

# Cambodia Fundamental Freedom Monitor

## Third Annual Report

April 2018 -  
March 2019



The Fundamental Freedoms Monitoring Project



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Cambodian Center for Human Rights



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## Contents

<b>Executive Summary .....</b>	<b>1</b>
<b>A. Introduction .....</b>	<b>7</b>
<b>B. Key Milestone One: Does the legal framework for fundamental freedoms meet international standards? .....</b>	<b>9</b>
<b>B.1 Legislative developments in Year Three impacting the freedom of association .....</b>	<b>9</b>
B.1.1 Repeal of the prior notification regime for CSOs' activities.....	9
B.1.2 Registration requirements under the Trade Union Law remain burdensome despite some improvements set forth in a MoLVT Directive.....	10
B.1.3 The Declaration on the Implementation Guidelines on Tax Obligations for Associations and NGOs contains overly burdensome reporting requirements for NGOs.....	10
B.1.4 The January 2019 amendment to the LPP fails to improve the law's compliance with international standards on the freedom of association .....	12
<b>B.2 New legislative developments in Year Three place additional restrictions on the right to freedom of expression.....</b>	<b>13</b>
B.2.1 The Prakas on Website and Social Media Control severely threatens the right to freedom of expression .....	13
B.2.2 The National Election Committee's Code of Conduct for the Media restricts freedom of expression in the coverage of elections.....	14
B.2.3 Provisions of the Law on Minimum Wage do not comply with international standards regarding freedom of expression .....	15
<b>C. Key Milestone Two: Is the legal framework for fundamental freedoms implemented and properly enforced? .....</b>	<b>18</b>
<b>C.1 Restrictions and violations of fundamental freedoms .....</b>	<b>18</b>
<b>C.2 Excessive oversight of CSOs' activities continues .....</b>	<b>19</b>
C.2.1 Authorities monitor and interfere with meetings, trainings and gatherings.....	20
C.2.2 Effects of the "prior notification regime" .....	20
<b>C.3 CSO/TU leaders report interferences with their ability to exercise their right to freedom of association.....</b>	<b>21</b>
C.3.1 Excessive monitoring of CSOs and Trade Unions.....	21
C.3.2 The proportion of CSOs able to meet reporting requirements under the LANGO and TUL is increasing .....	22
C.3.3 The proportion of CSO/TU leaders who report facing restrictions when receiving foreign funding is increasing .....	23
C.3.4 CSOs report facing restrictions or threats when forming networks, coalitions, and federations .....	23
<b>C.4 Former members of the dissolved CNRP continue to be targeted .....</b>	<b>24</b>
<b>C.5 Unions continue to have mixed experiences when attempting to register under the Trade Union Law.....</b>	<b>25</b>
<b>C.6 Expression of dissenting opinions continues to be systematically repressed .....</b>	<b>26</b>
C.6.1 Application of "lèse-majesté" offense to convict two individuals in relation to online speech .....	27
C.6.2 At least fifteen websites of news outlets were blocked by the RGC during the National Assembly elections.....	28
C.6.3 Journalists questioned, arrested and detained for reporting on land disputes .....	29
C.6.4 Artistic works censored by the RGC.....	29

<b>C.7 CSO and Trade Union leaders feel increasingly unable to exercise freedom of expression, especially on social media .....</b>	<b>30</b>
<b>C.8 Association leaders continue to believe their communications are subject to extralegal surveillance.....</b>	<b>31</b>
<b>C.9 The freedom of assembly continues to be restricted .....</b>	<b>32</b>
C.9.1 CSO and TU leaders feel increasingly un-free to exercise the right to freedom of assembly.....	33
C.9.2 Strikes sometimes result in violations of fundamental freedoms .....	34
<b>C.10 Incidents related to land disputes result in violations of fundamental freedoms.....</b>	<b>34</b>
<b><i>D. Key Milestone Three: Do individuals understand fundamental freedoms, and feel free to exercise them? .....</i></b>	<b><i>37</i></b>
<b>D.1 The Cambodian public feels increasingly unfree to exercise their fundamental freedoms... 37</b>	<b>37</b>
D.1.1 The Cambodian public feels increasingly unfree to express themselves .....	37
D.1.2 A decreasing proportion of the Cambodian public feels free to strike and/or demonstrate against their employer .....	39
D.1.3 The public reports being increasingly unfree to participate in political life .....	39
<b>D.2 The public’s understanding of fundamental freedoms remains low .....</b>	<b>40</b>
<b>D.3 The public’s knowledge of domestic laws governing freedom of expression and association remains limited .....</b>	<b>40</b>
D.3.1 Freedom of expression .....	41
D.3.2 Freedom of association .....	42
<b>D.4 Confidence in redress for human rights violations remains low .....</b>	<b>44</b>
<b><i>E. Key Milestone Four: Are CSOs and TUs recognized by, and can work in partnership with, the RGC? .....</i></b>	<b><i>47</i></b>
<b>E.1 Fewer associations embraced by the RGC as competent development partners .....</b>	<b>47</b>
<b>E.2 Fewer CSOs report collaboration with the government.....</b>	<b>48</b>
<b>E.3 CSO and TU Leaders have limited awareness of opportunities for public financing and participation in RGC panels and committees .....</b>	<b>49</b>
<b><i>Conclusion.....</i></b>	<b><i>51</i></b>
<b><i>Annex 1 – Methodology and Data Collection.....</i></b>	<b><i>52</i></b>
<b><i>Annex 2 – FFMP Results Table.....</i></b>	<b><i>57</i></b>
<b><i>Annex 3 – FFMP Public Poll 2019: Questions and Results .....</i></b>	<b><i>83</i></b>
<b><i>Annex 4 - CSO/TU Leader Survey Questions and Results .....</i></b>	<b><i>89</i></b>

## Executive Summary

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The Fundamental Freedoms Monitoring Project (FFMP) examines the state of the freedoms of association, expression and assembly in the Kingdom of Cambodia (Cambodia). Utilizing a range of monitoring tools, the FFMP provides an objective overview of how these fundamental freedoms are enshrined in law, and protected and exercised across Cambodia.

Since April 2016, the FFMP has analyzed a total of 4,599 media articles and 468 incident reports, completed three public polls (with 2,968 responses in total), completed three surveys of civil society organization (CSO) and trade union leaders (with 580 responses in total), and conducted a legal analysis of Cambodia's legal framework governing fundamental freedoms.

This report outlines the key findings from the third year of monitoring, covering the period from 01 April 2018 to 31 March 2019 (Year Three).<sup>1</sup> The information contained in this report has been compiled using systematically recorded data from several qualitative and quantitative data sources (See Annex 1). The FFMP is a joint initiative of the Cambodian Center for Human Rights (CCHR), Cambodian Human Rights and Development Association (ADHOC), and the Solidarity Center (SC), in cooperation with the International Center for Not-For-Profit Law (ICNL).

The space to exercise fundamental freedoms continues to be restricted. Key developments in Year Three included: (a) the enactment of legislative amendments, which further curtailed fundamental freedoms; (b) the systematic and arbitrary application of laws governing fundamental freedoms; and (c) a decrease in the public's ability to exercise fundamental freedoms.

The FFMP recorded 825 unique incidents related to the exercise of fundamental freedoms, 167 incidents were identified through FFMP incident reporting and 658 were identified through media monitoring. Out of the 825 incidents recorded by the FFMP, 481 incidents involved restrictions to fundamental freedoms<sup>2</sup> (See Figure 1). Among these 481 incidents, 396 (or 82%) involved restrictions that did not comply with international human rights law and standards, and therefore amounted to violations<sup>3</sup> (See Figure 2).

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<sup>1</sup> Year Two of FFMP took place from 01 April 2017 to 30 March 2018, Year One took place from 01 April 2016 to 31 March 2017. See CCHR, ADHOC, SC and ICNL, 'Cambodia Fundamental Freedoms Monitor : Second Annual Report,' (September 2018), available at:

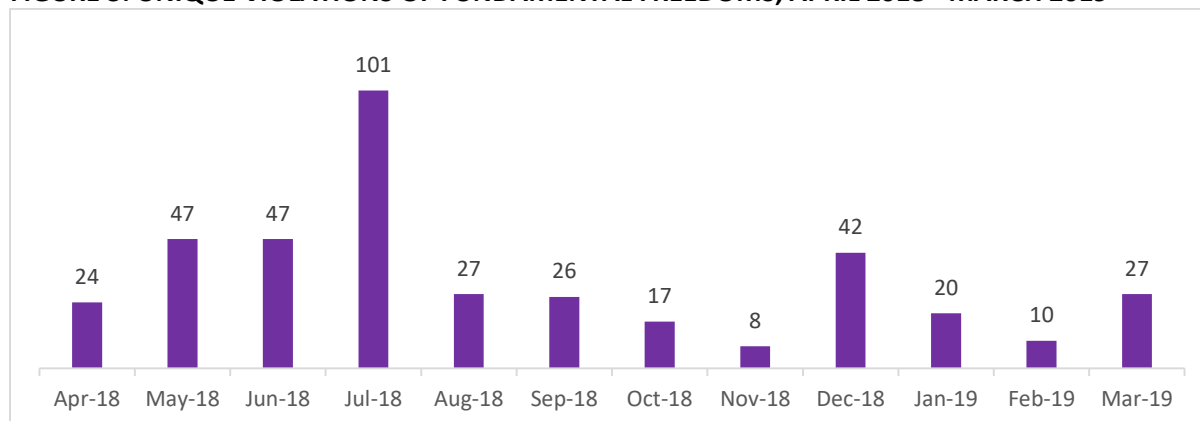
[https://cchrcambodia.org/index\\_old.php?url=media/media.php&p=report\\_detail.php&reid=128&id=5.](https://cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=128&id=5.)) See also CCHR, ADHOC, SC and ICNL 'Fundamental Freedoms Monitoring Project – First Annual Report,' (August 2017), available at: <https://cchrcambodia.org/admin/media/report/report/english/2017-08-10-CCHR-FFMP-Annual-Report-Eng.pdf>.

