in Cambodia, most notably the gambling and real estate industries;
  - 4) Increase awareness among the private sector regarding new obligations concerning targeted financial sanctions related to proliferation financing and enhancing the understanding of sanctions evasion.

### III. Assessment of Review Process for Cambodia

#### Report on the Review Process

**TABLE 3: Transparency of the government and CSO participation in the UNCAC review process**

Did the government disclose information about the country focal point?	yes	The information can be found on the UNODC website.
Was the review schedule published somewhere/publicly known?	no	
Was civil society consulted in the preparation of the self-assessment?	yes	<p>The following representatives were consulted:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Anti-corruption and access to information CSOs</li> <li><input checked="" type="checkbox"/> CSOs working on other issues</li> <li><input checked="" type="checkbox"/> Academia</li> <li><input type="checkbox"/> Trade unions</li> <li><input type="checkbox"/> Other:</li> </ul> <p>In an interview with H.E Yonn Sinat, Vice-President of Cambodia Anti-Corruption Unit (ACU) and UNCAC Implementation Review Coordinator, he indicated that:<sup>5</sup></p> <p>“Consultation with civil society was an open process. The government established a leading committee to complete the self-assessment checklist of UNCAC implementation in Cambodia. The leading committee was headed by the ACU president, and consisted of different stakeholders from the relevant ministries, representatives from the National Assembly, the civil society – including Transparency International Cambodia’s director, academia, media representatives, and representatives from the private sector. So, it’s a very open and inclusive process to ensure that the self-assessment reflects the input from the various stakeholders, which could only make the self-assessment checklist better. The relevant stakeholders in the leading committee were also</p>

<sup>5</sup> Interview with H.E Yonn Sinat, Vice-President of Cambodia’s Anti-Corruption Unit (ACU) and UNCAC Implementation Review Coordinator, via Zoom, 09.06.2021.

		given the opportunity to provide input to the external reviewers, during the in-country visit.”
Was the self-assessment checklist published online or provided to civil society?	no	
Did the government agree to a country visit?	yes	
Was a country visit undertaken?	yes	The country visit by reviewers from Thailand and Eswatini took place from 30 October to 01 November 2019.
Was civil society invited to provide input to the official reviewers?	yes	<p>Representatives from the following were invited to provide input to the official reviewers:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Anti-corruption and access to information CSOs</li> <li><input checked="" type="checkbox"/> CSOs working on other issues</li> <li><input type="checkbox"/> Academia</li> <li><input type="checkbox"/> Trade unions</li> <li><input type="checkbox"/> Other:</li> </ul> <p>The following organisations were invited:</p> <ul style="list-style-type: none"> <li>○ Transparency International Cambodia</li> <li>○ Club of Cambodian Journalists</li> <li>○ Advocacy and Policy Institute</li> <li>○ Cooperation Committee for Cambodia</li> </ul> <p>The input consisted of a one-hour meeting arranged between representatives from CSOs and the official reviewers which focused on the review of Chapter II of UNCAC.</p>
Was the private sector invited to provide input to the official reviewers?	yes	<p>The following private sector representatives were invited to provide input to the official reviewers:</p> <ul style="list-style-type: none"> <li>○ Cambodia Beverage Company (Coca-Cola)</li> <li>○ Canadia Bank Cambodia</li> </ul> <p>Each private entity was invited to a one-hour session with the official reviewers and other Cambodian government agencies in order to review specific article(s) of the Convention. For instance, Cambodia Beverage Company and Canadia Bank Cambodia were involved in the review of Article 12 and Articles 14, 52 and 58 respectively.</p>

Has the government committed to publishing the full country report?	unknown	
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## Access to Information

For this report, the author obtained most information from secondary sources posted online, e.g., reports from media, international organisations, CSOs and foreign governments. It was also relatively easy to access copies of relevant laws and regulations in both English and the Khmer language, as these were also online.

Cambodia's most updated anti-corruption strategy, the National Anti-Corruption Strategic Plan (2020-2025), issued by Cambodia's National Council against Corruption in 2020, is unfortunately not published online. However, Cambodia's Anti-Corruption Unit was generous enough to provide the author with a copy of the plan upon request.

To obtain further data and to confirm existing information for this report, formal requests for interviews were sent to eight government entities and four civil society representatives. Out of the 12 requests made, two civil society representatives, and officials representing five government institutions accepted the invitation for an interview; whereas the Cambodia Financial Intelligence Unit (CAFIU) opted to providing written responses to a questionnaire that was sent to them. Representatives from the following institutions agreed to an interview: National Audit Authority, Anti-Corruption Unit, Ministry of Justice, and Ministry of Economy and Finance. More specific information on the persons consulted can be found in the annex of this report.

There were difficulties obtaining statistical information about the application and enforcement of the UNCAC, especially for data relating to the articles in UNCAC Chapter V, i.e., money laundering and asset recovery. It was also difficult to obtain details about cases currently prosecuted or concluded that are relevant for this report. Additionally, difficulties in obtaining information were compounded by the fact that there is no enacted access to information legislation in Cambodia, which creates some obstacles for the public to access information concerning the implementation of the UNCAC at the national level.

## **IV. Assessment of Implementation of Chapter II and Chapter V Provisions**

This chapter reviews the laws, regulations and practices of selected articles of Chapter II (Preventive Measures) and Chapter V (Asset Recovery) of the UNCAC in Cambodia.

### **Chapter II**

#### **Art. 5 – Preventive Anti-Corruption Policies and Practices**

A central element of Cambodia's anti-corruption framework is the Law on Anti-Corruption (from here on referred to as Anti-Corruption Law), promulgated in 2010, which covers all forms of corruption in all sectors and at all levels throughout the Kingdom of Cambodia.<sup>6</sup> The purpose of the Anti-Corruption Law is set out in article 1, which states: “to promote effectiveness of all forms of service and strengthen good governance and rule of law in leadership and state governance as well as to maintain integrity and justice which is fundamental for social development and poverty reduction.”<sup>7</sup> It further aims “to combat corruption through taking measures of education, prevention, and law enforcement to suppress offences of corruption with public participation and support and international cooperation.”<sup>8</sup>

The Anti-Corruption Law covers a range of preventive anti-corruption policies and practices, including requirements of public officials to declare their assets, liabilities, and public engagement on the negative impacts of corruption. It also covers monitoring, investigating and punishing corruption; whistleblowing (to a limited extent) as well as extradition and mutual legal assistance.

The Anti-Corruption Law establishes the Anti-Corruption Institution (ACI) for Cambodia, which is comprised of both the National Council against Corruption (NCAC) and the Anti-Corruption Unit (ACU).<sup>9</sup> The NCAC serves as the advisory body in the implementation of the Anti-Corruption Law, whereas the ACU performs the functions of the Anti-Corruption Law. In 2010, the NCAC issued the first National Anti-Corruption Strategic Plan (2011-2015).<sup>10</sup> This plan outlined, among other things, Cambodia's global anti-corruption commitments, an analysis of corruption in the country, and also included strategies, goals, key activities and work performance and expectation indicators.<sup>11</sup> It was intended for the plan to play a significant role in directing the ACU to effectively execute its duties.<sup>12</sup> The NCAC has also issued two subsequent National Anti-Corruption Strategic Plans: the National Anti-Corruption

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<sup>6</sup> Cambodian Anti-Corruption Law, 2010: [http://www.cambodiainvestment.gov.kh/anti-corruption-law\\_100417.html](http://www.cambodiainvestment.gov.kh/anti-corruption-law_100417.html), accessed on 07.03.2021.

<sup>7</sup> Ibid, Art. 1 of Cambodian Anti-Corruption Law.

<sup>8</sup> Ibid, Art. 2 of Cambodian Anti-Corruption Law.

<sup>9</sup> Ibid, Art. 5 of Cambodian Anti-Corruption Law.

<sup>10</sup> National Council of Anti-Corruption, National Anti-Corruption Strategic Plan (2011-2015): [http://ticambodia.org/library/wp-content/files\\_mf/1437367672FiveYearStrategicPlan201120151.pdf](http://ticambodia.org/library/wp-content/files_mf/1437367672FiveYearStrategicPlan201120151.pdf), accessed on 07.03.2021.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

Strategic Plan (2015-2020) and the National Anti-Corruption Strategic Plan (2020-2025). Unfortunately, the government has not made the latest National Anti-Corruption Strategic Plan (2020-2025) widely available to the public via a website. However, the plan was provided to the author of this report upon a written request being made to the ACU. “The subsequent plans are published, but due to the limited resources we have, we don’t just give them out to everybody,” said H.E Yonn Sinat, Vice-President of the ACU and UNCAC Implementation Review Coordinator.<sup>13</sup>

H.E Yonn Sinat further stated: “In preparing the latest National Anti-Corruption Strategic Plan (2020-2025), we managed to conduct **informal consultations**<sup>14</sup> with various stakeholders. Once the NCAC adopted the Plan, the ACU sent letters to all stakeholders, including CSOs, requesting them to review the adopted Plan and to provide inputs for any further adjustments that should be made.”<sup>15</sup>

The latest National Anti-Corruption Strategic Plan (2020-2025) provides a review of the implementation of the second National Anti-Corruption Strategic Plan (2015-2020), including: significant achievements made, challenges and lessons learnt. The latest plan also sets out an analysis of the surrounding environment; a SWOT analysis; strategic goals for 2020-2025; and a strategy, core activities, goals and work performance indicators. The goal of the plan is “to promote integrity in fighting against corruption by all means, in all sectors, and at all levels in Cambodia through the education, prevention and obstruction, and law enforcement with participation from public and international cooperation.”<sup>16</sup>

Increased efforts have been made in enhancing the monitoring and evaluation aspects of the National Anti-Corruption Strategic Plan, where a Monitoring and Evaluation Group (MEG) has recently been established. The MEG requires departments, teams and stakeholders to monitor and measure the outcomes and achievements of the implementation of the strategic plan of their works as key indicators stipulated in the National Anti-Corruption Strategic Plan through monthly, annually and five-year performance reports and semi-annual and annual reports to the RGC.<sup>17</sup>

In addition to the Anti-Corruption Law, the Royal Government of Cambodia (RGC) prioritised the fight against corruption in its Rectangular Strategy-Phase III, which was implemented within the Fifth Legislature of the National Assembly (2013-2018). Its strategic objective was to implement a set of interlocking and cross-cutting measures through education, prevention, strengthened accountability, and improved institutional

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<sup>13</sup> Interview with H.E Yonn Sinat, Vice-President of Cambodia’s Anti-Corruption Unit (ACU) and UNCAC Implementation Review Coordinator, via Zoom, 09.06.2021.

<sup>14</sup> Emphasis added by the author.

<sup>15</sup> Ibid.

<sup>16</sup> Cambodia Anti-Corruption Institution, 2020: Anti-Corruption Strategy and Policy National Strategic Plan Phase III (2020-2025).

<sup>17</sup> Ibid.

capacity, public support and involvement, private sector participation and strengthened law enforcement.<sup>18</sup>

In the updated Rectangular Strategy-Phase IV (2018-2023), the RGC has further committed to accelerating its governance reform by focusing on, among other things, transparency and integrity in the public administration.<sup>19</sup> In this regard, the Sixth Legislature of the National Assembly focuses on:<sup>20</sup>

- i. strengthening the education on, prevention of, obstruction of and crackdown on corruption based on the National Anti-Corruption Strategy and Action Plan under the framework of “Not Daring, Unable and Unwilling” to commit corruption;
- ii. strengthening and expanding public disclosure of updated information on public services, legal documents and national policy documents;
- iii. encouraging people’s participation in the process of development as well as formulation and implementation of various policies;
- iv. promoting the implementation of mechanisms for receiving feedback and handling complaints from public service users along with accessing the possibility of using IT systems to support the implementation;
- v. strengthening the effectiveness of inspection and audit mechanism in the public sector; and
- vi. strengthening the effectiveness of the preparation and implementation of work ethics as well as the principle of function incompatibility and conflict of interest for public officials.

Regarding the public’s perception on the actual implementation of anti-corruption and governance reforms, stipulated in the National Anti-Corruption Strategic Plans and the Rectangular Strategies, a leading Cambodian Governance Specialist expressed that:

“The first Rectangular Strategy Plan, with good governance being the engine of all reforms, was only drafted to appease the international community. From Rectangular Strategy – Phase I, we now have a Rectangular Strategy – Phase IV, and the country is much more corrupted than before. Also, the national anti-corruption strategies are well written, but no one really implements them, they’re not reflected in the reality of national policies.”<sup>21</sup>

On the civic engagement in the development of national anti-corruption policies, the Cambodian Governance Specialist further stated that: “there are some meetings held

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<sup>18</sup> Royal Government of Cambodia, 2013, Rectangular Strategy-Phase III: <https://extranet.who.int/nutrition/gina/sites/default/filesstore/KHM%202013%20Rectangular%20Strategy%20Phase%20III.pdf>, accessed on 07.03.2021.

<sup>19</sup> Royal Government of Cambodia, 2018, Rectangular Strategy – Phase IV: <http://cnv.org.kh/wp-content/uploads/2012/10/Rectangular-Strategy-Phase-IV-of-the-Royal-Government-of-Cambodia-of-the-Sixth-Legislature-of-the-National-Assembly-2018-2023.pdf>, accessed on 10.03.2021.

<sup>20</sup> Ibid.

<sup>21</sup> Interview with Cambodian Governance Specialist, via Zoom, 10.06.2021 (name withheld by request).

that are designated as so-called consultations with civil society, but the government is not serious in listening to civil society.”<sup>22</sup>

Regarding regional collaboration in developing and promoting anti-corruption policies and practices, Cambodia is a party to the South East Asia Parties against Corruption (SEA-PAC), which was established in 2004.<sup>23</sup> Cambodia also endorsed the Anti-Corruption Action Plan for Asia and the Pacific on 4 March 2003 (the Regional Anti-Corruption Plan).<sup>24</sup> The Regional Anti-Corruption Plan, together with its implementation plan, is a legally non-binding document which contains a number of principles and standards towards policy reform through which interested governments of the region politically commit to implement on a voluntary basis.<sup>25</sup> The Regional Anti-Corruption Plan includes the following three pillars: developing effective and transparent systems for public service; strengthening anti-bribery actions and promoting integrity in business operations; and supporting active public involvement.

### **Good practices**

- Through the promulgation of the Anti-Corruption Law, the RGC has developed a comprehensive anti-corruption legislation that promotes the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.
- By developing three National Anti-Corruption Strategic Plans and putting a legislative focus on integrity in the public administration in its national Rectangular Strategy-Phase IV (2018-2023), the RGC has committed to national anti-corruption policies and effective practices aimed at the prevention of corruption.
- By ratifying the UNCAC, endorsing the Anti-Corruption Action Plan for Asia and the Pacific, and being a party to the South East Asia Parties against Corruption (SEA-PAC), Cambodia demonstrates that it collaborates with relevant international and regional organisations in promoting and developing preventative anti-corruption policies and practices.

### **Deficiencies**

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<sup>22</sup> *ibid.*

<sup>23</sup> Kingdom of Cambodia Permanent Mission to the United Nations, 2020, The Rule of Law at The National and International Levels: 75th Sessions of the United Nations General Assembly: [https://www.un.org/en/ga/sixth/75/pdfs/statements/rule\\_of\\_law/07mtg\\_asean.pdf](https://www.un.org/en/ga/sixth/75/pdfs/statements/rule_of_law/07mtg_asean.pdf), accessed 01.07.2021.

<sup>24</sup> Organisation for Economic Cooperation and Development (OECD) and Asian Development Bank (ADB): Anti-Corruption Initiative for Asia-Pacific: <https://www.oecd.org/site/adboecdanti-corruptioninitiative/theinitiativesmembercountriesandeconomies.htm>, accessed on 10.03.2021.

<sup>25</sup> Organisation for Economic Cooperation and Development (OECD) and Asian Development Bank (ADB): Anti-Corruption Initiative for Asia-Pacific, Anti-Corruption Action Plan for Asia and the Pacific: <https://www.oecd.org/site/adboecdanti-corruptioninitiative/anti-corruption-initiative-asia-pacific-actionplan.pdf>, accessed on 10.03.2021.

- Despite the passage of the Anti-Corruption Law and creation of the ACU, enforcement remains weak.<sup>26</sup> Local and foreign businesses report that they must often make informal payments to expedite business transactions.<sup>27</sup> Since 2013, Cambodia has published the official fees for public services, but the practice of paying additional fees remains common.<sup>28</sup>
- The Anti-Corruption Law does not require the ACU to be accountable to the parliament and the public.
- There is no evidence to suggest that the ACU maintains transparent formalised consultation processes or takes into consideration any input provided by the public / civil society or other stakeholders in the development of anti-corruption policies and practices.
- There are expressed concerns about the actual implementation of key anti-corruption policies and practices in Cambodia.
- Anti-corruption measures are hardly assessed to determine its effectiveness. No risk assessments of areas or sectors that are susceptible to corruption have been conducted. The existing legal and institutional frameworks have also not been assessed to examine its effectiveness in preventing and sanctioning acts of corruptions.
- Key anti-corruption documents are not widely accessible to the public, such as the ACU annual reports and the updated National Anti-Corruption Strategic Plan (2020-2025), or any reports on the actions undertaken to implement the Strategic Plan.

### **Art. 6 and 13.2 – Preventive Anti-Corruption Body or Bodies**

The Anti-Corruption Law establishes the Anti-Corruption Institution for Cambodia (ACI), which comprises of both the National Council against Corruption (the NCAC) and the Anti-Corruption Unit (the ACU).<sup>29</sup> The NCAC serves as the advisory body in the implementation of the Anti-Corruption Law, while the ACU performs the functions of the Anti-Corruption Law.

The ACU is “led by one chairperson with the rank equivalent to a senior minister, and a number of vice-chairpersons with the rank equivalent to ministers as his assistants.”<sup>30</sup> Although Article 11 of the Anti-Corruption Law stipulates that “the ACU is established to independently undertake its duties,” this remains questionable, given

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<sup>26</sup> U.S. Department of State, 2020, Investment Climate Statements – Cambodia: <https://www.state.gov/reports/2020-investment-climate-statements/cambodia/>, accessed on 11.03.2021.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Art. 5 of Cambodian Anti-Corruption Law, 2010: [http://www.cambodiainvestment.gov.kh/anti-corruption-law\\_100417.html](http://www.cambodiainvestment.gov.kh/anti-corruption-law_100417.html), accessed on 11.03.2021.

