Empowering People Affected by HIV to Protect their Rights at Health Care Settings

FACILITATOR'S BACKGROUND INFORMATION

POSITIVE PROTECTION

Cambodian People living with HIV Network CPN+

UNDP

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ACRONYMS AND **ABBREVIATIONS**

AIDS	Acquired Immune Deficiency Syndrome
ART	Antiretroviral Therapy
CEDAW	Convention on the Elimination of Discrimination against Women
HIV	Human Immunodeficiency Virus
MSM	Men who have sex with men
NGO	Non-governmental Organization
CHRC	Cambodia Human Rights Committee
OHCHR	Office of the High Commissioner on Human Rights
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDP	United Nations Development Programme
UPR	Universal Periodic Review

BACKGROUND INFORMATION FOR SESSION
1.1: KNOW THE EPIDEMIC IN CAMBODIA

***Note** to Facilitator: At the time this manual was written, available data were quite old, for example, some were from 2010. Make sure you have the latest data by up-dating the information provided here. You can find out if there are new data about HIV in Cambodia by contacting the UNAIDS Office or by checking on the Internet.*

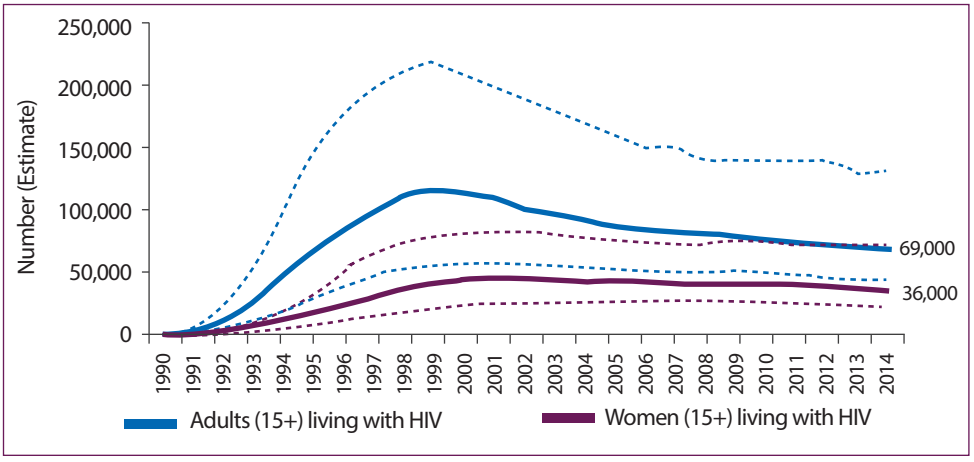
If you have access to the Internet, visit the UNAIDS Data Hub website at http://www.aidsdatahub.org/Country-Profiles/Cambodia for the latest information.

HIV EPIDEMIOLOGY AND TRENDS

HIV was first reported in Cambodia in 1991. The prevalence of HIV reached its highest point in 1997-1998, when about 2 percent of adults aged 15-49 were infected (HIV and AIDS Data Hub for Asia-Pacific, 2011). Since then, Cambodia has been quite successful in controlling the epidemic. The prevalence among adults had come down to 0.7 percent in 2013 (NAA, 2015).

In 2014, it was estimated that there were between 47,000 and 140,000 people living with HIV in Cambodia (see Figure 1). In 2014, among adults (those 15 years old and older) living with HIV in Cambodia, just over half or 52 percent (36,000) were women and just under half or 48 percent (33,000) were male. Over time, the percentage of the total number of HIV infections among women has increased, from 37 percent in 1998 to 47 percent in 2003 up to 52 percent in 2014 (HIV and AIDS Data Hub for Asia-Pacific, 2016). This has happened as men with HIV infected regular female partners, including their wives. Most women are infected between the ages of 20-24, while for most men it is between 25-29 (HIV and AIDS Data Hub for Asia-Pacific, 2011). In addition, there are an estimated 6,000 (3,900 – 11,000) children living with HIV (UNAIDS, 2014). HIV prevalence is higher in cities and towns than in rural areas (HIV and AIDS Data Hub for Asia-Pacific, 2011).

Figure 1: Estimated number of adults (15+) living with HIV and women (15+) living with HIV, 1990-2014

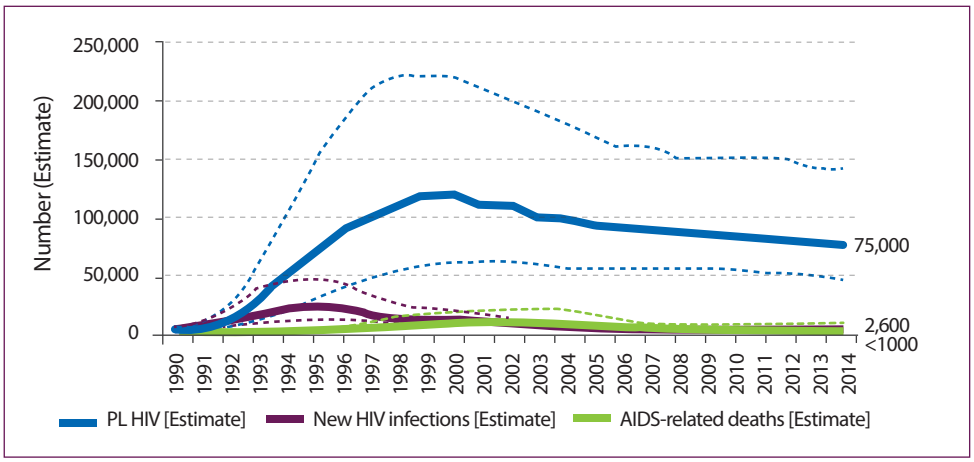


Source: HIV and AIDS Data Hub for Asia-Pacific, 2016.

The estimated number of new infections has decreased from a high of 23,000 in 1995 to less than a 1,000 in 2014 (see Figure 2 below) (HIV and AIDS Data Hub for Asia-Pacific, 2016). If effective interventions continue and the high percentage of people living with HIV who are taking antiretroviral medication is maintained, Cambodia could become the first low-income country to essentially stop the transmission of HIV by 2020 (NAA, 2015).

As more people living with HIV are receiving anti-retroviral treatment (ART,) the estimated number of deaths from AIDS has also declined enormously, from a high of 21,000 in 2003 and 2004 to 2,600 in 2014 (HIV and AIDS Data Hub for Asia-Pacific, 2016). Figure 2 shows the estimated number of new infections and of deaths over time.

Figure 2: Estimated number of people living with HIV, new infections and AIDS-related deaths, 1990-2014



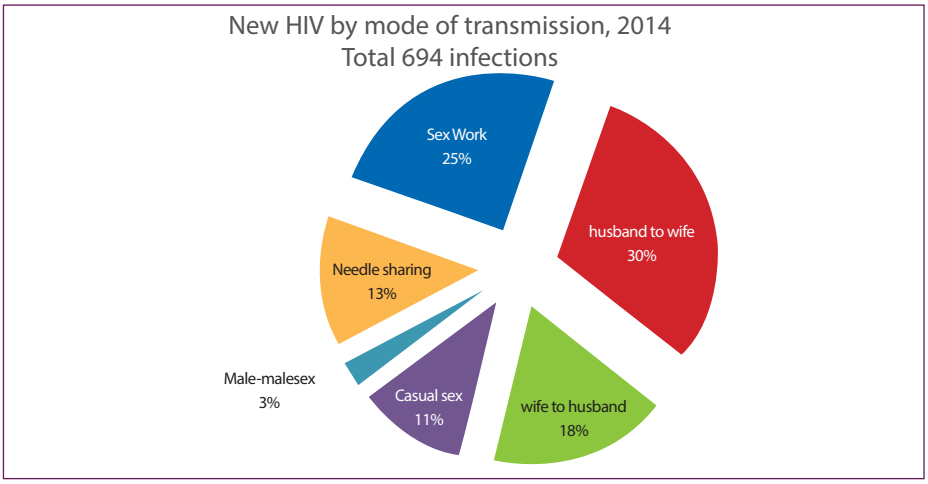
Source: HIV and AIDS Data Hub for Asia-Pacific, 2016.

WHO IS AT RISK OF HIV INFECTION IN CAMBODIA?

In Cambodia, HIV is most often transmitted through having sexual intercourse without a condom. About 87 percent of all new infections result from unprotected sex. The other 13 percent come from sharing needles and syringes when injecting drugs (NAA, 2015).

Cambodia has a concentrated HIV epidemic, which means that HIV is mostly found in specific groups of people. These groups, called key populations, include people who inject drugs (PWIDs); men who have sex with men (MSM); transgender people; female and male sex workers, including karaoke hostesses and beer girls. **Figure 3** below shows the estimated number of new infections in these groups. It also shows the estimated number of new infections between husbands and wives.

Figure 3: Estimated new infections by population group in Cambodia, 2014



Source: National AIDS Authority, 2015.

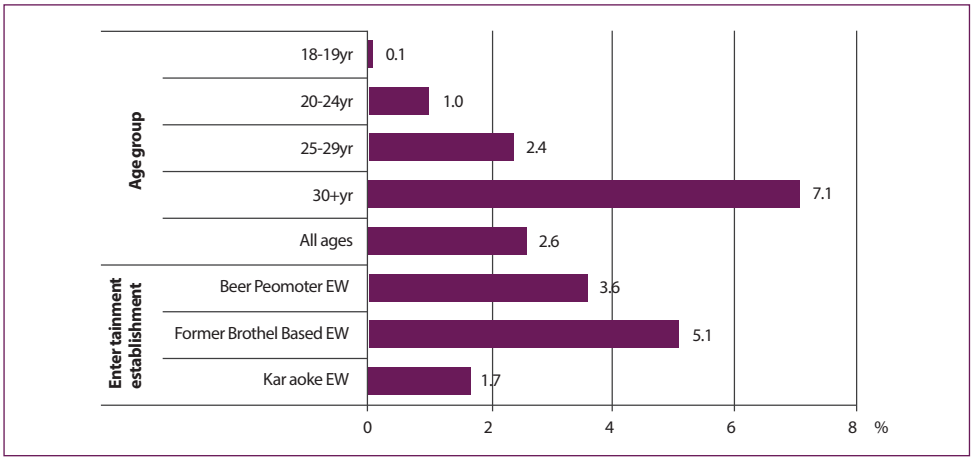
The epidemic mostly affects the following four groups of people, their sexual partners and their sexual partner's sexual partners:

- Female entertainment workers
- Men who have sex with men
- Transgender people
- People who inject drugs.

Female entertainment workers: Female entertainment workers are women and girls who work in places that provide entertainment, such as karaoke bars, massage places, and beer gardens, and who sometimes or often exchange sex for money or goods. In 2009, there were an estimated 37,000 female entertainment workers in Cambodia (HIV and AIDS Data Hub for Asia-Pacific, 2015). Research on the prevalence of HIV among female sex workers, now called entertainment workers, has been done since 2002. These studies show that the HIV prevalence among female entertainment workers has gone down. In 2002, the prevalence was 27 percent. In 2010, it was 14 percent or almost half. In 2011, research found that the prevalence of HIV was 4 percent among female entertainment workers who had sold sex in the previous year.[1] Female entertainment workers who had had more than 7 clients per week had higher prevalence than those with fewer clients (HIV and AIDS Data Hub for Asia-Pacific, 2016).

In 2002, HIV prevalence among female entertainment workers was 27 percent. By 2010, it had decreased to 14 percent.

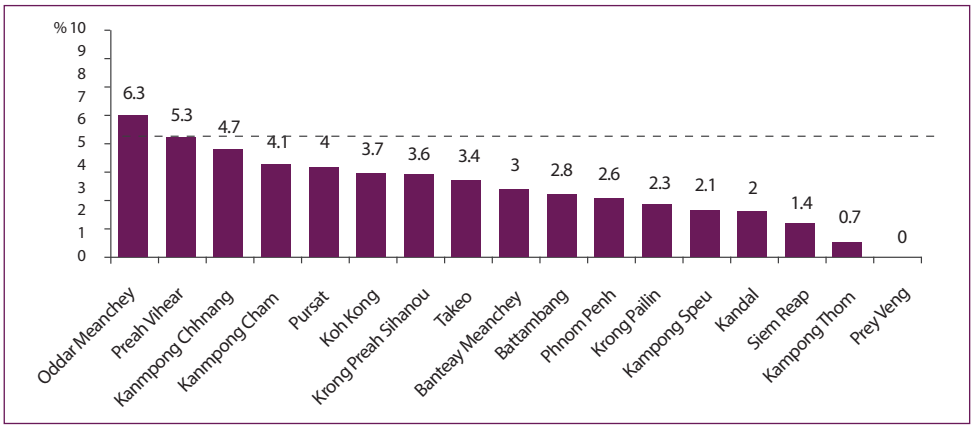
Figure 4: HIV prevalence among female entertainment workers, 2011



Source: HIV and AIDS Data Hub for Asia-Pacific (2016).

As shown in **Figure 4,** the prevalence of HIV is different for different age groups and different types of female entertainment workers. HIV is higher among those who are over 30 years old. It is also higher for those who used to work in brothels (5 percent) and for beer promoters (4 percent) than for karaoke workers (2 percent) (HIV and AIDS Data Hub for Asia-Pacific, 2016). Prevalence also varied by province (see Figure 5). Ranging from 6 percent in Oddar Meanchey to 0 percent in Pre Veng (HIV and AIDS Data Hub for Asia-Pacific (2016).

Figure 5: HIV prevalence among female entertainment workers in selected geographical locations, 2011

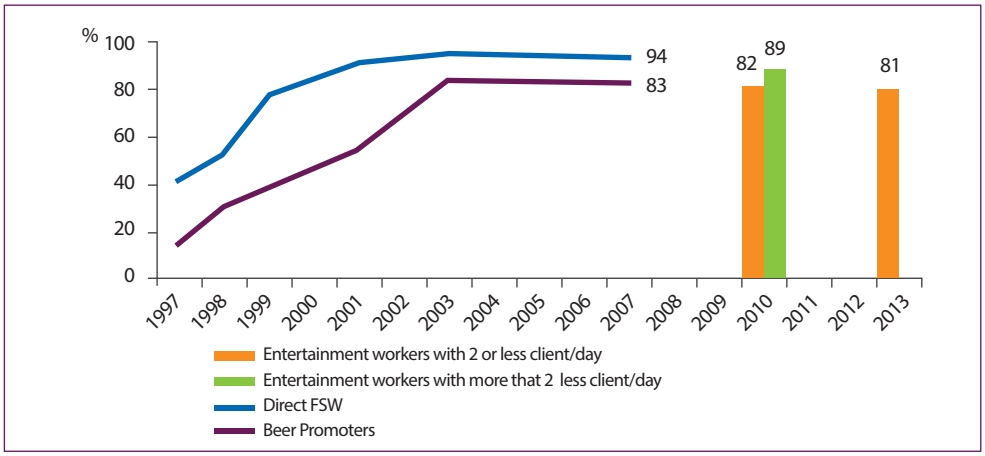


Source: HIV and AIDS Data Hub for Asia-Pacific, 2016.

