

Mandates of the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the situation of human rights in Cambodia and the Special Rapporteur on the situation of human rights defenders

Ref.: AL KHM 4/2025
(Please use this reference in your reply)

17 June 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the situation of human rights in Cambodia and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 53/12, 54/36 and 52/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the lack of access to counsel in Cambodia, due to pressures on the legal profession and lack of access to free legal aid. Legal aid in Cambodia is reportedly affected by a lack of investment and funding by the authorities, and the lack of an adequate framework for legal aid. This gap has been covered by non-governmental organizations, who are now threatened by international funding cuts. These issues critically impact fair trial rights for all individuals in Cambodia, in particular those in rural areas and other groups in vulnerable situations, as well as the ability of legal professionals, including human rights lawyers, to operate freely and effectively in line with international human rights standards in defence of their clients' rights.

According to the information received:

Overview of legal aid in Cambodia

Free legal assistance services in Cambodia are primarily provided by the Bar Association of the Kingdom of Cambodia ("BAKC"), civil society organizations, and law firms.

Bar Association of the Kingdom of Cambodia

Reports describe that the Legal Aid Department (LAD) of the Bar Association of the Kingdom of Cambodia (BAKC) provides legal aid to low income and impoverished individuals in Cambodia.

The Department of Legal Aid of the BAKC is mainly funded by contributions from the Ministry of Justice. Despite several increases of the budget allocated by the Ministry of Justice throughout the years, it remains insufficient to deliver a legal aid service meeting the nation-wide demand.

The situation is compounded by the reduced and decreasing number of legal aid lawyers and the shortage of lawyers in several provinces of Cambodia.

In 2021, a special legal aid team under the supervision of the prime minister, consisting of a group of lawyers called the “Samdech Techno Sen’s Voluntary Lawyers Group”, was also created to protect the rights and interests of vulnerable groups. These include impoverished women, prisoners, garment workers, and those who do not have meaningful access to legal representation.

The Department of Legal Aid of the BAKC provides pro bono legal aid only to individuals once they have successfully petitioned the Chief of the Court for assistance. As such, the BAKC’s legal assistance is generally limited to criminal defence cases. As a result, misdemeanours are not in the field of BAKC legal aid service. Following a new policy introduced in 2021, BAKC has now expanded its scope of services to include legal representation of victims and suspects, and legal defence for defendants who have been charged with a crime and cannot afford legal representation.

Other providers of free legal counsel

The information suggests that BAKC has primarily focused its legal aid assistance for people accused of felonies or minors involved with misdemeanours or felonies, and mainly in the capital. People in Cambodia, especially those living in rural areas, still lack access to legal aid due to the lack of funding for such services and the shortage of lawyers who can help low-income clients. This is exacerbated by the lack of local bar associations in each province, and few to no law firms being present at a regional level.

As of 25 March 2025, CC1, the central male prison in Phnom Penh, holds 8,232 detainees in a facility designed for only 800, with many having no or limited access to state-sponsored legal aid. Reports suggest that children in conflict with the law often face the justice system without legal representation or appropriate safeguards, increasing their vulnerability to rights violations. Trial monitoring shows a quasi-systematic use of pre-trial detention in cases involving children in conflict with the law. In 2023, 80.8% of the child defendants involved in the monitored cases (21 out of 26) were held in pre-trial detention (showing little improvement since 2022). In addition, 91.7% of the children in conflict with the law who were held in pre-trial detention and whose date of arrest is known (11 out of 12) had spent between one and two years in custody at the time of their appeal hearing in the cases monitored in 2023. Trial monitoring in 2023 also suggests that every single child defendant who was acquitted in first instance was kept in detention after the *Prosecution* appealed the ruling in the relevant cases.

Civil society organizations have been filling some of these gaps, although limited resources have meant that gaps remain. Given recent funding cuts from international donors to civil society organizations in Cambodia, the situation is being further exacerbated as some organizations may no longer be able to provide support due to funding cuts.

Information suggests that depending on the provider, the type of legal aid offered may differ. For example, some providers may only offer assistance with criminal defence or civil suits. Some civil society organizations may only

represent clients in accordance with their mission or purpose, clients of a certain demographic or only handles particular classes of disputes.

The lack of an established national legal aid policy has resulted in donor fatigue, and funds to civil society organizations that provide legal aid services have been shrinking, which has entailed a lack of access to legal representation for many people in Cambodia. In 2023, reports indicate that 58.7% of the defendants involved in the monitored cases (656 out of 1,118) were represented by a lawyer, down from 66.7% in 2022. This demonstrates a year-on-year regression. Compounding this, in misdemeanour and petty crimes, more than four in ten defendants did not have legal representation and is cause for serious concern. Access to free legal aid services should be a right available for all.