<sup>30</sup> Ibid, Art. 11, accessed on 08.07.2021.

the fact that the chairman and vice-chairman are political appointees, who are appointed at the request of the prime minister.<sup>31</sup>

The ACU is mandated to perform the following duties:<sup>32</sup>

- i) Implement law, orders and regulations (which are in force) related to corruption;
- ii) Develop anti-corruption action plan in accordance with the strategies and policy of the National Council Against Corruption;
- iii) Direct the work of preventing and combatting corruption;
- iv) Monitor, investigate, check, and do research as well as propose measures related to corrupt practices in ministries, institutions, public and private units, in conformity with the procedures in force;
- v) Receive and review all complaints on corruption and take action accordingly;
- vi) Search, review and compile documents and information related to corruption;
- vii) Keep absolute confidentiality of corruption-related information sources;
- viii) Take necessary measures to keep corruption whistleblowers secure;
- ix) Manage the system of assets and debt declaration as stipulated in this law;
- x) Conduct mass education and awareness raising with regard to the negative impact of corruption and encourage public participation in preventing and combatting corruption;
- xi) Prepare/review and propose an annual budget for the National Council Against corruption and for the Anti-Corruption Unit;
- xii) Answer verbally or in writing the questions raised by members of the National Council Against Corruption or members of the National Assembly;
- xiii) Provide work services to the National Council Against Corruption;
- xiv) Make appointments, transfers, supervision or propose appointment or transfer of officials under Anti-Corruption Unit;
- xv) Cooperate with national, regional and international organisations in order to combat cross-border corruption;
- xvi) Report all activities of the Anti-Corruption Unit to the National Council Against corruption;
- xvii) Issue warnings to suspects who initially fail to obey the laws and regulations in force in order to prevent corruption.

Regarding the transparency of the ACU's work, H.E Yonn Sinat, Vice-President of the ACU and UNCAC Implementation Review Coordinator, stated the following:<sup>33</sup>

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<sup>31</sup> Ibid.

<sup>32</sup> Art. 13 of Cambodian Anti-Corruption Law, 2010: [http://www.cambodiainvestment.gov.kh/anti-corruption-law\\_100417.html](http://www.cambodiainvestment.gov.kh/anti-corruption-law_100417.html), accessed on 08.07.2021.

<sup>33</sup> Interview with H.E Yonn Sinat, Vice-President of Cambodia's Anti-Corruption Unit (ACU) and UNCAC Implementation Review Coordinator, via Zoom, 09.06.2021.

“From time to time, we share information with the media, and monthly written reports are released by the NCAC. The National Council holds monthly press conferences, to provide information pertaining to the ACU’s work, for example, details on how many complaints have been received, and produces a press release on this.”

“The ACU ensures that the press releases are uploaded to its website and social media page, so that the information can be further dispersed to the public. The ACU also makes use of social media and continues to post regular updates regarding its work on its Facebook page.”

It should be noted though, that there is no provision in the Anti-Corruption Law that mandates that the operational reports of the ACU should be publicly accessible; the Anti-Corruption Law only stipulates that the reports on the operations of the ACU are made available to the prime minister.<sup>34</sup> In this regard, a leading Cambodian Governance specialist said:<sup>35</sup>

“I think that the ACU is only used as a political instrument of the prime minister. The ACU is more of a political weapon for the government, that wants to punish anyone in the system that goes against the system, for example, the opposition. Most of the time the ACU is used to arrest oppositional leaders.”

Another interview respondent for this report stated:<sup>36</sup> “There are a lot of obstacles when it comes to promoting good governance in Cambodia, with the biggest one being the lack of independent institutions, from the courts to the Anti-Corruption Unit. The ACU is not there to fight corruption, it’s there for a different agenda. Essentially the ACU is a great tool for the government, as it allows the government to consolidate more power – they basically pick and choose cases to investigate, or place pressure on certain people to ensure they all stay loyal to the government.”

Following the election in 2013, the National Assembly established the Commission on Investigation and Anti-Corruption (Commission 10). The Commission’s main responsibilities included reviewing and initiating proposed laws related to anti-corruption and monitoring the enforcement of these laws by relevant state institutions.<sup>37</sup>

Currently there is no Ombudsman at the national level in Cambodia. However, in 2017, the RGC created sub-national administrative offices to collect complaints from concerned citizens and forward them to the appropriate institutions. According to a sub-decree dated 8 February 2017, the sub-national offices were established to “promote good governance, public services and economic development to residents

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<sup>34</sup> Art. 10 of Cambodian Anti-Corruption Law, 2010: [http://www.cambodiainvestment.gov.kh/anti-corruption-law\\_100417.html](http://www.cambodiainvestment.gov.kh/anti-corruption-law_100417.html), accessed on 08.07.2021.

<sup>35</sup> Interview with Cambodian Governance Specialist, via Zoom, 10.06.2021 (name withheld by request).

<sup>36</sup> Interview with Executive from a Cambodian NGO, via Zoom, 08.06.2021 (name withheld by request).

<sup>37</sup> Transparency International Cambodia, 2016, The Need for a Good Whistleblower Protection Law In Cambodia: [http://ticambodia.org/library/wp-content/files\\_mf/1454898389PolicyBrief\\_English\\_FA\\_lowres\\_forweb.pdf](http://ticambodia.org/library/wp-content/files_mf/1454898389PolicyBrief_English_FA_lowres_forweb.pdf), accessed on 11.03.2021.

at the local level.”<sup>38</sup> The sub-decree further stipulates that the offices will resolve complaints in a “neutral, transparent, fair and confidential” process and afford all citizens the right to file a complaint related to the provision of public services and administration – with no fee attached.<sup>39</sup>

Since 2015, the ACU has successfully integrated anti-corruption education into general education from grade 4th to 12th, compiling 36 levels of teaching and learning books in a total of 36 lessons, and has also published 825,000 books to support learning.<sup>40</sup> In addition to school-based educational activities, ACU officials have disseminated the Anti-Corruption Law and the Amendment of the Anti-Corruption Law to the target communities, Sangkats (communes), districts, and units of municipal/provincial and to universities, high schools, vocational schools, media, private sector and vulnerable places to corruption. There are a total of 559 targeted places, 87,158 participants such as civil servants, teachers, students, local and businesspersons and journalists have been reached.<sup>41</sup>

The ACU has also worked with private-sector actors to develop a “Guidebook on Anti-Corruption Programme for Business in Cambodia,” which has been disseminated, and some private sectors have used this book as a guide in setting up internal anti-corruption programmes/mechanisms in addition to their existing arrangements.<sup>42</sup>

To strengthen the compliance and standards in the provision of public services, a joint proclamation was made between the Ministry of Economy and Finance and the relevant ministries-institutions, which resulted in, among other things: the determination of the actual fee and time needed for the delivery of public services; the use of official receipts issued by the Ministry of Economy and Finance; the establishment of One Window Services; and the development of a complaints mechanism.<sup>43</sup> This task has made a significant increase in state revenue every year and improved the efficiency of public service delivery.<sup>44</sup>

Within regional cooperation, the ACU has participated as a party of the Anti-Corruption Cooperation Working Group consisting of the National Anti-Corruption Commission of Thailand (NACC), Anti-Corruption Unit of Cambodia (ACU) and the State Inspection and Anti-Corruption Authority of the Lao PDR (SIAA). The Working Group focuses on: (i) sharing experiences and good practices between the three countries - Thailand, Cambodia and Laos, on efforts to prevent and fight against corruption; (ii) strengthening knowledge, identifying and discussing effective and comprehensive prevention methods on anti-corruption work; and (iii) strengthening the mutual assistance between border officials of the three countries by establishing a network to

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<sup>38</sup> Khemer Times, 2017, PM creates complaints office: <https://www.khmertimeskh.com/12460/pm-creates-complaints-office/>, accessed on 11.03.2021.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Cambodia Anti-Corruption Institution, 2020: Anti-Corruption Strategy and Policy National Strategic Plan Phase III (2020-2025).

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

facilitate the implementation of roles and responsibilities in combatting corruption.<sup>45</sup> So far, through this regional cooperation, two working group meetings have been organised, the first in 2018 in Ubon Ratchathani, Thailand, and the second in 2019 in Champasak, Laos PDR.<sup>46</sup> The third working group meeting was scheduled to be held in Cambodia in 2020.

### Good practices

- There are anti-corruption bodies, adequately established in law, to implement preventative anti-corruption policies and practices in Cambodia.
- The ACI has been particularly active in undertaking educational activities such as disseminating information about the Anti-Corruption Law across the country. This body also has capacities to investigate corruption cases. Since its formation, the ACI has launched a limited number of high-profile prosecutions against public officials, including members of the police and judiciary, and has tackled the issue of ghost workers in the government, whereby salaries are paid to non-existent employees.<sup>47</sup>

### Deficiencies

- The independence of the ACU remains questionable both in terms of legal and practical aspects. According to the provision of the Anti-Corruption Law, the Chairperson and Vice-Chairperson of the ACU must be appointed by a royal decree at the request of the Prime Minister, instead of both positions being filled through an open competitive recruitment process. The success of anti-corruption efforts largely depends on the will and commitment of the Prime Minister. Given that the membership of the NCAC is largely dominated by senior ruling party members and those from institutions firmly controlled by the ruling party, the trigger of anti-corruption efforts is firmly in the hand of the ruling elites. This has compromised the independence of these institutions over the years.
- In practice, the ACU has rarely investigated high-level members and families of the ruling party, despite widespread allegations of corruption at senior levels of the party and government.<sup>48</sup> For example, a Radio Free Asia report in April 2020 alleged that a niece of Prime Minister Hun Sen and the wife of the police chief spent 2.7 million USD on villas in Cyprus.<sup>49</sup> The family was also alleged to own millions dollar worth of properties in central London.<sup>50</sup> The family is among the

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<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

<sup>47</sup> U.S. Department of State, 2020, Investment Climate Statements - Cambodia: <https://www.state.gov/reports/2020-investment-climate-statements/cambodia/>, accessed on 11.03.2021.

<sup>48</sup> U.S. Department of State, 2020, Country Reports on Human Rights Practices: Cambodia: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/cambodia/>, accessed on 11.03.2021.

<sup>49</sup> Ibid.

<sup>50</sup> Voa Cambodia, 2019, Reuters Investigates Khmer Riche: <https://www.voacambodia.com/a/Reuters-special-report-cambodia-hunsen-wealth/5126154.html>, accessed on 07.08. 2021.

eight politically connected members of the Cambodian elite - which also included a Minister of Economy and Finance and his wife as well as the Prime Minister's two closest and wealthiest allies who were mentioned in an October 2019 Reuters report, alleging they had gained Cypriot citizenship by investing more than 2.2 million USD each in that country.<sup>51</sup>

- It has been reported that the ACU is essentially a public relations unit for the government, and it lacks the power and independence to tackle high-level corruption.<sup>52</sup> In 2019 it was reported that the ACU focused on investigations of opposition figures, leading to a widespread perception that the unit serves the interests of the ruling Cambodian People's Party.<sup>53</sup> Even though the ACU has conducted some investigations, it has never investigated a high-level member of the ruling party, despite widespread allegations of corruption at senior levels of the party and government.<sup>54</sup> For example, according to a July 2018 Al-Jazeera investigative report, the director general of the country's taxation department violated the Australian Corporations Act and evaded Australian tax, but Cambodian authorities neither investigated nor prosecuted him.<sup>55</sup>
- The ACU is also perceived to be a political tool of the ruling elite to eliminate their rivals and to crackdown on opposition parties and government critics.<sup>56</sup>
- The ACU does not collaborate frequently with civil society and is considered ineffective in combatting official corruption.<sup>57</sup>

### **Art. 7.1 – Public Sector Employment**

The Law on Common Statute of Civil Servants of the Kingdom of Cambodia, adopted by the National Assembly of Cambodia on 21 October 1994, includes provisions regarding the employment of civil servants in Cambodia, excluding judges of the judicial order and civil servants of the legislative order (the Civil Service Law).<sup>58</sup> The Civil Service Law states that the bodies, grades, classifications, and wage scales of civil servants shall be determined by Royal Decree.<sup>59</sup> Additionally, the promotion,

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<sup>51</sup> Ibid.

<sup>52</sup> Evans, J., Human Rights Watch, 2013, IMF Keeps Cambodia's Corruption in the Shadows: <https://www.hrw.org/news/2013/12/26/imf-keeps-cambodias-corruption-shadows>, accessed on 11.03.2021.

<sup>53</sup> U.S. Department of State, 2019, Country Reports on Human Rights Practices: Cambodia: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/cambodia/>, accessed on 11.03.2021.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> Jacqui Baker and Sarah Milne, 2019, Cambodia's anti-corruption regime 2008-2018: A critical political economy approach, U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute (U4 Issue 2019:1): <https://www.u4.no/publications/cambodias-anti-corruption-regime-2008-2018-a-critical-political-economy-approach>.

<sup>57</sup> Ibid.

<sup>58</sup> The Law on Common Statute of Civil Servants of the Kingdom of Cambodia: [http://moh.gov.kh/content/uploads/Laws\\_and\\_Regulations/Law/Law%20on%20Common%20Statute%20of%20Civil%20Servants\\_Eng.pdf](http://moh.gov.kh/content/uploads/Laws_and_Regulations/Law/Law%20on%20Common%20Statute%20of%20Civil%20Servants_Eng.pdf), accessed on 12.03.2021.

<sup>59</sup> Ibid, Article 4.

change of assignments, secondments, dismissal and removal of civil servants is decided by Royal Decree (issued by the king), Sub-decree (issued by the government) or Proclamation (issued by the ministry).<sup>60</sup>

Chapter 2 of the Civil Service Law outlines the requirements for recruiting civil servants. It stipulates that recruits must satisfy the aptitude conditions required by the statute governing the public body. Notably, article 13 states: “In principle, the recruitment of civil servants shall be undertaken through competitive examination, except for contrary arrangements enacted by the Royal Government.”<sup>61</sup> No general rules exist concerning the process of the competitive examinations.<sup>62</sup> All dates for competitive entry examinations for the civil service must be established and published three months before the sitting of the exams, with an exception for emergency cases, where the period may be reduced to 30 days.<sup>63</sup>

Additionally, civil servants may be recruited through the Royal School of Administration (the RSA). The RSA has the role “to recruit, train and improve the civil servants intended to serve the administration of the Kingdom of Cambodia.”<sup>64</sup> Graduates are not subject to an open competitive examination as the school's entry examination qualifies as a competitive examination.<sup>65</sup>

In general, the minimum period required to obtain a promotion in steps is two years. Promotion through seniority can be alternated with promotion through selection where the civil servant is recognised for the exceptional qualities of his/her work, according to the provisions provided by the particular statute of each body.<sup>66</sup> Each civil servant shall have the right to access to all records, correspondence and other documents existing in his/her file in the case of a delay of his/her seniority step advancement.<sup>67</sup>

Chapter 4 of the Civil Service Law details promotion exercises for the civil service: “a promotion in grade and call of civil servants shall be effected solely through selection or seniority.”<sup>68</sup> Article 22 mandates that civil servants entitled to apply for a promotion in step or grade must complete a professional evaluation form and have it annotated by his/her department head. Once the professional evaluations are assessed, the Secretary of State or the Minister concerned must prepare a list of civil servants to be proposed for promotion, who have met the following conditions:<sup>69</sup>

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<sup>60</sup> Ibid, Article 5.

<sup>61</sup> Ibid, Article 13.

<sup>62</sup> Handbook for Civil Servants: [http://www.mcs.gov.kh/wp-content/uploads/2015/12/Handbook-For-Civil-Servants\\_2010-12-03.pdf](http://www.mcs.gov.kh/wp-content/uploads/2015/12/Handbook-For-Civil-Servants_2010-12-03.pdf), accessed on 12.03.2021.

<sup>63</sup> See Law on Common Statute of Civil Servants of the Kingdom of Cambodia, Article 14, accessed on 12.03.2021.

<sup>64</sup> Handbook for Civil Servants: [http://www.mcs.gov.kh/wp-content/uploads/2015/12/Handbook-For-Civil-Servants\\_2010-12-03.pdf](http://www.mcs.gov.kh/wp-content/uploads/2015/12/Handbook-For-Civil-Servants_2010-12-03.pdf), accessed on 12.03.2021.

<sup>65</sup> Ibid.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

<sup>68</sup> See Law on Common Statute of Civil Servants of the Kingdom of Cambodia, Article 20, accessed on 12.03.2021.

<sup>69</sup> Ibid, Article 23.

- i) having at least two years of service within the grade and class on the first day of the year from which the promotion list is drawn; and
- ii) having been proposed for promotion by the hierarchical authority to which the civil servant is attached.

The list of promotions must be prepared by a ranking committee, comprised of: the Minister concerned; the department head; the human resource manager; and two elected civil servants of the same body as that of the civil servant subject to promotion.<sup>70</sup> The ranking committee then deliberates in plenary session to determine the average grade to attribute to each candidate, ranging from 0 to 20.<sup>71</sup> Those placed on the list of candidates for promotion shall be considered, taking into account the number of available positions.

Civil servants shall be regularly promoted in steps every two years and evolve their careers through their promotion, from grade three to grade two and to grade one following defined procedures and principle.<sup>72</sup>

Corruption continues to be a vexing issue within the civil service. In 2020, citizens frequently and publicly complained about corruption.<sup>73</sup> A 2020 corruption survey found that 37 per cent of Cambodians who used a public service in the previous 12 months paid a bribe for such public services, with the highest bribery rate being experienced by those who obtained identification documents (40 per cent).<sup>74</sup> Meagre salaries have contributed to “survival corruption” among low-level public servants, while a culture of impunity enabled corruption to flourish among senior officials.<sup>75</sup> Appointments to the central positions in the bureaucracy are made on party political lines and are generally immune to the rule of law.<sup>76</sup> Members and commanders of government security forces (belonging to the ruling Cambodian People’s Party) have enjoyed impunity from investigations and prosecution for grave human rights abuses, including political assassinations, other extrajudicial killings and torture.<sup>77</sup>

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<sup>70</sup> Article 25 of the Law on Common Statute of Civil Servants of the Kingdom of Cambodia: [http://moh.gov.kh/content/uploads/Laws\\_and\\_Regulations/Law/Law%20on%20Common%20Statute%20of%20Civil%20Servants\\_Eng.pdf](http://moh.gov.kh/content/uploads/Laws_and_Regulations/Law/Law%20on%20Common%20Statute%20of%20Civil%20Servants_Eng.pdf), accessed on 12.03.2021.

<sup>71</sup> Ibid, Article 26.

<sup>72</sup> Handbook for Civil Servants: [http://www.mcs.gov.kh/wp-content/uploads/2015/12/Handbook-For-Civil-Servants\\_2010-12-03.pdf](http://www.mcs.gov.kh/wp-content/uploads/2015/12/Handbook-For-Civil-Servants_2010-12-03.pdf), accessed on 12.03.2021.

<sup>73</sup> U.S. Department of State, 2020, Country Reports on Human Rights Practices: Cambodia: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/cambodia/>, accessed on 11.03.2021.

<sup>74</sup> Transparency International, 2020, Global Corruption Barometer - Asia 2020: Citizens' Views and Experiences of Corruption: [https://images.transparencycdn.org/images/GCB\\_Asia\\_2020\\_Report\\_Web\\_final.pdf](https://images.transparencycdn.org/images/GCB_Asia_2020_Report_Web_final.pdf), accessed on 05.07.2021.