[1] *he 2010 and 2011 data are not strictly comparable to those collected earlier. In 2010 the data are for female entertainment workers who had more than 14 clients in a week, whereas the data in 2011 are for female entertainment workers who had sold sex in the past 12 months.*

Overall, in 2013, 94 percent of female entertainment workers said they had used a condom the last time they had sex. Figure 6 shows the changes in consistent condom use among different types of female entertainment workers from 1997 to 2013.[2]

Figure 6: Trends in consistent condom use among female entertainment workers, 1997- 2013



Source: HIV and AIDS Data Hub for Asia-Pacific, 2016.

In a 2008 survey of 1,000 female and transgender sex workers in Phnom Penh, approximately half reported being physically assaulted by police. Nearly 42 percent reported being raped by police in the past year (UNAIDS, UNDP, and Asia-Pacific Coalition on Male Sexual Health, 2012). A 2004 survey carried out in Phnom Penh among more than 1,000 sex workers found that over 90% of sex workers reported that they were raped at least once a year. The sex workers reported that in the previous year the majority of these rapes had been perpetrated by clients. However, one-third were gang-raped by police and another third by gangsters (HIV and AIDS Data Hub for Asia-Pacific, 2011).

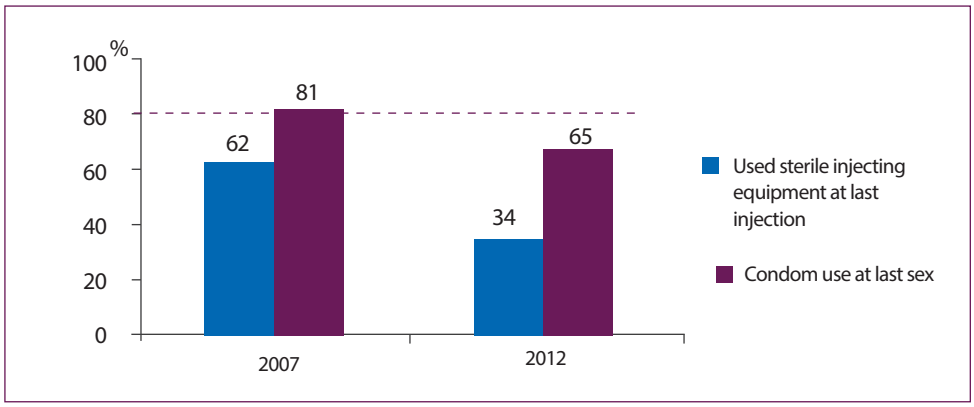
People who inject drugs: In 2012, there were an estimated 1,300 people who inject drugs in Cambodia. About 14% of people who inject drugs are women (Chhorvann, Ch. et al, 2014). The prevalence of HIV among people who inject drugs is high and has not gone down. In 2007, 24.4 percent were HIV positive and in 2012, 24.8 percent were. The prevalence of HIV among people who use drugs varies by gender and by whether they are regular or occasional drug users. Among people who occasionally inject drugs, 25 percent of men have HIV compared to 17 percent of women. Among those who regularly inject drugs, 23 percent of men have HIV compared to 50 percent of women (HIV and AIDS Data Hub for Asia-Pacific, 2016).

The HIV prevalence among people who inject drugs has not gone down. In 2012, 24.8 percent were HIV positive.

Prevention behaviours among people who inject drugs have gone down over time: in 2007, 81 percent said they had used a condom the last time they had sex, but in 2012 only 65 percent said they had done so. In 2007, 62 percent said they had used sterile injecting equipment the last time they injected; in 2012, only 34 percent said they had done so (see Figure 7) (HIV and AIDS Data Hub for Asia-Pacific, 2016).

[2] *Ibid.*

Figure 7: Proportion of PWID who reported having protective sexual behaviour and safe injection practice, 2007 and 2012



Source: HIV and AIDS Data Hub for Asia-Pacific, 2016.

Men who have sex with men (MSM): There were an estimated 31,000 men who have sex with men in Cambodia in 2014 and 20,000 (65%) were reachable men who have sex with men. The HIV prevalence among MSM went down to 2.1 percent in 2010 from 4.5 percent in 2007; in 2014, it was 2.3 percent. Prevalence varies by city, with Siem Reap, having the highest prevalence (almost 6 percent in 2014) and Phnom Penh the next highest (3 percent in 2014). In 2012, 87 percent of MSM said that they had used a condom the last time they had sex. Seventy-nine percent said that they had consistently used condoms with non-paid partners, but less said they had consistently used condoms when they bought or sold sex (HIV and AIDS Data Hub for Asia-Pacific, 2011 and 2016).

Transgender people: A study done in 2012 estimated that there were 2,686 transgender people in seven cities in Cambodia (NCHADS, USAIDS & PRASIT, 2013).[3] HIV prevalence among transgender people is about 6 percent (NCHADS, 2016). Banteay Meanchey (11.7 percent) and Siem Reap (11.3 percent) provinces had the highest prevalence rates, trailed by the capital city of Phnom Penh (6.5 percent) and Battambang province (5.3 percent). TG women in urban areas (6.5 percent) and the age group of 35-44 years old (13.13 percent)

In 2004, HIV prevalence among men who have sex with men was 4.5 percent. By 2014, it had gone down to 2 .3 percent.

had a significantly higher prevalence than their comparison groups. On sexual behaviors, 86.0 percent of the respondents reported having anal sex with a man in the past three months, with a median number of male sex partners of 3 . Approximately two-thirds (61.9 percent) of them reported not using a condom in their last sex..

For substance use, 75.9 percent reported drinking at least one can of beer or glass of wine; 11.0 percent reported using any form of illicit drugs; and 1.5 percent reported having injected illicit drugs in the in the past three months. Nearly half of the participants (45.0 percent) reported ever using hormone or other beauty-related substances. When asked about experience of discrimination, 39.2 percent reported having been sexually abused; 24.3 percent encountered job-related discrimination; and 23.6 percent reported having been physically abused.

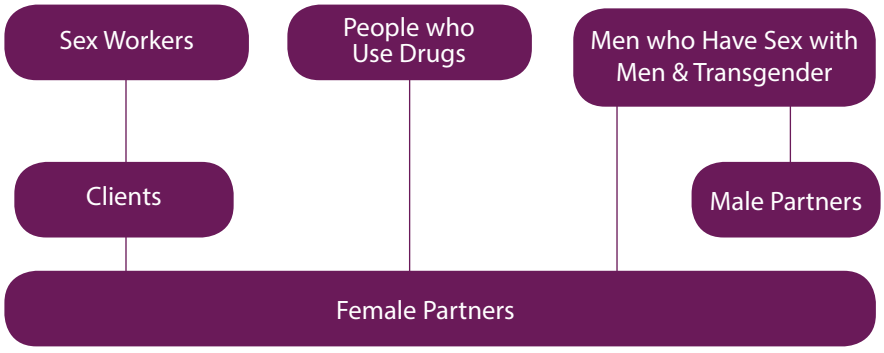
The survey conducted by FHI360 in 2014 also found that 55 percent said that they had experienced discrimination due to their gender identity.

[3] *The seven cities are Phnom Penh, Battambang, Poipet, Serei Saophoan (Sisophon), Siem Reap, Kampong Cham, and Sihanoukville.*

Other men at higher risk of HIV exposure: Although MSM, transgender people and male injection drug users are the groups of men at the highest risk of HIV, an estimated 12 percent of people living with HIV are clients of sex workers and 33 percent are other men; 13 percent of new HIV infections occur among clients of sex workers and 17 percent occur among other men (HIV and AIDS Data Hub for Asia-Pacific, 2016). The 2014 Demographic and Health Survey found that overall, 10 percent of men had ever paid for sex and 3 percent of men had done so in the previous year. Among men living in urban areas, 13 percent reported having paid for sex (NIS, DGH, and ICF International 2015). A study on the effects of mobility on risk behaviours found that among men in high-mobility occupations, such as fishermen, moto-taxi drivers, police, military, casino workers and de-miners, 20 to 51 percent had patronized sex workers in the previous year compared to 5 to 10 percent in the other population groups studied (Sopheab H, et al, 2006). Among the men in the study, travel away from home of more than one month in the previous year was a strong independent determinant of both sex with sex workers and casual sex. Their reported consistent condom use with sex workers was 85 percent, but it was significantly lower with their non-commercial partners (Sopheab H, et al, 2006). In terms of HIV prevalence, a 2005 study among male clients of brothel-based sex workers found that 9 percent were HIV positive. Seventy-five percent reported condom use with sex workers, but only 14 percent reported consistent condom use with their girlfriends (Hor et al, 2005).

Female partners of men in key populations: HIV Transmission in Intimate Partner Relationships in Asia states that: 'Evidence from many countries in Asia indicates that most women are acquiring HIV not because of their own sexual behaviours but because their partners engage in unsafe behaviours. The report cites research by Bennetts et al. and Silverman et al. which estimates that more than 90 percent of women living with HIV acquired the virus from their husbands or boyfriends while in long-term relationships. In Cambodia, more than half of all people living with HIV (52 percent) are "other women" – i.e. those who are not entertainment workers, transgender women or women who inject drugs; an estimated 38 percent of new HIV infections occur among this group (HIV and AIDS Data Hub for Asia-Pacific, 2016). Among women, most of these infections will occur among those who are married. Women in the general population do not report casual sex, but 41% of them said they were ''worried about being infected by their husbands" (Sopheab H, et al, 2006).

Figure 9: Dynamics of HIV transmission in intimate partner relationships in Asia



Source: UNAIDS (2009).

Expectations about gender roles and masculinity play an important part in the epidemic. For example, the normalization of commercial sex as acceptable entertainment, pressure from peers to engage in outings that involve drinking and commercial sex, and disassociation from community and family norms are major factors in male sexual decision-making in Cambodia (PSI and FHI, 2007).

VULNERABILITY TO HIV

There are a number of factors that create vulnerability to HIV in Cambodia. They include:

- **Stigma and discrimination against people living with HIV.** Because of stigma and discrimination, people may be afraid to use HIV services, such as counselling, testing and ART services, which would help prevent the transmission of HIV to others.
- **Stigma and discrimination against men who have sex with men, sex workers, transgender people and people who use drugs.** The lack of acceptance of these groups in society can result in low self-esteem and self-caring. It also results in high levels of violence against them, including forced sex.
- **Low condom use** in among men in casual sex and among sex workers in non-commercial sex.
- **Harmful gender roles, norms and conceptions of masculinity.** As noted, these can encourage men to pay for sex and to have multiple concurrent partners.
- **Limited economic opportunities.** This results in many people, especially men, travelling for work both within and outside of Cambodia. When men are away from their spouses, they are more likely to have extramarital sex partners or to visit sex workers.

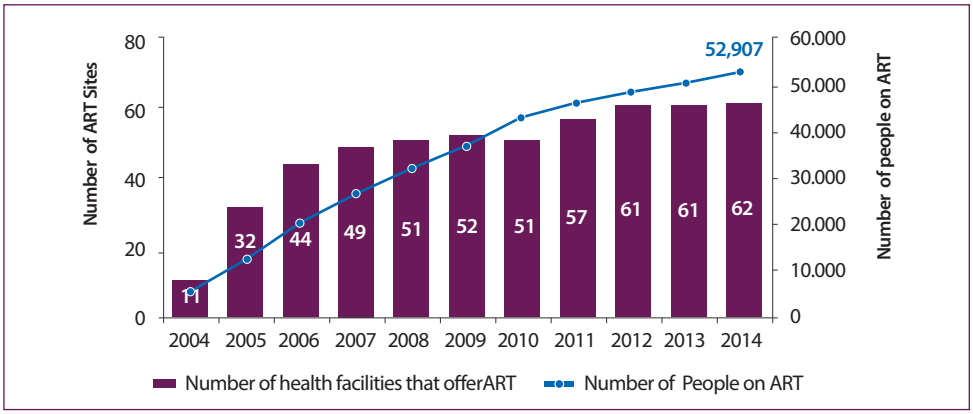
Factors that particularly affect women are:

- The low status of women. Unequal power within intimate partner relationships reduces women's power to control their own lives, including negotiating safe sex in order to protect themselves and accessing counselling and testing services. It also makes it more likely that violence or the fear of violence will be used to force them to have sex or to get them to do what their partner wants. Forced sex increases the risk of HIV transmission because it is likely to result in injuries that allow HIV to enter the body more easily. A study conducted in 2015 found that 21 percent of women aged 15-64 who had ever been in a relationship reported having experienced physical and/or sexual violence by an intimate partner at least once in their lifetime. Three-quarters of them reported experiencing severe acts of violence, rather than only moderate acts (MoWA and NIS, 2015).
- **Trafficking of women and girls** within the country and across national borders for begging, labour and domestic work is thought to be widespread especially in poor districts. Reliable recent figures on the extent of trafficking are lacking however. Some of these girls and women are forced to become sex workers, making them vulnerable to HIV.
- **The illegal and low social status of sex work** has resulted in many sex workers seeking to remain hidden. Women are driven into the sex trade by poverty, low education, lack of security and violence within the family. Sex work involves significant abuse by the owner, client and police. The Law on the Suppression of Human Trafficking and Sexual Exploitation that was passed in 2008 has made it more difficult to reach female sex workers with prevention and treatment services because of their fear of prosecution and because it resulted in the closure of all brothels, driving them underground (HIV and AIDS Data Hub for Asia-Pacific, 2011). Many are not part of a community of sex workers or existing networks.
- **Women's lack of economic independence** makes them reliant on their husbands for their basic needs. This reduces their power to negotiate safe sex and refuse unsafe sex and their ability to leave an unsafe or violent relationship.

HIV SERVICES

By 2014, there were 62 health care sites that provided anti-retroviral treatment. In 2004, 5,000 people living with HIV were on antiretroviral therapy; by 2014, 52,907 were. This means that 71 percent of HIV positive people were receiving ART in 2014 (HIV and AIDS Data Hub for Asia-Pacific, 2016). Figure 10 below shows how access to ART has increased over time in Cambodia.