<sup>2</sup> The figures for "unique" violations represent the total number of incidents recorded in which violations occurred, without any duplication. Figures provided for restrictions and violations of freedom of association, freedom of expression and freedom of assembly do not necessarily represent separate incidents, i.e., one incident may be recorded as a violation of both freedom of association and freedom of expression.

<sup>3</sup> The difference between a restriction and a violation of a right is that a restriction can be legally permissible under certain circumstances, while a violation *prima facie* contravenes international legal standards. For example, to determine whether a restriction to speech constitutes a violation, the FFMP examines whether that restriction fails the three-part test outlined in Article 19 of the ICCPR. If the restriction fails the three-part test, it is deemed a violation. Description of the three-part test for freedom of expression and freedom of association can be found in Section B (Key Milestone One). Descriptions of the international legal standards governing permissible restrictions of the freedom of assembly can also be found in CCHR, ADHOC, SC and ICNL, 'Cambodia Fundamental Freedoms Monitor: Second Annual Report,' (September 2018), pp. 8-9.



**FIGURE 3: UNIQUE VIOLATIONS OF FUNDAMENTAL FREEDOMS, APRIL 2018 - MARCH 2019<sup>6</sup>**



Source: FFMP Media Monitoring and Incident Reporting Databases, March 2019

### Freedom of Association

As with previous years, the freedom of association was curtailed in Year Three, principally by the Royal Government of Cambodia (RGC) closely monitoring the activities of civil society organizations (CSOs) and trade unions. Throughout Year Three, the RGC appeared to systematically monitor associations’ activities, such as meetings and trainings. The FFMP recorded a total of 120 incidents in which RGC supervision of associations’ activities violated international standards. In many cases, local authorities or the police interrupted associations’ meetings and trainings (See Section C.2).

The Ministry of Interior (MoI) repealed its prior notification regime for CSOs’ activities in November 2018, which removed one significant restriction of the right to freedom of association. Despite this positive development, the FFMP recorded six incidents where authorities interrupted CSOs’ activities seeking proof of notification or permission to hold activities *after* revocation of the prior notification regime (See Section C.2.2).

### Freedom of Expression

The freedom of expression continued to be restricted during Year Three, with new legal threats to the right to freedom of expression and a further increase in self-censorship. Voices deemed critical of government officials and policies were suppressed at the national and local level.

The Prakas on Social Media and Website Control, enacted in May 2018, poses a threat to the right to freedom of expression online. It prohibits overly broad categories of speech and empowers ministries to block websites that publish prohibited content. In addition, in Year Three, the new offense of “Insulting the King” was used to convict two individuals, and bring criminal charges against two additional individuals, all in relation to online speech. The use of this criminal offense contributed to a decreased ability to speak freely online.

The RGC arbitrarily censored information online in July 2018, when the MoI ordered the blocking of at least 15 news outlets’ websites on July 28<sup>th</sup> and 29<sup>th</sup>. The websites of other media outlets,

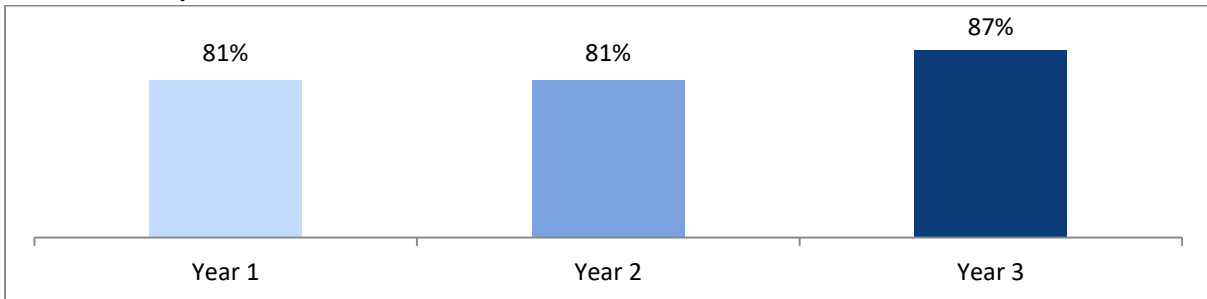
<sup>6</sup> The figures for “unique” violations represent the total number of incidents recorded in which violations occurred, without any duplication. Figures provided for restrictions and violations of freedom of association, freedom of expression and freedom of assembly do not necessarily represent separate incidents, i.e., one incident may be recorded as a violation of both freedom of association and freedom of expression.

## Fundamental Freedoms Monitoring Project

especially those perceived as less critical of the RGC, were allowed to remain online during this time period.<sup>7</sup>

Self-censorship remains widespread. In Year Three, 87% of CSO and trade union (TU) leaders reported that they self-censor when speaking in public, an increase from the 81% from Years One and Two<sup>8</sup> (See Figure 4).

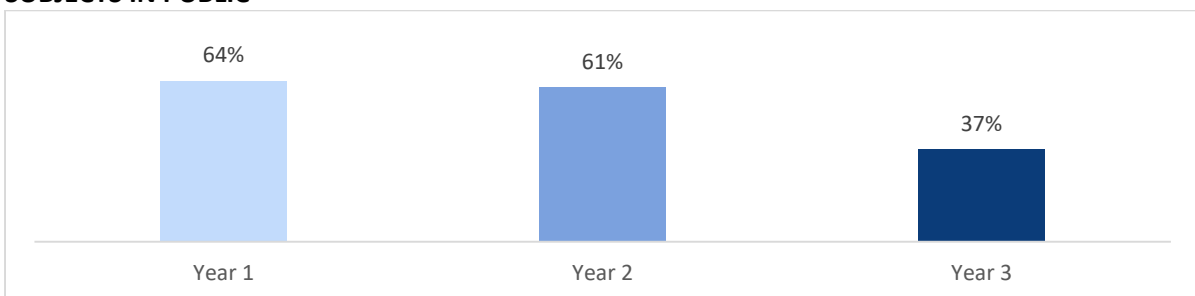
**FIGURE 4: CSO/TU LEADERS WHO SELF-CENSOR THEMSELVES WHILE SPEAKING IN PUBLIC<sup>9</sup>**



Source: FFMP CSO/TU Survey, December 2016, December 2017, January 2019

The results from the Public Poll revealed that respondents felt less free to exercise their right to freedom of expression in Year Three compared to previous years. Only 37% of respondents in Year Three reported feeling free to speak openly about all subjects in public, a decrease from 64% in Year One and 61% in Year Two<sup>10</sup> (See Figure 5).

**FIGURE 5: PROPORTION OF RESPONDENTS WHO FEEL FREE TO SPEAK OPENLY ABOUT ALL SUBJECTS IN PUBLIC<sup>11</sup>**



Source: FFMP Public Poll, October 2016, March 2018, March 2019

<sup>7</sup> RGC officials stated that the reason for blocking websites was due to 'White Day.' Established in Article 72 of the Law on Election of Members of the National Assembly (LEMNA), 'White Day' prohibits political parties from campaigning during the 24-hour period prior to the election. See more details in Section C.6.2

<sup>8</sup> Self-censorship is an indication of the ability of citizens to exercise their freedom of expression. High percentages of self-censorship demonstrate an environment where people (in this case CSO and TU leaders) feel unable or are unwilling to speak freely.

<sup>9</sup> The data presented in this graph includes the proportion of CSO/TU leaders who reported "always," "regularly," and "sometimes" feeling it necessary to censor themselves while speaking in public. The full results of the CSO/TU Leader survey are presented in Annex 4.

<sup>10</sup> The figure for respondents feeling "free" to express themselves sums up the number of respondents who reported feeling "very free" and "somewhat free" to express themselves. The full results of the Public Poll are presented in Annex 3.

<sup>11</sup> The figures presented in this section present some of the responses given to Public Poll questions. The full results from Public Poll questions are presented in Annex 3.

## Fundamental Freedoms Monitoring Project

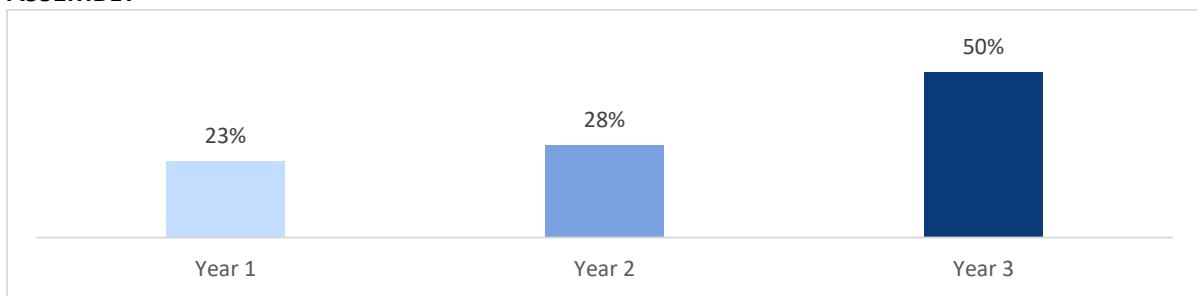
### Freedom of Assembly

The freedom of assembly continued to be restricted in Year Three. Though the legal framework governing assemblies largely complies with international human rights law and standards,<sup>12</sup> arbitrary restrictions on freedom of assembly were prevalent throughout Year Three.