<sup>75</sup> U.S. Department of State, 2020, Country Reports on Human Rights Practices: Cambodia: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/cambodia/>, accessed on 11.03.2021.

<sup>76</sup> Transparency International, 2016, Cambodia: Overview of Corruption and Anti-Corruption: <https://knowledgehub.transparency.org/helpdesk/cambodia-overview-of-corruption-and-anti-corruption>, accessed on 12.03.2021.

<sup>77</sup> Ibid.

## Good practices

- Salary scales were simplified and rationalised to allow civil service wage levels to approximate a liveable wage.<sup>78</sup> Wages for civil servants have significantly increased over the years. The public sector minimum wage was raised from around USD 50 a month in 2012<sup>79</sup> to around USD 300 in 2020.<sup>80</sup>
- There have also been improvements in the human resource management and development of the public sector including by accelerating computerisation, implementing a performance management system in pilot areas, and implementing training requirements for civil servants and improving public service delivery through e-governance and institutional reforms of rationalisation and restructuring.<sup>81</sup>

## Deficiencies

- While there has been some improvement in public sector recruitment and appointment in recent years, political interference, nepotism and bribery continue to compromise this process within most government agencies in Cambodia, from the top to the bottom. Formally, public sector positions are advertised and anyone can apply. Yet those who actually get jobs reportedly tend to have friendships or familial ties to the senior staff in the affiliated ministry. It is not uncommon to have multiple members of the same family in one ministry or department.<sup>82</sup>
- In practice, appointments to the central positions in the bureaucracy are made on party political lines and are generally immune to the rule of law. Appointments or promotions are very often based on personal and family linages and connections. Bribery is also a common way to receive appointments and promotions. This results in public sector institutions being politicised from the top with the impact trickling down through the institutional hiring structure.<sup>83</sup>
- The public sector still lacks independence. Public sector institutions and employees remain close to the ruling party at all levels of the system. If public

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<sup>78</sup> The World Bank, 2020, Cambodia toward Performance Based Civil Service, 2020: <https://documents1.worldbank.org/curated/en/285101601532382718/pdf/Cambodia-Toward-Performance-Based-Civil-Service-Cambodia-Policy-Note.pdf>, accessed on 09.08.2021.

<sup>79</sup> The World Bank, 2019, Improving the Effectiveness of Public Finance, 2019: <https://openknowledge.worldbank.org/bitstream/handle/10986/32034/Improving-the-Effectiveness-of-Public-Finance-Cambodia-Public-Expenditure-Review.pdf?sequence=5&isAllowed=y>, accessed on 09.08.2021.

<sup>80</sup> Khmer Times, 2020, Salary Rise for Civil Servants Despite Need to Save Funds: <https://www.khmertimeskh.com/700024/salary-rise-for-civil-servants-despite-need-to-save-funds/>, accessed on 09.08.2021.

<sup>81</sup> Ibid.

<sup>82</sup> Transparency International, 2014, National Integrity System Assessment 2014: [https://images.transparencycdn.org/images/2014\\_NISCambodia\\_EN.pdf](https://images.transparencycdn.org/images/2014_NISCambodia_EN.pdf), accessed on 29.06.2021.

<sup>83</sup> Ibid.

sector employees have not already joined the ruling party, they are asked to do so once they reach a certain level of seniority. Therefore, recruitment and promotion processes as well as general activities of the public sector are inseparably linked with the ruling party's interests. Due to this, the public sector employee is generally limited in expression of political views, particular if they differ from the ruling party's perspective.<sup>84</sup>

### **Art. 7.3 – Political Financing**

The primary law that governs political parties in Cambodia is the Law on Political Parties, 1997 (the Political Parties Law)<sup>85</sup> which has been amended three, most recently in December 2018.

The following outlines relevant legal provisions that are applicable to political financing in Cambodia:

#### What is allowed?

- 1) There are no limits on the amount that a political candidate or party can spend.<sup>86</sup>
- 2) Political parties can receive donations from private Cambodian companies and citizens.<sup>87</sup>
- 3) There is no limit on the amount a donor can contribute to a political party over any given period of time.<sup>88</sup>
- 4) There is no explicit ban on anonymous donations to political parties.<sup>89</sup>
- 5) There are no provisions restricting political parties from engaging in commercial enterprises.<sup>90</sup>

#### What is banned or limited?

- 1) Political parties are prohibited from receiving contributions in any form from foreign institutions, foreign companies, foreigners or those organisations which have foreign financing sources.<sup>91</sup>
- 2) Political parties are prohibited from receiving contributions in any form from the state's institutions, non-governmental organisations, associations, public enterprises, public establishments and public institutes, except where

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<sup>84</sup> Ibid, p. 68.

<sup>85</sup> Political Parties Law, 1997:

[https://www.sithi.org/admin/upload/law/Law%20on%20Political%20Parties%20\(1997\).ENG.pdf](https://www.sithi.org/admin/upload/law/Law%20on%20Political%20Parties%20(1997).ENG.pdf), accessed on 14.03.2021.

<sup>86</sup> Political Parties Law, 1997, 2017, Law on the Election of Members of the National Assembly, 2015 and Law on the Election of Commune-Sangkat Councils, 2015.

<sup>87</sup> See Political Parties Law, 1997, Article 27.

<sup>88</sup> Political Parties Law, 1997 and 2017.

<sup>89</sup> Art. 27 and 29, Political Parties Law, 2017.

<sup>90</sup> Art. 27, Political Parties Law, 1997:

[https://www.sithi.org/admin/upload/law/Law%20on%20Political%20Parties%20\(1997\).ENG.pdf](https://www.sithi.org/admin/upload/law/Law%20on%20Political%20Parties%20(1997).ENG.pdf), accessed on 14.03.2021.

<sup>91</sup> Art. 29, Political Parties Law, 2017.

the state allocates a portion of the national budget in equal amounts to all political parties for National Assembly election campaigns.<sup>92</sup>

- 3) The use of budget, materials, equipment and means of transportation that belong to the state to carry out campaign activities for any political party or candidate, and the use of means of transportation belonging to the state to bring voters to the polling stations is prohibited.<sup>93</sup>

### Public Funding

- 1) There are provisions for direct public funding of political parties: the state could allocate funds from national budget in equal amounts to all political parties, to be used only for campaigns around National Assembly elections.<sup>94</sup> There are no explicit provisions stipulating how political parties should use the public funding.
- 2) Any political party which fails to receive at least three per cent of the total of valid ballots of the whole country or which fails to gain one seat in parliament, shall, within a period of three months from the date of proclamation of the election result, repay such above allocated budget in the full amount to the state.<sup>95</sup>

### Reporting, oversight and sanctions

- 1) All contributions received by political parties shall be deposited in a bank account and all expenses for electoral campaigns shall be debited from the same account.<sup>96</sup>
- 2) Registered political parties shall submit their financial reports on an annual basis to the Ministry of Interior and the Ministry of Economy and Finance. The reports shall be signed by the political party's president or treasurer. The annual reports shall contain the following:<sup>97</sup>
  - i) main activities of the political party;
  - ii) a balance sheet stating the income and expenses for the year by category;
  - iii) statement of bank accounts of the political party; and
  - iv) statement of all assets, including owned properties or businesses outcomes and liabilities of the political party.
- 3) Political parties may be subject to reporting on finances relating to election campaigns. Therefore, every political party that has registered to run in an election shall keep an account book to record the income, sources of income and expenses for an electoral campaign. However, there is no requirement for the reports to reveal the identity of donors. The National Election Committee

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<sup>92</sup> Art. 29, Political Parties Law 2017.

<sup>93</sup> Art. 81, Law on the Election of Members of the National Assembly, 2015.

<sup>94</sup> Art. 28, Political Parties Law, 1997.

<sup>95</sup> Art. 28, Political Parties Law, 1997.

<sup>96</sup> Art. 90, Law on the Election of Members of the National Assembly, 2015.

<sup>97</sup> Art. 31, Political Parties Law, 1997.

has the discretionary power to examine the account book of any political party registered to run in an election if deemed necessary.<sup>98</sup>

- 4) There are no provisions guaranteeing public access to the financial reports of political parties.

### **Good practices**

- In law, public funding to political parties is awarded in a fair and transparent manner, detailing how state subsidies for political parties are calculated and awarded.
- State-controlled entities are prohibited from making financial or in-kind contributions to political parties, political candidates and election campaigns.
- Donations from foreign individuals and legal entities to political parties are prohibited.
- Political parties are required to keep records of all their revenue and expenditures.

### **Deficiencies**

- There is no legal definition of what constitutes a donation or a contribution, as well as limits on contributions to political parties and candidates.
- There is no explicit ban on anonymous donations to political parties.
- As there are no provisions guaranteeing public access to the financial reports of political parties, there is no established mechanism for the public to provide oversight over political financing in Cambodia, including by monitoring the funding sources and costs of political campaigns, the use of public funds and resources.
- The Ministry of Economy and Finance is responsible for examining the annual financial statements that political parties are required to submit.<sup>99</sup> This raises significant issues regarding the independency of the process.
- The Political Parties Law provides no explicit sanctions for the violation of established rules applicable to political financing.
- Donations by legal entities including companies with government contracts to political parties and candidates are inadequately regulated, as there is no cap on them, nor a requirement for the disclosure of beneficial ownership. In practice, it gives the ruling party much advantages given that it is a well-established party and it has developed very strong ties with business elites who have also benefited from the government through state rents over the past decades. The ties between politics and business are deeply rooted, and the boundaries between the two

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<sup>98</sup> Art. 89 and 91. Law on the Election of Members of the National Assembly, 2015.

<sup>99</sup> Art. 32, Political Parties Law, 1997.

realms are very blurry. The Cambodian state system is organised and developed into personalised, patronage-based relationships, which place the ruling party and its leaders at the apex of a pyramid-like power structure. It means that the Prime Minister and his close allies in the ruling party act as patrons, by providing protection for loyal clients including private interest groups, relatives and kin, military forces and tycoons. In exchange for their loyalty to the ruling party, these clients receive lucrative business opportunities, contracts and licenses as well as government positions – all of which depend upon the manipulation of state resources and state authority in some way. Clients who benefit are in turn obliged to contribute resources back to the party, resulting in systematic corruption of the bureaucracy or an unofficial extractive regime.<sup>100</sup> Millions of US dollars are continuously channelled back to the party to maintain its grip on power. The financial muscle of the ruling party has well out-competed the opposition parties and also facilitated politics of gift giving and vote buying.

- The use of state assets to support political party campaigns is also prevalent. The ruling party has consistently used government properties, vehicles and employees in electoral campaigns. There have been a number of instances in which public buildings and premises were used for pre-election campaigns of the ruling party. At the lowest tie of administration, the ruling party's offices and state offices are often in the same compound with staff moving between the two and make it difficult to distinguish the political party from state institutions.<sup>101</sup>
- Although there have been legal frameworks prohibiting civil servants, police and military from engaging in partisan activities, in practice it is not uncommon. Most senior members of civil service, police and military also hold official positions within the party and serve as heads of the party's committee and members in provinces and districts. It is also very common that senior civil servants serve as Chairman or Vice-Chairman of the ruling party in their respective areas of responsibility as civil servants. It is also prevalent that state officials work directly as party agents. There have been a number of cases in which civil servants, military, police and judges were involved in the ruling party's activities including party meetings, party gift-giving ceremonies and giving public pledges of loyalty to the ruling party. Very often, these political party activities involving civil servants took place during working hours. The military, police and gendarmerie not only engaged in campaign activities but also in electoral violence, intimidation and coercion, thus creating an intimidating atmosphere for voters in many parts of the country ahead of the elections. However, there has been a significant decline in violations of physical integrity of voters and candidates in the past elections. The ruling party in many places actively supported and encouraged civil servants to participate in pro-ruling

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<sup>100</sup> Jacqui, B & Sarah, M, 2019, *Cambodia's Anti-Corruption Regime 2008-18: A Critical Political Economy Approach*, U4 Issue, <https://www.u4.no/publications/cambodias-anti-corruption-regime-2008-2018-a-critical-political-economy-approach>, accessed on 11.08.21

<sup>101</sup> NDI, Joint Report on the Conduct of the 2013 Cambodian Elections, 2013: <https://www.ndi.org/sites/default/files/Cambodia-ERA-Joint-Report-Elections-110113.pdf>, accessed on 09.08.2021.

party activities during the pre-election period. Although it has been a common practice, proper sanctions have rarely been imposed.<sup>102</sup>

- The unlevel playing field is also extended to include the access to and use of coercive power. The media landscape has been systematically skewed in favour of the ruling party. Cambodia has consistently scored poorly in media or press freedoms.<sup>103</sup>
- Moreover, the independence of the electoral committee has repeatedly been questioned.<sup>104</sup> The current appointment of a former ruling party lawmaker as the new president of the committee has raised further doubts about its ability to ensure competitive, free and fair elections.<sup>105</sup>

### **Art. 7, 8 and 12 – Codes of Conduct, Conflicts of Interest and Asset Declarations**

Cambodia's asset declaration regime is covered by Chapter 4 of the Anti-Corruption Law.<sup>106</sup> Upon taking and leaving office, the following individuals are mandated to declare and submit details regarding their assets and liabilities to the ACU, in writing or electronic form, regardless of whether those assets are located inside or outside of the country:<sup>107</sup>

1. members of Senate, members of National Assembly, and members of the Royal Government;
2. appointed public officials with a specific mandate;
3. members of the National Council against Corruption, chairperson, vice-chairpersons and all officials of the ACU;
4. civil servants, police, military personnel and other public servants appointed by Royal Decrees or Sub-decrees;
5. other officials appointed by Prakas [Proclamation] decided by the ACU's list of declaration on assets and liabilities, after consultation with the National Council against Corruption;
6. trial judges, prosecutors, notary public, court clerks and bailiffs; and
7. leaders of civil society.

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<sup>102</sup> Ibid

<sup>103</sup> Konrad-Adenauer-Stiftung, 2016, Electoral Politics in Cambodia: Historical Trajectories, Current Challenges, and Comparative Perspectives:

[https://www.kas.de/c/document\\_library/get\\_file?uuid=23800cd5-2685-054d-da74-66a97fd08b6f&groupId=252038](https://www.kas.de/c/document_library/get_file?uuid=23800cd5-2685-054d-da74-66a97fd08b6f&groupId=252038), access on 09.08.21.

<sup>104</sup> The Electoral Knowledge Network, 2021, Electoral Management: <https://aceproject.org/ace-en/topics/em/annex/electoral-management-case-studies/cambodia-tensions-around-the-national-election>, accessed on 16.08.21.

<sup>105</sup> Cambodianews, 2021, Public reluctant to trust the independence of NEC president: <https://cambodianews.com/public-reluctant-to-trust-the-independence-of-new-nec-president/>, accessed on 16.08.21.

<sup>106</sup> Cambodian Anti-Corruption Law, 2010: [http://www.cambodiainvestment.gov.kh/anti-corruption-law\\_100417.html](http://www.cambodiainvestment.gov.kh/anti-corruption-law_100417.html), accessed on 07.03.2021.

<sup>107</sup> Ibid, Art. 17.

The above-mentioned public officials are further required to declare their assets and liabilities every two years, whilst they are in office.<sup>108</sup>

Additionally, individuals who are not included in the list to declare, but who are investigated for corruption, may be required to declare their assets and liabilities to the ACU, in writing or electronic form.<sup>109</sup>

When asked about the compliance rate for asset declarations, H.E Yonn Sinat, Vice-President of Cambodia's Anti-Corruption Unit (ACU) and UNCAC Implementation Review Coordinator stated: "There is a very high compliance rate for the asset declaration system - the compliance rate for the asset declaration system in Cambodia is almost 99.9%."<sup>110</sup> This was further substantiated in the latest National Anti-Corruption Strategic Plan (2020-2025), which highlighted the compliance success rate for asset declarations for the period 2015-2020: "The declaration of assets and liabilities is carried out successfully and responsibly. The figure of declaration of assets and liabilities as prescribed by law is close to 100%, including the two-year regime declaration, new appointment, resignation/end of the mandate, termination and retirement."<sup>111</sup>

However, it is difficult for the public to verify this statistic because the asset declarations of public officials are kept highly confidential – there is no provision in the Anti-Corruption Law that allows for the publication of summary declarations, especially for politicians.

The ACU completed a first draft of a code of conduct for public officials in 2018; however, it has not been finalised to-date.<sup>112</sup>

Meanwhile, conflicts of interest are rampant in the country. The realms of politics and business are indistinct. Certain actors also take on dual roles. Some directors of big companies serve as senators<sup>113</sup> while some politicians, civil servants, police officers, military staff and judges are the ultimate owners of business interests. Conflicts of interest appear to be unregulated and unsanctioned.

## Good practices

- Individuals who are investigated for corruption may be subject to declaring their assets and liabilities to the ACU. If done with good intention, this feature of the

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<sup>108</sup> Art. 18 of Cambodian Anti-Corruption Law, 2010: [http://www.cambodiainvestment.gov.kh/anti-corruption-law\\_100417.html](http://www.cambodiainvestment.gov.kh/anti-corruption-law_100417.html), accessed on 07.03.2021.

<sup>109</sup> Art. 19 of Cambodian Anti-Corruption Law.

<sup>110</sup> Interview with H.E Yonn Sinat, Vice-President of Cambodia's Anti-Corruption Unit (ACU) and UNCAC Implementation Review Coordinator, via Zoom, 09.06.2021.

<sup>111</sup> Cambodia Anti-Corruption Institution, 2020: Anti-Corruption Strategy and Policy National Strategic Plan Phase III (2020-2025).

<sup>112</sup> U.S. Department of State, 2020, Investment Climate Statements: Cambodia: <https://www.state.gov/reports/2020-investment-climate-statements/cambodia/>, accessed on 11.03.2021.

<sup>113</sup> Jacqui, B & Sarah, M, 2019, *Cambodia's Anti-Corruption Regime 2008-18: A Critical Political Economy Approach*, U4 Issue, <https://www.u4.no/publications/cambodias-anti-corruption-regime-2008-2018-a-critical-political-economy-approach>, accessed on 11.08.21

asset declaration regime may be regarded as a quasi-Unexplained Wealth Order, which would essentially allow ACU officials to assess whether an individual is living above his/her means with corrupt proceeds.

- The ACU has indicated that there is a high compliance rate (close to 100%) in public officials submitting their asset declaration forms.