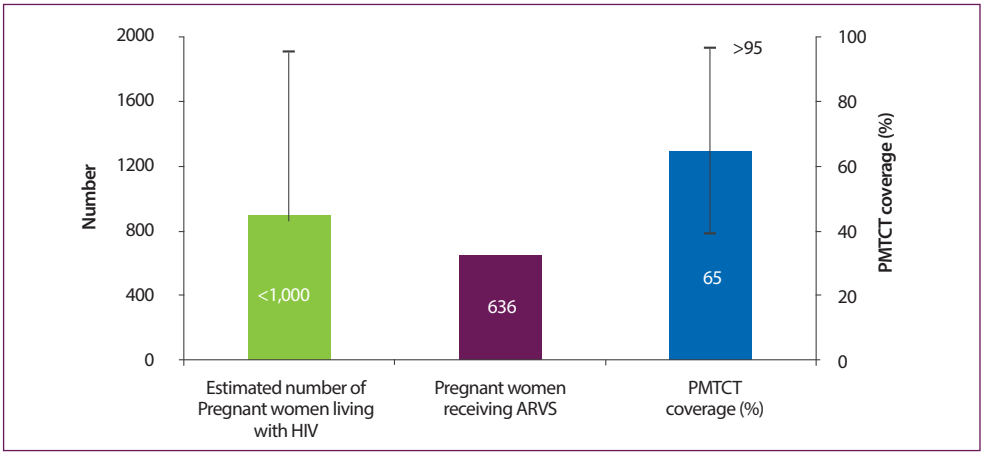
Figure 10: Number of ART sites and number of people on ART, 2004-2014



Source: HIV and AIDS Data Hub for Asia-Pacific, 2016.

In 2014, 65 percent of pregnant women were tested for HIV. That year, there were an estimated 1,000 pregnant women living with HIV in Cambodia. Of those, 636 or 65 percent were receiving ART to prevent the transmission of HIV to their babies, as shown in Figure 11 (HIV and AIDS Data Hub for Asia-Pacific, 2016).

Figure 11: Estimated number of pregnant women living with HIV, receiving ARVs, and PMTCT coverage, 2014



Source: HIV and AIDS Data Hub for Asia-Pacific, 2016.

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BACKGROUND INFORMATION FOR SESSION 1.2: OUR RIGHTS

WHAT ARE HUMAN RIGHTS?

Human rights are the basic freedoms and protections that people are entitled to simply because they are human beings. All people have the same human rights, regardless of their gender, colour, race, ethnicity, religion, class, caste, ability, sexual orientation, gender identity, or any other characteristic, including their HIV status.

Human rights define what governments and others can do to us, cannot do to us and should do for us. They are standards for laws, policies and practices. Not all human rights are absolute. They are interrelated and interlinked. In certain strictly limited circumstances, it can be acceptable to limit the exercise of one right in order to protect another.

The legal obligation to ensure human rights belongs mostly to governments. For example, if a person has a right to education, it means that the government has an obligation to provide that person with education and that no one can stop a person from getting an education. Other actors can also have responsibilities for ensuring rights, such as corporations and individual health care providers.

Rights also provide rules for interactions between people as individuals and as groups. They guide and limit or control the actions of individuals or groups. For example, the right to life means that people may not kill other people. A person agrees to respect the rights of others in exchange for having his or her rights respected by others. All members of society are responsible for respecting the human rights of other members. As individuals, we also have a responsibility to ensure that our rights are respected.

Basic Human Rights

Some of the most recognized human rights are:

- The right to life
- The right to security (to not be afraid you will be harmed)
- The right to a basic standard of living (for example, food, shelter, and clothing)
- The right to education
- The right to health
- The right to work for yourself (not be a slave)
- The right to own property
- The right to free speech (to say what you want)
- The right to not be arrested unless there is reason to believe you have committed a crime
- The right to have a fair trial
- The right to be seen as innocent, even if you are arrested, until you are found to be guilty by a fair trial
- The right to be a citizen of a country
- The right to vote
- The right to seek asylum if your country treats you badly
- The right to marry who you wish
- The right to think freely
- The right to believe and practise the religion you want
- The right to protest peacefully or speak against a government or group

Human rights apply equally to everyone, everywhere in the world, in all cultures and religions. Rights are important because they recognize equality, protect freedom, and promote justice, and therefore challenge power imbalances and injustice.

WHERE DO HUMAN RIGHTS COME FROM?

Human rights are recognized in national constitutions and laws as well as in international treaties.

International treaties are formal written agreements between two or more nations or between nations and international organizations, such as the United Nations. International laws are established by these treaties.

Treaties may also be called agreement, protocols, covenants, or conventions, among other terms.

Cambodia's Constitution recognizes the human rights of all of its citizens. Chapter III of the Constitution is entitled 'The Rights and Obligations of Khmer Citizens'. The first article in this section, Article 31, states that 'The Kingdom of Cambodia recognizes and respects human rights as enshrined in the United Nations Charter, the Universal Declaration of Human rights and all the treaties and conventions related to human rights, women's rights and children's rights. The exercise of personal rights and liberties by any individual shall not adversely affect the rights and freedom of others. The exercise of such rights and liberties shall be in accordance with the law.'

In 1948, the United Nations (UN) adopted the 'Universal Declaration of Human Rights' (UDHR), which became the foundation for all human rights. The Universal Declaration of Human Rights asserts that each of us is entitled to the same rights simply by the fact that we are human beings. All nations endorsed the Declaration and are expected to publicize, promote and implement it.

The rights outlined in the Universal Declaration are supported by two important international treaties, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), both adopted in 1966. These covenants further clarify the rights in the Universal Declaration of Human Rights. Together these three documents make up what is known as the International Bill of Human Rights. Countries that sign them agree to legally protect those rights. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted in 1979 to more clearly and fully protect and promote the human rights of women. Cambodia formally agreed to become a party to these two international covenants as well as the Convention on the Elimination of All Forms of Discrimination Against Women in 1992.

WHAT DO GOVERNMENTS HAVE TO DO TO GUARANTEE PEOPLE'S RIGHTS?

When a country becomes a party to a rights treaty, covenant or convention, it becomes binding. In other words, they have legally agreed to implement it and must do so. Governments first sign a treaty or covenant, which indicates that they support the rights in the document. Then the government body that is responsible for making national laws should ratify the treaty or covenant. After they do that, the government must uphold all the rights in the treaty or covenant.

Governments have three obligations -- they have to 1) respect the rights; 2) protect the rights; and 3) fulfil the rights in the treaties they sign.

- **Respecting the right** means the state cannot violate the right directly. For example, a government violates its responsibility to respect the right to health if it does not provide medical care to populations directly in its care, such as prisoners.
- **Protecting the right** means that the state has to prevent others from violating the right and offer a way to seek justice if a violation happens. For example, the country needs to make it illegal for anyone to deny health care to someone because they have a health condition, such as HIV. It must make sure that if a person is denied care, they can take action to get the care they need and compensation for the violation of their right.
- **Fulfilling the right** means that the state has to take all necessary steps to make sure that its people enjoy the right. It must make sure that the institutions, procedures and money are in place for people to enjoy the right. For example, for health, the state must provide enough resources (money, trained health care workers, and facilities) to meet the health needs of its people.

Because Cambodia has signed these human rights covenants and conventions, the Government of Cambodia is legally bound to promote and protect the human rights in those documents. The Government should do this by enacting national laws and policies and implementing programmes that recognize and protect those rights; agreeing on the consequences for organizations or individuals who violate rights; and providing adequate funding to the programmes needed to fulfil those rights.

However, not all countries fully recognize and protect all aspects of human rights in their national legal frameworks. Sometimes national laws do not recognize and protect a right at all; sometimes they restrict or limit

the exercise of the right or recognize only part of it. Sometimes laws are not consistent. In such cases, communities and other stakeholders can lobby the government to take action to ensure the recognition of all aspects of the right as recognized under international law. Even if the government does change the laws, they don't always enforce those laws. When rights agreements are signed, those agreements can be used as a higher standard that the government can be held to and must meet.

The Government is responsible for protecting the human rights of everyone, regardless of their HIV status, their gender, sexuality, work or any other characteristic. The human rights of people living with HIV, men who have sex with men, gay people, transgender people, sex workers and people who use drugs are the same as the human rights of all other people.

To make sure that the Government is implementing the treaties it has agreed to, the UN monitors all of its treaties. The Government is required to submit a report every four or five years on how they are implementing each treaty they have signed and the progress they are making towards protecting and promoting the rights in the treaty. At that time, non-governmental organizations usually produce their own report, called a "shadow report", that gives additional information from their perspective to complement the Government report. People living with HIV can participate in producing these shadow reports. If they have evidence of violations of the rights of people affected by HIV, they can give this information so that it will be included in the report and the UN will be aware of those violations.

RIGHTS RELATED TO THE HEALTH CARE OF PEOPLE AFFECTED BY HIV

The exact wording of the articles that ensure the rights included in this session are presented below. The addresses for the websites where you can download the entire documents are in the references.

CONSTITUTION OF THE KINGDOM OF CAMBODIA (1993)

Respect for human rights and right to equality:

Article 31: The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women's and children's rights. Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, color, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status.

Right to life, freedom and security:

Article 32. Every Khmer citizen shall have the right to life, personal freedom, and security. There shall be no capital punishment.

Right to dignity, honour, freedom from torture, violence, and arbitrary prosecution, arrest or detention:

Article 38: The law guarantees there shall be no physical abuse against any individual. The law shall protect life, honor, and dignity of the citizens. The prosecution, arrest, or detention of any person shall not be done except in accordance with the law. Coercion, physical ill-treatment or any other mistreatment that imposes additional punishment on a detainee or prisoner shall be prohibited.

Right to justice:

Article 39: Khmer citizens shall have the right to denounce, make complaints or file claims against any breach of the law by state and social organs or by members of such organs committed during the course of their duties. The settlement of complaints and claims shall be the competence of the courts.

Right to freedom from attacks on one's reputation:

Article 41: Khmer citizens shall have freedom of expression, press, publication and assembly. No one shall exercise this right to infringe upon the rights of others, to effect the good traditions of the society, to violate public law and order and national security.

Right to equality for women, equality in marriage:

Article 45. All forms of discrimination against women shall be abolished. The exploitation of women in

employment shall be prohibited. Men and women are equal in all fields especially with respect to marriage and family matters.

Right to medical care for women without adequate support:

Article 46: The state and society shall provide opportunities to women, especially to those living in rural areas without adequate social support, so they can get employment, medical care, and send their children to school, and to have decent living conditions.

Right to health and health care:

Article 72. The health of the people shall be guaranteed. The State shall give full consideration to disease prevention and medical treatment. Poor citizens shall receive free medical consultation in public hospitals, infirmaries and maternities.

Right to appeal against laws:

Article 14: Citizens shall have the right to appeal against the constitutionality of laws through their representatives or the President of the Assembly, members of the Senate or President of the Senate as stipulated in the above paragraph.

SUB-DECREE ON THE CODE OF MEDICAL ETHICS (2003)

Article 2: In practicing the medical profession, either in private or public, medical professionals shall respect people's body, life and dignity.

Article 4: For the benefit of patients, medical professionals shall keep patient confidentiality as determined by law.

Article 7: Medical professionals shall listen, examine, advise or treat all people consciously and equally regardless of nationality, tradition, family status, race, religion, reputation or sentiment. In all circumstances, medical professionals should uphold to be gentle and have appropriate behaviour to assist and support those people they treat.

Article 9: Medical professionals shall, before the patients or the seriously injured, save those patients or make sure that they receive the most necessary healthcare.

Article 33: For the patients they examine, treat or advice, physicians shall state honestly, clearly and properly the information about health conditions of the patients, researches and cares they shall conduct during the period of treatment.

Article 34: In all cases, consent to examine and care for the patient must be obtained. When the patient, who is aware, refuses the conduct of research or medical treatment methods to be provided to them, medical professionals shall respect their decision after explaining about consequences of that refusal to the patients. If the patients cannot express their will, medical professionals cannot intervene without the presence of patient's families except in an emergency case or inability to contact those families.

Article 39: If there is no critical medical reason and without informed consent of the patients, surgery shall not leave the patient with an unintended outcome except in an emergency case or when unable to contact the patients' family.

Article 43: Medical professionals shall create medical records for each patient. This medical record shall be kept confidential.

Article 69: Medical professionals shall make sure all their assistants know about their obligations to keep professional confidentiality and encourage them to follow. Medical professionals shall be especially careful so that the people around them do not compromise the confidentiality through professional correspondence.

Article 70: Medical professionals shall prevent the leakage of secrets of personal documents and medical information of the patients they have cared for, examined or treated no matter how significant and useful those documents are.

SUB-DECREE ON CODE OF ETHICS FOR NURSES (2014)

Duties and Responsibility of Nurse:

Article 5. To accomplish her/his duties and responsibility, nurse shall:

1. Practice her/his job with compassion, sympathy, good behavior, politeness, correctness and concentration toward patient;
2. Respect the life, physical body, honor and dignity of the patient;
3. Nursing service shall be provided fairly to all without discrimination and regardless of economic status, or patient's society, nationality, race, sex, language, religion, culture, political tendency or status of diseases;
10. Provide a safe and effective nursing care. In case of emergency, nurse need to co-operate with other related health groups and other section aiming to ensure that the danger which may harm the patient is mitigated;
13. Professional confidentiality and other regulations that related to patients' health condition, diagnoses and other personal and private information, patient's dignity and honor shall be respected;
15. Respect the request of the patient for acceptance or objection of nursing care;
16. Provide advice and protection of the rights of patient, patient's family and community who involve in nursing care of patient, participate in health promotion, rehabilitation and protection.

Article 7: Nurse shall always stay close to the patients. In case that patient fall in danger, nurse(s) must provide emergency rescue or provide primary rescue and then refer to an appropriate health service as require.

Relationship between Nurse and Client:

Article 10. In the case that the patient, patient's family, parents, guardian or legal representative deny the nursing care service, nurse shall have to abide with their request for denial, but can explain the consequence that may happen.

Article12: Nurse may refuse to provide nursing care to patient by her/his professional reason or personal reason except in case of emergency. If the nursing service is denied, nurse must refer the patient to another service which is safe.