The FFMP recorded 411 assemblies in Year Three. 276 of these assemblies were not restricted by the RGC, 113 assemblies were interfered with or restricted by the RGC, while 22 assemblies were prohibited by the RGC. Notably, the FFMP recorded one case where authorities used force to break up a land protest. In Year Three, overall, 30% of all incidents related to land disputes recorded by the FFMP resulted in violations of fundamental freedoms, including legal actions taken against individuals for their participation in land protests (See Section C.10).

CSO and TU leaders reported feeling increasingly unfree to exercise the right to freedom of assembly in Year Three compared to Years One and Two (See Figure 6).

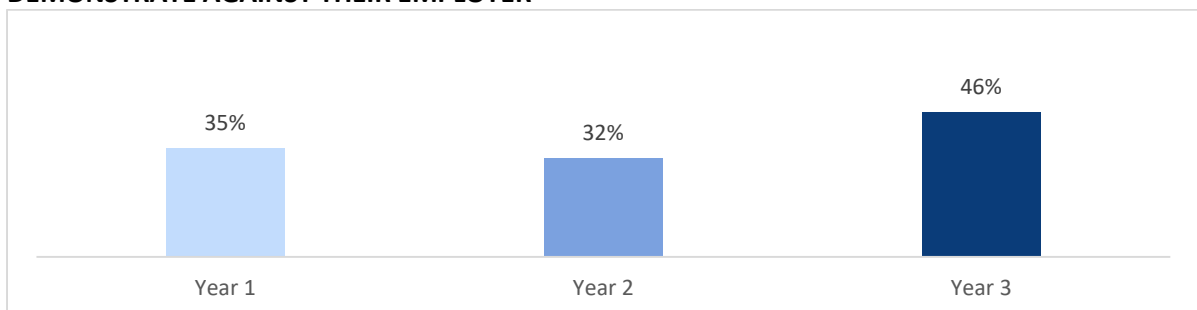
**FIGURE 6: CSO/TU LEADERS WHO REPORTED FEELING UNFREE TO EXERCISE THE FREEDOM OF ASSEMBLY<sup>13</sup>**



Source: FFMP CSO/TU Survey, December 2016, December 2017, January 2019

The number of Public Poll respondents who reported feeling unfree to strike and/or demonstrate against their employer increased in Year Three compared to previous years (See Figure 7).

**FIGURE 7: PROPORTION OF RESPONDENTS WHO FEEL UNFREE TO PEACEFULLY STRIKE AND/OR DEMONSTRATE AGAINST THEIR EMPLOYER<sup>14</sup>**



Source: FFMP Public Poll, October 2016, March 2018, March 2019

<sup>12</sup> See CCHR, ADHOC, SC and ICNL 'Fundamental Freedoms Monitoring Project – First Annual Report,' (August 2017), p. 8.

<sup>13</sup> Note: The figures for respondents reporting feeling "unfree" to exercise the freedom of assembly is the sum of the percentage of respondents reporting feeling "somewhat unfree" and "very unfree" to exercise the freedom of assembly. See full results in Annex 4.

<sup>14</sup> Note: The figures for respondents feeling "unfree" to peacefully strike and/or demonstrate against an employer sums up the number of respondents who reported feeling "very unfree" and the number of those who reported feeling "somewhat unfree" to peacefully strike and/or demonstrate against an employer. See full results in Annex 4.



## Fundamental Freedoms Monitoring Project

The full findings from Year Three are presented in the narrative report and its accompanying appendices. The findings analyze the legal framework for fundamental freedoms (Section B - Key Milestone One), the extent to which relevant laws and policies are properly implemented (Section C - Key Milestone Two), the public's knowledge of and ability to exercise fundamental freedoms (Section D - Key Milestone Three) and the extent to which civil society, including trade unions, are viewed as competent and legitimate development partners (Section E - Key Milestone Four).

## A. Introduction

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The FFMP, which began on 01 April 2016,<sup>15</sup> is a multi-year project that monitors the state of three fundamental freedoms – freedom of association, freedom of expression and freedom of assembly – in Cambodia.<sup>16</sup> CCHR, SC and ADHOC, (i.e. the Monitoring Team) implement the FFMP by utilizing the Monitoring and Tracking Tool (MTT).<sup>17</sup> The third year of monitoring (Year Three) was comprised of quarterly reporting periods dated: 01 April – 30 June 2018 (Quarter One); 01 July – 30 September 2018 (Quarter Two); 01 October 2018 – 31 December 2018 (Quarter Three); and, 01 January 2019 – 31 March 2019 (Quarter Four).

The aim of the FFMP is to provide an objective overview of the current state of fundamental freedoms in Cambodia by identifying trends related to the legal environment and the exercise of fundamental freedoms. To achieve this aim, the MTT systematically and objectively assesses whether, and to what extent, the freedoms of association, assembly and expression are guaranteed and can be exercised in Cambodia.

The MTT is comprised of 92 individual elements that correspond to four “Key Milestones” (KMs) which examine whether:

- KM1: The legal framework for the fundamental freedoms meet international standards;
- KM2: The legal framework for fundamental freedoms is implemented and properly enforced;
- KM3: Individuals understand the fundamental freedoms and related rights, and feel free to exercise them; and,
- KM4: Civil society organizations and trade unions are recognized and can work in partnership with the RGC.<sup>18</sup>

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<sup>15</sup> Previous annual reports from the FFMP are available on CCHR’s website: <https://cchrcambodia.org>.

<sup>16</sup> Fundamental freedoms– for the purposes of this report – comprise the freedom of association, freedom of expression and freedom of assembly. Freedom of expression is the right to seek, receive and impart information and ideas of all kinds, regardless of setting, either orally, in writing or in print, in the form of art, or through any other media. Freedom of assembly is the right to gather publicly or privately and collectively express, promote, pursue and defend common interests. This right includes the right to participate in peaceful assemblies, meetings, protests, strikes, sit-ins, demonstrations and other temporary gatherings for a specific purpose. Freedom of association is the right to join or leave groups of a person’s own choosing, and for the group to take collective action to pursue the interests of members. Specifically, this report adopts the definition of ‘association’ used by the Special Rapporteur on the rights to freedom of peaceful assembly and of association. The Special Rapporteur defines ‘association’ as referring to any groups of individuals or any legal entities brought together in order to collectively act, express, promote, pursue or defend a field of common interests. Associations include civil society organizations, clubs, cooperatives, non-governmental organizations, religious associations, political parties, trade unions, foundations and online associations. For more information, see United Nations Human Rights Council, A/HRC/20/27, ‘Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai,’ (21 May 2012), available at:

[https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27\\_en.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf).

<sup>17</sup> The MTT was designed to provide a clear and consistent mechanism for monitoring the legal and regulatory framework that governs civil society and civic participation in Cambodia. The MTT was developed by the International Center for Not-For Profit Law (ICNL) in partnership with ADHOC, SC and CCHR. The MTT is envisioned to be the centerpiece of a long-term monitoring project. It has been designed to promote a strong civil society and to enable the peaceful exercise of the freedoms of association, expression and assembly. See Annex 1 for further details.

<sup>18</sup> The MTT was reviewed and revised by the Monitoring Team at the conclusion of Year One, in order to make improvements to the monitoring framework where possible, and to expand the breadth, depth, and utility of data

## Fundamental Freedoms Monitoring Project

In Year Three, the Monitoring Team utilized six data collection methods to measure the milestones. These data collection methods include: Incident Reports;<sup>19</sup> Media Monitoring;<sup>20</sup> Desk Review of Relevant Laws (Desk Review);<sup>21</sup> a Survey of CSO and trade union leaders (CSO/TU Leader Survey);<sup>22</sup> a Public Poll;<sup>23</sup> focus group discussion; and a Trade Union Registration Evaluation Tool.<sup>24</sup>

This Third Annual Report presents an analysis of key findings and trends related to the exercise of fundamental freedoms during the third year of monitoring, 01 April 2018 – 31 March 2019.

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monitored by the FFMP. This review process resulted in the addition of over 20 new elements, primarily related to the rights to freedom of expression and freedom of assembly, based on lessons learned from Year One.

<sup>19</sup> Incident Reports are collected through the Incident Report Mechanism, a form developed to capture violations of freedom of association and related rights. Individuals or associations that believe their rights to freedom of association, assembly or expression have been violated can report the incident to the Monitoring Team, who are responsible for completing an Incident Report Form. The Form captures qualitative and quantitative data including information about the incident itself, the location, the people involved, the type of association and the type of violation.

<sup>20</sup> Media Monitoring is carried out daily by CCHR. It focuses on newspaper coverage of freedom of association and related rights and is governed by a set of Media Monitoring Guidelines which are based upon the MTT.