## Deficiencies

- There are no requirements for family members of public officials to declare their assets and liabilities.
- The asset declarations of public officials are kept highly confidential and remain sealed unless allegations of corruption are filed. Only very few asset declarations forms have ever been unsealed, e.g., of the then National Assembly Vice President Kem Sokha.<sup>114</sup> NGOs have long advocated amending anti-corruption laws to place on the public record all property owned by government officials.<sup>115</sup>
- There are no details in the Anti-Corruption Law, regarding the verification process of asset declarations because only the Chairperson of the ACU can decide whether to open the sealed declaration.
- Income is declared only as “last year” annual income in the asset declaration form – while the declaration is submitted every two years. So, for calculating illicit enrichment, there is by default a gap on the income side, where there is no information provided for the other year of the two-year period.
- There is no requirement for bank savings to be declared on asset declaration forms.
- The asset declaration form mandates declarants to declare: “salary, consulting, rent, commission, stock, selling property, or others.” The amount is declared as: “annual income (indicates last year annual income after tax).” This is ambiguous and does not encourage declarants to declare any income received for free, such as gifts, inheritance, donations and winnings. This creates a loophole on the income side, as it allows declarants to justify such income, such as gifts, as being outside of the declaration regime. As only a few declarations have been opened for scrutiny so far, one cannot verify whether declarants

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<sup>114</sup> U.S. Department of State, 2019, Country Reports on Human Rights Practices: Cambodia: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/cambodia/>, accessed on 11.03.2021.

<sup>115</sup> U.S. Department of State, 2020, Country Reports on Human Rights Practices: Cambodia: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/cambodia/>, accessed on 11.03.2021.

share this understanding and include gifts and similar income. Similarly, loans received are not a declarable item either.

### **Art. 8.4 and 13.2 – Reporting Mechanism and Whistleblower Protection**

Currently, Cambodia lacks a comprehensive whistleblower law. The reporting mechanism and whistleblower protection in Cambodia is stipulated in the Anti-Corruption Law, albeit in a limited way. Particularly, article 13 of the Anti-Corruption Law states the following:

“The Anti-Corruption Unit shall perform the following duties, among other things:

- i) Receive and review all complaints on corruption and take action accordingly.
- ii) Keep absolute confidentiality of corruption-related information sources.
- iii) Take necessary measures to keep the corruption whistleblowers secure.”<sup>116</sup>

Even though the ACU’s duties include receiving corruption related complaints, the Anti-Corruption Law criminalises malicious or false denunciations, which arguably deters and endangers whistleblowers. This provision is established in article 41, which stipulates: “Defamation or disinformation complaints on corruption lodged with the Anti-Corruption Unit or court, which lead to useless inquiry, shall be punishable by imprisonment from one (1) month to six (6) months and fine from one million Riel (1000,000) to ten million Riel” (approx. US\$ 250 to 2,500).<sup>117</sup>

Throughout the years, Cambodian opposition lawmakers have expressed their concerns about article 41. For example, senior opposition lawmaker Son Chhay said: “that article must be removed - if you want people’s participation in the process, you cannot have an article to punish people who are acting as whistleblowers.”<sup>118</sup> To support this, many Cambodians who witness corruption do not report it.<sup>119</sup> In 2014, for instance, the ACU received 899 complaints, which is not a high number given that Cambodia has been repeatedly rated as one of the most corrupt countries worldwide.<sup>120</sup> The number of complaints in 2020 dropped to 660, 350 cases of which were investigated by the ACU. No corruption, however, was found in almost all those

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<sup>116</sup> Art. 13 of Cambodian Anti-Corruption Law, 2010: [http://www.cambodiainvestment.gov.kh/anti-corruption-law\\_100417.html](http://www.cambodiainvestment.gov.kh/anti-corruption-law_100417.html), accessed on 07.03.2021.

<sup>117</sup> Art. 41 of Cambodian Anti-Corruption Law, 2010.

<sup>118</sup> The Cambodian Daily, 2015, ACU Drafting Whistleblower Protection Law: <https://english.cambodiadaily.com/news/acu-drafting-whistleblower-protection-law-96179/>, accessed on 15.03.2021.

<sup>119</sup> Transparency International Cambodia, 2016, Policy Brief: The Need for a Good Whistleblower Protection Law In Cambodia: <https://www.ticambodia.org/download/policy-brief-whistleblower-protection-legislation/>, accessed on 11.03.2021.

<sup>120</sup> Ibid.

cases.<sup>121</sup> Efforts were made to obtain recent whistleblower statistics; however, such crucial data was not made publicly available by the time of completing this report.

Additionally, a 2015 nationwide study has shown that possible barriers preventing people from reporting corruption include the fear of having no protection, and a lack of knowledge on reporting procedures.<sup>122</sup> The 2015 nationwide study among 1,200 young Cambodians aged 15 to 30 has shown that although 67% said they were, in principle, willing to report corruption if confronted with a corrupt act, only 8% stated that they have done so in the past, although many of the survey responders had experienced corruption.<sup>123</sup> A third (33%) of the survey responders even reported reluctance to report corruption.<sup>124</sup> Fear of having no protection, the view that reporting corruption will have no impact, and a lack of knowledge on reporting procedures are the main barriers preventing youth from reporting corruption.<sup>125</sup>

In a 2020 corruption survey, only 38% of respondents stated that ordinary citizens could report corruption without fear, while the rest stated that people feared reprisals when reporting corruption.<sup>126</sup>

In an interview for this report, a leading Cambodian Governance Specialist stated:<sup>127</sup> “Regarding whistleblowers, I think that people are so afraid to come out and denounce any corruption. People usually denounce corruption via social media, rather than report it to the authorities, which is more effective, because it’s in the form of general accusations, not identifying particular individuals. The Deputy Prime Minister/Minister of Interior created an informal whistleblowing channel via a Facebook page to receive whistleblower complaints – he has resolved many cases, based on public complaints that are posted on social media. The defamation provision in the Anti-Corruption Law would hinder anyone from submitting a corruption complaint directly to the ACU. The public, especially the youth, feel more comfortable denouncing corruption via social media, without accusing any specific individual. By publicly exposing corruption, without singling out a particular individual, this gets more traction. People are careful, they state the facts about corruption that may occur in a specific institution, without naming anyone. This allows the Deputy Prime Minister/Minister of the Interior to directly investigate these complaints – his determination is very strong; he has resolved hundreds on complaints that were posted on Facebook.” The Governance

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<sup>121</sup> Khmer Times, 2021, 660 complaints on corruption filed last year: <https://www.khmertimeskh.com/50809477/660-complaints-on-corruption-filed-last-year/>, accessed on 15.03.2021.

<sup>122</sup> Transparency International Cambodia, 2015, Questioning Corruption: A National Survey on Youth Perceptions of Corruption and Integrity in Cambodia, <http://www.ticambodia.org/download/youth-integrity-survey/>, accessed on 15.03.2021.

<sup>123</sup> Ibid.

<sup>124</sup> Ibid.

<sup>125</sup> Ibid.

<sup>126</sup> Transparency International, 2020, Global Corruption Barometer - Asia 2020: Citizens’ Views and Experiences of Corruption: [https://images.transparencycdn.org/images/GCB\\_Asia\\_2020\\_Report\\_Web\\_final.pdf](https://images.transparencycdn.org/images/GCB_Asia_2020_Report_Web_final.pdf), accessed on 05.07.2021.

<sup>127</sup> Interview with Cambodian Governance Specialist, via Zoom, 10.06.2021 (name withheld by request).

Specialist also highlighted that informal whistleblowing via social media was more effective than official reporting channels, i.e., the ACU, where the matter would be transferred to the Ministry of Justice, ending up in the corrupt court system.

To expand the whistleblower regime, efforts have been made in drafting laws on the protection of reporting persons and on the protection of witnesses, experts and victims. In late 2017, an ACU official indicated that the draft law was 90 per cent complete and was headed to the Justice Ministry for further consultation.<sup>128</sup> However, there is no evidence that further progress has been made on the draft law to-date.

## **Deficiencies**

- There is no publicly accessible data, detailing up-to-date statistics on the number of reported cases from whistleblowers, investigations, follow-up actions by the ACU on those cases and prosecutions / convictions resulting from them.
- Article 13 of the Anti-Corruption Law has a confidentiality clause for individuals who report corruption. However, it is unclear whether that provision would protect whistleblowers whose information is deemed malicious.
- There is no available evidence to suggest that whistleblowers are adequately protected in practice in Cambodia. Protected disclosures and persons afforded protection are not clearly defined in the Anti-Corruption Law. For instance, there are no specified measures in place to include physical protection as well as protection from workplace or other retaliation.
- There are no detailed reporting channels in the Anti-Corruption Law.
- There are no provisions in the Anti-Corruption Law that allow for whistleblowers to anonymously report corruption.
- There are no reporting obligations in place for civil servants and public officials who have knowledge of a corruption offence.

## **Art. 9.1 – Public Procurement**

The introduction of the Law on Public Procurement 2012 has provided a foundational framework to standardise public procurement and is gradually being implemented in practice.

The law requires procurement entities to develop an annual procurement plan, aiding objective and transparent processes. To implement the plan, Articles 8 and 9 state

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<sup>128</sup> The Phnom Penh Post, 2017, Whistleblower law nearly done: ACU: [https://phnompenhpost.com/national-politics/whistleblower-law-nearly-done-acu?utm\\_content=buffer57b0f&utm\\_medium=social&utm\\_source=facebook.com&utm\\_campaign=buffer&fbclid=IwAR0TxZ-U3DLx0vPuJTUCcAzOe7jg3hSbjXsDQO1OSvxBIft163L5Fb7p5JA](https://phnompenhpost.com/national-politics/whistleblower-law-nearly-done-acu?utm_content=buffer57b0f&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer&fbclid=IwAR0TxZ-U3DLx0vPuJTUCcAzOe7jg3hSbjXsDQO1OSvxBIft163L5Fb7p5JA), accessed on 16.03.2021.

that the procuring entities should form a 'procurement committee' and a 'procurement unit' adequately staffed with a clear structure for undertaking procurement activities. With the aim of ensuring accountability, the law requires open bidding as a general rule in the procurement of goods, works and services. Exceptions to open bidding are regulated by the law and kept to a minimum. The law also demands that standard bidding documents be used and formulated by procurement units. Reports suggest that these are used in practice. The law also provides rules to ensure the objectivity of the contractor selection process. These include providing all bidders with 'fair and equal' chances to participate (although 'fair and equal' are not defined in this instance). In order to promote transparency, the law requires amendments to the bidding process to be shared publicly.

In line with the Procurement Reform Strategy 2021-2025, the government plans to fully implement an e-government procurement system after 2025 in Cambodia.<sup>129</sup>

In an interview for this report, H.E. Seng Sreng, Director General, General Department of Public Procurement in the Ministry of Economy and Finance, provided the following overview of the procurement process in Cambodia:<sup>130</sup>

“For a call for tenders, we make announcements on the websites of the General Department and relevant procurement entities. Announcements to invite bidders for procurement processes are also published in newspapers. For international bidding requests, announcements are made in English. Announcements are made at least twice a month before the closing date for bidding. After that, we seal all bidding documents that we receive from bidders and inform them of the date in which we will open the bid.”

“We then invite the bidders to meet with the procurement committee of the relevant line ministry. The procurement committee assigns a group, called the procurement unit, to open each bidding document, one-by-one. All bidding details, e.g., qualifications and bidding price, submitted by each bidder is then written on a white board for everyone to see. All companies and individuals involved in the open bidding process are then asked to sign a report [the minutes]. The bidders are then asked to go back until they are informed of the next stage.”

“The procurement committee then meets again to choose the successful bidder. Before announcing the successful bidder, each member of the procurement committee must sign an ethics and code of conduct form, specifying that there is no conflict of interest between them and the bidders. The procurement committee assesses the bidders that meet the criteria for the process, then selects which one will be awarded the tender. The procurement committee then announces which company would be awarded the contract. Once a contract is awarded, the information is released on the website of the relevant procurement agency and General Department

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<sup>129</sup> Interview with H.E. Seng Sreng, Director General, General Department of Public Procurement of the Ministry of Economy and Finance, via Zoom, 15.06.2021.

<sup>130</sup> Ibid.

of Public Procurement. Information is also released to all bidders, advising of the successful bidder.”

“For companies that are unsatisfied with the procurement process, they can express their grievances by bringing forth a case to the procurement committee of the relevant line ministry. The procurement committee would then reassess the proposal against the submitted bidding documents. The company can also submit its grievances to the General Department of Public Procurement in the Ministry of Economy and Finance, which would investigate the case and decide on whether the procurement committee was wrong in its selection. If the procurement committee is found to be wrong in its decision, the General Department of Public Procurement would then advise that the selection process be undertaken again. The Ministry of Economy and Finance would make its own decision on the case if its advice for reassessment is not adhered to by the procurement committee. If the aggrieved bidder is still unsatisfied with the decision made by the Ministry of Economy and Finance, it then has a further opportunity to appeal its case to the court, which makes the final decision.”

When asked whether there are any procedures in place to mitigate corruption in procurement processes, H.E. Seng Sreng further indicated that:<sup>131</sup>

“There is a sub decree, detailing the ethics code of conduct which members of the procurement committee must sign and abide by, which includes anti-corruption provisions. However, there were some cases that have been brought to the court, where it was found that members of the procurement committee have violated the ethics code of conduct. The ACU is involved throughout procurement processes, as they are the watchdog and invited to monitor the processes. Additionally, the ACU provides trainings to procurement officials and line ministries.”

### **Good practices**

- In practice, amendments, bid advertisements, and contract awards appear on the website of the General Department of Public Procurement of the Ministry of Economy and Finance (<http://gdpp.gov.kh/>), relevant multi-lateral organisations’ websites, and local bulletin boards.
- Training is provided to procurement officials of the line ministry, government ministry and provincial departments on an annual basis.<sup>132</sup>
- There is an established appeals process for aggrieved bidders.

### **Deficiencies**

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<sup>131</sup> Ibid.

<sup>132</sup> Ibid.

- Companies are not required to list their shareholders and beneficial owners, when submitting a proposal for tender.<sup>133</sup>
- Companies found engaging in fraud, or in breach of the law or any awarded contract would be banned from participating in future procurement processes for a three-year period. However, the names of the blacklisted companies are not publicly disclosed.<sup>134</sup>
- There are two uncoordinated departments that manage procurement processes in Cambodia. The first is the General Department of Public Procurement, in the Ministry of Economy and Finance, which deals with procurement awards funded by the national budget. The second is the General Department of International Cooperation and Debt Management, also in the Ministry of Economy and Finance, which manages procurement awards funded by international development partners. The two general departments are not linked together, and have two separate sets of rules and regulations, which poses a challenge to the management of the overall public procurement process in Cambodia.<sup>135</sup>
- Whilst the law no doubt represents a positive step in regulating public procurement, it is not entirely comprehensive. Presenting a limitation to accountability, the law does not mention any maintenance of registers or statistics on contracts. Consequently, public procurement over a period of time cannot easily be monitored to evaluate if the law is being complied with and if fair practices are being undertaken. Aside from alerting all bidders about the outcome of the competition, the law makes no requirement of public dissemination of procurement decisions, although these are still usually made public in practice. The law does not mention that the procurement committee and unit should be independent. In fact, both bodies are under the control of the procuring entity. Therefore, authority may be centralised with one person overseeing all aspects of procurement. This limits the opportunities for effective checks and balances.
- A report released by the Global Fund in 2013 detailed significant acceptance of bribes in exchange for public procurement contracts associated with the Ministry of Health. In 2015, ACU also urged the ministry to improve procurement practice after it failed to follow the required procurement procedures.<sup>136</sup> The ACU also warned other three state bodies of procurement malpractices after it was accused of not following legal requirements in the

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<sup>133</sup> Ibid.

<sup>134</sup> Ibid.

<sup>135</sup> Ibid.

<sup>136</sup> The Cambodia Daily, 2015, *ACU Urges Tighter Health Ministry Practices*: <https://english.cambodiadaily.com/news/acu-urges-tighter-health-ministry-practices-90912/>, accessed on 11.08.21

awarding of contracts.<sup>137</sup> This indicates that existing accountability mechanisms to monitor public procurement practice need to be strengthened. According to the 2021 Economic Freedom Index, corruption within public procurement in Cambodia remains widespread.<sup>138</sup>

- While procurement rules and practices may have improved over the years, it is largely prone to corruption and malpractice especially involving large scale projects, contracts and licenses. The system is still dominated by patronage practice which means that well-connected companies and business people are able to access generous state rents and are able to avoid regulations or ignore due legal processes.<sup>139</sup>

## Art. 9.2 – Management of Public Finances

Cambodia launched the public financial management reform programme (PFMRP) in 2004, a key milestone in its efforts to transform public financial management system. The PFMRP, which represents a comprehensive set of reforms, has been essential to improve how state resources are organised, allocated, transferred and made accountable. It is divided into four distinctive phases which aim at improving: 1) budget credibility, 2) financial accountability, 3) budget policy linkages, and 4) performance accountability.<sup>140</sup>

Key legal reforms include the adoption of the 2008 Law on Public Finance System, which is the primary legislation that relates to the management of public finances in Cambodia (the Public Finance Law). Article 1 of the Public Finance Law stipulates that the law: “aims at setting fundamental principles to manage the overall financial system and to develop the Law on Finance, especially each step of budget preparation, adoption, and implementation, to review budget performance, identifications of roles and responsibilities, and consequences of wrongdoings in public financial management of ministries, institutions, similar public entities, public establishments, and sub-national administrations.”<sup>141</sup>

Chapter 2 of the Public Finance Law outlines the structure of the budget and the authority. The Minister of Economy and Finance is the executor of the RGC in the preparation, implementation, monitoring, and management of the medium and long-term macroeconomic framework and public financial policies of the Kingdom of Cambodia.<sup>142</sup> The Minister of Economy and Finance is mandated to report twice a

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<sup>137</sup> The Cambodia Daily, 2015, *ACU Accuses Three State Bodies of Malpractice*: <https://english.cambodiadaily.com/news/acu-accuses-three-state-bodies-of-malpractice-94339/>, accessed on 11.08.21

<sup>138</sup> The Heritage Foundation, 2021, Index of Economic Freedom: <https://www.heritage.org/index/country/cambodia>, accessed on 20.07.2021.

<sup>139</sup> Jacqui, B & Sarah, M, 2019, *Cambodia's Anti-Corruption Regime 2008-18: A Critical Political Economy Approach*, U4 Issue, <https://www.u4.no/publications/cambodias-anti-corruption-regime-2008-2018-a-critical-political-economy-approach>, accessed on 11.08.21

<sup>140</sup> Ibid.

<sup>141</sup> The Law on Public Finance System: [http://www.cambodianbudget.org/files-tinyMCE/New\\_Pic/PFM\\_/Law\\_on\\_Public\\_Finance\\_refinedEnglish.pdf](http://www.cambodianbudget.org/files-tinyMCE/New_Pic/PFM_/Law_on_Public_Finance_refinedEnglish.pdf), accessed on 18.03.2021.