Review of the relevant legal framework

Reports suggest that Cambodia is currently undergoing a review of its criminal laws. Current proposals that are related to the legal framework for legal aid include the following:

- **Legal Representation for All:** Amending article 301 of the Code of Criminal Procedure to guarantee legal representation for all individuals, including in misdemeanour cases.
- **Reducing Pre-Trial Detention and Promoting Alternatives:** The excessive use of pre-trial detention is a key driver of overcrowding, with over 40% of detainees held without conviction, often in conditions that violate international human rights standards. Reports suggest that greater use of alternative measures, such as judicial supervision, conditional release, and community sentencing orders, in line with SDG 16.3.2, would reduce prison congestion, uphold the presumption of innocence, and protect fair trial rights. Judicial authorities should be required to assess the necessity and proportionality of detention in each case, ensuring it is used as a last resort rather than the default approach.
- **Immediate Access to Legal Counsel:** Amending article 98 of the Code of Criminal Procedure to remove the permitted 24-hour delay in access to a lawyer, ensuring access from the beginning of police custody for questioning. Furthermore, article 98's current language, which suggests that detainees must choose between access to a lawyer or a support person, restricts their ability to receive adequate assistance. The amendment should explicitly affirm the right to both legal representation and the presence of a support person, ensuring comprehensive protection for individuals in police custody and strengthening due process safeguards. Additionally, this amendment should clarify that detainees have the right to access both a lawyer and any other support persons, not one or the other. The current 24-hour delay before a detainee is granted access to legal counsel significantly weakens their right to defence and increases the risk of torture, coercion, mistreatment, and forced confessions. Immediate legal access from the moment of police custody is a fundamental safeguard against abuses and a key principle of the right

to a fair trial.

Legal profession in Cambodia

Recent surveys highlight the deteriorating environment for legal professionals:

- 82% of lawyers report either experiencing harassment directly or knowing a colleague who has been harassed or threatened while carrying out their professional duties.
- 62% indicate they face restrictions in performing their job, making it increasingly difficult to provide effective legal representation. For instance, in practice, the 24-hour delay to provide access to counsel is reportedly regularly implemented, as some individuals do not access a lawyer until days, weeks, months after being charged and put in pre-trial detention.
- 70% of lawyers reportedly believe the judiciary is controlled, raising concerns about judicial independence.
- 50% of legal professionals report an increased security risk due to diminishing financial support and resources.

In 2016, it was reported that there were 60 CSO lawyers in the country. By January 2023, this number had dropped to around 16.

Reported obstacles to the work of lawyers

The information suggests that Cambodian courts regularly demonstrate inconsistencies and unpredictability in sentencing. Moreover, court judgments in Cambodia lack detailed legal justifications, making it difficult to assess the basis of decisions. Reports describe a lack of procedural guidelines that would ensure judges read aloud the legal and evidential reasons behind their decision when delivering a criminal verdict; and that they are required to provide clear, written explanations for their rulings, ensuring transparency and reducing the risk of political or external influence. There is no existing repository for criminal cases that the courts can use in citing cases.

In cases involving human rights defenders, journalists and political opposition actors detained for expressing criticism to Government policies or programmes, the information suggests that the presumption of innocence is not considered, assuming a line of questioning based on guilt and very difficult for lawyers to operate. At times, sentencing occurs just a few minutes after the conclusion of the hearings.

The information also suggests that some judges hold positions within the government or are affiliated with political parties.

The situation of civil society providing free legal counsel

The information suggests that the withdrawal of key foreign funding has significantly affected legal aid support for sensitive cases in Cambodia. This funding gap has left many individuals—particularly journalists, human rights defenders, and communities engaged in ongoing land rights disputes—without access to adequate legal representation. In politically motivated cases, this lack of support raises serious concerns about fair trial rights and access to justice.

The civil society legal aid network previously supported over 200 communities with ongoing land disputes and many more individual cases involving human rights activities. It reportedly supported over 100 community-based paralegals in documenting land and natural resource violations. Due to the funding shortfall, they are now unable to provide this crucial support to communities currently involved in court processes for land rights violations.

There are reports that many lawyers representing human rights defenders, journalists or other civil society actors who have expressed criticism of the Government or government policy have themselves been harassed and intimidated. As a result, many now refuse to represent these cases. These civil society legal aid providers are as a result, the only option available for many high-profile and sensitive cases. Funding limitations entail that organizations lack the financial capacity to front-fund cases. While pro bono support is possible in Phnom Penh, cases outside the capital require at least USD 300 in funding for travel and investigation. Some organizations which provided free legal assistance to journalists since 2019, have had to suspend their programs following recent and sudden funding cuts in 2025.

Without prejudging the accuracy of this information, we would like to express our concern that the reports that describe an increasing lack of access to free legal aid in Cambodia, as well as pressures on the legal profession.

We are concerned that legal aid in Cambodia is reportedly affected by a lack of investment and funding by the authorities, and the lack of an adequate framework. While this gap has been partially covered by non-governmental organizations, we are seriously concerned that now that they are threatened by international funding cuts; these issues will critically impact fair trial rights for all individuals in Cambodia. Even with the support of non-governmental organisations, many detained individuals in Cambodia have never had access to a lawyer.