<sup>21</sup> The Desk Review is composed of expert analysis of the content of Cambodian laws, policies, reports and other official documents to assess the degree to which legal guarantees and other conditions are in place to ensure freedom of association and related rights. The Desk Review is led by CCHR. The Desk Review encompasses both qualitative analysis, of the degree to which Cambodian laws respect the fundamental freedoms, and quantitative analysis.

<sup>22</sup> The CSO/TU Leaders' Survey aims to capture the feelings and experiences of CSO/TU leaders in relation to their ability to exercise the fundamental freedoms, and is conducted on an annual basis. The survey is completed online and through face-to-face interviews. Enumerators consist of CCHR, ADHOC and SC staff. The CSO/TU Leader's Survey was conducted between 20 November 2018 and 10 January 2019.

<sup>23</sup> The Public Poll aims to gauge the general public's sentiment towards the fundamental freedoms. The Public Poll was conducted in Khmer, utilizing 'convenience sampling,' whereby members of the Monitoring Team visited public locations with high pedestrian traffic, such as marketplaces and pagodas. The Public Poll was conducted between 14 February and 30 March 2019 across 22 provinces and included 992 respondents.

<sup>24</sup> The Trade Union Registration Evaluation Tool records the experiences of trade union representatives as they attempt to register their unions, as required under the Trade Union Law. Interviews are conducted before, during, and after registration, in order to track the registration experience, and its compliance with the prescribed legal procedures. Data is collected by SC staff and analyzed by CCHR staff.

## B. Key Milestone One: Does the legal framework for fundamental freedoms meet international standards?

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Key Milestone One examines the extent to which Cambodia’s legal framework complies with international human rights law and standards for fundamental freedoms.<sup>25</sup> This report examines enacted laws and regulations affecting fundamental freedoms during Year Three of the FFMP.<sup>26</sup>

### B.1 Legislative developments in Year Three impacting the freedom of association

During Year Three of the FFMP, four pieces of legislation were introduced that impacted the right to freedom of association. Two represent positive or enabling developments for freedom of association in Cambodia; the November 2018 repeal of the prior notification regime for all CSOs, and a December 2018 Directive from the Ministry of Labor and Vocational Training (MoLVT). However, the April 2018 Directive on Tax obligations for CSOs represents a restrictive piece of legislation. The January 2019 amendment to the Law on Political Parties (LPP) failed to remove the excessive restrictions on the right to freedom of association which had been introduced in previous amendments of the LPP. Each of these developments are discussed below.

#### ***B.1.1 Repeal of the prior notification regime for CSOs’ activities***

On 27 November 2018, the Ministry of Interior (MoI) issued a directive explicitly repealing the three-day prior notification requirement for all CSOs’ activities. The directive stated: “NGOs and associations, including local communities that have already registered with the ministry, have complete freedom to legally carry out activities without having to inform local authorities three days beforehand as they did before.”<sup>27</sup> This directive effectively repealed the prior notification regime created in October 2017 that imposed an extralegal and excessive restriction to the freedom of association.<sup>28</sup>

Despite this positive development, the FFMP has identified two issues. First, this directive is limited to only civil society groups that are registered with the MoI, therefore leaving open the possibility

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<sup>25</sup> The findings in Key Milestone One are primarily based on the Desk Review of Relevant Laws (Desk Review). The Desk Review analyzes the extent to which the domestic legal framework related to fundamental freedoms complies with international human rights law and standards, derived from relevant international treaties and international standards as interpreted by the United Nations (“UN”) Human Rights Committee and UN Special Rapporteurs.

<sup>26</sup> In order to assess whether the Cambodian legal framework meets international human rights law and standards on the right to freedom of association, assembly and expression, the MTT analyzes a total of 36 elements. Details on each of these elements are provided in Annex 2.

<sup>27</sup> The original directive (in Khmer) issued by the Ministry of Interior dated 27 November 2018 can be found at [https://opendevelopmentcambodia.net/wp-content/blogs.dir/2/files/mf/1543463844InstructionMoI\\_20181129.pdf](https://opendevelopmentcambodia.net/wp-content/blogs.dir/2/files/mf/1543463844InstructionMoI_20181129.pdf). See also <https://www.interior.gov.kh/news/detail/558>. See also Pav Suy, ‘Interior Ministry expands freedoms for NGOs,’ Khmer Times, (28 November 2018), available at: <https://www.khmertimeskh.com/50553742/interior-ministry-expands-freedoms-for-ngos/>.

<sup>28</sup> In October 2017, the MoI issued a letter that instituted a new, prior notification system for all activities undertaken by CSOs. The October 2017 letter, which was sent to provincial and district governors, required all associations and NGOs to inform either the MoI or local authorities of the type of activity they planned to undertake in a specific territory or province at least three days in advance of the activity. If no notification was given, or if the MoI or local authority deemed the activity to affect “public order or national authority,” the relevant authority was empowered to ban the activity and was required to inform the MoI about the proposed activity immediately. This new system of prior notification therefore failed to comply with international standards for freedom of association, and constituted a significant restriction to the freedom of association. See also CCHR, ADHOC, SC and ICNL, ‘Cambodia Fundamental Freedoms Monitor-Second Annual Report,’ (September 2018), pp. 3-4.

## Fundamental Freedoms Monitoring Project

that activities of unregistered small and/or community groups may still be restricted. Second, the directive was not widely circulated, especially to local authorities, which led to CSOs' activities being restricted, as documented in Section C.2 of this report.

### **B.1.2 Registration requirements under the Trade Union Law remain burdensome despite some improvements set forth in a MoLVT Directive**

On 14 December 2018, the MoLVT issued a "Directive on Facilitating Procedures and Formalities for Union Registration."<sup>29</sup> The MoLVT Directive relates to the implementation of Prakas 249 on the Registration of Worker Organizations, Trade Unions and Employer Associations (Prakas 249), which was issued on 27 June 2016 and outlines the registration process for trade unions.<sup>30</sup> Essentially, the MoLVT Directive instructs relevant officials to remove certain existing registration requirements. These include: (1) the requirement of providing additional information of a union leader's family members; (2) the immediate requirement to submit a work book and National Social Security Fund membership card when submitting the application forms for union registration (giving them 45 days to submit these after registration); and (3) Allow administrative staff of union federation or union confederation to help facilitate registration of their own local union.<sup>31</sup>

While the MoLVT Directive removes some of the onerous registration requirements, it does not remove other burdensome registration requirements set forth in the Trade Union Law (TUL) and Prakas 249 which restrict the ability of unions to carry out their activities.<sup>32</sup>

### **B.1.3 The Declaration on the Implementation Guidelines on Tax Obligations for Associations and NGOs contains overly burdensome reporting requirements for NGOs**

On 12 April 2018, the Ministry of Economy and Finance issued a Declaration on the Implementation Guidelines on Tax Obligations of the Associations and NGOs (Prakas No. 464 SHV/Br.K) (Declaration),<sup>33</sup> which aims at "strengthening the implementation of tax obligations of associations and NGOs in Cambodia"<sup>34</sup> and provides supplementary guidelines in accordance with the "law and provisions on taxation and the LANGO."<sup>35</sup> Under Clause 10 of this Declaration, domestic and foreign associations and NGOs are required to submit "monthly and annual tax declarations" regardless of

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<sup>29</sup> MoLVT, "Directive on Facilitating Procedures and Formalities for Union Registration," (Directive No: 039/18... K.B./D.K.B.K); See 'Ministry of Labor calls for facilitation of union registration', Thmey Thmey (16 January 2019), available at: <https://thmeythmey.com/?page=detail&id=73554/>.

<sup>30</sup> Article 15 of the TUL provides that the procedures for application for registration will be defined by MoLVT in a Prakas. Prakas 249 on Registration of Worker Organizations, Trade Unions and Employer Associations was issued on 27 June 2016 and sets out how a union applies for registration. See CCHR, ADHOC, Solidarity Center, 'Fundamental Freedoms Monitoring Project, First Annual Report,' (August 2017), p. 4.

<sup>31</sup> Prior to the MoLVT Directive, union leaders were not allowed to be accompanied by administrative staff from the union federation or confederation when registering. Union leaders may now be accompanied by administrative staff from these bodies when registering. Trade union leaders are still required to register in person, but now have the option of having staff from the union federation or union confederation provide assistance.

<sup>32</sup> In particular, Article 15 of the TUL and Prakas 249 set forth broad grounds for denial of registration, and impose registration requirements such as the requirement to provide a thumb-printed declaration that states that the individual can read and write Khmer and has never been convicted of a misdemeanor or felony. These requirements are inconsistent with international best practices. See CCHR, ADHOC, Solidarity Center, 'Fundamental Freedoms Monitoring Project, First Annual Report,' (August 2017), p. 4.

<sup>33</sup> Prakas No. 464 SHV.BrK, 'Instruction in tax compliance of association and non-governmental organizations,' available at : [http://www.ccc-cambodia.org/kh/download?file\\_id=1982&action=view&view\\_file\\_id=15344110635b754137359069.22781697](http://www.ccc-cambodia.org/kh/download?file_id=1982&action=view&view_file_id=15344110635b754137359069.22781697) (unofficial English translation); <https://www.facebook.com/camfina/photos/pcb.1889337224451162/1889335411118010/?type=3&theater> (Khmer).

<sup>34</sup> Prakas No. 464 SHV.BrK, Clause 1.