<sup>142</sup> Ibid., Article 35.

year to the National Assembly and the Senate on the macro-economic and public financial policies of the RGC and the current economic and public financial situation and medium-term forecasts.<sup>143</sup>

The annual budget must be adopted by the National Assembly, reviewed by the Senate, declared effective by Royal Decree and published to be implemented as a Law of the Kingdom of Cambodia.<sup>144</sup>

In terms of accounting standards, article 71 of the Public Finance Law requires ministers, heads of institutions, heads of similar public entities, and governors of the sub-national level administration to prepare and provide the Minister of Economy and Finance with a report on budget execution, a report on the implementation of projects pertaining to borrowings, issuance of state securities, guarantees and financial commitments, acceptance of financial grants and reports related to revenue from investments, and other necessary information as required by the Minister of Economy and Finance.<sup>145</sup> However, there are no fixed dates for the submission of these reports, as these reports are only submitted on specified dates set by the Minister of Economy and Finance.<sup>146</sup>

Furthermore, the Minister of Economy and Finance maintains the responsibilities for providing instructions on the preparation of the framework for internal audit operations in ministries, institutions, similar public entities, public enterprises, and administrations at the sub-national levels, and also has the mandate to conduct financial inspections at ministries, institutions, similar public entities, public enterprises, and administrations at sub-national levels.<sup>147</sup> The framework and the functioning of external audit must be implemented in compliance with the Law on Audit of the Kingdom of Cambodia.<sup>148</sup>

Financial operations and public accounting at both the national and sub-national levels of administration are centralised at the National Treasury and undertaken by public accountants.<sup>149</sup> It is mandated that the public accounting system be consistent with international accounting standards generally accepted, and the Minister of Economy and Finance must issue a Prakas to determine this accounting system.<sup>150</sup>

Regarding the mechanisms that are in place for recording, storing and preserving the integrity of accounting books, records, financial statements and other related documents - all execution of state revenues and expenditures must comply with the regulations and instructions of the Minister of Economy and Finance. For all financial operations, the Minister of Economy and Finance has the right to assign subordinates to inspect the public financial management at ministries, institutions, or similar public

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<sup>143</sup> Ibid., Article 36 and 37.

<sup>144</sup> Ibid., Article 49.

<sup>145</sup> Ibid., Article 71.

<sup>146</sup> Ibid.

<sup>147</sup> Ibid., Article 72.

<sup>148</sup> Ibid., Article 79.

<sup>149</sup> Ibid., Article 73.

<sup>150</sup> Ibid., Article 74.

entities.<sup>151</sup> Additionally, all records on revenues and expenditures of national and sub-national administrations must comply with the chart of expenditures of national and sub-national administrations and all accounting and financial reports must be transparent and publicly disclosed.

Any public official found non-compliant with the provisions of the Public Finance Law, in undertaking their roles and duties offered by the state, would be subject to punishment under effective legal discipline and existing legal formalities. In case of causing monetary losses or damaging public assets, the value of the loss or damage including interest on the loss value or damage would become liabilities to those public officials who must cover and repay into the state budget.<sup>152</sup>

Regarding the destroying or falsifying of public data, Mrs. Kruey Narin, Deputy Director of Department at the General Department of Economic and Public Finance Policy stated:<sup>153</sup>

“Cambodia has the Accounting and Audit Law, which specifies that all financial documents must be maintained for a period of at least 10 years. Based on the Public Financial System Law, 2008, there’s also a requirement for all government ministries to have an Archive Unit, which maintains all relevant financial and non-financial data, including government procurement contracts, for the respective public ministry.”

“For the last ten years, I’m not aware of any internal audit report which found that public financial data has been destroyed or falsified.”

With regard to the accessibility of public financial management documents, the following documents are publicly available in Cambodia:<sup>154</sup>

- 1) Pre-Budget Statement
- 2) Executive’s Budget Proposal
- 3) Enacted Budget
- 4) Citizens Budget
- 5) In-Year Reports
- 6) Mid-Year Review
- 7) Year-End Report
- 8) Audit Report

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<sup>151</sup> Ibid., Article 84.

<sup>152</sup> Ibid., Article 85.

<sup>153</sup> Interview with Mrs. Kruey Narin, Deputy Director of Department, General Department of Economic and Public Finance Policy of the Ministry of Economy and Finance, via Zoom, 11.06.2021.

<sup>154</sup> International Budget Partnership, 2019, Open Budget Survey: Cambodia: <https://www.internationalbudget.org/sites/default/files/country-surveys-pdfs/2019/open-budget-survey-cambodia-2019-en.pdf>, accessed on 18.03.2021; key budget documents are published by The NGO Forum on Cambodia, <http://www.cambodianbudget.org/index.php?page=00124&Language=1>, accessed 30.07.2021.

Additionally, in recent years, Cambodia has increased the availability of budget information by publishing the year-end report and part of the Executive's budget proposal online (<https://mef.gov.kh/documents/>).<sup>155</sup>

Mrs. Kruiy Narin further indicated: "Right now, the government's general department releases a monthly financial report. There's the "[budget in brief website](#)", which makes the budget more user-friendly and understandable for the public. The government also publishes the monthly Public Debt Bulletin, which indicates public debt held by bilateral and multilateral partners."<sup>156</sup>

"In terms of the public financial management system in Cambodia, we have made tremendous progress in terms of making it more transparent and accountable, starting from the preparation stage to the execution stage - programme budgeting was fully adopted in 2018, and since then we have made all budget documents available to the public via a website, public document telegram group and the economic forum, which involves all stakeholders from the private sector and media," said Mrs. Kruiy Narin.<sup>157</sup>

Even though there has been an increase in the availability of budget information, the actual extent to which publicly accessible data for budgetary documents is available, varies. For instance, there is a high degree of publicly available information on the enacted budget.<sup>158</sup> However, there is a low degree of available information for year-end reports, audit reports, mid-year reviews, citizens budget and executive's budget proposal.<sup>159</sup>

Regarding the management of public finances, steps are being taken to modernise the financial management system, by creating a financial management information system database to include all data that is relevant to the budget, e.g., revenue and expenditure, will be publicly accessible. "In the future, all necessary financial data would be available on the database, assisting greatly in the preparation, management and execution of the budget."<sup>160</sup>

When it comes to public participation in the budget process, the following measures have been taken:<sup>161</sup>

- 1) the Ministry of Economy and Finance has established public consultations during the budget implementation; and

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<sup>155</sup> Ibid.

<sup>156</sup> Interview with Ms. Kruiy Narin, Deputy Director of Department, General Department of Economic and Public Finance Policy of the Ministry of Economy and Finance, via Zoom, 11.06.2021.

<sup>157</sup> Ibid.

<sup>158</sup> International Budget Partnership, 2019, Open Budget Survey: Cambodia: <https://www.internationalbudget.org/sites/default/files/country-surveys-pdfs/2019/open-budget-survey-cambodia-2019-en.pdf>, accessed on 18.03.2021.

<sup>159</sup> Ibid.

<sup>160</sup> Interview with Mrs. Kruiy Narin, Deputy Director of Department, General Department of Economic and Public Finance Policy of the Ministry of Economy and Finance, via Zoom, 11.06.2021.

<sup>161</sup> Ibid.

- 2) the National Assembly has established public hearings related to the approval of the annual budget.

Mrs. Kruey Narin provided further details regarding public participation and transparency in the budget process, by stating:<sup>162</sup>

“In preparing the annual draft budget law, and macro-economic and fiscal policy framework, we hold wide consultations with public stakeholders, via a public forum, in order to gather their input on the overall economic output, i.e., the macroeconomic situation in the country, in order to help generate the budget. From this public forum, all feedback is then taken into consideration during the stage of preparing the budget. The public input allows the Department to fine-tune its economic, revenue and expenditure forecast. The executive summary of the draft budget law is also made publicly available. Once the final budget is approved by the National Assembly, it is immediately made publicly available on the Department’s website, and through the Telegram group. A further public forum is also conducted after the law is enacted. Therefore, the budget process is very transparent, so that the public can have a sense of what the government has placed its priority on.”

In practice, the 2018 TI Cambodia National Survey on Accountability and Transparency of the Budget Processes Report highlighted that even though a number of commendable initiatives have been recently implemented to improve budget transparency and accountability at national and sub-national levels in Cambodia, citizens’ knowledge and understanding of budget processes at the national level is generally very low.<sup>163</sup> Of the 1,596 individuals who were surveyed across all 25 provinces of Cambodia, the following alarming results were found:<sup>164</sup>

- 1) 99.7% of respondents could not identify the total amount of Cambodia’s national budget for 2017;
- 2) 94.9% of respondents could not identify which state institutions prepare the draft budget law; and
- 3) 99.9% of respondents had never seen any official budget document prepared by the national government.

Finally, the National Audit Authority (NAA) is responsible for executing the external audit function of the government. The NAA is established under the Law on Audit, which stipulates that the NAA is an independent public entity and shall report directly to the National Assembly, Senate and the Royal Government.<sup>165</sup> The NAA is led by one Auditor-General and two Deputy Auditor-Generals, who are appointed by royal

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<sup>162</sup> Ibid.

<sup>163</sup> Transparency International Cambodia, 2018, National Survey on Accountability and Transparency of Budget Processes: Summary Report: [http://ticambodia.org/library/wp-content/files\\_mf/1526534593SummaryreportonAccountabilityandTransparencyofBudgetProcess\\_EN.pdf](http://ticambodia.org/library/wp-content/files_mf/1526534593SummaryreportonAccountabilityandTransparencyofBudgetProcess_EN.pdf), accessed on 19.03.2021.

<sup>164</sup> Ibid.

<sup>165</sup> Law on Audit, 2000: [http://www.cambodianbudget.org/files-tinyMCE/New\\_Pic/Audit\\_Law/Audit\\_Law\\_English.pdf](http://www.cambodianbudget.org/files-tinyMCE/New_Pic/Audit_Law/Audit_Law_English.pdf), accessed on 07.07.2021.

decree on the recommendation of the RGC and approved by a majority-plus-one of all members of the National Assembly.<sup>166</sup> Additionally, the NAA has its own separate budget provided by the national budget.<sup>167</sup> The Auditor-General is empowered to conduct audits of accounting records, accounts, management systems, operation controls and programmes of government institutions by generally accepted international auditing standards.<sup>168</sup>

Regarding the operations of the NAA, Mr. Chea Sophat, Director of International Relations Department and Ms. Kong Leakhena, Deputy Director of Audit Department of National Audit Authority, stated:<sup>169</sup>

“Each year the NAA conducts and issues between 70-80 audit reports to the National Assembly. The NAA then consolidates all important findings from these audit reports into an annual audit report, called the Audit Report on Public Financial Management. Only the Audit Report on Public Financial Management is published and made widely accessible to the public, via the [NAA’s website](#).”

“The NAA employs 278 employees, including supporting staff. Prior the COVID-19 pandemic, the budget allocated to the NAA was sufficient enough for the NAA to perform its mandate.”

### Good practices

- The PFMRP has contributed to the improvement in revenue mobilisation and management.
- There are adequate procedures for the adoption of the national budget in place.
- There is a system of accounting and auditing standards and related oversight.
- All records on revenues and expenditures of national and sub-national administrations must comply with the chart of expenditures of national and sub-national administrations and all accounting and financial reports must be transparent and publicly disclosed.
- Cambodia has made efforts to increase budget transparency. The most recent Open Budget Survey notes improvement in the availability of relevant budget documents.<sup>170</sup>

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<sup>166</sup> Ibid.

<sup>167</sup> Ibid.

<sup>168</sup> ASEAN Supreme Audit Institutions, National Audit Authority of Kingdom of Cambodia: <http://www.aseansai.org/member-sais/membership-list/national-audit-authority-of-kingdom-of-cambodia/>, accessed on 11.03.2021.

<sup>169</sup> Interview with Mr. Chea Sophat, Director of International Relations Department and Ms. Kong Leakhena, Deputy Director of Audit Department of National Audit Authority, via Zoom, 09.06.2021.

<sup>170</sup> International Budget Partnership, 2019, Open Budget Survey: Cambodia: <https://www.internationalbudget.org/sites/default/files/country-surveys-pdfs/2019/open-budget-survey-cambodia-2019-en.pdf>, accessed on 18.03.2021.

## Deficiencies

- There is a low degree of actual available information for year-end reports, audit reports, mid-year review, citizens budget and executive's budget proposal. Therefore, Cambodia has a transparency score of 32 (out of 100) in the 2019 Open Budget Survey and is regarded as being insufficiently transparent when it comes to public access to information on how the central government raises and spends public resources.<sup>171</sup>
- Whilst the ability of citizens and civil society to engage with the national budget process is mandated in law, in practice their role has often been limited across the four different stages of the budget cycle. Citizens and civil society are not invited to formally participate in formulation (stage one) or enactment (stage two) of the annual budget, but may seek to exert influence through public proposals and analysis, providing information to the executive and legislature before the decisions are made.<sup>172</sup>
- Although the Ministry of Economy and Finance has established public consultations during the budget implementation, the participation of relevant stakeholders seems not very meaningful. The public hearing by the National Assembly in relation to the approval of the annual budget is also not a rigorous process but rather to formalise the process.
- Budget oversight remains weak. The legislature and auditing institution provide limited oversight of the process.<sup>173</sup> There are also challenges for citizens and civil society to provide effective oversight with the delayed publication of only limited financial statements and auditing and assessment.<sup>174</sup>

### **Art. 10 and 13.1 – Access to Information and the Participation of Society**

There is no access to information legislation to guarantee public access to information held by Cambodian government bodies and to ensure transparency within the public administration. In a press release endorsed by 19 Cambodian Civil Society Organisations, dated 28 September 2020, it was reported that:<sup>175</sup>

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<sup>171</sup> Ibid.

<sup>172</sup> Transparency International Cambodia, 2018, National Survey on Accountability and Transparency of Budget Processes: Summary Report: [http://ticambodia.org/library/wp-content/files\\_mf/1526534593SummaryreportonAccountabilityandTransparencyofBudgetProcess\\_EN.pdf](http://ticambodia.org/library/wp-content/files_mf/1526534593SummaryreportonAccountabilityandTransparencyofBudgetProcess_EN.pdf), accessed on 19.03.2021.

<sup>173</sup> International Budget Partnership, 2019, Open Budget Survey: Cambodia: <https://www.internationalbudget.org/sites/default/files/country-surveys-pdfs/2019/open-budget-survey-cambodia-2019-en.pdf>, accessed on 18.03.2021.

<sup>174</sup> See Transparency International Cambodia, 2018, National Survey on Accountability and Transparency of Budget Processes: Summary Report.

<sup>175</sup> Transparency International Cambodia, 2020: We Need a Good A2I Law and We Need It Soon: <https://www.ticambodia.org/we-need-a-good-a2i-law-and-we-need-it-soon/>, accessed on 18.03.2021.

“More than 15 years have passed since the Royal Government of Cambodia first acknowledged the need for an access to information (A2I) law. A draft law on access to information was first officially released in early 2018, and it has been updated several times since then, following consultations led by the Ministry of Information within the framework of the Technical Working Group.”

The RGC added the draft access to information law to its long-term strategic plan, consequently delaying its adoption to 2023.<sup>176</sup> Currently, the draft access to information law remains under review by the Ministry of Information and the Ministry of Justice.<sup>177</sup> Human Rights Watch (HRW) and ARTICLE 19, a British NGO that advocates for greater freedom of information worldwide, criticised the draft law in December 2019, warning it did not meet international standards.<sup>178</sup>

Consequently, public access to information in Cambodia is limited to documents that are not considered harmful to national security under the Archive Law, 2005. However, since the meaning of national security is unclear under the Archive Law, this allows for information to be widely censored.<sup>179</sup> Obtaining information is further restricted under the Archive Law, as those caught stealing, damaging or illegally releasing information from the archive can be jailed for a term ranging from six months to 30 years and fined between 500 USD to 12,500 USD. Yet, no penalty is mentioned for those officials and State bodies who refuse to release information.<sup>180</sup>

In an interview for this report, a leading Cambodian Governance Specialist expressed the following concerns on access to information in Cambodia:<sup>181</sup>

“It took more than 10 years to get the Anti-Corruption law adopted by the National Assembly. The drafting of the Access to Information Law process has already taken more than 15 years. The Access to Information Law would only come to fruition with strong political will from the prime minister. Currently, if citizens want information from the government, they can’t even get it because most ministries’ websites are outdated; the public obtains more information from Facebook than from government websites.”

In another interview, an Executive from a Cambodian NGO stated:<sup>182</sup>

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<sup>176</sup> Freedom House. 2020. *Cambodia. Country Report. Freedom in the World*:

<https://freedomhouse.org/country/cambodia/freedom-world/2020>, accessed on 18.03.2021.

<sup>177</sup> Agence Kampuchea Presse, Ministry of Information and Ministry of Justice Continue Reviewing A2I Draft Law, December 2020: <https://www.akp.gov.kh/post/detail/223967>, accessed on 18.03.2021.

<sup>178</sup> ARTICLE 19, 2019, Cambodia: Analysis of the Draft Law on Access to Information: <https://www.article19.org/resources/cambodia-analysis-of-the-draft-law-on-access-to-information/>, accessed on 18.03.2021.

<sup>179</sup> The Cambodia Daily, 2005, *Nat'l Archive Law Approved, Doubts Raised*: <https://english.cambodiadaily.com/news/natl-archive-law-approved-doubts-raised-49098/>, accessed on 18.03.2021.

<sup>180</sup> Ibid.

<sup>181</sup> Interview with Cambodian Governance Specialist, via Zoom, 10.06.2021 (name withheld by request).

<sup>182</sup> Interview with Executive from a Cambodian NGO, via Zoom, 08.06.2021 (name withheld by request).

“It’s difficult to obtain information from the government when conducting policy work. In the past, the government didn’t have the information, because they didn’t have the institutions to institutionalise data in a more structured way. Now they have more capacity, but they still don’t provide adequate information – even if they do provide the information, they decide what information is released. It’s still difficult for civil society organisations working on public policy matters, especially good governance matters, to obtain information from the government.”

With regard to participation of society, in recent years, the private sector has expressed concern over draft legislation that have not been subject to stakeholder consultations.<sup>183</sup> Cambodian ministries and regulatory agencies are not legally obliged to publish the text of proposed regulations before their enactment.<sup>184</sup> Moreover, while approved or passed laws are available on the websites of some Ministries, they are not always up to date.<sup>185</sup>

Draft regulations are only selectively available for public consultation with relevant NGOs, the private sector or other parties before their enactment.<sup>186</sup> Even if public consultations occur, there is still some doubt as to whether the government actually takes recommendations from the public into consideration. When asked about public consultations on draft legislation, the Cambodian Governance Specialist gave this recent example:

“Look at the Law on NGOs, there were 4-5 meetings held between the government and the Cooperation Committee for Cambodia (CCC), the umbrella organisation of civil society, with the final meeting held in 2020. The CCC proposed 17 amendments to this law, and there was not a single concession on any one of those amendments from the government. The government rejected the full package of proposed amendments from the civil society. The government is going to enact what it wants to.”<sup>187</sup>

With regard to the media, Cambodia has a low ranking of 144 out of 180 countries in the 2020 World Press Freedom Index.<sup>188</sup> Media freedom, already under pressure, collapsed in 2018.<sup>189</sup> The government, military forces, and the ruling political party continue to own or otherwise influence newspapers and broadcast media; there are

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<sup>183</sup> U.S. Department of State, 2020, Investment Climate Statements: Cambodia: <https://www.state.gov/reports/2020-investment-climate-statements/cambodia/>, accessed on 11.03.2021.