SUB-DECREE ON THE CODE OF ETHICS FOR MIDWIVES (2013)

General Duties and Responsibilities of a Midwife:

Article 5. To fulfil their duties and responsibilities, a midwife shall:

1. Be responsible and accountable professional and works in partnership with women and her partner, family, and representative.
5. Provide safe and effective midwifery care with morality, good behaviour, friendly and correct words/information, and care/attention.
8. Respect the life, body, honor and dignity of patients while providing midwifery services.
9. Be responsible for professional confidentiality as prescribed by law and relevant provisions for maintaining the privacy, honor and dignity of patients.
11. Provide midwifery services to a patient without discrimination based on race, color, language, belief, religion, political affiliation, origin, social status, resource, or other status.

Article 7: A midwife shall stay with a woman, who is pre-delivery, delivering, has recently delivered, and/or an infant. In the case of mother and/or an infant in an immediate danger, a midwife shall provide emergency obstetric neonatal care or provide primary life-saving and refer to midwifery service or other appropriate services.

Relationship between Midwife and Woman or Patient:

Article 11: In the event that a patient, her husband, parents, guardian or the legal representative of the patient refuses the treatment or healthcare administered by the midwife, the midwife shall respect their choice and explain to them the consequences of such refusal.

Article 12: A midwife shall inform about the health condition to the patient, her husband, partner, family or her legal representative with patient's consent.

Article 13: A midwife may refuse to provide midwifery services to any patients based on professional or personal reasons except in case of emergency. If services are refused the midwife shall refer the patient to alternative services.

LAW ON THE PREVENTION AND CONTROL OF HIV/AIDS (2002)

Article 26: The State shall ensure that all persons with HIV and AIDS shall receive primary health care services free of charge in all public health networks, and encourage the participation from the private sector.

Article 31: All HIV testing centers shall adopt measures to assure the maintenance of confidentiality of the reports, medical records, personal information including all information which may be obtained from other sources. Monitoring process shall utilize a coding system that promotes anonymity.

Article 33: The confidentiality of all persons who have HIV or AIDS shall be maintained. All health professionals, workers, employers, recruitment agencies, insurance companies, data encoders, custodians of medical records related to HIV and AIDS, and those who have the relevant duties shall be instructed to pay attention to the maintenance of confidentiality in handling medical information, especially the identity and personal status of persons with HIV and AIDS.

Article 34: The medical confidentiality shall be breached in the following cases:

a. When complying with the requirement of HIV and AIDS monitoring program, as provided in Article 30 of this law
b. When informing health workers directly or indirectly involved in the treatment or care to the persons with HIV and AIDS
c. When responding to an order issued by the court related to the main problems concerning the HIV and AIDS status of individuals. The confidential medical records shall be properly sealed by the custodian, after being thoroughly checked by the responsible person, hand delivered, and opened officially and confidentially by the judge in front of the legal proceeding.

Article 35: All HIV testing results shall be released to the following persons:

a. The person who voluntarily requests HIV testing;
b. A legal guardian of a minor, who has been tested for HIV;
c. A person authorized to receive such testing results in conjunction with HIV monitoring program as provided in the article 30 of this law; and
d. The requirement of the court, as provided as point (C) in article 34 of this law

Article 41: Discrimination against a person with HIV or AIDS in the hospitals and health institutions is strictly prohibited. No person shall be denied to receive public and private health care services or be charged with higher fee on the basis of the actual, perceived or suspected HIV or AIDS status of the person or his/her family members.

Note: Discrimination in employment, education, housing, travel, credit and loans, insurance based on the actual, perceived or suspected HIV status of individual or his/her family members are also explicitly against the law.

Article 42: The person with HIV or AIDS shall have the same rights as of the normal citizens as stated in the Chapter 3 of the Constitution of the Kingdom Cambodia.

LAW ON ABORTION (1997)

Article 4: In any case, it is required to have a proposal or consent from the concerned woman who has the foetus, for abortion.

Article 8: Abortion may only be carried out for those foetus which are under 12 weeks old. If the foetus are over 12 weeks old, may be authorized to be aborted only if after a diagnosis it is found out that:

- There is a probable cause that such foetus does not develop itself as usual or which may cause danger to the mother's life.
- The baby who is going to be born may have a serious and incurable disease.
- In case, if after victimized of a rape and got pregnant, the abortion may be carried out disrespect of the above stated conditions, however in all cases, there must be a request from the concerned person, if such person is 18 years old or above old or above, or an insistent request from parents or guardian and from the concerned person, if such concerned woman is under 18 years old.

Decision on this above matter, requires an approval from a group of 2 to 3 doctors and also a consent from the concerned person.

Article 14: Any person who compels a woman to have an abortion or causes her an abortion, shall be punished from 1(one) to 5 (five) years in prison. If such compulsion of the pregnant woman to have an abortion or which causes her an abortion which resulted in a chronic disease, disability or death, shall be subject punishment from 5 (five) to 10 (ten) years in prison.

CIVIL CODE

Article 743:

(1) A person who intentionally or negligently infringes on the rights or benefits of another in violation of law is liable for the payment of damages for any harm occurring as a result.

(2) Paragraph (1) shall apply mutatis mutandis to cases where a harm has occurred due to non-performance of a certain act with respect to which the actor owes a duty to perform such act.

(3) Except as otherwise provided in this Code or in other laws, the person seeking damages must prove the intent or negligence of the tortious actor, the causal relationship between the actions of the tortious actor and the harm that occurred, and the harm suffered by the injured party.

CRIMINAL CODE

***Article 207:* Unintentional Homicide** - The act causing death to another person that constitutes an unintentional homicide is as follows:

1. an imprudence, a carelessness or a negligence;

2. violation of an obligation of safety or of prudence/ carefulness imposed by law. The unintentional homicide is punishable by an imprisonment from between 1 (one) year to 3 (three) years and by a fine from between 2,000,000 Riels to 6,000,000 Riels.

***Article 208:* Additional Penalties: Categories and Duration** - The following additional penalties may be pronounced for the unintentional homicide:

1. Prohibition against pursuing a profession when the offence was committed while carrying out this professional task or on the occasion of carrying out of this profession for a period of not more than 5 (five) years;
2. Prohibition against driving a motor vehicle of whatsoever type for a period of not more than 5 (five) years;
3. Suspension of the driver's license for a period of not more than 5 (five) years;
4. prohibition against possessing or carrying a weapon for a period of not more than 5 (five) years;
5. posting the decision of the sentencing for a period of not more than 2 (two) months;
6. publishing in the newspapers the decision of the sentencing;
7. broadcasting the decision of the sentencing by all means of audio-visual communications for a period of not more than 8 (eight) days.

***Article 236:* Acts of Unintentional Injuries**

The offence that causes unintentional injuries to another is an act of injuring other persons through:

1. An imprudence, a carelessness or a negligence that causes the inability to work for a period of equal to or more than 8 (eight) days;

2. Violation of an obligation, safety or carefulness imposed by law. The unintended offence causing wounds is punishable by an imprisonment of between 6 (six) days and 2 (two) years and a fine of between 1,000,000 (one million) Riels and 4,000,000 (four million) Riels.

***Article 237:* Additional Penalties: Categories and Duration**

For offences in this Chapter, the following additional penalties may be pronounced:

1. Prohibition against pursuing a profession during which time the offence was committed in course of or during the occasion of pursuing of this profession for a period of not more than 5 (five) years;
2. Prohibition against driving motor vehicles of whatever types for a period of not more than 5 (five) years;
3. Suspension of driver's licence for a period of not more than 5 (five) years;
4. Prohibition against possessing or carrying a weapon for a period of not more than 5 (five) years;
5. Posting the decision of sentence for a period of not more than 2 (two) months;
6. Publication of the decision of sentence in the newspapers;
7. Broadcasting the decision of sentence by all means of audio-visual communications for a period of not more than 8 (eight) days.

***Article 265:* Acts of Refusing to Supply Goods or Service**

The act of refusing to supply goods or service to a person is punishable by an imprisonment of between 1 (one) month and 1 (one) year and a fine of between 100,000 (ten thousand) Riels and 2,000,000 (two million) Riels when the refusal is based on one of the following motives: …5. a person's family situation; 6. a person's sex; 7. a person's state of health; 8. a person's disability.

***Article 314:* Acts of Infringement on Professional Confidential.** Any person who holds, by reason of his/her position, profession, function or mission, an information of confidential nature, and if he/she has revealed the said information to an unauthorized person to know its content, is punishable by an imprisonment of between 1 (one) month and 1 (one) year and a fine of between 100,000 (one hundred thousand) Riels to 2,000,000 (two million) Riels. The offence does not constitute in the case where the law authorizes or imposes the revelation of the secrets.

UNIVERSAL DECLARATION OF HUMAN RIGHTS

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2:

1. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3: Everyone has the right to life, liberty and security of person.

Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 12: No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 16:

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 25:

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Article 6. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life

(Note: there are additional parts to this Article on the death penalty that are not cited here).

Article 7: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 17:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

Article 23:

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 26: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

INTERNATIONAL COVENANT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Article 12:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

   (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

   (b) The improvement of all aspects of environmental and industrial hygiene;

   (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

   (d) The creation of conditions which would assure to

all medical service and medical attention in the event of sickness.

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

Article 12:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 15:

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
   (a) The same right to enter into marriage;
   (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
   (c) The same rights and responsibilities during marriage and at its dissolution;
   (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
   (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
   (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
   (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
   (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

LAWS RELATED TO REGULATION OF HEALTH PROFESSIONALS

ROYAL DECREE ON THE ESTABLISHMENT OF THE MEDICAL COUNCIL (2000)

Article 2: The Medical Council shall monitor the implementation of ethical principles, honesty, fairness and devotion which are necessary for sustainable and effective performance of medical profession. The Medical Council shall monitor the professional practice of its

members, and the implementation of other provisions as stated in the medical ethics.

Article 3: … The Medical Council shall be responsible for preparing medical ethics… The Medical Council monitors the operation of the professional tasks and compliance.

SUB-DECREE ON THE CODE OF MEDICAL ETHICS (2003)

Article 22: In the framework of Medical Council, the Regional Medical Council (RMC) shall implement its work by focusing on disciplinary authority only. RMC can receive complaint from NMC, PMC, Medical Association, Minister of Health, Provincial-Municipal Health Department, authorities and provincial/ municipal prosecutors and from physician who has registered with Medical Council.

RMC shall examine and decide within six months (06) latest, after receiving the complaint. Otherwise, NMC shall send this complaint to one of the RNCs which was selected.

Article 110: According to the Article 26 of the Royal Decree No. NS/RKT/0200/039, dated 1st February 2000… Medical Councils at all levels have the obligation to monitor the compliance with these provisions. Violations of these provisions shall result in disciplinary punishments by the Regional Medical Council with participation of the disciplinary unit of the National Medical Council. In this case, the Regional Medical Council's president shall enforce the decision.

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BACKGROUND INFORMATION FOR
2.1: OPTIONS FOR SEEKING JUSTICE

This resource briefly describes the main options for people affected by HIV to seek justice if their rights have been violated in a health care setting. More details are provided in the sessions on each option. Which option for seeking justice is the best will depend upon the nature and seriousness of the rights violation and the type of solution or remedy the victim is seeking.

OPTION 1: MAKING A COMPLAINT TO THE HEALTH SERVICE

In Cambodia, there are no official processes for complaints from patients at health services at this writing. Some health care facilities, especially hospitals, may have complaint boxes, where you can drop your feedback or complaint. Users also have the right to make a complaint to the person in charge of a health facility, to the Health Operational District Office or Provincial Health Department, Ministry of Health or National AIDS Authority.

OPTION 2: MAKING A COMPLAINT TO THE MEDICAL COUNCIL, NURSING COUNCIL OR MIDWIFERY COUNCIL

In 2000, the Royal Decree on the establishment of the Medical Council established the Medical Council in Cambodia. The Midwifery Council was established in 2006 and the Nurses Council in 2007. One responsibility of these Councils is to monitor their respective health professionals to ensure that they provide health care ethically and effectively. In other words, they should make sure people are treated properly by health workers. Each Council has Regional Councils which are to serve as disciplinary councils. The Regional Councils can receive complaints from the National Councils, the Provincial Councils, the Medical Association, the Minister of Health, Provincial or Municipal Health Departments, authorities and provincial municipal prosecutors and from other health professionals registered with the Councils. A health care user can file a complaint against a health worker by sending a complaint letter to the relevant Provincial Council. The Regional Councils must examine the complaint and make a decision about it within six months of receiving the complaint or it will be sent to another Regional Council. If they find that there was wrong-doing, they can warn the health worker; reprimand them and record it in their personal file; suspend them from practicing medicine, nursing or midwifery for up to three years; permanently prohibit them from undertaking specific speciality or general functions of their profession; or permanently remove their registration to practice medicine, nursing or midwifery.

In practice, these Councils do not yet have strong systems or capacity to fulfil this role well. The Councils report that they do not receive many complaints. Those that they have investigated have resulted in warnings and corrections, but not stronger sanctions so far. The Councils and the Ministry of Health currently have a project to strengthen the regulation of health professions.

OPTION 3: USING MEDIATION

Mediation is an alternative dispute resolution mechanism that can be used to resolve disputes in Cambodia. Mediation uses a neutral third party to facilitate a resolution to a conflict. Mediation can provide relatively quick, affordable, and accessible dispute resolution. Mediation is legally permitted for cases of family disputes, labour disputes, land disputes, some cases of violence and for other civil cases. It cannot be used to resolve cases to which the government is a party (i.e. cases that were filed by a government attorney, such as the district attorney). These include criminal cases, such as rape, attempted murder or murder. It can be used to address complaints and disputes involving workers at public and private institutions, including health care facilities. For example, if a health worker denied treatment to a person affected by HIV, the client can take their complaint to mediation.

Because mediation is not yet regulated by law, technically anyone can act as a mediator. However, it is advisable to use mediators who have been trained in the process and skills of mediation. Lawyers can also serve as mediators.

In mediation, a person with a dispute requests mediation from the government's Justice Service Center at the district, municipal or khan level, or from an NGO that provides mediation services. The group will inform the other party to the conflict of the request for mediation. If they agree to resolve the dispute through mediation, the process will begin. The mediator or mediators are usually appointed by the government's Justice Service Center or NGO; some NGOs may allow the parties to select their mediators. The mediators then bring the disputants together and conduct face-to-face sessions. The mediators remain neutral and impartial and do not decide on the solution. Their aim is to create a safe space where disputing parties can express themselves, listen to each other, uncover the roots of their dispute, and agree on a 'win-win' settlement without assigning guilt or innocence.