<sup>35</sup> Prakas No. 464 SHV.BrK, Clause 2.

## Fundamental Freedoms Monitoring Project

whether or not they are exempt from taxes.<sup>36</sup> This annual tax declaration must be accompanied by several documents including: “information of bank accounts, financial reports, financial agreements, project activity plans, project implementation activity reports and relevant documents.” While there is a legitimate reason to have associations and NGOs submit tax declarations, the required supporting documents set forth in the Declaration – many of which do not directly relate to tax issues – amount to an overly burdensome reporting requirement, which will likely restrict the freedom of association.

In order to comply with international human rights law and standards, any restriction to the freedom of association must comply with the three-part test set forth in Article 22 of the International Covenant on Civil and Political Rights (ICCPR). Any restriction to the freedom of association must: (1) be prescribed by law; (2) pursue a legitimate aim (national security, public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others); and, (3) be the least restrictive means of achieving that aim.<sup>37</sup> With regard to reporting requirements for associations specifically, international human rights law and standards allow states to impose reporting requirements on associations if they are established to pursue the legitimate interests of transparency and accountability.<sup>38</sup> However, international standards require that such reporting obligations not be arbitrary<sup>39</sup> or burdensome.<sup>40</sup> In addition, the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association has noted that reporting requirements must respect the principle of non-discrimination and the right to privacy.<sup>41</sup>

Even though the documents required to be submitted to the Ministry of Economy and Finance are similar to the documents associations are required to send to the Mol under the LANGO,<sup>42</sup> the requirements set forth in the Declaration are problematic for two reasons. First, the Declaration does not meet the “prescribed by law” prong of Article 22’s three-part test. The Declaration requires associations to submit “project implementation activity reports,” yet this term is not defined. Therefore, it may be difficult for associations and NGOs to know which documents must be submitted.<sup>43</sup> Second, in accordance with international human rights law and standards, the RGC must ensure that it has a clear legal basis for reporting requirements, and that the information

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<sup>36</sup> Clause 10 of Prakas No. 464 SHV.BrK states: “Associations and non-governmental organizations must submit monthly and yearly tax declaration letters for the objective activities and separate business activities following the forms, time and place set by the Tax Administration even though they need or no need to pay tax. For the annual tax declaration letter, it shall be brought with relevant documents such as information of bank accounts, financial reports, financial agreements, project activity plans, project implementation activity reports and relevant documents.”

<sup>37</sup> ICCPR, Article 22.

<sup>38</sup> UN Human Rights Council, ‘Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai,’ UN Doc. A/HRC/20/27, (21 May 2012), para. 65.

<sup>39</sup> UN Human Rights Council, ‘Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai,’ UN Doc. A/HRC/20/27, (21 May 2012), para. 65.

<sup>40</sup> The UN Human Rights Council held that reporting requirements must not “inhibit the functional autonomy” of association. See UN Human Rights Council Resolution on Protecting human rights defenders, UN Doc A/HRC/22/L.13, (15 March 2013), para. 9, available at: <https://documents-dds-ny.un.org/doc/RESOLUTION/LTD/G13/120/26/PDF/G1312026.pdf?OpenElement>.

<sup>41</sup> UN Human Rights Council, A/HRC/20/27, ‘Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai,’ UN Doc A/HRC/20/27, 21 May 2012, para. 65.

<sup>42</sup> LANGO, Article 25, available at:

[https://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/Unofficial Translation of 5th LANGO ENG.pdf](https://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/Unofficial%20Translation%20of%205th%20LANGO%20ENG.pdf) (unofficial English translation).

<sup>43</sup> If “project implementation activity reports” refers to reports often submitted to donors upon completion of a project, it is problematic because these types of reports often contain sensitive and confidential information, for instance about projects’ beneficiaries whose privacy may be negatively affected and who may face adverse repercussions as a result of the disclosure.

## Fundamental Freedoms Monitoring Project

demanded is proportional to the legitimate aim pursued.<sup>44</sup> Notably, “project implementation activity reports” is *not* a required document under the LANGO, so the rationale for its inclusion in the Declaration is unclear, and it likely fails to meet this standard. The Declaration therefore does not satisfy the third-prong of Article 22’s three-part test because it imposes new reporting requirements on associations – submission of “project implementation activity reports” to the Ministry of Economy and Finance – that are neither necessary nor proportionate.<sup>45</sup>

The reporting requirements contained in the Declaration likely amount to an excessive restriction to freedom of association, as guaranteed by Article 22 of the ICCPR, since they create new overly burdensome reporting requirements that do not satisfy the first and third prongs of Article 22’s three-part test.

### **B.1.4 The January 2019 amendment to the LPP fails to improve the law’s compliance with international standards on the freedom of association**

Article 45 of the LPP was amended on 2 January 2019 to include a provision that creates an avenue for individuals who have been banned from exercising political activities to resume their participation in political activities.<sup>46</sup> However, any such reinstatement of an individuals’ right to exercise political activities is dependent on case-by-case decisions by government officials.<sup>47</sup> The January 2019 amendment to Article 45 of the LPP therefore does not remove any of the excessive restrictions on the right to freedom of association that were imposed in the 2017 amendments to the LPP.<sup>48</sup>

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<sup>44</sup> Organization for Security and Cooperation in Europe / Office for Democratic Institutions and Human Rights, ‘Guidelines on Freedom of Association’, (17 December 2014), para. 228, available at: <https://www.osce.org/odihr/132371?download=true>.

<sup>45</sup> “Project implementation activity reports” are *not* documents that associations are required to submit in the LANGO (See LANGO, Article 25) As such, the Declaration imposes a new reporting requirement for NGOs and associations, adding to the existing overly burdensome reporting requirements imposed by the LANGO. (For a complete analysis of the reporting requirements contained in Article 25 of the LANGO, see CCHR, ADHOC, Solidarity Center, ‘Fundamental Freedoms Monitoring Project, First Annual Report,’ (August 2017), , p. 5. While requiring some documents to be provided for tax regulations purposes can be considered a legitimate aim under Article 22(2) of the ICCPR, the restriction must still be necessary and proportionate. Since CSOs are already required to submit monthly and yearly tax declarations, as well as a number of supporting documents, the requirement to submit an additional document is likely unnecessary and disproportionate.

The Declaration also creates a new channel of reporting for NGOs. While the LANGO requires NGOs to report to the MoI, the Declaration requires them to submit many of the same documents – plus the projects’ implementation related documents – to another entity, the Ministry of Economy and Finance. If the Ministry of Finance needs these documents, it should request them from the MoI. Sharing information between the MOI and Ministry of Finance would allow the different branches of the RGC to obtain and review the required information without imposing additional obligations onto NGOs and other associations. Requiring NGOs to submit multiple, burdensome reports to multiple ministries likely does not meet the “least restrictive means” standard from Article 22’s three-part test.

<sup>46</sup> The January 2019 amendment to Article 45 of the Law on Political Parties adds the following text to Article 45:

“Individual whom the court banned from doing political activities could not create a new party, or participate in any other political parties, or be a candidate for others to vote, or do any activities to support or oppose other parties. Individual whom the court banned from doing political activities will receive absolute rights to legally participate in political activities when banning expired as determined by the Supreme Court’s verdict, or in the case that individual has been rehabilitated by His Majesty King as requested by Prime Minister in accordance with the proposal of Minister of Interior.” See Fresh News, ‘Amendments to Cambodia’s Political Party Law Promulgated’, (4 February 2019), available at: <http://en.freshnewsasia.com/index.php/en/localnews/12551-2019-01-08-02-27-44.html>.

<sup>47</sup> The amendment stipulates “Individual whom the court banned from doing political activities will receive absolute rights to legally participate in political activities when banning expired as determined by the Supreme Court’s verdict, or in the case that individual has been rehabilitated by His Majesty King as requested by Prime Minister in accordance with the proposal of Minister of Interior.” See Fresh News, ‘Amendments to Cambodia’s Political Party Law Promulgated’, (4 February 2019), available at: <http://en.freshnewsasia.com/index.php/en/localnews/12551-2019-01-08-02-27-44.html>.

<sup>48</sup> The Law on Political Parties underwent amendments in July 2017, following earlier amendments in March 2017. See CCHR, ADHOC, SC ‘Fundamental Freedoms Monitoring Project – First Annual Report’, (August 2017), pp. 6-7.

## B.2 New legislative developments in Year Three place additional restrictions on the right to freedom of expression

The Prakas on Website and Social Media Control, the National Elections Committee's Code of Conduct for the Media and the Law on Minimum Wage placed additional restrictions on freedom of expression. These restrictions do not comply with Article 19 of the ICCPR and therefore contravene international human rights law and standards on the right to freedom of expression.