<sup>184</sup> Ibid.

<sup>185</sup> Ibid.

<sup>186</sup> Ibid.

<sup>187</sup> Interview with Cambodian Governance Specialist, via Zoom, 10.06.2021 (name withheld by request).

<sup>188</sup> Reporters Without Borders, 2020, World Press Freedom Index: [https://rsf.org/en/ranking\\_table](https://rsf.org/en/ranking_table), accessed on 18.03.2021.

<sup>189</sup> ARTICLE 19, 2020, Cambodia’s Government Should Stop Silencing Journalists, Media Outlets: <https://www.article19.org/resources/cambodias-government-should-stop-silencing-journalists-media-outlets/>, accessed on 18.03.2021.

few significant independent sources for news in Cambodia.<sup>190</sup> Threatening a massive, bogus tax payment, the RGC coerced the owners of the highly regarded *Phnom Penh Post* to sell to a Malaysian businessman with reportedly close ties to the prime minister, making future critical reporting unlikely.<sup>191</sup>

Social media has also come under assault in recent times, with criminal charges filed for Facebook posts critical of the government.<sup>192</sup> The government uses the penal code to arrest and prosecute citizens on disinformation and incitement charges, which carry a maximum sentence of three years' imprisonment.<sup>193</sup> Judges can also order fines, which may lead to jail time if not paid.<sup>194</sup> Police and courts interpret "incitement" broadly, leading to more than 40 arrests for statements posted to social media during 2018.<sup>195</sup>

Finally, "civil society organisations working on good governance and human rights matters are considered being aligned with opposition political forces and are essentially black-listed by the government; these organisations are tolerated to an extent, but closely monitored by the government," stated the leading Cambodian Governance Specialist.<sup>196</sup> To further support this, the Executive from a Cambodian NGO expressed: "Civil society organisations are censored by the government, so it's a high risk, low return environment, when working on good governance issues in Cambodia."<sup>197</sup>

## Deficiency

- Legislation, policies and practices allowing members of the public to obtain information on the organisation, functioning and decision-making process of public administration in Cambodia are currently inadequate.
- There are adverse limitations on freedom of expression in Cambodia.

## Art. 11 – Judiciary and Prosecution Services

The independence of the judiciary is guaranteed in both the Constitution and statutory legislation. Article 1 of the Law on the Status of Judges and Prosecutors of the

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<sup>190</sup> U.S. Department of State, 2019, Country Reports on Human Rights Practices: Cambodia: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/cambodia/>, accessed on 11.03.2021.

<sup>191</sup> Human Rights Watch, 2019, World Report: Cambodia: <https://www.hrw.org/world-report/2019/country-chapters/cambodia#>, accessed on 19.03.2021.

<sup>192</sup> Ibid.

<sup>193</sup> U.S. Department of State, 2019, Country Reports on Human Rights Practices: Cambodia: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/cambodia/lbid.>, accessed on 11.03.2021.

<sup>194</sup> Ibid.

<sup>195</sup> Ibid.

<sup>196</sup> Interview with Cambodian Governance Specialist, via Zoom, 10.06.2021 (name withheld by request).

<sup>197</sup> Interview with Executive from a Cambodian NGO, via Zoom, 08.06.2021 (name withheld by request).

Kingdom of Cambodia reaffirms the independence of the judiciary: “this law determines the status of judges and prosecutors and other principles related to judges and prosecutors, aiming at ensuring the independence of the judiciary in accordance with the Constitution of the Kingdom of Cambodia and the Basic Principles on the Independence of the Judiciary adopted by the United Nations.”<sup>198</sup> However, it has been widely reported that judges rely on patronage and political protection for job security, compromising their independence.<sup>199</sup> Additionally, Cambodia scored 0 points for independent judiciary in the 2020 Freedom House Report: “The judiciary is marred by corruption and a lack of independence. Judges have facilitated the government’s ability to pursue charges against a broad range of opposition politicians.”<sup>200</sup>

Although the Cambodian Constitution calls for an independent judiciary, both local and foreign businesses report problems with inconsistent judicial rulings, corruption, and difficulty enforcing judgments.<sup>201</sup> For these reasons, many commercial disputes are resolved through negotiations facilitated by the Ministry of Commerce, the Council for the Development of Cambodia, the Cambodian Chamber of Commerce, or other institutions.<sup>202</sup> Foreign investors often build into their contracts clauses which dictate that investment disputes must be resolved in a third country, such as Singapore.<sup>203</sup>

In practice, there are reports that the government exerted extensive control over the courts, and court decisions were often subject to political influence.<sup>204</sup> At times the outcome of trials appeared predetermined.<sup>205</sup> For example, Prime Minister Hun Sen declared shortly before the 2017 Supreme Court hearing on the dissolution of the main opposition party, the CNRP, that he was “99.99 per cent certain” the court would decide to dissolve the opposition party.<sup>206</sup> And in 2015, the Phnom Penh Municipal Court president was dismissed from his duties and arrested under allegations of widespread graft, according to a military police official.<sup>207</sup> However, observers and rights groups widely dismissed claims that the judiciary acted independently in

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<sup>198</sup> The Law on the Status of Judges and Prosecutors of the Kingdom of Cambodia: [http://www.sithi.org/judicial/docs/Judicial\\_Laws/Draft\\_Law\\_on\\_the\\_Statute\\_of\\_Judges\\_and\\_Prosecutors\\_NA\\_Eng.pdf](http://www.sithi.org/judicial/docs/Judicial_Laws/Draft_Law_on_the_Statute_of_Judges_and_Prosecutors_NA_Eng.pdf), accessed on 20.03.2021.

<sup>199</sup> Evans, J., Human Rights Watch, 2013, IMF Keeps Cambodia’s Corruption in the Shadows: <https://www.hrw.org/news/2013/12/26/imf-keeps-cambodias-corruption-shadows>, accessed on 11.03.2021.

<sup>200</sup> Freedom House, 2020, Freedom in the World: Cambodia: <https://freedomhouse.org/country/cambodia/freedom-world/2020>, accessed on 18.03.2021.

<sup>201</sup> U.S. Department of State, 2020, Investment Climate Statements: Cambodia: <https://www.state.gov/reports/2020-investment-climate-statements/cambodia/>, accessed on 11.03.2021.

<sup>202</sup> Ibid.

<sup>203</sup> Ibid.

<sup>204</sup> U.S. Department of State, 2019, Country Reports on Human Rights Practices: Cambodia: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/cambodia/>, accessed on 11.03.2021.

<sup>205</sup> Ibid.

<sup>206</sup> Ibid.

<sup>207</sup> The Phnom Penh Post, 2015, Court’s ex-chief arrested on corruption charges: <https://www.phnompenhpost.com/national/courts-ex-chief-arrested-corruption-charges>, accessed on 03.07.2021.

ordering his dismissal - the Cambodian Center for Human Rights (CCHR) expressed concern that his “swift removal” had been the result of executive interference.<sup>208</sup>

In 2020, there were reports that police, prosecutors, investigating judges, and presiding judges took bribes from owners of both legal and illegal businesses.<sup>209</sup> Transparency International’s 2019 Corruption Perceptions Index report noted the judiciary remained the most corrupt sector of government for the fifth year in a row, followed by law enforcement.<sup>210</sup> And the World Justice Project Rule of Law Index 2020 ranked Cambodia 127 out of 128 countries and last in the East Asia and Pacific region.<sup>211</sup> Notably, Cambodia is ranked last (128 out of 128 countries), when it comes to the issue of corruption in the judicial branch.<sup>212</sup>

A leading Cambodian Governance Specialist indicated:<sup>213</sup>

“Corruption in the judiciary is much more sophisticated, as there are different levels of corruption. For example, when an individual is wrongfully accused of a crime, or provoked by the authorities, he/she has four different opportunities to pay a bribe in order to be released: to the police; the prosecutor; the judge; or to the prison director.”

The Law on the Status of Judges and Prosecutors of the Kingdom of Cambodia, 2014 (the Judiciary and Prosecution Law), stipulates that both judges and prosecutors are mandated to strictly abide by their Code of Ethics.<sup>214</sup> It is further stipulated that judges and prosecutors shall not commit any act, which harms their own honour and dignity, and the prestige of the profession.<sup>215</sup> Moreover, judges and prosecutors must always remain politically neutral.<sup>216</sup> However, in practice, judicial officials, up to and including the chief of the Supreme Court, often simultaneously held positions in the ruling party, and observers alleged only those with ties to the ruling party or the executive received appointments to the judiciary.<sup>217</sup>

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<sup>208</sup> Ibid.

<sup>209</sup> U.S. Department of State, 2020, Country Reports on Human Rights Practices: Cambodia: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/cambodia/>, accessed on 11.03.2021.

<sup>210</sup> Ibid.

<sup>211</sup> World Justice Project, 2020, Rule of Law Index: [https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online\\_0.pdf](https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online_0.pdf), accessed 21.03.2021.

<sup>212</sup> Ibid.

<sup>213</sup> Interview with Cambodian Governance Specialist, via Zoom, 10.06.2021 (name withheld by request).

<sup>214</sup> Art. 50 and 96 of the Law on the Status of Judges and Prosecutors of the Kingdom of Cambodia, 2014: [http://www.sithi.org/judicial/docs/Judicial\\_Laws/Draft\\_Law\\_on\\_the\\_Statute\\_of\\_Judges\\_and\\_Prosecutors\\_NA\\_Eng.pdf](http://www.sithi.org/judicial/docs/Judicial_Laws/Draft_Law_on_the_Statute_of_Judges_and_Prosecutors_NA_Eng.pdf), accessed on 20.03.2021.

<sup>215</sup> Ibid.

<sup>216</sup> Ibid.

<sup>217</sup> U.S. Department of State, 2019, Country Reports on Human Rights Practices: Cambodia: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/cambodia/>, accessed on 11.03.2021.

The Judiciary and Prosecution Law further stipulates that any contempt to honour, good morals and dignity of judges and prosecutors are all regarded as punishable disciplinary actions under law.<sup>218</sup> Disciplinary punishments range from verbal reprimands to dismissal.<sup>219</sup>

Part 5 of the Judiciary and Prosecution Law sets out provisions regarding the selection of candidates to become judges. Judicial candidates must first pass an examination to become selected as student judges. The student judges then complete a professional training programme, and those who are successful are appointed as a deputy judge at first instant courts for a period of one year, which is regarded as an internship.<sup>220</sup> After completing the internship, the intern judge is then appointed into the cadre of judges as a full subordinate judge of the first grade.<sup>221</sup>

The selection and training for student prosecutors are jointly implemented with the training for student judges.<sup>222</sup> Additionally, like student judges, student prosecutors who successfully complete the professional training must undertake an internship for a period of one year.<sup>223</sup> After completing the internship, the intern prosecutors are then appointed into the cadre of prosecutors as full subordinate prosecutors of the first grade.<sup>224</sup>

Chapter 4 of the Judiciary and Prosecution Law outlines the conflicts of interest provisions.

Chapter 4 of the Anti-Corruption Law stipulates that both judges and prosecutors must declare and submit their assets and liabilities, which are located inside and outside of the country, to the ACU, upon taking and leaving office.<sup>225</sup> Additionally, judges and prosecutors must declare and submit their assets and liabilities every two years while in office.<sup>226</sup> However, there is no evidence of the extent to which the declarations are filed in practice, or whether they are used to prevent conflicts of interests, given that declarations are sealed and not publicly accessible.

## Good practices

- The independence of the judiciary is guaranteed in both the constitution and statute.

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<sup>218</sup> See the Law on the Status of Judges and Prosecutors of the Kingdom of Cambodia, 2014, Art. 54.

<sup>219</sup> Ibid, Art. 55.

<sup>220</sup> Art. 24 of the Law on the Status of Judges and Prosecutors of the Kingdom of Cambodia: [http://www.sithi.org/judicial/docs/Judicial\\_Laws/Draft\\_Law\\_on\\_the\\_Statute\\_of\\_Judges\\_and\\_Prosecutors\\_NA\\_Eng.pdf](http://www.sithi.org/judicial/docs/Judicial_Laws/Draft_Law_on_the_Statute_of_Judges_and_Prosecutors_NA_Eng.pdf), accessed on 20.03.2021.

<sup>221</sup> See the Law on the Status of Judges and Prosecutors of the Kingdom of Cambodia, Art. 25.

<sup>222</sup> Ibid, Art. 82.

<sup>223</sup> Ibid, Art. 83.

<sup>224</sup> Ibid, Art. 84.

<sup>225</sup> Art. 17 of the Anti-Corruption Law: [http://www.cambodiainvestment.gov.kh/anti-corruption-law\\_100417.html](http://www.cambodiainvestment.gov.kh/anti-corruption-law_100417.html), accessed on 07.03.2021.

<sup>226</sup> Art. 18 of the Anti-Corruption Law.

- Judges and prosecutors are legally mandated to abide by their Code of Ethics.
- The law establishes disciplinary measures for judges and prosecutors who show contempt to honour, good morals and dignity.
- In law, there are asset declaration requirements for both judges and prosecutors.

## Deficiencies

- In practice, the judiciary is not independent and is highly connected to the ruling party.
- There are widespread reports of a lack of integrity in the judiciary.
- The judiciary is understaffed, lacks qualified resources and receives insufficient financing, leading to widespread corruption and deterring foreign investment.<sup>227</sup>
- There are limited statistics available on any disciplinary actions taken or sanctions imposed against prosecutors and judges.
- In practice, accountability for members of the Judiciary for their actions is almost non-existent. This largely contributes to the ineffectiveness of the Judiciary in Cambodia. Disciplinary measures for judges and prosecutors are rarely enforced in practice.
- There is no guarantee that the legal asset declaration measures for judges and prosecutors are adhered to, or used to prevent conflicts of interest, because these remain sealed and are not publicly accessible.

## Art. 12 – Private Sector Transparency

The registration of a business with the Ministry of Commerce in Cambodia includes the full name, date of birth, nationality, address of the registered office and the principal place of business.<sup>228</sup> Additionally, a description of business operations is required.<sup>229</sup> The information on businesses registered in Cambodia should be available with the Ministry of Commerce, but this information has not been publicly listed on their website since 2015.<sup>230</sup>

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<sup>227</sup> GAN Integrity, 2020, Cambodia Corruption Report: <https://www.ganintegrity.com/portal/country-profiles/cambodia/>, accessed on 22.03.2021.

<sup>228</sup> Transparency International Cambodia, 2017, Business Integrity Country Agenda (BICA) Assessment Report: [http://ticambodia.org/library/wp-content/files\\_mf/1513916340BICARreport.pdf](http://ticambodia.org/library/wp-content/files_mf/1513916340BICARreport.pdf), accessed on 11.03.2021.

<sup>229</sup> Ibid.

<sup>230</sup> Ibid.

As it relates to beneficial ownership, the understanding of and value placed on collecting beneficial ownership information for registered Cambodian companies is low.<sup>231</sup> No information on the ownership structure of a business or how the business is controlled is required when registering a new business in Cambodia.<sup>232</sup> Similarly, there is no regulation in place that would require companies to collect, store and report information on their beneficial owners, i.e., the individuals ultimately controlling the legal entity.<sup>233</sup>

With regard to the transparency of company finances in Cambodia, companies' internal auditing structures depend on their size.<sup>234</sup> All legally registered domestic companies are required by law to document every financial transaction.<sup>235</sup> However, most domestic companies are not large enough to finance an internal audit structure and over 50% of SMEs do not have an official audit committee.<sup>236</sup> For larger companies, financial statements are typically externally audited every year, but there is no law requiring an independent assessment of internal audit structures.<sup>237</sup> Companies that are large enough to submit to external auditing often do disclose their audit reports.<sup>238</sup>

## Good practices

- The business sector has several elements in place enabling it to uphold a certain level of integrity. Specifically, the existing legal framework provides a relatively favourable environment for the creation and running of businesses. The Law on Commercial Enterprises (2005) allows various types of businesses to operate and provides a framework for their establishment. Moreover, the Civil Code (2007) gives clear information on the creation of contracts. Additionally, the Law on Copyright and Related Rights (2003) offers legal safeguards to protect intellectual property rights. The Law on Commercial Enterprises requires all companies to prepare and maintain financial and business records. And the Law on Corporate Accounts, their Audit and the Accounting Profession (2002) sets out provisions to ensure that businesses' financial statements are audited annually.<sup>239</sup>

## Deficiencies

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<sup>231</sup> Ibid.

<sup>232</sup> Ibid.

<sup>233</sup> UNODC, 2020, Beneficial Ownership Regulations and Company Registries in Southeast Asia – Analysis of Regulatory Deficiencies:

[https://www.unodc.org/documents/southeastasiaandpacific//topics/anti-corruption/2020/201001\\_Beneficial\\_ownership\\_regulations\\_and\\_company\\_registries\\_in\\_Southeast\\_Asia.pdf](https://www.unodc.org/documents/southeastasiaandpacific//topics/anti-corruption/2020/201001_Beneficial_ownership_regulations_and_company_registries_in_Southeast_Asia.pdf), accessed on 23.03.2021.

<sup>234</sup> Ibid.

<sup>235</sup> Ibid.

<sup>236</sup> Ibid.

<sup>237</sup> Ibid.

<sup>238</sup> Ibid.

<sup>239</sup> Law on Corporate Accounts, their Audit and the Accounting Profession, 2002:

[http://www.cambodiainvestment.gov.kh/law-on-accounting-law-on-corporate-accounts-their-audit-and-the-accounting-profession\\_020708.html](http://www.cambodiainvestment.gov.kh/law-on-accounting-law-on-corporate-accounts-their-audit-and-the-accounting-profession_020708.html), accessed on 07.05.2021.

- There is de facto no information on Cambodian companies available to the public.
- There is no register of beneficial ownership in Cambodia.
- There is no law requiring larger companies to undertake an independent assessment of internal audit structures.
- Threats to business integrity include the limited implementation of certain laws, as well as widespread petty corruption and high-level nepotism within the patronage network of the ruling elite. The seeking and offering of bribes are commonplace in the business sector. In the 2018 ASEAN Business Outlook Survey, 80 per cent of US investors who responded raised corruption as a concern to those doing business in Cambodia. Moreover, Transparency International's Global Corruption Barometer 2016 found that among those who had had contact with the services, 40 per cent of respondents in Cambodia had paid bribes to the Registry and Permit Services in the last 12 months, whilst 23 per cent had paid a bribe to the Judiciary. Both these institutions are relied upon by businesses in their functioning and operations. Finally, without an accountable Judiciary, it is challenging for companies to settle disputes fairly.