OPTION 4: MAKING A COMPLAINT TO THE CAMBODIAN HUMAN RIGHTS COMMITTEE

The Cambodian Human Rights Committee (CHRC, or the 'Committee') is a government body that was established in 2000. The purpose of the CHRC is to protect, develop, and promote human rights guaranteed in the Constitution and in the treaties Cambodia has signed. The Committee receives and investigate complaints about human rights violations; educates the public about their rights and the law in Cambodia; and writes the government's reports for the Universal Periodic Review that examines how they are implementing the human rights treaties that Cambodia has signed.

Once a complaint is filed with the Committee, they will analyse it to decide if it is a rights violation or not. If it is a rights violation, they will investigate it. If there is a rights violation that involves a government agency, they can ask that agency to take action and then follow up with them to make sure they have done so. They may also recommend that the victim use other means for seeking justice, such as going to mediation or court, and in the latter case, may help the person to get legal aid.

OPTION 5: TAKING A CASE TO COURT

In Cambodia, cases of rights violations, including cases of medical negligence and medical malpractice, can be filed in court under the Civil Code, Criminal Code or both. Under the Civil Code, health workers can be charged if they cause harm by negligently or intentionally disregarding or violating the rights of another person. The person is also responsible if the harm was caused because they did nothing when they had a duty to take action. If found responsible, they can be required to pay compensation to the victim and may also be punished in other ways. Under the Criminal Code, the health worker can be charged if they unintentionally or intentionally cause death or injury due to carelessness or negligence; if they refuse to provide services based on a person's health status or gender among other things; and if they reveal a patient's confidential information. For criminal cases, the

punishments can include fines, prison sentences and prohibition from practicing their profession for up to five years. The decision may also be published or broadcast.

There are four parts to cases of medical negligence or malpractice. The patient must show that

1) the health care provider treated them;

2) the provider did not follow accepted medical practice; 3) the provider's negligence clearly caused the injury; and 4) the injury caused by the provider led to specific damages (physical pain; mental suffering or distress; cost of more medical care; and/or lost work or ability to work).

If a person wants to file a case in the courts, they should contact a lawyer or a legal services group to get a lawyer. The lawyer will file a written complaint to a municipal or provincial court. Cases must be filed within five years of the incident occurring. In Cambodia, to date, cases of medical negligence and malpractice have mostly been settled unofficially out of court. If a person receives compensation in a civil case, they can still pursue a criminal case for the same violation.

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BACKGROUND INFORMATION FOR SESSION
2.3: LET'S COMPLAIN!

ADDITIONAL INFORMATION ABOUT THE MEDICAL COUNCIL, NURSING COUNCIL AND MIDWIFERY COUNCIL

The Medical Council was established by royal decree in 2000, the Midwifery Council in 2006, and the Nursing Council in 2007. There are also councils for dentists and pharmacists. These councils have both administrative and regulatory (or monitoring) functions. They register doctors, nurses and midwives, which officially allows them to deliver health care in Cambodia.[4] They also monitor their professional practice to ensure that they treat people properly and follow their professional codes of ethics.

Code of Ethics

The Medical Council developed a Code of Ethics for doctors which was issued as a sub-decree in 2003 and all doctors are required to follow at all times. The Code of Ethics states that among others things, medical professionals shall:

- Respect people's body, life and dignity.
- Keep patient confidentiality as determined by law, including keeping medical records confidential.
- Listen, examine, advise or treat all people equally regardless of nationality, tradition, family status, race, religion, reputation or sentiment.
- Be gentle and have appropriate behaviour to assist and support those people they treat.
- Try their best to save the lives of seriously ill or injured patients and provide them with essential care.
- Provide care attentively and honestly based on their medical knowledge and where necessary, ask assistance from those who are more competent.
- State honestly, clearly and correctly information about the health condition of the patient and any care they wish to provide.
- Obtain consent to examine and care for the patient in all cases.
- Respect the decision of a patient, who is aware, to refuse medical treatment after explaining the consequences of that refusal.
- Not perform surgery that leaves the patient with an unintended outcome without informed consent, if there is no critical medical reason to perform it, such as an emergency.

However, doctors do not have to treat every patient asking for their services, except in emergencies. They "have the right to reject the medical care due to professional or personal reasons", but must ensure that the patient's care is sustained by referring them to another doctor and must "inform the patient and the medical professional he/she has chosen for further care" (Article 44, Medical Code of Ethics).

Nurses and midwives also have official codes of ethics with the same ethical principles in them.

In 2007, the Medical Council published "Operational Guidelines for Clients' Rights and Providers' Rights-Duties". This publication recognizes and explains the following rights of the clients and their related responsibilities:

- Right to equality, and to be free from all forms of discrimination
- Right to information and health education
- Right to health care and treatment
- Right to confidentiality
- Right to privacy
- Right to choice and informed consent
- Right to express their opinion and to participation.

It also lists the rights and duties of health care providers, as follows:

[4] *Although all health professionals should be registered to practice, this has not yet happened in Cambodia. The Councils are currently working to strengthen their regulatory functions.*

- Right to ask for and to receive information [from the client] related to providing medical care.
- Duty to provide treatment and health services in emergencies and critical situations;
- Right to refuse to provide services due to professional and personal reasons, but must ensure the patient receives care.
- Duty to ensure privacy when providing health care.
- Duty to keep confidential all information on clients' health status, medical condition, diagnosis, prognosis, and treatment and all other personal information, even after death of the client.
- Duty to decide on intervention, which means they have a duty to refer clients to other health care providers or facilities when needed.
- Duty to acquaint themselves with their rights and duties and apply them responsibly.

Investigation of complaints and outcomes

People can register complaints about a doctor, nurse or midwife's behaviour or their treatment with the Medical, Midwifery or Nursing Councils. They should address their complaint letter to the relevant Provincial Council. The Provincial Council will forward the complaint to the Regional Council for investigation. When the Regional Councils receive complaints, they establish an ad hoc inspection team to deal with it. The team can have from two to four members, depending on the seriousness of the complaint. The team members are selected based on their expertise related to issues in the complaint.

After they have completed their investigation, if they can take the following actions to discipline the health care provider:

- Warn the provider.
- Reprimand the provider and record this in their personal file.
- Prohibit the Provider from practicing medicine for a period of time, up to three years.
- Permanently prohibit the provider from a particular function or speciality (for example, surgery) or from all functions of medical practice.
- Delete the provider's name from the Council's list or deregister the provider. In this case, they may not register again in another place.

If the provider is deleted from the list, they can request a pardon after three years. If their request is rejected, they can make the same request a year later. The Regional Councils must have a record of each trial proceedings.

Effectiveness

Although these health Councils are intended to receive complaints and to protect the public, in practice, the Councils report that they have received few complaints. In most of the cases they have received, they have only advised, corrected and/or verbally warned the health care provider. So far, no complaints to these Councils have resulted in significant sanctions against the providers, such as reprimands, prohibitions or deregistration. According to an official member of the Board of Directors of the Medical Council and its Secretariat, they have, however, recommended to the Ministry of Health that some clinics be closed due to malpractice, negligence and/or unethical behaviour, but they do not know how many.

In 2014, a rapid assessment of Cambodia's system for regulating its health professions was undertaken as a part of a 3-year project in partnership with the Councils and the Ministry of Health to reform and strengthen the regulatory system. The assessment found that none of the health professional councils have strong complaints and disciplinary processes. The Midwifery Council was the only Council that had established a competency framework and developed a complaint mechanism based on this framework. They concluded that "many key functions for health professional regulation are not being performed in Cambodia. Where functions are mandated by current legislation, there are difficulties with implementation of the necessary systems and processes" (Clarke et al, 2016).

However, the current situation is evolving and, through the above-mentioned project to reform and strengthen the regulation of health professions, the health professional councils have started paying serious attention to this function. The project is supporting the

Government of Cambodia's plans to scale up its health workforce, improve the safety and quality of health services, and meet its obligations to the Association of South East Asian Nations (ASEAN) to facilitate trade in health care services. The health services must meet certain standards for trade to be allowed, so this is an important incentive for action. As a part of the project, the Councils reflected on the findings of the rapid assessment, identified their priorities and developed 5-year strategic plans for strengthening health profession regulation in Cambodia.

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BACKGROUND INFORMATION FOR SESSION **2.4: MEDIATION**

WHAT IS ALTERNATIVE DISPUTE RESOLUTION?

Alternative dispute resolution, known as ADR for short, includes several procedures that allow people or groups to resolve their disputes out of court. Some types of ADR used in Cambodia are negotiation, mediation, and arbitration.

Negotiation: In negotiation, the parties send offers back and forth until an offer is made and accepted. Participation is voluntary and there is no third party who facilitates the resolution process or imposes a resolution, although representatives are often used to communicate or negotiate on behalf of a person or group.

Mediation: In mediation, the parties in a dispute agree voluntarily to have a neutral third party, the mediator(s), take them through a process that helps them to find a solution on which they both agree. The mediators can only suggest solutions, they cannot make or impose a decision or solution and the process does not determine guilt.

Arbitration: In arbitration, the parties in a dispute agree voluntarily to allow one or more arbitrators to decide their case. The arbitrators act as judges: they hear or review the evidence in the case and make a decision that can be enforced by the courts. Arbitration resembles a court proceeding: each side calls witnesses, presents evidence and makes arguments. The case is decided in favour of one party. In Cambodia, arbitration is used mostly for corporate cases and class action suits.

ALTERNATIVE DISPUTE RESOLUTION IN CAMBODIA

Cambodia is creating formal alternative dispute resolution mechanisms by law. The first related law, establishing the the Arbitration Council was passed in 2001, followed by the Law on Commercial Arbitration in 2006. The new Code of Civil Procedure, passed in 2006, explicitly allows and even encourages alternative dispute resolution procedures to take place even after a person has filed a complaint with the court. As a result, these types of dispute resolution are becoming an increasingly important part of Cambodia's formal legal system.

USING MEDIATION

Mediation is part of Cambodia's culture and traditional legal system and is well known as a way for resolving local disputes. Cambodian culture favours mediation that results in compromise solutions over settling conflicts in adversarial ways. Traditionally, the third party would be a monk or knowledgeable expert (Achar), prominent trusted person or the King. For example, family disputes are traditionally mediated by other family members, respected local leaders or monks.

The Access to Justice Project of the United Nations Development Program (UNDP) that was implemented from 2007-2010 started the process of formally training mediators at district and local levels to help Cambodians to resolve disputes and access justice without going to court. After the project finished, the government and a number of NGOs continued to offer mediation services and to train more mediators. People like mediation because it enables immediate, affordable, and locally accessible dispute resolution. Mediation is intended to improve access to justice and to help empower disputants to solve their own problems in the process. It can help people who cannot afford to travel to larger cities or to hire a lawyer to take a case to court to pursue a solution and feel they have received justice.

Mediation aims to create a safe space where disputing parties can express themselves, listen to each other, find the sources of their dispute and agree on a solution. The process depends on having the mediator(s), who act as an impartial third party, facilitate an agreement. The goal is to find a 'win-win' outcome, meaning that both parties agree to and are happy with the solution. It does not assign guilt or innocence.

Cambodia does not yet have a specific mediation law, but national laws include many mediation options and parties to a dispute can seek assistance from a variety of sources nationwide. For example, in family disputes, parties can seek mediation assistance from the Ministry of Interior's officers or from their local Commune Councils. The Ministry of Labor helps mediate labour disputes between employers and employees and land disputes can be mediated by the Government's Cadastral Commission or by the National Authority for Land Dispute Resolution. Civil disputes over issues such as slander and violence without injury may be formally mediated through the government's Justice Service Center at the district level. There are plans to expand the mediation service to the commune level in the near future. Cambodian judges are also empowered under the new Civil Procedure Code to mediate between parties in lawsuits (Austermiller, 2010).

There is no mediation license or minimum standards. However, there are training programs run by NGOs, such as the Center for Peace and Conflict Study, the Cambodia Center for Mediation, the Alliance for Conflict Transformation (ACT), Peace Bridge, Youth Resource Development Program (YRDP), Working Group for Peace, Kdei Karuna, and Interfaith Cooperation Forum. The Center for Peace and Conflict Study and the Cambodia Center for Mediation also provide mediation services. Both the government and NGOs provide mediation services for free.

THE MEDIATION PROCESS IN CAMBODIA

Mediation can be used to handle a wide variety of interpersonal and group cases. It cannot be used in criminal cases in which the government is a party, such as rape, attempted murder, murder, bribery or corruption. If a contract has a provision for mediation, any dispute about the contract will be mediated accordingly. If the case is already filed in court, but parties to the dispute want to solve the case through mediation, they can do so.

The exact process may vary slightly depending on the group providing the mediation services. Usually one party requests mediation from an agency or organization that provides it, and the organization then invites the other part to participate in the mediation to resolve the dispute. They may also explain the process and encourage the responding party to try mediation. If all parties agree to use mediation, the mediation process will begin. The mediators are appointed by the organization or in some cases, may be selected by the parties. Before the face-to-face sessions, the mediators meet with the parties to understand the conflict and with each other to analyse it. Information may be exchanged such as case summaries, which describe the dispute from the perspective of each party.

The parties then meet for face-to-face mediation sessions. The parties must attend the session in person, or for an organization, a representative with the authority and mandate to settle is nominated to attend. The mediation session starts with an introduction in which the mediation process and the roles of the mediator are explained, ground rules are established, and the agreement to mediate may be reviewed. First each party explains their perspective on the dispute without interruption. The mediators clarify each party's interests, needs and concerns and the main issues are identified and listed. Once the issues are clarified and prioritized, the parties generate possible solutions for each issue. The mediators help them to evaluate the options and identifying those that will work best for them and which they can accept. Mediators may give general advice but must remain impartial and supportive of both parties. They cannot advocate for a particular outcome or in favour of one disputant. Most mediations take more than one face-to-face sessions to reach an agreement. Once the parties agree on solutions that are acceptable to everyone, the mediators write up a specific agreement, which everyone must thumbprint, often with witnesses present. Mediators may monitor whether the agreement is being respected afterwards and if not, the parties can start a new mediation procedure. There is no official penalty if the terms of the agreement are broken.

The mediation process should be confidential unless the parties to the dispute want it to be open. However, there is no legal guarantee that they will be kept confidential.

DEBATES ABOUT MEDIATION

People working in law and justice have different opinions about mediation as a way to achieve justice. Those who support it see mediation as a practical alternative to court-based dispute resolution mechanisms, which they see as primarily serving the elite. To them, it is a way for those who cannot afford court cases to have their conflicts resolved and to gain access to justice. Mediation can be done in rural areas where there is no courthouse and it can be done in the evening or on weekends so that it doesn't disrupt work. Because it is informal in nature, it may also seem less intimidating than the formal justice system. Courts are often backed up and cases can take years to be heard and judged. Mediation is also seen as a way to relieve the burden on the courts and speed up the process of justice.