### **B.2.1 The Prakas on Website and Social Media Control severely threatens the right to freedom of expression**

The Inter-Ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia (Prakas on Social Media and Website Control) restricts the right to freedom of expression in Cambodia.<sup>49</sup> The Prakas was issued by the Mol, the Ministry of Posts and Telecommunications (MPTC) and the Ministry of Information on 28 May 2018.<sup>50</sup> The Prakas' stated objective is to manage "all news contents or written messages, audios, photos, videos, and/or other means on websites and social media by using internet" in Cambodia.<sup>51</sup> Additionally, it aims at "obstructing and preventing" the publication of content "intended to create turmoil leading to undermine national defense, national security, relation with other countries, national economy, public order, discrimination and national culture and tradition."<sup>52</sup> It also establishes a joint "specialized unit,"<sup>53</sup> which has far-reaching powers, including monitoring and investigating of all online activities, and "tak[ing] legal action" against entities publishing content deemed illegal.<sup>54</sup> Finally, the Prakas on Social Media and Website Control outlines specific tasks for each Ministry.<sup>55</sup> For example, it enables the MPTC to take-down or block access to broad categories of online speech.<sup>56</sup>

The Prakas on Social Media and Website Control likely constitutes a restriction to the right to freedom of expression guaranteed by Article 42 of the Constitution and Article 19 of the ICCPR.<sup>57</sup> To be permissible under international human rights law and standards, any restriction to freedom of expression must comply with the three-part test set out in Article 19(3) of the ICCPR. Article 19(3) of the ICCPR provides that any restriction to freedom of expression must: (1) be prescribed by law,

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<sup>49</sup> Prakas No. 170 Br.K/Inter-ministerial, 'Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia,' (28 May 2018), available at: <https://www.trc.gov.kh/wp-content/uploads/2018/06/praka-170.pdf>. An unofficial English translation of the Prakas on Social Media and Website Control is available at:

[http://safenetvoice.org/wp-content/uploads/2018/06/20180604\\_Inter-Ministerial\\_Prakas\\_On\\_Social-Media.pdf](http://safenetvoice.org/wp-content/uploads/2018/06/20180604_Inter-Ministerial_Prakas_On_Social-Media.pdf).

<sup>50</sup> A full legal analysis of the Prakas on Social Media and Website Control was authored by the ICNL; see 'Legal Analysis of the Inter-Ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia,' (July 2018), available at: [http://sithi.org/judicial/docs/ICNL-Analysis-Prakas-on-Websites-and-Social-Media\\_July-2018.pdf](http://sithi.org/judicial/docs/ICNL-Analysis-Prakas-on-Websites-and-Social-Media_July-2018.pdf).

<sup>51</sup> Prakas on Social Media and Website Control, Clause 1.

<sup>52</sup> Prakas on Social Media and Website Control, Clause 2.

<sup>53</sup> This special unit is composed of Mol, MPTC, and Ministry of Information.

<sup>54</sup> Prakas on Social Media and Website Control, Clause 4. See also Kann Vicheika, 'Cambodia Forms Task Force to Monitor 'Fake News' on Social Media,' Voice of America, (6 June 2018), available at: <https://www.voacambodia.com/a/cambodia-forms-task-force-to-monitor-fake-news-on-social-media/4425534.html>.

<sup>55</sup> See ICNL, 'Legal Analysis of the Inter-Ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia,' (July 2018), pp. 2-3.

<sup>56</sup> See ICNL 'Legal Analysis of the Inter-Ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia,' (July 2018), pp. 2-3.

<sup>57</sup> Article 2(1) of the ICCPR requires each State Party to the ICCPR to "respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant." Furthermore, the Constitutional Council of the Kingdom of Cambodia's decision of 10 July 2007 authoritatively interpreted Article 31 of the Cambodian Constitution as meaning that international treaties ratified by Cambodia, including the ICCPR, are directly applicable in domestic law. See Constitutional Council of the Kingdom of Cambodia, Decision No. 092/003/2007 (10 July 2007).



## Fundamental Freedoms Monitoring Project

which is clear and accessible to everyone (i.e. adheres to the principles of predictability and transparency); (2) pursue a legitimate aim (in respect of the rights or reputations of others, protection of national security, public order, public health or morals); and, (3) be proven as necessary and the least restrictive means required to achieve the purported aim (i.e. adheres to principles of necessity and proportionality).<sup>58</sup>

The Prakas on Social Media and Website Control fails to comply with all three of Article 19(3)'s three-part test. First, the Prakas fails to meet the requirement of predictability provided by the first prong of Article 19(3)'s three-part test.<sup>59</sup> This requirement is not met because the categories of prohibited speech in the Prakas on Social Media and Website Control are too broad and too vague for citizens to determine which content is or is not permissible. Second, the Prakas fails to satisfy the principle of legitimacy required by Article 19(3) of the ICCPR. The stated aims of the Prakas are not to protect the rights and reputations of others, or to protect national security, public order or public health and morals.<sup>60</sup> Thirdly, the punishments for the publication of prohibited content – including the blocking of websites and the possibility of legal actions against individuals and legal entities<sup>61</sup> – do not adhere to the principles of necessity and proportionality because the punishments are not the least restrictive means necessary to achieve the aims of the Prakas.<sup>62</sup> As the Prakas on Social Media and Website Control fails to comply with the three-part test set out in Article 19(3) of the ICCPR, it likely constitutes an impermissible restriction to the freedom of expression.

### **B.2.2 The National Election Committee's Code of Conduct for the Media restricts freedom of expression in the coverage of elections**

On 24 May 2018, the National Election Committee (NEC) issued a Code of Conduct for the Media (Code) outlining media regulations for coverage of the July 2018 National Assembly elections and for coverage of future elections.<sup>63</sup> Certain provisions of the Code impose reasonable restrictions on reporting activities, which are permissible under international human rights law and standards. However, other provisions unduly restrict the right to freedom of expression.

Paragraph 6.16 of the Code, which prohibits journalists from “conducting interviews in voter registration stations, polling stations and ballot counting stations,” represents a reasonable restriction to the freedom of expression.<sup>64</sup> This restriction likely complies with international human rights law and standards because it appears to satisfy the three-part test prescribed by Article 19(3)

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<sup>58</sup> See UN Human Rights Council, ‘Report of UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue,’ UN Doc A/HRC/17/27, (16 May 2011), para. 69, available at: [https://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27\\_en.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf). See ICNL, ‘Legal Analysis of the Inter-Ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia,’ (July 2018), p. 2.

<sup>59</sup> See ICNL ‘Legal Analysis of the Inter-Ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia,’ (July 2018), pp. 4-5.

<sup>60</sup> See ICNL ‘Legal Analysis of the Inter-Ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia,’ (July 2018), p. 3.

<sup>61</sup> The Prakas on Social Media and Website Control empowers the MPTC, MoI and Ministry of information to “take legal actions [...] following the procedure” against the publication of prohibited content on websites and social media pages (Prakas on Social Media and Website Control, Clause 4, 6.b and 6.c). The Prakas on Social Media and Website Control does not define the precise nature of these legal actions, but these could entail criminal charges brought against individuals or imposing penalties on legal entities.

<sup>62</sup> See ICNL ‘Legal Analysis of the Inter-Ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia,’ (July 2018), pp. 5-8.

<sup>63</sup> National Elections Committee, ‘Press Release Rights and Prohibitions for Media’ (24 May 2018), The full code is only available in Khmer at <https://www.ncelect.org.kh/khmer/content/1080>. A summary of its key provisions in English, issued by the NEC, is available at: <https://www.ncelect.org.kh/english/content/press-release-right-and-prohibition-media>. See also David Boyle, ‘Cambodia's Controversial Press Guidelines Draw Concern,’ Voice of America, (1 June 2018), available at: <https://www.voacambodia.com/a/cambodia-s-controversial-press-guidelines-draw-concern/4419334.html>.

<sup>64</sup> Code of Conduct for the Media, para. 6.16.

## Fundamental Freedoms Monitoring Project

of the ICCPR.<sup>65</sup> This restriction prohibits specific activities that are precisely defined in the text of the provided law and therefore adheres to the principles of predictability and transparency. This restriction also corresponds with the legitimate aim of maintaining public order inside the polling stations during elections, and a direct link can be established between preventing journalists from interviewing people inside polling stations and the safeguarding of this legitimate aim. Furthermore, sanctions for violations of the provision appear proportional. Provided that this prohibition solely applies to interviews inside polling stations, this restriction is likely permissible under international human rights law and standards.

However, the Code also contains provisions that restrict the freedom of expression by prohibiting broad categories of speech. Specifically, the prohibitions contained in paragraphs 6.1, 6.8 and 6.12 of the Code likely constitute an impermissible restriction to the freedom of expression,<sup>66</sup> as guaranteed by Article 19 of the ICCPR and Article 42 of the Cambodian Constitution, because they do not comply with Article 19(3)'s three-part test.<sup>67</sup>

The first prong of Article 19(3)'s three-part test is not satisfied by paragraphs 6.1, 6.8 and 6.12 of the Code. These paragraphs prohibit overly vague and broad categories of speech and are not "formulated with sufficient precision to enable both the individual and those charged with its execution to regulate conduct accordingly."<sup>68</sup> The categories of speech prohibited in the Code are too vague and too broad to meet the principles of predictability and transparency. The vague terms used in the code include "publishing news that affects national security, political and social stability," "publishing of information that could lead to confusion and confidence loss in the election" and prohibiting the use of "provocative or offensive language that *may* cause disorder or violence." These terms are open to interpretation and give government officials broad discretion which may lead to arbitrary application of the Code. Consequently, the Code likely constitutes an impermissible restriction to freedom of expression.