## Chapter V

### Art. 14; Art. 52 and 58 – Anti-Money Laundering

In 2018, the RGC updated the 2013-2017 National Anti-Money Laundering Strategies, by issuing the National Strategy for Combatting Money Laundering and Financing of Terrorism (2019-2023) (the “National Strategy”).<sup>240</sup> The National Strategy comprises of strategic objectives, prioritised action points and exact timelines relating to AML efforts in Cambodia. Its aim is for a collaboration to be forged between relevant authorities and the private sector in implementing the recommendations set out in Cambodia's Mutual Evaluation Report 2017 and National Risk Assessment (NRA) 2016.<sup>241</sup>

In addition to the National Strategy, Cambodia updated its AML legal framework with the Law on Anti-Money Laundering and Combatting the Financing of Terrorism that

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<sup>240</sup> National Strategy for Combating Money Laundering and Financing of Terrorism (2019-2023): [https://www.nbc.org.kh/cafiu/download/Laws%20and%20Prakas/National\\_Strategy\\_for\\_Combating\\_Money\\_Laundersing\\_2019-2023/National\\_Strategy\\_for\\_Combating\\_Money\\_Laundersing\\_2019-2023-ENG.pdf](https://www.nbc.org.kh/cafiu/download/Laws%20and%20Prakas/National_Strategy_for_Combating_Money_Laundersing_2019-2023/National_Strategy_for_Combating_Money_Laundersing_2019-2023-ENG.pdf), accessed on 05.04.2021.

<sup>241</sup> Asia/Pacific Group on Money Laundering (APG), 2017, Anti-money laundering and counter-terrorist financing measures: Cambodia Mutual Evaluation Report: <https://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/Cambodia%20MER%202017%20-%20published%20version.pdf>, assessed on 02.04.2021; National Bank of Cambodia, 2018, Cambodia National Money Laundering and Terrorist Financing Risk Assessment Report: [https://www.nbc.org.kh/cafiu/download/Sanitized\\_NRA/Sanitized\\_NRA\\_Full\\_Version.pdf](https://www.nbc.org.kh/cafiu/download/Sanitized_NRA/Sanitized_NRA_Full_Version.pdf), assessed on 02.04.2021.

was promulgated on 27 June 2020 (the “AML Law”).<sup>242</sup> Article 29 of the AML Law mandates supervisory authorities to issue regulations, instructions and guidelines for the implementation of the AML Law.<sup>243</sup>

The AML Law is extended to banking and financial institutions, as well as non-bank financial businesses and professions. Article 4 of the AML Law lists the following institutions and professions that fall within the scope of the Law (the “reporting entities”):<sup>244</sup>

- i. Banks, including branches of foreign banks;
- ii. Non-bank financial institutions, including securities brokerage firms and insurance companies;
- iii. Micro finance institutions;
- iv. Credit cooperatives;
- v. Leasing companies, investment and pension funds, investment companies and companies for managing investment funds;
- vi. Exchange offices;
- vii. Remittance services;
- viii. Trusts;
- ix. Agents, companies and developers of immovable property, building and land;
- x. Dealers in precious metals, stones and gems;
- xi. Post offices operating payment transactions;
- xii. Lawyers, notaries, accountants, auditors, investment advisors and asset managers involved in certain transactions, i.e. buying and selling property and managing clients’ assets;
- xiii. Casinos and other gambling institutions;
- xiv. NGOs and foundations engaging in business activities and fund raising; and
- xv. Any other persons or professions that are designated by the Cambodia Financial Intelligence Unit (the “CAFIU”) to be governed under the scope of the AML Law.

The reporting entities are all mandated to apply appropriate customer due diligence measures to manage and mitigate money laundering risks. Accordingly, the reporting entities must apply enhanced customer due diligence measures where the risk of money laundering is high; whereas it remains optional for reporting entities to apply simplified customer due diligence measures where the risk of money laundering is low.<sup>245</sup>

The customer due diligence measures cover the establishment of a business relationship along with other instances, such as:<sup>246</sup>

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<sup>242</sup> Law on Anti-Money Laundering and Combating the Financing of Terrorism, 2020: <https://www.nbc.org.kh/cafiu/download/Laws%20and%20Prakas/AML%20CFT%20Law%20in%20English.pdf>, accessed on 05.04.2021.

<sup>243</sup> Art. 29 of the Law on Anti-Money Laundering and Combating the Financing of Terrorism, 2020.

<sup>244</sup> Art. 4 of the Law on Anti-Money Laundering and Combating the Financing of Terrorism, 2020.

<sup>245</sup> Art. 8 of the Law on Anti-Money Laundering and Combating the Financing of Terrorism, 2020: <https://www.nbc.org.kh/cafiu/download/Laws%20and%20Prakas/AML%20CFT%20Law%20in%20English.pdf>, accessed on 05.04.2021.

<sup>246</sup> Art. 8(4) of the Law on Anti-Money Laundering and Combating the Financing of Terrorism, 2020.

- i. prior to carrying out occasional or one-off transactions, including wire transfers, that involve a sum equal to or greater than 40,000,000 Riel [about US\$ 10,000]
- ii. if the reporting entity has a suspicion of money laundering and/or financing of terrorism irrespective of the sum involved in the transaction; or
- iii. if the reporting entity has any doubts about the veracity or adequacy of previously obtained customer identification data.

Reporting entities are required to identify and verify the beneficial ownership of clients' accounts or related funds, including those held under the name of legal entities.<sup>247</sup> For legal persons and arrangements, such as companies, reporting entities are required to take reasonable measures to understand the nature of business, ownership and control structure of the customer.<sup>248</sup> Where no natural person is identified as the beneficial owner of legal persons, the natural person who holds the position of senior managing official should be identified as the beneficial owner.<sup>249</sup> Additionally, customer due diligence measures extend to both foreign and domestic Politically Exposed Persons (PEPs), including family members and close associates of such persons.<sup>250</sup>

The CAFIU is established under the National Bank of Cambodia.<sup>251</sup> A significant duty of the CAFIU includes receiving and analysing suspicious transaction reports from reporting entities to determine whether there are reasonable grounds to believe that a money laundering offence has been committed and, in such cases, refer the matter to the relevant law enforcement agencies for investigation.<sup>252</sup>

Where a reporting entity is unable to undertake the mandated customer due diligence measures on a client, it is prohibited from opening an account; commencing or continuing business relations; or performing the transaction for the client.<sup>253</sup> In such cases, the reporting entity must consider submitting a suspicious transaction report to the CAFIU in relation to the client.<sup>254</sup> Additionally, a reporting entity is mandated to submit suspicious transaction reports to the CAFIU where, in the course of conducting customer due diligence on a client, it suspects that the client might be engaging in money laundering activities.<sup>255</sup> Where a reporting entity submits a suspicious transaction report to the CAFIU in good faith, it and its employees would be protected from criminal and civil liability for breaching client confidentiality.<sup>256</sup>

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<sup>247</sup> Art. 8(5)(b) of the Law on Anti-Money Laundering and Combating the Financing of Terrorism, 2020.

<sup>248</sup> Ibid.

<sup>249</sup> Ibid.

<sup>250</sup> Art. 8(10) of the Law on Anti-Money Laundering and Combating the Financing of Terrorism, 2020: <https://www.nbc.org.kh/cafiu/download/Laws%20and%20Prakas/AML%20CFT%20Law%20in%20English.pdf>, accessed on 05.04.2021.

<sup>251</sup> Ibid, Art. 21.

<sup>252</sup> Ibid, Art. 22.

<sup>253</sup> Ibid, Art. 8(6).

<sup>254</sup> Ibid.

<sup>255</sup> Ibid, Art. 8(7).

<sup>256</sup> Ibid, Art. 14.

All reporting entities are required to keep records for at least five years after an account has been closed or the business relationship with a customer has ended.<sup>257</sup>

There are both disciplinary and criminal sanctions for non-compliance with the AML Law obligations, such as the revocation of a business license, monetary fines and imprisonment.<sup>258</sup>

In accordance with AML efforts, Cambodia has an asset declaration regime, which is covered by Chapter 4 of the Law on Anti-Corruption (see the section above on Asset Declaration).<sup>259</sup>

Despite enhancements being made to Cambodia's AML legal framework, Cambodia still faces many deficiencies when it comes to the law being applied in practice. Notably, in 2019, Cambodia was placed on the Financial Action Task Force (FATF) list of jurisdictions under increased monitoring (the "grey list"), where it has remained.<sup>260</sup> When the FATF places a jurisdiction under increased monitoring, it means the country has committed to resolve swiftly the identified strategic deficiencies within agreed timeframes and is subject to increased monitoring.<sup>261</sup>

After Cambodia was put on the "grey list", Cambodia made a high-level political commitment to strengthen the effectiveness of its AML/CFT regime.<sup>262</sup> Until 2016, not a single case of money laundering had been prosecuted. In July 2020, the Phnom Penh Municipal Court handed down prison sentences to five Chinese nationals for bringing an undeclared sum of \$1.75 million into the country.<sup>263</sup> A report from October 2020 suggests that Cambodia investigated 140 money laundering cases as of June 2020, 22 cases were sent to court, and five have gone to trial.<sup>264</sup> However, these cases involve only Chinese nationals bringing cash into Cambodia through airports. According to the information that is available to the public, Cambodia has never investigated possible cases of money laundering involving Cambodians although such cases have been widely covered by international media.

The ACU has developed and revised its internal legal documents and organisational structure to combat money laundering and terrorist financing by conducting parallel investigations, revising operational standards (SOPs) to comply with FATF standards

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<sup>257</sup> Ibid, Art. 11.

<sup>258</sup> Ibid, Art. 36.

<sup>259</sup> Cambodian Anti-Corruption Law, 2010: [http://www.cambodiainvestment.gov.kh/anti-corruption-law\\_100417.html](http://www.cambodiainvestment.gov.kh/anti-corruption-law_100417.html), accessed on 07.03.2021.

<sup>260</sup> Financial Action Task Force, 2021, Jurisdictions under Increased Monitoring: <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-february-2021.html>, accessed on 20.04.2021.

<sup>261</sup> Ibid.

<sup>262</sup> Ibid.

<sup>263</sup> The Phnom Penh Post, 2020, Kingdom lauded for stand against money laundering, 2020: <https://www.phnompenhpost.com/national/kingdom-lauded-stand-against-money-laundering>, accessed on 27.08.21

<sup>264</sup> The Phnom Penh Post, 2020, Cambodia cracks down on money laundering, 2020: <https://www.phnompenhpost.com/national/cambodia-cracks-down-money-laundering>, accessed on 27.08.21

and establishing an anti-money laundering office.<sup>265</sup> Additionally, as a law enforcement authority, the ACU has set up an inter-ministerial technical working group, which holds regular meetings, to coordinate the investigation of money laundering in which an ACU representative is the chairperson.<sup>266</sup>

In 2019, the Cambodian government established the Anti-Money Laundering and Counter Financial Terrorism Task Force within the national police and an internal working group within the Ministry of Justice (MOJ), which consists of prosecutors and judges in charge of AML/CFT, and made procedural changes within the ACU to address “the financial aspects of any complaints as part of the standard investigation procedure.”<sup>267</sup>

## Good practices

- Cambodia conducted its first national money-laundering risk assessment in 2016 to identify AML risks and vulnerabilities in the country.<sup>268</sup> According to CAFIU, “Cambodia intends on updating the risk assessment every five years.”<sup>269</sup>
- In 2019, the Cambodian government established the Anti-Money Laundering and Counter Financial Terrorism Task Force within the national police and an internal working group within the MOJ, which consists of prosecutors and judges in charge of AML/CFT, and made procedural changes within the ACU to address “the financial aspects of any complaints as part of the standard investigation procedure.”<sup>270</sup>
- In 2020, Cambodia strengthened its AML legal framework to address the money-laundering risks identified in the country.
- Cambodia has an established Financial Intelligence Unit to receive and analyse suspicious transaction reports from reporting entities.

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<sup>265</sup> Cambodia Anti-Corruption Institution, 2020: Anti-Corruption Strategy and Policy National Strategic Plan Phase III (2020-2025).

<sup>266</sup> Ibid.

<sup>267</sup> Asia/Pacific Group on Money Laundering (APG), 2019, 2nd Follow-Up Report: Mutual Evaluation of Cambodia: <https://www.fatf-gafi.org/media/fatf/documents/reports/fur/APG-Follow-Up-Report-Cambodia-2019.pdf>, accessed on 02.07.2021.

<sup>268</sup> National Bank of Cambodia, 2018, Cambodia National Money Laundering and Terrorist Financing Risk Assessment Report: [https://www.nbc.org.kh/cafiu/download/Sanitized\\_NRA/Sanitized\\_NRA\\_Full\\_Version.pdf](https://www.nbc.org.kh/cafiu/download/Sanitized_NRA/Sanitized_NRA_Full_Version.pdf), accessed on 02.04.2021.

<sup>269</sup> A written response from the Cambodian Financial Intelligence Unit (CAFIU), obtained on 09.06.2021.

<sup>270</sup> Asia/Pacific Group on Money Laundering (APG), 2019, 2nd Follow-Up Report: Mutual Evaluation of Cambodia: <https://www.fatf-gafi.org/media/fatf/documents/reports/fur/APG-Follow-Up-Report-Cambodia-2019.pdf>, accessed on 02.07.2021.

- The AML Law stipulates that the FIU shall be independent and have adequate financial resources.<sup>271</sup> While some observers have concerns about the body's independence, CAFIU has stated that “the CAFIU has adequate financial resources and independent decision-making authority on matters coming within its sphere of responsibility.”<sup>272</sup>
- The CAFIU is mandated to provide feedback to reporting entities and other relevant agencies regarding the outcome of suspicious transaction reports or information provided to it under the AML Law.<sup>273</sup>
- On 29 January 2021, the CAFIU issued a directive on customer due diligence measures in accordance with the AML Law.<sup>274</sup>
- The CAFIU is mandated to enhance public awareness and understanding of matters related to money laundering - it has a dedicated department to provide training on money laundering.<sup>275</sup> According to CAFIU’s response: “the CAFIU has conducted a virtual workshop on AML/CFT in November 2020, a virtual workshop on the directive on customer due diligence measures in February 2021 and recently collaborated with the World Bank to conduct virtual training on AML/CFT and related Directives in April 2021.”<sup>276</sup>
- Cambodia has know-your-customer (KYC) and suspicious transaction reports (STR) requirements in place. The CAFIU has signed Memorandums of Understanding with 14 domestic counterparts and 27 international counterparts.<sup>277</sup>
- According to responses received from CAFIU, the CAFIU regularly issues notifications to Reporting Entities to implement counter measures based on FATF Publication of High-Risk Jurisdictions. Reporting Entities must ensure to comply with the AML Law and conduct self-risk assessments and apply enhanced customer due diligence where high-risk are identified.<sup>278</sup>

<sup>271</sup> Art. 21 of Cambodian Anti-Corruption Law, 2010: [http://www.cambodiainvestment.gov.kh/anti-corruption-law\\_100417.html](http://www.cambodiainvestment.gov.kh/anti-corruption-law_100417.html), accessed on 07.03.2021.

<sup>272</sup> A written response from the Cambodian Financial Intelligence Unit (CAFIU), obtained on 09.06.2021.

<sup>273</sup> Art. 22(6) of Cambodian Anti-Corruption Law, 2010.

<sup>274</sup> Cambodia Financial Intelligence Unit, 2021, Directive of Customer Due Diligence Measures: [https://www.nbc.org.kh/cafiu/download/Laws%20and%20Prakas/Directive\\_on\\_CDD\\_Measures\\_ENG.pdf](https://www.nbc.org.kh/cafiu/download/Laws%20and%20Prakas/Directive_on_CDD_Measures_ENG.pdf), accessed on 15.04.2021.

<sup>275</sup> Sub-Decree on the Organization and Functioning of Cambodia Financial Intelligence Unit, 2020: [https://www.nbc.org.kh/cafiu/download/Laws%20and%20Prakas/References\\_Institutional\\_Arrangement\\_Related\\_to\\_ML\\_TF\\_PF\\_Eng.pdf](https://www.nbc.org.kh/cafiu/download/Laws%20and%20Prakas/References_Institutional_Arrangement_Related_to_ML_TF_PF_Eng.pdf), accessed on 15.04.2021.

<sup>276</sup> A written response from the Cambodian Financial Intelligence Unit (CAFIU), obtained on 09.06.2021.

<sup>277</sup> Cambodia Financial Intelligence Unit (CAFIU), 2020, National Bank of Cambodia: Phnom Penh, <https://www.nbc.org.kh/cafiu/download/Laws%20and%20Prakas/Applied-intelligence-in-the-fight-against-money-laundering-and-the-financing-of-terrorismCAFIU/Applied-intelligence-in-the-fight-against-money-laundering-and-the-financing-of-terrorismCAFIU-ENG.pdf>.

<sup>278</sup> A written response from the Cambodian Financial Intelligence Unit (CAFIU), obtained on 09.06.2021.

- Cambodia is a member of the Asia/Pacific Group on Money Laundering, a FATF-style regional body, and a member of the Egmont Group, a united body of 164 FIUs.

## Deficiencies

- Although the adoption of the AML laws and the creation of various government bodies responsible for implementing the laws represent a step forward, significant challenges remain. Cambodia was placed 100th out of 110 nations in the Basel Anti-Money Laundering Index 2021, suggesting a very high risk of money laundering and terrorism financing.<sup>279</sup> Global Financial Integrity, a Washington-based research group, estimates that at least \$1.8 billion was laundered out of Cambodia in 2016.<sup>280</sup> According to a 2019 study by the United Nations Office on Drugs and Crime, a clampdown on money laundering in Macau in 2014 appears to have shifted illicit operations to Southeast Asia, particularly to countries in the Mekong area that lack regulatory supervision and enforcement capacity. The report noted that “extensive casino complexes in Cambodia’s border areas and in Phnom Penh have also been identified as locations for bulk cash smuggling and the laundering of organised crime revenues.”<sup>281</sup>
- The government's ability to combat money laundering is hampered by corruption within some law enforcement agencies, low capacity, and a weak and deeply politicised court. Loose oversight of non-financial sectors in Cambodia, most notably the gambling and real estate industry, also further compounds this issue.<sup>282</sup>
- There is a greater need for prompt, proportionate and dissuasive enforcement actions being applied to banks for non-compliance with the AML Law.<sup>283</sup>
- The number of STRs filed by the CAFIU and information on money laundering convictions is not available to the public.<sup>284</sup>

<sup>279</sup> Basel AML Index 2021, International Centre for Asset Recovery at the Basel Institute on Governance, <https://index.baselgovernance.org/ranking>, accessed 11.10.2021.