Critics of mediation express concerns that when mediation is used between parties where there is a power imbalance, the party with less power may feel pressured to agree to a solution that they are not actually satisfied with. Some see mediation as shifting conflicts that are or should be dealt with through the law into the social arena. They are concerned that it may reinforce the impunity of the more powerful and the marginalization of the less powerful.

GROUPS TO CONTACT TO IDENTIFY MEDIATORS FOR THE SESSION ARE:

Groups that provide both training and mediation services:

Cambodia Centre for Mediation

No. 69 Samdach Sothearos Blvd., Tonle Bassac, Chamcarmorn, Phnom Penh

Phone: (+855) 012 921 614

Email: info@ccmmediation.org

Website: http://www.ccm-mediation.org/

Center for Peace and Conflict Study

No E-13, Angkor Shopping Arcade, National Road No. 6, Krous Village, Svay Dangkum Commune, Siem Reap

Phone: (+855) 012 207 957

Email: centrepeaceconflictstudies@gmail.com

Government mediation services:

The Mediation and Local Justice Department of the Ministry of Justice has Justice Service Centers at the district, khan and municipal level that provide mediation services.

Ministry of Justice

#240 Sothearos Blvd., Phnom Penh

Phone: (+855) 023 360 327, 363 204, 360 421, 360 329, 212 693

Fax: (+855) 023 364 119

E-mail: moj@cambodia.gov.kh

Website: www.moj.gov.kh

Groups that provide mediation training only:

The Alliance for Conflict Transformation (ACT)

#69 Sothearos Blvd, Tonle Bassac, Chamkarmorn, Phnom Penh

PO Box 2552, Phnom Penh

Phone: (+855) 017 990 371

Fax: (+855) 023 217 830

Email: act@act.org.kh

Website: http://www.act.org.kh/contact.html

Youth Resource Development Program

#93, St. 590, Sangkat Boeung Kak II, Kan Tuol Kork, Phnom Penh

PO Box 462, Phnom Penh

Phone: (+855) 012 360 464, 23 880 194

Email: dd@yrdp.org

Website: http://www.yrdp.org/website/?lang=en

Working Group for Peace

c/o #93, St. 590, Sangkat Boeung Kak II, Kan Tuol Kork, Phnom Penh

PO Box 462, Phnom Penh

Phone: (+855) 023 880 194

Email: vichith007@gmail.com

Kdei Karuna

No. 69 Sothearos Blvd, Sangkat Tonle Bassac, Khan Chamkarmon, Phnom Penh

Phone: (+855) 023 695 65 12

Email: info@kdei-karuna.org

Website: http://www.kdei-karuna.org

Interfaith Cooperation Forum

#52C Street 123,Toul Tompung, Phnom Penh

Phone: (+855) 77 545 577, 16 668 698

E-mail: icf@interfaithforum.org

Wesbite: http://interfaithforum.org/contact-us/

Peace Bridge Organization

#78, Street 608, Sangkat Boeung KakII Khan Tuol Kork, Phnom Penh

PO Box: 1523, Phnom Penh

Phone: (+855) 23 880100

Email: admin@peacebridges.net

Website: http://www.peacebridges.net/

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BACKGROUND INFORMATION FOR SESSION 2.5: TAKING YOUR CASE TO THE CAMBODIAN HUMAN RIGHTS COMMITTEE

THE CAMBODIAN HUMAN RIGHTS COMMITTEE

The Cambodian Human Rights Committee (CHRC) is a government body that was established in 2000 by Royal Decree, that was amended in 2009 and renewed in 2013. The CRHC has the responsibility to protect, develop and promote human rights and democracy in Cambodia.

DUTIES OF THE COMMITTEE

According to the Sub-Decree on the Organization and Functioning of the Cambodia Human Rights Committee, the CHRC has the duty to:

- Investigate all cases of rights violations and complaints, evaluate investigations done by other concerned authorities or carry out joint investigations with them.
- Document all investigated cases and disseminate these reports to the public and to the Prime Minister, court officials and all concerned authorities.
- Undertake missions to monitor and evaluate human rights in local communities and advise people on their rights.
- Educate and raise the awareness of the public and specific target groups or areas on human rights.
- Establish human rights' volunteers and monitors at all levels in government and private agencies.
- Make recommendations and suggestions to the government to improve the human rights situation according to legal framework, including the Constitution, and national and international laws.
- Make comments on and contributions to all government reforms;
- Attend regular Council of Ministers meetings and provide comments on draft laws, royal decrees and sub-decrees concerning human rights.
- Develop and promote human rights in Cambodia by collaborating with the National Commission on Children and National Commission on Women and other government human rights bodies as well as ministries, institutions and civil organisations.
- Assist the government to promote the rule of law and train lawyers on human rights issues.
- Provide legal advice and lawyers to the poor and those whom lawyers refuse to represent;
- Prepare national reports for the government on the implementation of all international laws related to human rights and disseminate the reports nationally and internationally.

HANDLING COMPLAINTS

Handling complaints is a primary function of the CHRC. There is a Complaint Department within the Directorate of Administration and Complaints of the CHRC.

The Complaint Department:

- Receives complaints about violations of human rights and makes sure they are completed correctly.
- Evaluates the complaints to determine if they are rights violations or not.
- Investigates those complaints which are rights violations. To investigate, they can meet with concerned parties and witnesses and collect all information about what happened.
- Submits recommendations for action to their line supervisor for intervention with all concerned authorities at all levels.

The CHRC can receive complaints from the victims, third parties on behalf of a victim, or any other source. Complaints must be made in writing. They can be filed on the CHRC website at http://chrc.gov.kh/lawsuit\ or sent to the Complaint Department of the CHRC at #3

Street 13, Toulkork Village, Sangkat, Toul Sangke, Khan Russey Keo, Phnom Penh or by fax to 023 882 065. Complaints should be addressed to the Chair of the CHCR. They must include the following information:

- The specific objective of the complaint.
- A list of the attached evidence, documents or references (if any).
- Who the complainant is (whether an individual or group).
- A clear explanation of the rights violation, including the person who committed it, who was violated and exactly what happened.[5]

People can also go directly to the CHRC office to get information and the complaint form to fill in and submit.

For cases of human rights violations by government entities, the CHRC may request that the relevant government authority take action and follow up to make sure that this has been done. In other cases, they may advise the complainant to use other ways to get justice, such as going to mediation or to court. They may also be able to assist with getting legal aid.

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[5] *We suggest all information on the form to document rights violations provided in Session 2.2 be included.*

BACKGROUND INFORMATION FOR SESSION
2.6: TAKING IT TO COURT!

People who experience rights violations that cause serious, long-term personal harm and suffering, including forced or coerced sterilization or abortion or whose babies die due to negligence during delivery, may decide to take their cases to court.

CIVIL AND CRIMINAL CASES

Criminal cases involve an action that is considered to harm the society as a whole. They are brought by the state against a person or organization. Examples of criminal cases are: homicide, theft, robbery, rape and assault. If the defendant is found guilty in a criminal case, they can be fined, punished and/or put in prison.

Civil cases usually involve private disputes between persons or organizations. They are brought by a person or organization against another. Examples are land-related disputes, contracts, inheritance and adoptions. In a civil case, if the defendant is found guilty, they may be required to fulfil their duty and/or to pay compensation for the harm done. They may also be punished.

Most cases of medical negligence and malpractice are civil cases. Civil claims are complex and often costly. Because they require a detailed understanding of legal arguments, evidence and other rules, victims must have the assistance of a lawyer who can conduct these proceedings on their behalf and represent them in court.

HOW TO TAKE A MEDICAL NEGLIGENCE OR MALPRACTICE CASE TO COURT

Medical malpractice occurs when a doctor or nurse does not do their job according to the accepted standard of care, causing injury or death. Some examples of malpractice are: mistakes during childbirth; mistakes during surgery; unnecessary surgery; and wrong diagnoses.

Medical negligence occurs when a doctor or nurse does not do something they should have done or does something that they should not have done. Examples of medical negligence include: not getting informed consent; not warning a patient of the risks of treatment; not attending to or treating a patient; and not providing a needed referral.

Four things must be proven in a case of medical negligence and malpractice:

1) The health care provider treated the patient.
2) The health care provider did not follow accepted medical practice or ethics and was negligent.
3) The health care provider's negligence clearly caused the injury or harm to the patient. Medical experts usually have to testify to this.
4) The injury caused by the health care provider led to specific damages. These damages can be physical pain; mental suffering or distress; cost of more medical care; and/or lost work or ability to work.

In Cambodia, cases of medical negligence and malpractice can be filed under the Civil Code, the Criminal Code or both. They can be filed under Article 743 of the Civil Code, which says that someone who negligently or intentionally disregards or violates the rights of another person is responsible to pay compensation for any harm that happens as a result. The person is also responsible if the harm was caused because they did nothing when they had a duty to take action. The person filing the case may also request that the provider be punished, for example, by being forbidden to practice medicine. Under the Criminal Code, they can file a case under Article 207 for unintentional homicide, if the provider's negligence or carelessness led to a death; under Article 236, if it led to unintentional injury; under Article 265, if the provider refused to serve or provide health care because of the person's health status (i.e. HIV status); and under Article 314, if the provider does not keep the client or patient's

information confidential. Criminal cases can result in prison sentences, compensation for the victim, and the provider being prohibited from some professional activities, the health facility where the violation took place being closed and/or the sentence being publicly posted or published.

Cases must be filed within 5 years of the date of the incident. The court is legally obliged to call the complainant within one month of receiving the complaint, but it sometimes takes longer. The person who files the case must provide the proof indicated above, which can be difficult to do.

To file a lawsuit, the complainant and/or their lawyer only need to file a written complaint to a municipal or provincial court. The complaint must include the names of the parties and their legal representatives, the state the outcome want in terms of the compensation and punishment the plaintiff is seeking and the detailed facts and evidence of what happened. The complaint will be assigned to a judge who will check that the complaint is in the correct form. The tax for filing this type of law suit is 10,000 Riels (US$2.5).

DUTIES AND RIGHTS OF THE VICTIM IN COURT

Those who file a case with the courts, must attend and observe the trial. They also have the right to the following:

- To consult a lawyer who will represent them in the proceedings and speak on their behalf in court. Those who cannot afford this can apply for legal aid to get a lawyer (See section on legal aid below).
- To make a statement about how the crime (illegal behaviour) has affected them and the impact it has had on their lives. The statement will be written in the complaint.
- To call experts to testify about the facts of the case.
- To be heard by the court during the proceedings. Victims can appoint a lawyer to speak in court on their behalf in both civil and criminal cases. This can include questioning witnesses and making legal arguments on victims' behalf.
- To be accompanied by a person of their choice to support them if it is a public hearing, but not if it is a private hearing.
- To protection in the courthouse if victims are worried about supporters of the defendant who might be present.
- The victim can request that the court arrange for there to be a separation, such as a curtain, between themselves and/or witnesses and the defendant so the defendant cannot see them.
- Victims can also request a private hearing for cases of a sensitive nature, such as those to do with HIV, rape, human trafficking, and children. This is called an in camera session. In this case, the person can be accompanied only by their lawyer.
- If the victim accepts a financial compensation in a civil case, they can still pursue a criminal case for the same crime, if appropriate.

LEGAL AID

Legal aid is free legal advice or representation for a person who cannot afford it. It is provided both by the government and by NGOs. In Cambodia, government legal aid provided is only available to defendants involved in serious criminal cases. For plaintiffs in

criminal cases, the government assigns a prosecutor to the case, but there will be costs beyond just the lawyer. Government legal aid is not provided for civil cases. Most of the NGOs that provide legal aid in Cambodia provided for both civil and criminal cases.

NON-GOVERNMENTAL LEGAL AID

The Bar Association of the Kingdom of Cambodia (BAKC) is the professional organization of lawyers, which also provides legal aid services to the poor. To qualify for legal aid from the Bar Association, the person's identification card must indicate that they are poor or they must get a letter from their Village or Commune Head certifying that they are poor. The Bar Association's legal aid only covers the cost of the lawyer. It does not cover the cost of filing the case or other costs such as transportation and housing during the trial. To seek legal aid from the Bar Association, contact the Legal Aid Department at the Bar Association offices. They have an office in every province.

Non-Governmental Organizations: There are also NGOs that provide legal aid in Cambodia. NGOs that focus on legal aid are: Legal Aid of Cambodia (LAC), Cambodia League for the Promotion and Defence of Human Rights (LICADHO), the Cambodian Human Rights and Development Association (ADHOC), the Cambodia Center for Human Right (CCHR). These NGOs have their own team of lawyers to represent their clients in court.

Some provide legal aid only to certain groups, such as women, and/or specialize in legal aid for specific types of cases. Some NGOs that provide legal aid specifically to women are Legal Support for Women and Children, Cambodia Action for Change (sex workers, homeless, most vulnerable) and Cambodian Women's Crisis Center (CWCC) (for intimate partner violence and trafficking).

Some other NGOs may be able to cover the cost of the lawyer although they do not have legal aid lawyers on staff, like Cambodia Human Rights Action Committee (CHRAC). Some networks of people living with HIV can also help their members to access legal aid.

These NGOs provide services to all people who seek their help, regardless of their income. Some have a national-level network covering many provinces, but others provide legal aid service in Phnom Penh and in some provinces only. See 'Participant Information: Taking a Case to Court and Getting Legal Aid' for contact information for these organisations. They cover all the costs of taking a case to court, including a wide range of legal services, including legal advice and counselling, preparing documents, representing their clients in court, and referring clients to other legal aid providers and to alternative dispute resolution. They also cover transportation, housing in safe houses when needed and food. Many are also able to provide legal representation in quasi-judicial institutions and in mediation.

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BACKGROUND INFORMATION FOR SESSION
SESSION 2.8: TAKING IT TO THE NEXT LEVEL: CONTRIBUTING TO NATIONAL REPORTS ON HUMAN RIGHTS TREATIES

When countries sign an international rights treaty, they agree to ensure that everyone in the country can enjoy the rights laid out in the treaty. The UN has developed a system to monitor how countries are implementing the treaties that they have signed. This is done in two ways: 1) through a review process of a specific treaty; and 2) through the Universal Periodic Review.