### **B.2.3 Provisions of the Law on Minimum Wage do not comply with international standards regarding freedom of expression**

The Law on Minimum Wage, which extends the establishment of a minimum wage to sectors beyond the garment and footwear industries, was promulgated on 6 July 2018.<sup>69</sup> Although several

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<sup>65</sup> Restrictions to freedom of expression are only permissible if they meet the three-part test contained in Article 19(3) of the ICCPR: The restriction must: (1) be prescribed by law; (2) pursue a legitimate aim (respect of the rights or reputations of others, protection of national security, public order, public health or morals); and (3) be proven as necessary and the least restrictive means required to achieve the purported aim. See UN Human Rights Council, 'Report of UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue,' UN Doc A/HRC/17/27, (16 May 2011), para. 69.

<sup>66</sup> Journalists are, *inter alia*, prohibited from "broadcasting news leading to confusion and confidence loss in the election;" "Using provocative or offensive language that may cause disorder or violence" (Code of Conduct for the Media, para. 6.1); "Publishing or broadcasting news that affects national security, political and social stability" (para 6.8); "Expressing personal opinion or prejudice in the ongoing events which are reported" (para 6.12).

<sup>67</sup> Press freedom is specifically guaranteed by the Law on the Press (Press Law). Article 1 of the Press Law guarantees freedom of the press and freedom of publication in conformity with Articles 31 & 41 of the Constitution, available at: [http://sithi.org/temp.php?url=law\\_detail.php&lg=&id=75](http://sithi.org/temp.php?url=law_detail.php&lg=&id=75).

See the full description of three-part test set out in Article 19(3) of the ICCPR in Section B.2.1.

<sup>68</sup> UN Human Rights Council, 'Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye,' UN Doc A/71/373, (6 September 2016), para. 12.

<sup>69</sup> Law on Minimum Wage, available at: <http://www.aclf.com.kh/wp-content/uploads/2018/07/ACLG-Law-on-Minimum-Wage.pdf> (version signed by the King); [http://www.mlvt.gov.kh/index.php?option=com\\_k2&view=item&id=957:%E1%9E%85%E1%9F%92%E1%9E%94%E1%9E%B6%E1%9E%94%E1%9F%8B-%E1%9E%9F%E1%9F%92%E1%9E%8A%E1%9E%B8%E1%9E%96%E1%9E%B8%E1%9E%94%E1%9F%92%E1%9E%9A%E1%9E%B6%E1%9E%80%E1%9F%8B%E1%9E%88%E1%9F%92%E1%9E%93%E1%9E%BD%E1%9E%9B%E1%9E%A2%E1%9E%94%E1](http://www.mlvt.gov.kh/index.php?option=com_k2&view=item&id=957:%E1%9E%85%E1%9F%92%E1%9E%94%E1%9E%B6%E1%9E%94%E1%9F%8B-%E1%9E%9F%E1%9F%92%E1%9E%8A%E1%9E%B8%E1%9E%96%E1%9E%B8%E1%9E%94%E1%9F%92%E1%9E%9A%E1%9E%B6%E1%9E%80%E1%9F%8B%E1%9E%88%E1%9F%92%E1%9E%93%E1%9E%BD%E1%9E%9B%E1%9E%A2%E1%9E%94%E1)

## Fundamental Freedoms Monitoring Project

concerns have been raised regarding this law's compliance with international human rights law and standards,<sup>70</sup> the following analysis focuses on Article 16(3) of the Minimum Wage Law because that article likely places an impermissible restriction on the freedom of expression.

Article 16(3) of the Law on Minimum Wage states, "any persons other than the National Minimum Wage Council conducting a study on minimum wage have to submit the findings and sources of related data of the study to the National Minimum Wage Council (Council) within fifteen days after the completion of the study."<sup>71</sup> Failure to submit the research within the deadline can lead to an administrative fine of up to 10,000,000 riel (approximately \$2,450 USD),<sup>72</sup> which if unpaid, could result in criminal penalties.<sup>73</sup>

Under international human rights law and standards, conducting research and the subsequent publication of that research is a form of protected speech.<sup>74</sup> As such, requiring independent researchers to submit their findings to the Council within fifteen days after the completion of a study likely constitutes a restriction to the freedom of expression.

Further, Article 16(3) of the Law on Minimum Wage and the sanctions prescribed in subsequent provisions fail to comply the three-part test set forth in Article 19(3) of the ICCPR, and therefore likely constitute an undue restriction to the freedom of expression.<sup>75</sup> First, Article 16(3) likely fails to satisfy the requirement of clarity as the term "study on minimum wage" is not defined with enough clarity for researchers to understand which types of research must be submitted to the Council. Second, Article 16(3) does not meet the principle of legitimacy set out in Article 19's three-part test as no rationale or justification is provided for the requirement to submit research to the Council within fifteen days. There does not seem to be a direct connection between this requirement and any of the stated aims of Article 19(3). This requirement is not necessary to ensure respect of the rights or reputations of others, or to ensure protection of national security, public order, public health or morals. Lastly, Article 16(3) also likely fails the third prong of the test, as the restriction to

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[%9F%92%E1%9E%94%E1%9E%94%E1%9E%9A%E1%9E%98%E1%9E%B6&Itemid=207&lang=en](#) (official version published by the Ministry of Labor, which does, however, not contain the official stamp).

<sup>70</sup> See, e.g., Office of the United Nations High Commissioner for Human Rights in Cambodia, 'A human rights analysis of the draft law on minimum wage,' (June 2018), available at:

<http://cambodia.ohchr.org/sites/default/files/Analysis%20of%20Minimum%20Wage%20Law%20EN%20FINAL%20for%20PUBLICATION.pdf>. See also CCHR, SC and ITUC, 'Legal Analysis of the Law on Minimum Wage,' (August 2018), available upon request to CCHR.

<sup>71</sup> Law on Minimum Wage, Article 16(3): "Any persons rather than the National Minimum Wage Council conducting a study on minimum wage have to submit the findings and sources of related data of the study to the National Minimum Wage Council within fifteen (15) days after the completion of the study." (Unofficial translation).

<sup>72</sup> Law on Minimum Wage, Article 26: "Any individual who violates the provisions of paragraph 3 of Article 16 of this law shall be admonished in writing. In the event of failure to comply with the above admonishment, he/she shall be subject to a transitional fine of not more than 10,000,000 (ten million) riel." (Unofficial translation).

<sup>73</sup> Law on Minimum Wage, Article 22: "The punishment in this chapter includes written admonishments and transitional fines. The written admonishments and transitional fines is within the jurisdiction of the Minister of the Ministry in Charge of Labor. The payment of transitional fine lead to the extinguishment of criminal action. In the event that the offender refuses to pay the transitional fine, the case shall be referred to the court for further action in accordance with the procedures. Rules and procedures with regard to the punishment shall be determined by Prakas by the Minister of the Ministry in Charge of Labor." (Unofficial translation).

<sup>74</sup> Freedom of expression includes "the right to seek, receive and impart information and ideas of all kinds regardless of frontiers. This right includes the expression and receipt of communications of every form of idea and opinion capable of transmission to others." (UN Human Rights Council, 'General comment No. 34 (Article 19),' UN Doc CCPR/C/GC/34, para. 11, available at: <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>). With regards to freedom of expression specifically while conducting research, states should ensure that laws are "are not used in such a way as to deter individuals from exercising their right to freedom of expression, and in particular for human rights defenders to carry out independent research and publish the results." (UN Human Rights Committee, 'Concluding Observations of the Human Rights Committee, Slovakia,' para. 15, UN Doc CCPR/CO/78/SVK (2003), available at: <http://hrlibrary.umn.edu/hrcommittee/slovakia2003.html>).

<sup>75</sup> See the full description of the three-part test set out in Article 19(3) of the ICCPR in Section B.2.1.

## Fundamental Freedoms Monitoring Project

expression is not proven as necessary and proportional.<sup>76</sup> The punishments for failing to submit research to the Council – specifically the fines and subsequent criminal penalties – are disproportionate to any harm that would occur due to an independent researcher’s failure to provide copies of their research to the Council.<sup>77</sup>

Article 16(3) of the Law on Minimum Wage contravenes Article 19 of the ICCPR because it imposes an undue burden on the freedom of speech that does not pursue a legitimate aim under international human rights law and standards, and contains punishments that are neither necessary nor proportional to any harm that may occur from not submitting research on minimum wage to the Council.

The analysis conducted throughout three years of monitoring reveals that the Cambodian legal framework does not fully comply with international human rights law and standards on fundamental freedoms. In particular, the Cambodian legal framework fails to meet international human rights law and standards regarding freedom of association and expression. On the other hand, the Cambodian legal framework on freedom of peaceful assembly generally complies with international human rights law and standards.<sup>78</sup>

The legal developments introduced during Year Three (between 01 April 2018 and 31 March 2019) generally followed the legislative pattern identified and analyzed in Year One and Two of the FFMP; the laws are tools that the RGC can use to suppress fundamental freedoms – especially freedom of association and expression - in contravention of international human rights standards.

Year Three saw several significant restrictions to the freedom of speech enacted by the Prakas on Website and Social Media Control, the Code of Conduct for the Media and the Minimum Wage Law. Regarding the freedom of association, the repeal of the prior notification system for all CSOs’ activities represents an important positive legal development. However, the legal framework on freedom of association still fails to meet international law and standards in several areas.

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<sup>76</sup> The RGC has the burden of showing that all the provisions of the law pass Article 19(3)’s three-part test (See UN Human Rights Committee, ‘General Comment No. 34 (Article 19),’ UN Doc CCPR/C/GC/34 (2011), para. 27).