<sup>280</sup> Radio Free Asia, 2020, The ‘Respectable’ Faces That Help Cambodia’s Elite Loot the Country, <https://www.rfa.org/english/news/cambodia/corruption-elite-06052020171140.html>, accessed 11.10.2021.

<sup>281</sup> UNODC, 2019, Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact: [https://www.unodc.org/documents/southeastasiaandpacific/Publications/2019/SEA\\_TOCTA\\_2019\\_web.pdf](https://www.unodc.org/documents/southeastasiaandpacific/Publications/2019/SEA_TOCTA_2019_web.pdf), accessed on 02.07.2021.

<sup>282</sup> U.S. Department of State, 2018, Bureau of International Narcotics and Law Enforcement Affairs International Narcotics Control Strategy Report Volume II Money Laundering: <https://bz.usembassy.gov/wp-content/uploads/sites/279/INCSR-Vol-2.pdf>, accessed on 02.07.2021.

<sup>283</sup> Financial Action Task Force, 2021, Jurisdictions under Increased Monitoring: <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-february-2021.html>, accessed on 20.04.2021.

<sup>284</sup> Data on STRs that is available on the website of the CAFIU appears to not have been updated in several years, <https://www.nbc.org.kh/cafiu/download.html>, accessed on 20.04.2021.

- The capacity of the CAFIU to produce financial intelligence for competent authorities remains limited and the levels of dissemination do not meet the operational needs of law enforcement agencies.<sup>285</sup>
- The CAFIU needs to enhance its disseminations of financial intelligence to law enforcement authorities in line with high-risk crimes.<sup>286</sup>
- There is limited awareness amongst the private sector of new obligations concerning targeted financial sanctions related to proliferation financing and enhancing the understanding of sanctions evasion.<sup>287</sup>
- There are no requirements for family members of public officials to declare their assets and liabilities.
- The asset declarations of appropriate public officials are kept highly confidential and remain sealed unless allegations of corruption are filed. Therefore, there is no evidence to confirm whether all required public officials are disclosing their assets as mandated by law.
- There are no details in the Law on Anti-Corruption regarding the verification process of asset declarations.
- While anti-money laundering laws require reporting companies to identify the legal persons who are the beneficial owners of accounts and customers, none of this information is shared with any government agency. In addition, a mechanism to record or report on the beneficial ownership information of legal entities remains insufficient.<sup>288</sup>

### **Art. 53 and 56 – Measures for Direct Recovery of Property**

The Law on Mutual Legal Assistance in Criminal Sector<sup>289</sup>, promulgated on 27 June 2020, stipulates the requirements and procedures for Cambodian authorities to

<sup>285</sup> Asia/Pacific Group on Money Laundering (APG), 2017, Anti-money laundering and counter-terrorist financing measures: Cambodia Mutual Evaluation Report: <https://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/Cambodia%20MER%202017%20-%20published%20version.pdf>, assessed on 02.04.2021.

<sup>286</sup> Financial Action Task Force, 2021, Jurisdictions under Increased Monitoring: <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-february-2021.html>, accessed on 20.04.2021.

<sup>287</sup> Ibid.

<sup>288</sup> UNODC, 2020, Beneficial Ownership Regulations and Company Registries in Southeast Asia Analysis of Regulatory Deficiencies: [https://www.unodc.org/documents/southeastasiaandpacific/topics/anti-corruption/2020/201001\\_Beneficial\\_ownership\\_regulations\\_and\\_company\\_registries\\_in\\_Southeast\\_Asia.pdf](https://www.unodc.org/documents/southeastasiaandpacific/topics/anti-corruption/2020/201001_Beneficial_ownership_regulations_and_company_registries_in_Southeast_Asia.pdf), assessed on 23.03.2021.

<sup>289</sup> Law on Mutual Legal Assistance in Criminal Sector, available for download on the CAFIU website, [https://www.nbc.org.kh/cafiu/laws\\_and\\_prakas.html](https://www.nbc.org.kh/cafiu/laws_and_prakas.html), [http://www.moj.gov.kh/kh/download?key=grctp2NDU2&lan=kh&return\\_url=BIUjZdaHR0cDovL3d3dy5t b2ouZ292LmtoL2toL2xhdy1yZWd1bGFyP3RpdGxlPSZkZXNjcmlwdGlvbjo0mc2lnbmV0PSZpbmN0aXR1dGU9JmNhdkVnb3J5PTEwJnNlY3Rvcj0mbW9udGg9JnllYXl9MjAyMCZidG5TZWFyY2g9](http://www.moj.gov.kh/kh/download?key=grctp2NDU2&lan=kh&return_url=BIUjZdaHR0cDovL3d3dy5t b2ouZ292LmtoL2toL2xhdy1yZWd1bGFyP3RpdGxlPSZkZXNjcmlwdGlvbjo0mc2lnbmV0PSZpbmN0aXR1dGU9JmNhdkVnb3J5PTEwJnNlY3Rvcj0mbW9udGg9JnllYXl9MjAyMCZidG5TZWFyY2g9), accessed 11.10.2021.

process legal assistance requests in criminal matters from other nations (the “MLA Law”).<sup>290</sup> The assistance provided under the MLA Law can be in the form of investigation, information sharing, detainee repatriation freezing, retention, or confiscation of assets related to criminal activities.<sup>291</sup> The MLA Law applies where there is no pre-existing agreement on the matter.<sup>292</sup> The Ministry of Justice is the central authority that is responsible for any formal communication with respect to providing mutual legal assistance.

## Deficiencies

- The MLA Law does not have any provisions regarding the proactive sharing of information.
- Currently, there is no available information regarding completed and ongoing recovery efforts of proceeds of corruption in Cambodia that have an international dimension.<sup>293</sup> According to a 2019 FATF follow-up report, Cambodia had not provided data and statistics on seized and confiscated property or assets, or on informal international.<sup>294</sup>
- Although investigative media reports have uncovered a number of cases of politically exposed persons (PEP) and their families in amassing international property portfolios worth hundreds of millions of dollars and moving assets abroad (in particular, to Australia), there is no publicly available evidence indicating that Cambodian authorities have ever sought assistance or cooperation with relevant State parties to conduct investigation and repatriate the assets.<sup>295</sup>
- Based on the current legal frameworks, civil society organisations have no legal standing to initiate an asset recovery or play a role in an asset recovery process. Instead, given the AML law also covers NGOs and foundations, there is a concern that the law can be used to a tool to target certain CSOs which are critical of the government.<sup>296</sup>

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<sup>290</sup> Rajah & Tann Asia, 2020, Law on Mutual Legal Assistance in Criminal Sector: [https://kh.rajahtannasia.com/media/4059/2020\\_08\\_legal\\_mutual\\_assistance.pdf](https://kh.rajahtannasia.com/media/4059/2020_08_legal_mutual_assistance.pdf), accessed on 20.04.2021.

<sup>291</sup> Ibid.

<sup>292</sup> Ibid.

<sup>293</sup> The World Bank and UNODC, Stolen Asset Recovery Initiative (StAR), Asset Recovery Watch Database: <https://star.worldbank.org/asset-recovery-watch-database>, accessed on 21.04.2021.

<sup>294</sup> Asia/Pacific Group on Money Laundering (APG), 2019, 2nd Follow-Up Report: Mutual Evaluation of Cambodia: <https://www.fatf-gafi.org/media/fatf/documents/reports/fur/APG-Follow-Up-Report-Cambodia-2019.pdf>, accessed on 02.07.2021.

<sup>295</sup> Radio Free Asia, 2020, Overseas Property of Cambodia's Elite: <https://www.rfa.org/english/news/special/hunsen-family/#>, accessed on 27.08.2021

<sup>296</sup> The Khmer Times, 2021, Mother Nature eco activists arrested on ‘terrorism’ charges, 2021: <https://www.khmertimeskh.com/50876997/mother-nature-eco-activists-arrested-on-terrorism-charges/>, accessed on 27.08.2021

## Art. 54 – Confiscation Tools

Article 32 of the AML Law sets out provisions for the confiscation of assets in the event of a conviction for money laundering. In this regard, the court will issue an order for the confiscation of:<sup>297</sup>

- i. property constituting the proceeds of offence, including property intermingled with or exchanged for such proceeds;
- ii. property constituting income and other benefits obtained from the proceeds of offence;
- iii. the instrumentalities, materials or any objects being used in committing a (criminal) offence;
- iv. property referred to the above-mentioned (i) and (iii) that has been transferred to any party, unless the court finds that the owner of such property acquired them by paying a fair price or in return for the provision of services corresponding to their value or on any other legitimate grounds, and that s/he was unaware of its illicit origin; or
- v. property of the perpetrator of the offence the value of which corresponds to that of the proceeds of offence.

The above-mentioned confiscation orders will also be issued for convictions on predicate offences which is defined as any felony or misdemeanour, even if committed abroad, as a result of which proceeds have been generated that may become the subject of a money laundering offence.<sup>298</sup> A predicate offence that is committed abroad must have the nature of an offence in that country where it was committed and under the laws of Cambodia, despite having different names of offences, in order to be used as a basis for money laundering proceedings in Cambodia.<sup>299</sup>

Where an offence involves money laundering or a predicate offence and the perpetrator cannot be convicted because s/he is unknown, absconded or died, the court has the discretion to issue a confiscation order if sufficient evidence is provided, demonstrating that the property constitutes proceeds of offence.<sup>300</sup>

### Good practices

- The AML Law provides for non-conviction based (NCB) confiscation of assets.
- The AML Law provides for the confiscation of assets where predicate offences are committed abroad.

### Deficiencies

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<sup>297</sup> Art. 32 of the Law on Anti-Money Laundering and Combating the Financing of Terrorism, 2020: <https://www.nbc.org.kh/cafiu/download/Laws%20and%20Prakas/AML%20CFT%20Law%20in%20English.pdf>, accessed on 05.04.2021.

<sup>298</sup> Art. 3(5) of the Law on Anti-Money Laundering and Combating the Financing of Terrorism, 2020.

<sup>299</sup> Ibid.

<sup>300</sup> Art. 32(2) of the Law on Anti-Money Laundering and Combating the Financing of Terrorism, 2020.

- There is limited freezing and confiscation of criminal proceeds, instrumentalities, and property of equivalent value being undertaken.<sup>301</sup> The proceeds that have been confiscated so far include mainly cash. For instance, a report from March 2020 stated that authorities seized about \$8 million and confiscated nearly 3,000 vehicles. Major cases involved Chinese nationals who brought the cash for gambling in casinos.<sup>302</sup>
- Confiscation is not pursued as a policy objective and it is not clear that confiscation is considered by law enforcement agencies when investigating predicate offences, or that the amount sought to be confiscated fully represents the available proceeds.<sup>303</sup>

See below section for further details.

### **Art. 51, 54, 55, 56 and 59 – International Cooperation for the Purpose of Confiscation, Art. 57 – Return and Disposal of Confiscated Property**

The Law on Mutual Legal Assistance was promulgated on 27 June 2020 (the “MLA Law”). The MLA Law outlines requirements and procedures for Cambodian authorities to process legal assistance requests in criminal matters from other nations.<sup>304</sup> The assistance provided under the Law can be in the form of freezing, retention or confiscation of assets related to criminal activities. The Law applies where there is no pre-existing agreement on the matter.

Additionally, article 51 of the Law on Anti-Corruption provides Cambodian courts with the discretion to allow for assistance to be made in the repatriation of confiscated assets to foreign requesting jurisdictions.<sup>305</sup> However, there is no mechanism in place for this and Cambodia has not yet repatriated confiscated assets to a foreign jurisdiction.<sup>306</sup> Currently, there is no available information regarding completed nor

<sup>301</sup> Financial Action Task Force, 2021, Jurisdictions under Increased Monitoring: <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-february-2021.html>, accessed on 20.04.2021.

<sup>302</sup> The Khmer Time, 2020, More than 70 money laundering cases uncovered since global watchdog’s greylist, 2020: <https://www.khmertimeskh.com/702059/more-than-70-money-laundering-cases-uncovered-since-global-watchdogs-grey-listing/>, accessed on 17.08.21

<sup>303</sup> The Asia/Pacific Group on Money Laundering (APG), 2017, Anti-Money Laundering and Counter-Terrorist Financing Measures - Cambodia Mutual Evaluation Report: <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/Cambodia%20MER%202017%20%20published%20version.pdf>, accessed on 02.04.2021.

<sup>304</sup> Rajah & Tann Asia, 2020, Law on Mutual Legal Assistance in Criminal Sector: [https://kh.rajahtannasia.com/media/4059/2020\\_08\\_legal\\_mutual\\_assistance.pdf](https://kh.rajahtannasia.com/media/4059/2020_08_legal_mutual_assistance.pdf), accessed on 20.04.2021.

<sup>305</sup> Art. 51 of the Law on Anti-Corruption, 2010: [http://www.cambodiainvestment.gov.kh/anti-corruption-law\\_100417.html](http://www.cambodiainvestment.gov.kh/anti-corruption-law_100417.html), accessed on 07.03.2021.

<sup>306</sup> The Asia/Pacific Group on Money Laundering (APG), 2017, Anti-Money Laundering and Counter-Terrorist Financing Measures - Cambodia Mutual Evaluation Report: <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/Cambodia%20MER%202017%20%20published%20version.pdf>, accessed on 02.04.2021.

ongoing recovery efforts of proceeds of corruption in Cambodia that have an international dimension.<sup>307</sup>

### **Deficiencies**

- There is no mechanism in place for the return and disposal of confiscated property, and Cambodia has not yet repatriated confiscated assets to a foreign jurisdiction.<sup>308</sup>

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<sup>307</sup> The World Bank and UNODC, Stolen Asset Recovery Initiative (StAR), Asset Recovery Watch Database: <https://star.worldbank.org/asset-recovery-watch-database>, accessed on 02.04.2021.

<sup>308</sup> The Asia/Pacific Group on Money Laundering (APG), 2017, Anti-Money Laundering and Counter-Terrorist Financing Measures - Cambodia Mutual Evaluation Report: <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsr/Cambodia%20MER%202017%20published%20version.pdf>, accessed on 02.04.2021.

## **V. Recommendations**

### **Recommendations for Priority Actions**

1. Strengthen the independence and accountability of the Anti-Corruption Unit: Amend article 13 of the Anti-Corruption Law to ensure that the Chairperson of the ACU presents its annual activity and financial reports to parliament, and that the reports are made publicly available in the following fiscal year; adopt a measure to ensure that the chairperson and vice-chairperson of the ACU are appointed by an open and competitive recruitment process, involving the input of civil society.
2. Facilitate inclusive anti-corruption efforts: Establish a transparent formalised public consultation process for the development of national anti-corruption policies and practices, and report to the public about such consultations and any public input considered.
3. Promote transparency of anti-corruption efforts:
  - 1) Ensure that the National Anti-Corruption Strategic Plan (2020-2025) is made widely accessible to the public via the ACU's website;
  - 2) Increase the collection and publication of relevant data and statistics to provide the public with evidence of how legal provisions regarding anti-corruption, AML and the asset recovery of proceeds of corruption, are being implemented and enforced in practice.
4. Strengthen integrity in public hiring: Improve the rules and procedures to address conflicts of interest in the hiring process for public sector jobs e.g., declaration of impartiality and absence of conflict of interest by the recruitment committee members, disclosure of specific scoring criteria for the evaluation of the applicants' qualification; and prohibition of family members from working in the same department.
5. Improve transparency and effective oversight of political financing: Disclose the financial reports of political parties to the public; adopt regulations on campaign spending by political parties and close regulatory loopholes that create numerous deficiencies in the political financing laws; establish and impose sanctions for violating political financing laws e.g., the use of state resources to finance political activity.
6. Improve the asset declaration regime: Publish at least a summary of asset declarations submitted by public officials, especially for those with high discretionary powers, i.e., politicians; develop a process for the verification of asset declarations, with information on this process also being publicly accessible, as well as a set of proportionate and deterrent sanctions to ensure compliance. Address loopholes and regulatory gaps in the asset declaration regime.

7. Advance protection of whistleblowers: Expand the whistleblower regime with provisions to provide for adequate protection for whistleblowers, in line with international best practice, and anonymous reporting of corruption through clearly defined channels; revise existing sanctions that may deter whistleblowers.
8. Improve company ownership transparency:
  - 1) Develop a centralised Beneficial Ownership Register with a requirement that adequate and structured data on the ultimate owners of all legal entities in Cambodia be compiled and publicised on a free, searchable online database.
  - 2) Ensure free online public access to the company registry, including information on the directors and direct owners of companies;
  - 3) Require private entities to report their shareholders and beneficial owners when submitting a proposal for tender during public procurement processes.
9. Advance transparency in public procurement: Publicly disclose the names of all private entities that have been blacklisted for public procurement processes; require that procurement decisions and information on all stages of the procurement process be made public in easily accessible formats, including through web portals; enhance state oversight and public monitoring on the services or products delivered by the contractors.
10. Promote public access to information: Adopt and implement legislation, policies and practices to allow members of the public to obtain information on the organisation, functioning and decision-making process of public administration in Cambodia; enact and implement effective access to information legislation that meets international best standards.
11. Advance integrity in the judiciary: Ensure that the judiciary is accountable to a completely independent body and that any ethics violations within the judiciary can be reported and are investigated, addressed and sanctioned.
12. Strengthen anti-money laundering efforts:
  - 1) Continue to strengthen the operational independence and capacity of the Cambodian Financial Intelligence Unit;
  - 2) Enhance the dissemination of financial intelligence to law enforcement authorities in line with high-risk crimes;
  - 3) Enhance the AML oversight of non-financial sectors in Cambodia, most notably the gambling and real estate industry;
  - 4) Increase awareness among the private sector regarding new obligations concerning targeted financial sanctions related to proliferation financing and enhancing the understanding of sanctions evasion.

## **VI. Annex**

### **List of Persons Consulted**

The following individuals were consulted for this report:

- 1) Mr. Chea Sophat, Director of the International Relations Department and Ms. Kong Leakhena, Deputy Director of Audit Department, National Audit Authority, via Zoom, 09.06.2021.
- 2) H.E. Yonn Sinat, Vice President, Anti-Corruption Unit, via Zoom, 09.06.2021.
- 3) H.E. Pen Pichsaly, Director General, General Department of Criminal Affairs and Prosecutions, Ministry of Justice, via Zoom, 10.06.2021.
- 4) Mrs. Kruey Narin, Deputy Director of Department, General Department of Economic and Public Finance Policy, Ministry of Economy and Finance, via Zoom, 11.06.2021.
- 5) H.E. Seng Sreng, Director General, General Department of Public Procurement, Ministry of Economy and Finance, via Zoom, 15.06.2021.
- 6) Cambodian Governance Specialist, June 2021 (name withheld by request).
- 7) Executive from a Cambodian NGO, June 2021 (name withheld by request).

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