THE TREATY REVIEW PROCESS

Each treaty has a committee of independent experts that monitors the implementation of the treaty and makes recommendations for further action. For example, the Human Rights Committee reviews the implementation of the International Covenant on Civil and Political Rights, and the Committee on the Elimination of Discrimination against Women monitors the Convention on the Elimination of All Forms of Discrimination against Women. The countries that have signed the treaty are required to report to those committees on their progress implementing it. They must do an initial report within 1 or 2 years and then submit follow-up reports every 4 or 5 years, depending on the treaty.

In the government report, the country must explain in detail how they are implementing the treaty nationally and any factors or difficulties they are encountering. The committees also receive informa¬tion on the country's human rights situation from other sources, including United Nations agencies, national human rights institutions, international and national NGOs, and academic institu¬tions. The committees carefully examine all information received to determine the extent to which a country has met its obligations under the treaty.

The committees invite the government to send a delegation to attend the session at which the committee will consider their report. This allows the government to respond to committee members' questions and provide additional information on their efforts to implement the provisions of the treaty. During these sessions, the committees aim for a constructive dialogue with the government that will assist it to implement the treaty as fully and effectively as possible. Most committees also allow time to hear from NGOs and UN agencies.

After examining a report and discussing it, the committees make 'concluding observations' that acknowledge positive steps taken by the government, but also identify areas of concern, where more work is needed, and make practical recommendations. The government must publicize the concluding observations within the country to inform public debate on how to move forward.

In their next report, the government must report back to the committee on what it has done to implement the recommendations made in the previous report.

THE ROLE OF CIVIL SOCIETY IN TREATY REVIEW

Civil society organizations, such as NGOs and community-based organizations, play an impor¬tant role in providing the committees with reliable independent infor¬mation about the human rights situations and developments in their countries, including on how their recommendations have been implemented.

Some ways that civil society can engage in the treaty reporting process are:

- Monitoring the government's compliance with their reporting obligations.

- Submitting written reports, information and material to the committees.
- Participating in the committees' sessions as observers or by orally briefing the committee.
- Following up on the committees' ecommendations.

SUBMITTING A CIVIL SOCIETY REPORT

The most effective way for civil society organizations to submit additional information is through a written report. Generally, civil society organizations should submit information and material to the committee after the government has submitted its report but before the committee reviews it. This will allow the committee to take the information into account when preparing for the session with the government. Written information submitted to these committees is regarded as public information, but the committees will keep information confidential if specifically asked to do so. The report must be written in one of the UN working languages (i.e. in English).

Before submitting written information, it is important to check:

- Whether your country has ratified or acceded to the relevant treaty, and, if so, if they have made any reservations. NGO reports can still address issues that the government has reservations about.
- When the next country report is due and when the next session of the committee is scheduled.
- The main issues that are or have been under discussion. It is important to read the previous reports, concluding observations and previous lists of issues.

Before civil society organizations begin drafting their reports, they need to become familiar with the specific reporting guidelines of the committee. Written reports should:

- Be clear and precise, accurate and objective.
- Highlight what the organizations see as priority problems in implementation.
- Make direct reference to the article of the treaty providing the specific right that is allegedly violated.
- Support allegations of human rights violations with evidence and documentation.
- Make concrete recommendations to improve the human rights situation in the country.

Guidelines for reporting to the committees can be found here: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G04/413/80/PDF/G0441380.pdf?OpenElement

Examples of civil society reports are available in the section on human rights treaty bodies of the Office of the High Commissioner for Human Rights' website.

ATTENDING SESSIONS

Country reports are discussed at public meetings, which civil society organizations can attend as observers. Attending sessions enables civil society actors to:

- Brief the committee as a whole or its individual members.
- Observe the dialogue between the committee and the government.
- Learn first-hand about the issues raised and the recommendations made by the committee.

The rules and practices governing the participation of civil society in committee sessions, as well as in the preparation period before the session, vary by committee. The Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee against Torture, and the Committee on the Elimination of Discrimination against Women all give time to civil society for presentations during their reporting sessions. An organization may need to be accredited to attend committee sessions. Accreditation must be requested from the relevant secretariat in advance.

The Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women also allocate time to civil society organizations during the working group meetings when they are preparing for the session with the government.

For example, for CEDAW, this will be two sessions before the one with the government. NGOs must contact the secretariat of the relevant committee well in advance to inform it officially of their planned participation.

Committee sessions also normally provide opportunities for civil society organizations to meet informally with committee members. Informal briefings may be organized as side events, for example, during the lunch break.

FOLLOWING UP ON THE COMMITTEES' RECOMMENDATIONS

After the committee session, civil society organizations can raise awareness of the recommendations and encourage the government to implement the recommendations. Follow-up activities include:

- Raising awareness about the committee sessions and the recommendations that the government must implement.
- Working together with the government to help it meet its obligations, for example, by promoting national legislative reforms and revising national policies.
- Monitoring the human rights situation and the steps taken to implement the recommendations.
- Providing specific information to the committees about their governments' progress in implementing the recommendations.

THE UNIVERSAL PERIODIC REVIEW

The Universal Periodic Review (UPR) was established in 2006 and is conducted by the United Nations Human Rights Council. In the UPR, the Human Rights Council reviews how each UN member state is fulfilling all of its human rights obligations and commitments every four years.

The UPR has four stages:

1. **Preparation:** The country under review prepares its national report; the Office of the United Nations High Commissioner for Human Rights (OHCHR) compiles information on human rights in the country from UN agencies; and the OHCHR prepares a summary of information submitted by other stakeholders, including NGOs.
2. **The review:** The Working Group on the UPR meets 3 times a year and reviews 16 countries at each meeting. The review is done through an interactive dialogue between the country under review and the members of the Working Group.
3. **The outcome document:** At the end of each review, the Working Group adopts an outcome document. The Human Rights Council considers and adopts this document at its next session.
4. **Follow-up:** The government and other stakeholders, including NGOs, implement the recommendations in outcome document.

CIVIL SOCIETY INVOLVEMENT IN THE UNIVERSAL PERIODIC REVIEW

Civil society organizations can participate in the universal periodic review process by:

- Participating in consultations held by the government to prepare their national report on the human rights situation in their country.
- Preparing reports on the human rights situation in their country. The information provided may be included in the summary of stakeholders' submissions prepared by OHCHR.
- Contributing to the follow-up and implementation of the review outcomes and recommendations.

Subsequent reviews focus especially on the implementation of the recommendations that the country accepted in the previous review and on further developments in their human rights situation.

To attend sessions of the Working Group on the UPR and sessions of the Human Rights Council, an NGO must have consultative status with the United Nations Economic and Social Council. To find out more about getting consultative status see the following web pages:

- http://csonet.org/index.php?menu=17
- http://csonet.org/index.php?menu=30
- http://csonet.org/index.php?menu=34

If you want consultative status, apply right away as it can take time to get it. Cambodia's first UPR was in 2009 and the second one was in 2014. To find the documents related to Cambodia's second UPR, go to: http://www.ohchr.org/EN/HRBodies/UPR/Pages/KHSession18.aspx

WHEN WILL CAMBODIA REPORT?

TREATIES	DUE DATE OF CAMBODIA'S NEXT REPORT
International Covenant on Economic, Social and Cultural Rights	30 June 2012 (not yet submitted)
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	19 November 2014 (not yet submitted)
Convention on the Elimination of All Forms of Discrimination against Women	1 October 2017
International Covenant on Civil and Political Rights	2 April 2019
Universal Periodic Review	NGO reports due 21 June 2018; UPR January 2019

To get information on the status of Cambodia's reports and to download previous government and civil society reports as well as previous lists of issues, responses to those, and concluding observations and other information for each treaty, go to:

- http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/KHIndex.aspx
- http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=KHM&Lang=EN

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BACKGROUND INFORMATION FOR SESSION 3.2: USING SOCIAL ACCOUNTABILITY TO ENGAGE WITH HEALTH CARE PROVIDERS

WHAT IS "SOCIAL ACCOUNTABILITY"?

All states have obligations to their citizens and citizens in turn have the right to demand accountability from the state. Social accountability is the active participation of citizens or civil society in holding governments responsible for meeting their obligations. Social accountability initiatives empower citizens—including those most marginalized by society—to monitor how their government allocates resources and delivers services, to demand that their needs are taken into account, and to mobilize for change.

The methods used aim to engage and mobilize communities to voice their service delivery needs and generate tangible responses from government. In general, these approaches have most or all of the following components in common:

- Public education on the community's rights and established government standards.
- The collection of information from clients and community members on services using various methods, such as surveys, focus group discussions, audits, and checklists.
- Strategies for involving marginalized populations, such as anonymous responses and separate focus group discussions.
- Face-to-face meetings among community members, service providers, facility managers, and local government authorities to discuss problems, share data, and develop action plans.
- Follow-up and regular data collection and/or group meetings to monitor progress and institutionalize the process.

Some Ways Civil Society Can Engage with the Health Sector Using Social Accountability

- **Citizen Report Cards:** Civil society organizations use surveys to gather information from users on the performance of health services. The results are written up in a report and publicized widely, including through the media, to produce public discussions about what citizens think and what health care providers should do.
- **Community Scorecards:** Civil society organizations compile information about a particular health service from users and from health service providers. Both civil society and health care providers review the information at an 'interface meeting' and develop an action plan to improve health services.
- **Participatory Health Facility Assessments:** District officials, health care providers, community members and the media use checklists to jointly assess the provision of health care and identify critical gaps. Using this information, the assessment teams address immediate concerns and may also advocate for increased budget at the district and national level to fulfill the Government's commitments.
- **Health Committees:** Civil society and the health care providers establish a health committee to work together to improve effectiveness of the health service delivery. Such committees ensure community participation in decision-making about the health care services.
- **Citizen Charters:** Citizen's charters provide guidelines on the client and provider relationship and explain in detail the standards a client can expect and demand. Charters explain to clients the standards that providers agree to uphold and make them aware of what they are entitled to.
- **Social Watch Campaigns:** Civil society groups develop and use tools, such as checklists, verbal death autopsies, community scorecards and public hearings, to monitor health service delivery and

progress on implementing policies; they then provide community members with information about their health situation, their health care rights and government policies; and then share their findings and clients' stories to publicly and demand change from decision makers. Elected local government representatives can also be involved in the assessment of the services.

- **Complaint Mechanisms:** Civil society works with health care providers to establish formal channels for health care services users to complain about a service and demand justice or change. Examples include establishing complaint boxes or an ombudsperson as well as a process for resolving the complaints received which may also involve citizens.

RESOURCES FOR USING COMMUNITY SCORECARD METHODS

- **Citizen Voice and Action,** developed by World Vision: Citizen Voice and Action Field Guide is available at: https://docs.google.com/file/d/0B01TNkdJ61czblk1ZWhON2F0cWc/edit
- **Partnership Defined Quality,** developed by Save the Children:

  The Partnership Defined Quality Manual is available at: http://www.savethechildren.org/atf/cf/%7B9def2ebe-10ae-432c-9bd0-df91d2eba74a%7D/PDQ-Manual-Updated-Nigeria.pdf

The PDQ Facilitation Guide is available at: http://www.coregroup.org/storage/documents/Social_Behavior_Change/Save_PDQ_Facil_Guide.pdf

The Community Score Card, developed by CARE: An implementation guide is available at: http://www.care.org/sites/default/files/documents/FP-2013-CARE_CommunityScoreCardToolkit.pdf

CSC Tools and Resources are available at: http://governance.care2share.wikispaces.net/CSC+Tools+and+Resources

- **Citizen Report Cards:** On-line course on using citizen report cards: http://www.citizenreportcard.com/

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BACKGROUND INFORMATION FOR SESSION
SESSION 3.6: PLANNING FOR MONITORING AND EVALUATION

HOW DO WE MONITOR AND EVALUATE TOGETHER?

Step 1: Planning the monitoring and evaluation.

To develop a monitoring and evaluation plan for your community group or network's action plan, follow these steps.

A. First you need to choose your indicators. Indicators help you decide what information you need to collect in order to monitor and evaluate your progress. Activity indicators tell you about what you have done. Change indicators tell you about what changes have happened as a result of your work.

It is important to choose indicators that are not too difficult to collect information about, and to only select the most useful indicators. Collecting information takes time. If you select too many indicators, you will spend too much time collecting information.

1. **Choose activity indicators by asking:** What will tell us if we are doing what we planned?

   For example, if your activities include providing training on the rights of people affected by HIV, you can use 'number of people trained' as an indicator of what you have done. This indicator tells you if you have trained more or less people than you planned. It does not tell you if the trainings were useful to the participants or if they helped increase respect for the rights of people affected by HIV. For that, you need a change indicator.

   After you have chosen your activity indicators, ask yourselves the following questions:

   - How easy will it be it to collect information about this indicator?
   - Will this indicator tell us something useful?
   - Will it tell us something new?
   - Is it relevant to the objectives?
   - Is the meaning of the indicator clear to everyone? For example, if one of the indicators is the number of home-care clients, does it mean you will collect information about the number of people served OR the number of households served?

2. **Choose change indicators by asking:** What will tell us if we are making progress towards our objectives?

   For example, if you want to know whether the trainings were useful to the participants, you could use the indicator 'number of people who reported training was useful'. If you want to know whether the trainings helped increase respect for the rights of people affected by HIV, you could use the indicator 'number of reported human rights abuses against people affected by HIV'.

   After you have chosen your change indicators, ask yourselves the following questions:

   - How easy will it be it to collect information about the indicator?
   - Will this indicator tell us something useful?
   - Will it tell us something new?
   - Is it relevant to the objectives?
   - Is the meaning of the indicator clear to everyone?

B. Plan how you will collect the information. Once you have decided what information to collect, you need to agree who will collect it and when and how they will collect it.

1. Make a list of the information you need to collect to be able to report on your activity indicators.
2. Make a list of the information you need to collect to report on your change indicators.
3. Decide when you will collect the information.

   Information for monitoring is usually collected on a regular and routine basis. For example, you

should collect monitoring information about community discussion groups every time you do a discussion group. There are lots of ways of collecting monitoring information – for example, by observation and note-taking, by talking to people, from service records and by using participatory tools.

4. Decide how you will collect the information.

   Choose methods that do not take too much time if they are going to be repeated often. Always consider issues of confidentiality when collecting or using information. Meetings of your network or of a community mobilization team can be used to gather information on activities. At the end of a community group discussion, you can ask questions to find out what effect the discussion had on the people in the group.

5. Decide how you will record the information.

   It is important to agree on a simple and clear way of recording and gathering routine monitoring information. For example, people who do home visits may use symbols on a wall chart to record how many visits they make.

6. Decide who will collect the information.

7. Decide when and how often you will review the information you collect.

   It is helpful to plan regular times to look at monitoring information that you have collected and assess your progress. For example, you might decide to do this weekly, monthly or every quarter.