Lack of adequate funding for legal assistance may in practice restrict lawyers, including human rights lawyers, from exercising their professional duties in defending the rights of low income and impoverished clients. These limits may also be a deterrent to lawyers considering taking on certain sensitive cases, in particular those related to human rights defenders or individuals whose cases are deemed to be sensitive.

It is our assessment that the lack of an adequate framework and adequate funding for legal aid may open the door to systematic violations of the right to a fair trial and equality before the law by restricting lawyers from fulfilling their legal duties to their clients and creating a chilling environment for the handling of certain kinds of

cases.

Further, we recall that the free exercise of the legal profession contributes to ensuring access to justice, oversight of state power, protection of due process and judicial guarantees. According to international standards, States must guarantee that those who practice law can do so free from intimidation, obstacles, harassment, or interference.

We would also like to recall the impact on the right to a fair trial for clients in specific cases. In addition to guaranteeing access to counsel, international standards on the right to a fair trial also provide that accused persons must have adequate time and facilities for the preparation of their defense and must be able to communicate with counsel of their choice.

We urge immediate attention to filling this legal aid gap to ensure that individuals facing politically motivated charges or other human rights-related cases have access to competent legal representation and to guarantee that human rights lawyers are free to exercise their professional duties defending the rights of their clients. Further, Cambodia must expand legal aid for children, promote diversion programs, and establish dedicated juvenile courts to ensure child-friendly justice in line with international standards such as the UN Convention on the Rights of the Child (CRC).

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the assessment of the situation of legal aid in Cambodia.
2. Please explain the measures taken to bring the relevant legal framework into line with human rights standards, and to adequately fund legal aid.
3. Please provide information on any measures taken by Your Excellency's Government to ensure that lawyers may exercise their legal profession in accordance with the Basic Principles on the Role of Lawyers and that human rights defenders, lawyers, and activists in Cambodia are able to carry out their legitimate work in a safe and enabling environment, without fear of threats or acts of intimidation, harassment or criminalization of any sort.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

Vitit Muntarbhorn
Special Rapporteur on the situation of human rights in Cambodia

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the Universal Declaration of Human Rights (UDHR), article 14 of the of the International Covenant on Civil and Political Rights (ICCPR), ratified by Cambodia on 26 May 1992, and the Convention on the Rights of the Child (CRC), acceded to by Cambodia on 15 October 1992.

We wish to bring to the attention of your Excellency's Government articles 10 and 11 of the UDHR, article 14 of the ICCPR, and article 40 of the CRC, which provide for the right to a fair and public hearing by a competent, independent and impartial tribunal. This right also entails the right to be presumed innocent until proved guilty; to be informed promptly and in detail of the nature and cause of the charges against them; to have adequate time and facilities for the preparation of their defence; and to examine the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them.

In relation to the requirement for an **impartial tribunal**, the Human Rights Committee has clarified in its general comment No. 32 that judges must not “harbour preconceptions about the particular case before them nor act in ways that improperly promote the interests of one of the parties to the detriment of the other” (CCPR/C/GC/32, paragraph 21). The right to a fair hearing requires “equality of arms” or equal treatment between the parties, and for the State to respect adversarial procedures. The Committee has also further noted that the right to adequate facilities for the preparation of defence includes access to documents and other evidence that the prosecution plans to offer in court against the accused (CCPR/C/GC/32, para. 33).

The right to a fair trial is protected in both instruments mentioned above. Article 10 of the Universal Declaration on Human Rights guarantees everyone the “right to a fair and public hearing by an independent and impartial tribunal”, while article 14 of the ICCPR stipulates that: “everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law”. Access to counsel is an integral part of a fair trial. The Human Rights Committee¹ has stated that “the availability or absence of legal assistance often determines whether or not a person can access the relevant proceedings or participate in them in a meaningful way”. The Committee has further indicated that “lawyers should be able to advise and to represent persons charged with a criminal offence in accordance with generally recognised professional ethics without restrictions, influence, pressure or undue interference from any quarter”.

In addition, we would like to also refer to the Basic Principles on the Role of Lawyers² and their requirement that governments must take all appropriate measures to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference, and to guarantee that lawyers are not threatened with prosecution or administrative, economic or other

¹ Human Rights Committee General Comment No. 32, paragraphs 10 and 34.

² Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba) from 27 August to 7 September 1990, principle 16.

sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

In relation to the disproportionate impact that this funding gap has on lawyers defending human rights, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

We like to draw particular attention to the following provisions of the Declaration:

- article 6, which states that everyone has the right, individually and in association with others, to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- article 9 paragraph (3) point c), which provides for the right to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms;
- article 11, which provides for the right of everyone, individually and in association with other, to the lawful exercise of their occupation or profession;
- article 12 paragraphs (2) and (3), which provide that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.
- and article 18, paragraphs 2 and 3, which state that individuals, groups, institutions and non-governmental organizations have an important role and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes, and to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.