8. Make any record-keeping forms that you will need to collect the information.

Now you are ready to implement your plan!

Step 2: Collect information about your activities.

Monitoring and evaluating relies on collecting useful information. It is important to start collecting information as soon as possible and to collect it every time you do an activity.

Step 3: Use the information you collect to monitor the activities you have done.

Use the information you have collected about your activities to compare what you have actually done to what you planned to do in your activity plan. Review what you are doing regularly. Ask the following questions:

- Have we done each activity that we planned to do? Have we done more or less than we planned? What are the reasons for this?
- Have we done activities we did not plan? What are the reasons for this?
- Are there activities we should add to our plans? What are the reasons for this?
- What have we learned about how to do the activities better? What works? What doesn't? Why? How can we improve?

Identifying the reasons for differences between what you did and what you planned to do will help you decide what to do next and how to improve your work.

Step 4: Evaluating progress towards your goals or objectives

You also need to evaluate how much progress you are making towards your objectives. It is helpful to do this at regular planned intervals, for example, every year and/or at the end of a set of planned activities. To evaluate, you need to have clear objectives in your action plan. This helps everyone to agree on the purpose of the evaluation and guides you in deciding what issues and information to focus on.

An evaluation uses the information collected during routine monitoring and additional information collected just for the evaluation. Evaluations are wider in scope and give you an opportunity to identify and review changes that may have been triggered by your project beyond the indicators that you first selected. Setting objectives and the scope for each evaluation will help identify the areas that you probe into or get more information about. Evaluation often involves many stakeholders and a more in-depth look at what progress your group has made. Participatory tools are very useful for looking in-depth at your progress. They are also a good way of exploring different perspectives about the progress you have made.

To evaluate progress, try to find out if there has been a change in each of your indicators since you started

your activities or since your last evaluation. You can use information from different sources to do this. You will have some information from your day-to-day monitoring activities. You can also use participatory tools to discuss the current situation and compare this to information from your assessment before you started activities. It is often helpful to repeat a tool you have used before in order to see what change there is. For example, if you did an assessment before you started your activities that showed that people affected by HIV experienced a lot of stigma and discrimination in antenatal care, then repeating this assessment during the evaluation will help indicate if there has been any change in levels of stigma and discrimination.

In addition, it is important to explore what changes people affected by HIV think are important and why they believe this. There may be important changes in the community that you did not expect. You need to ask open-ended questions about change to find out what is important to people. Remember, different people will have different views about what has changed, what is significant, and which changes are positive and negative. All are valid.

You also need to identify the reasons why something has changed. There may be a number of different reasons, some unrelated to your activities. Identifying these, including those that you did not influence, can help you develop more effective strategies and identify opportunities for collaboration.

If evaluation shows there has been little change, you need to identify the reasons for this. There may be barriers and problems you did not expect, or your strategy may not be effective. An evaluation that shows little progress towards objectives can be demotivating for people who have been working hard to bring about change. Encourage people to view the evaluation as a positive opportunity for valuable learning and to take enough time to reflect on the reasons for lack of progress. Finding out and recognizing what doesn't work is just as important as understanding what does work.

ENCOURAGING PARTICIPATORY MONITORING AND EVALUATION

Community members are usually busy. Collecting information for monitoring and evaluation may not seem like a priority compared to doing the planned activities. However, if you don't have evidence about the results of your work, your programs could lose their funding. The following actions can help motivate community members to monitor and evaluate:

- Have community members to identify the benefits of monitoring and evaluation.
- Allow community members to identify their own indicators for monitoring and evaluation. Find out what indicates success to them and what matters to them.
- Make sure that community members are fully involved in all aspects of monitoring and evaluation, not just in collecting information.
- Keep monitoring and evaluation simple and easy.
- Use all the information that is collected. Do not collect information that will not be used.
- Share the results of monitoring and evaluation regularly and often so people can see the progress they are making and what they are learning about what works and what doesn't.

ETHICAL ISSUES

It is also important to consider ethical issues about monitoring and evaluation. For example, some community members may expect to be paid for the time involved in collecting information, while others may worry about how the information about their community will be used.

Information in this handout was adapted from ALL TOGETHER NOW! Community mobilization for HIV/AIDS published by the International HIV/AIDS Alliance.

RECORD-KEEPING AND MONITORING **AND EVALUATION TOOLS**

This section is for the civil society networks who will take the lead on implementing the action plans. Those networks will need to complete and submit these forms to demonstrate the progress they have made on implementing their action plans.

There are four record-keeping and monitoring and evaluation tools included for your convenience. These are provided to help you collect the information you need to report on your use of the toolkit as well as the results of the training. This section explains what they are and how you can use them.

Tool 1: Participant Registration Sheet

The first tool is a participant registration sheet that will allow you to keep track of everyone that you have trained using the Positive Protection Training Manual. It is designed to collect all the information you will need from the participants in the Positive Protection training. You may also need this information for your report to those who fund the training.

Using the tool: Before the training starts on the first day, you should register your participants. Someone should sit at the table with the registration sheet and greet participants. Some may not be able to read and write and so should be asked if they need help or if they want to have the form filled out for them.

The following information is recorded on the sheet:

- Name
- Address
- Phone number
- Email address
- All networks you belong to
- Education completed
- Signature

Contact information: The participants' names and contact information are collected so you can contact them again in the future if needed. It also allows you to report how many people you have trained and from which areas of Cambodia.

Networks: It is important to record all the networks that the participants belong to because you will need to report to the donors how many people you have trained from the different affected groups (such as sex workers, transgender and injecting drug users).

Education: The highest grade completed is asked so that the facilitators will be able to assess the literacy level of the participants as a group. You will use this information to decide whether to use the higher- or lower-literacy options during the training. After all participants have registered, add up the number of participants you have that have completed primary school or higher. If more than half of the participants have completed primary school or higher, you can use the higher-literacy options.

Tool 2: Positive Protection Training Summary Log

The Training Summary Log tool will enable you to keep a running summary of the Positive Protection trainings that you have done during a specific time-frame. The tool captures the key information you will need to provide to your donors and makes reporting easy. This is expected to be sent to the donor every three months.

Using the tool: After every training, take the information that you collected on the participant registration sheet and fill in one line of the summary sheet. The information recorded includes: the training dates, location and name of the trainers, as well as the number of participants from each type of network (positive people, positive women, sex worker, MSM, transgender and drug users).

At the end of the reporting period, add up the number of trainings completed and the number of people from each type of network as well as the total number of people trained.

Tool 3: Human Rights Violations Case Registration Log

In order to be able to report on the results of providing the Positive Protection Training, it is recommended that your network start a file of case reports and a register of the cases of rights violations in your network that come to your attention.

Documenting rights violations: When people come to your network to tell you about a rights violation that they have experienced and to get your advice on what to do or support to take action, use the Form for Documenting Rights Violations (see the Participant Worksheet with this name on page 14 of the Participant's Handbook). You can use this form to collect all the information needed about what occurred. If the person has documented the rights violation themselves, ask them if you can make a copy of the documentation. Keep all of these together in a file.

The Case Registration Log will enable you to get a quick overview of the cases that your network has recorded, counselled on, and supported so that you can report more easily to your donors on what has happened.

Using the tool: Every time a case of a human rights violation is documented in your network, register it on the Case Registration Log by recording the following information from the documentation of the rights violation:

- Organization and reporting period: Fill in the name of your network and the dates of the period you are reporting on.
- Date: Record the date that the person contacted your organization about the violation.
- Summary of Case: Briefly summarize the case, including the following information (please do NOT include confidential information):

➢ The type of rights violation that occurred. Note whether the case was:

- Discrimination (treated differently from others).
- Humiliating or degrading treatment.
- Treatment without consent, including forced or coerced sterilization or abortions.
- Broken confidentiality (not keeping information private).
- Refusal of services (being sent away or to another facility).
- Misinformation (being given wrong or incomplete information).
    - The perpetrator: Note who committed the rights violation and the type of health care worker (e.g. doctor, nurse, lab technician).

Note: Do not include names, only functional titles.

    - The facility and location: Note the name and location of the health service facility.
    - The harm: Summarize the harm that resulted from the violation.

- Action Taken: Record all actions that were taken in the case. These might include:
    - Rights violations documented.
    - Written complaint filed with health care providers or the Administration Offices of the District Health Office, Provincial Health Department.
    - Verbal complaint made to health care providers or Administration Offices of the District Health Office, Provincial Health Department.
    - Complaint made to the Cambodian Medical Council, Cambodian Nursing Council, or

Cambodian Midwifery Council.

- Took case to mediation.
- Filed case with the Cambodian Human Rights Committee.
- Requested legal aid.
- Filed case with the courts.

- Outcome: When you know what the outcomes of the actions taken are, record them here (this will most likely be at some later time). These might include:
  - An apology.
  - Health care worker agreed to change their behaviour and/or attitude.
  - Health care worker warned, suspended, fined, demoted, transferred, deregistered, imprisoned.
  - Medical, Nursing or Midwifery Council recommended the Ministry of Health take departmental action or recommended Government of Cambodia file lawsuit against the worker or institution.
  - Positive solution found in mediation (describe it).
  - Case investigated by the Cambodian Human Rights Committee.
  - Cambodian Human Rights Committee requested governmental authority to take action.
  - Government authority took action after CHRC recommended it.
  - Cambodian Human Rights Committee found case was not a rights violation.
  - Legal aid provided to the person whose rights were violated.
  - Lawsuit decided in favour of the person affected by HIV.
  - Lawsuit decided against the person affected by HIV.

Tool 4: Summary Report of Actions Taken and Outcomes

This tool will enable you to summarize the actions taken and the outcomes of those actions. It will help you to report to donors more easily.

Using the tool: When you need to report on your activities and outcomes:

- Organization and reporting period: Fill in the name of your network and the dates of the period you are reporting on.
- Actions to prevent rights abuses: Refer to your activity reports and record the activities that you undertook to prevent rights abuses during the period you are reporting on. See the list of possible actions listed on the form. If you undertook other activities, describe these in the box where it says 'Other'.
- Actions to respond to rights abuses: Take your Human Rights Violations Case Registration Log and count up the number of actions your network took to respond to rights violations during your reporting period. See the categories on the form and fill in the number in the box on the right side for each.
- Outcomes of actions to prevent rights abuses: Using your activity reports and other information you have about the results of your actions to prevent rights abuses, record them on the form. See the list of possible outcomes listed on the form. If other outcomes resulted from your work, describe these in the box where it says 'Other'.
- Outcomes of actions to respond to rights abuses: Take your Human Rights Violations Case Registration Log and count up the different outcomes (listed on the form) of the cases on your log that occurred during the period you are reporting on. Fill in the number in the box on the right side. Also count the number of cases that do not yet have outcomes for cases registered in this period and for cases registered previously.

REGISTRATION SHEET

Training dates: From:_____(date) to _____ (date) Location: _____

No.	Name	Gender	Address	Phone number	Email address	All networks you belong to	Education: highest grade completed	Signature
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								

No.	Name	Gender	Address	Phone number	Email address	All networks you belong to	Education: highest grade completed	Signature
14								
15								
16								
17								
18								
19								
20								
21								
22								
23								
24								
25								
26								
27								
28								
29								

POSITIVE PROTECTION TRAINING – SUMMARY LOG

Name of organization: _____

From _____(date) to _____ (date)

TRAINING DATES	LOCATION	NAME OF TRAINERS	NUMBER OF PARTICIPANTS FROM THESE NETWORKS:										TOTAL NUMBER OF PARTICIPANTS	
			+ People's networks		Entertainment worker		MSM		Transgender		IDU			
			F	M	F	M	F	M	F	M	F	M	F	M
SUMMARY	Number of Trainings:		Total number of participants from each type of network:										No. of participants	

HUMAN RIGHTS VIOLATIONS CASE REGISTRATION LOG

Name of organization: _____

Time-frame: From _____(date) to _____ (date)

NO.	DATE	NAME	SUMMARY OF CASE	ACTIONS TAKEN	OUTCOMES
1					
2					
3					
4					
5					
6					
7					
8					
9					

SUMMARY REPORT OF ACTIONS TAKEN AND OUTCOMES

Name of organization: _____

Time-frame: From _____(date) to _____ (date)

ACTIONS TO PREVENT RIGHTS ABUSES	NUMBER DURING THIS PERIOD
Meetings with the Cambodian Human Rights Committee	
Other activities with the Cambodian Human Rights Committee	
Meetings with health care providers	
Advocacy campaigns conducted	
Participated in report on a human rights treaty or in the Universal Periodic Review	
Other (Describe):	
Other (Describe):	

ACTIONS TO RESPOND TO RIGHTS ABUSES	NUMBER DURING THIS PERIOD
Cases of rights violations documented	
Written complaints filed with health care providers or Administration Offices of the District Health Office, Provincial Health Department.	
Verbal complaints made to health care providers or Administration Offices of the District Health Office, Provincial Health Department.	
Complaints made to the Cambodian Medical Council, Nursing Council or Midwifery Council	
Cases taken to mediation	
Cases filed with the Cambodian Human Rights Committee	
Cases for which legal aid was requested	
Cases filed with the courts	

OUTCOMES	NUMBER DURING THIS PERIOD
Outcomes of Actions to Prevent Rights Abuses	
Cambodian Human Rights Committee advocated on behalf of people affected by HIV	
Health care workers changed their behaviour or attitude towards people affected by HIV	
Health care workers trained in rights	
Report on an international treaty included the violation of the rights of people affected by HIV	
Other (describe):	
Other (describe):	
Outcomes of Actions to Respond to Rights Abuses	
Apology	
Health care worker agreed to change their behaviour and/or attitude	
Health care worker warned	
Health care worker suspended	
Health care worker fined	
Health care worker demoted	
Health care worker transferred	
Health care worker deregistered	
Health care worker imprisoned	

Medical, Nursing or Midwifery Council recommended Ministry of Health take departmental action	
Medical, Nursing or Midwifery Council recommended Government of Cambodia file lawsuit against the worker or institution	
Positive solution found in mediation	
Case investigated by Cambodian Human Rights Committee (CHRC)	
CHRC recommended governmental authority take action	
Governmental authority took action after CHRC recommended it	
Cambodian Human Rights Commission found case not to be a rights violation	
Legal aid provided to person affected by HIV	
Case filed in with the courts	
Lawsuit decided in favour of the person affected by HIV	
Lawsuit decided against the person affected by HIV	
Case still pending (no outcome yet)	
Other (describe):	
Other (describe):	

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