<sup>77</sup> See Law on Minimum Wage, Articles 26 and 22.

<sup>78</sup> In order to assess whether the Cambodian legal framework meets international human rights law and standards on the right to freedom of association, assembly and expression, the MTT analyses a total of 36 elements. Details on each of these elements are provided in Annex 2.

## C. Key Milestone Two: Is the legal framework for fundamental freedoms implemented and properly enforced?

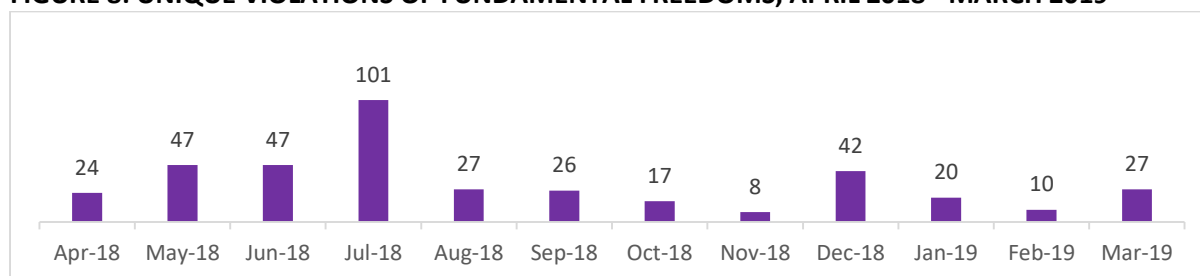
Key Milestone Two examines the extent to which the domestic legal framework for the fundamental freedoms is properly implemented and enforced.<sup>79</sup> In order to comply with international human rights law and standards, laws affecting fundamental freedoms must be implemented according to the letter of the law and applied in a consistent, non-arbitrary manner. In Year Three, the FFMP recorded persistent restrictions of fundamental freedoms, carried out by national and local authorities. The FFMP found that laws affecting fundamental freedoms in Cambodia remain systematically misapplied.

The FFMP tracked the number of restrictions and violations to fundamental freedoms from 01 April 2018 to 31 March 2019.<sup>80</sup> 825 incidents related to the exercise of fundamental freedoms were recorded; 658 of these incidents were recorded via Media Monitoring and Incident Reports captured an additional 167 unique incidents (i.e. incidents that are not also recorded via Media Monitoring). The following sections highlight key findings from this data.

### C.1 Restrictions and violations of fundamental freedoms

Of the 825 incidents related to the exercise of fundamental freedoms, 481 incidents involved restrictions to fundamental freedoms.<sup>81</sup> Among incidents involving restrictions to fundamental freedoms, 396 (or 82%) involved restrictions that did not comply with international human rights law and standards, and therefore amounted to violations (See Figures 8-9).

**FIGURE 8: UNIQUE VIOLATIONS OF FUNDAMENTAL FREEDOMS, APRIL 2018 - MARCH 2019<sup>82</sup>**



Source: FFMP Media Monitoring and Incident Reporting Databases, March 2019

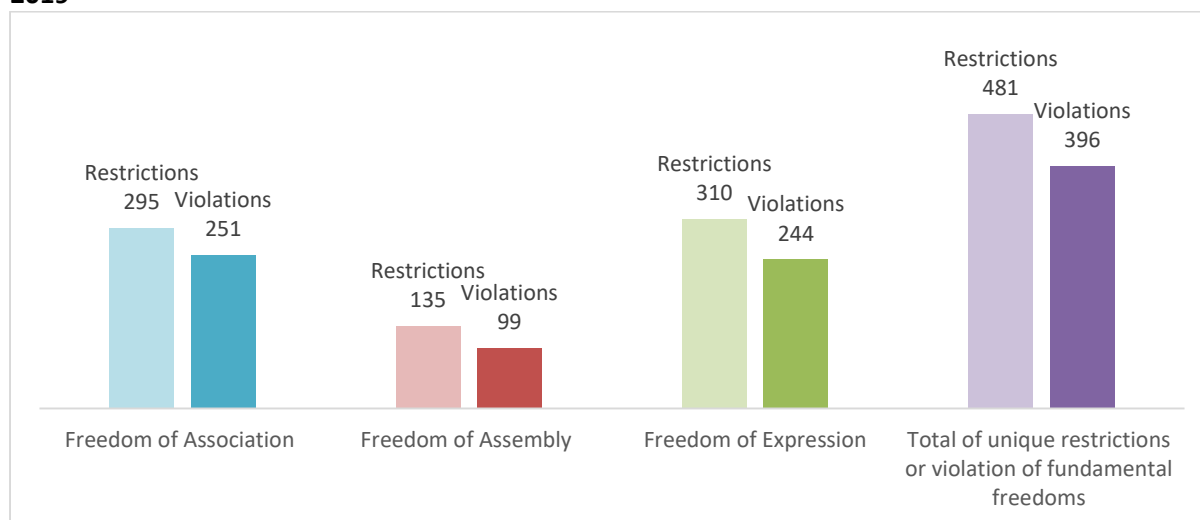
<sup>79</sup> The findings in Key Milestone Two are based on Media Monitoring, Incident Reports, a CSO/TU Leaders' Survey, and a Trade Union Registration Evaluation Tool. These data collection methods are presented in detail in Annex 1 Section 2.

<sup>80</sup> The difference between a restriction and a violation of a right is that a restriction can be legally permissible under certain circumstances, while a violation *prima facie* contravenes international legal standards. For example, to determine whether a restriction to speech constitutes a violation, the FFMP examines whether that restriction fails the three-part test outlined in Article 19 of the ICCPR. If the restriction fails the three-part test, it is deemed a violation. Description of the three-part test for freedom of expression and freedom of association can be found in Key Milestone One. Descriptions of the international legal standards governing permissible restrictions of the freedom of assembly can also be found in CCHR, ADHOC, SC and ICNL, 'Cambodia Fundamental Freedoms Monitor: Second Annual Report,' (September 2018), pp. 8-9.

<sup>81</sup> The figures for "unique" violations represent the total number of incidents recorded in which violations occurred, without any duplication. Figures provided for restrictions and violations of freedom of association, freedom of expression and freedom of assembly do not necessarily represent separate incidents, i.e., one incident may be recorded as a violation of both freedom of association and freedom of expression.

<sup>82</sup> The figures for "unique" violations represent the total number of incidents recorded in which violations occurred, without any duplication. Figures provided for restrictions and violations of freedom of association, freedom of expression and freedom of assembly do not necessarily represent separate incidents, i.e., one incident may be recorded as a violation of both freedom of association and freedom of expression.

**FIGURE 9: RESTRICTIONS AND VIOLATIONS OF FUNDAMENTAL FREEDOMS, APRIL 2018 – MARCH 2019**



Source: FFMP Media Monitoring and Incident Reporting Databases, March 2019

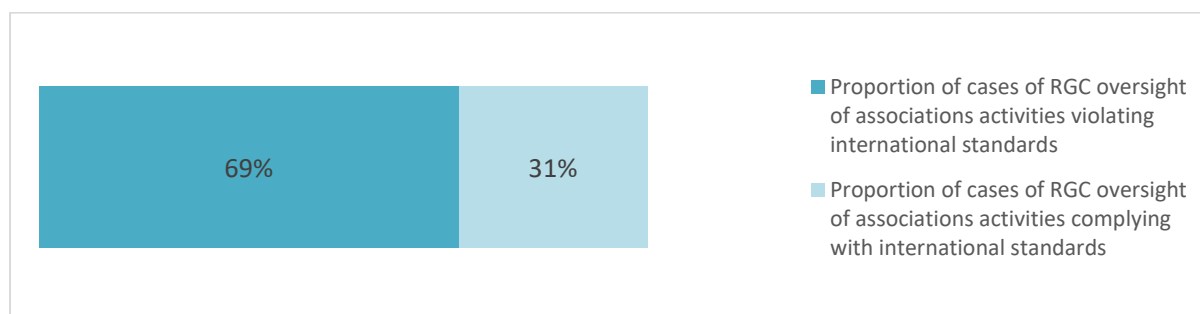
## Freedom of Association

### C.2 Excessive oversight of CSOs’ activities continues

Under international human rights law and standards, associations are free to operate without excessive supervision or interference by government actors. Forms of excessive supervision include, but are not limited to, incidents such as harassment by police during routine association activities.<sup>83</sup>

From 01 April 2018 to 31 March 2019, the FFMP recorded 174 incidents of the RGC supervising the activities of CSOs. Supervision by the RGC violated international human rights law and standards for freedom of association in 120 instances, or 69% of the time (See Figure 10).

**FIGURE 10: PROPORTION OF CASES OF RGC OVERSIGHT OF ASSOCIATIONS VIOLATING INTERNATIONAL STANDARDS, APRIL 2018-MARCH 2019**



Source: FFMP Media Monitoring and Incident Reporting Databases, March 2019

<sup>83</sup> See United Nations Human Rights Council, ‘Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai,’ UN Doc A/HRC/20/27, (21 May 2012).

**C.2.1 Authorities monitor and interfere with meetings, trainings and gatherings**

From 01 April 2018 to 31 March 2019, the FFMP recorded 56 incidents in which the police attended CSOs’ activities (such as meetings, trainings, protests, celebratory gatherings), including 36 instances where authorities took photographs of the event and 17 incidents where authorities recorded personal details of participants.

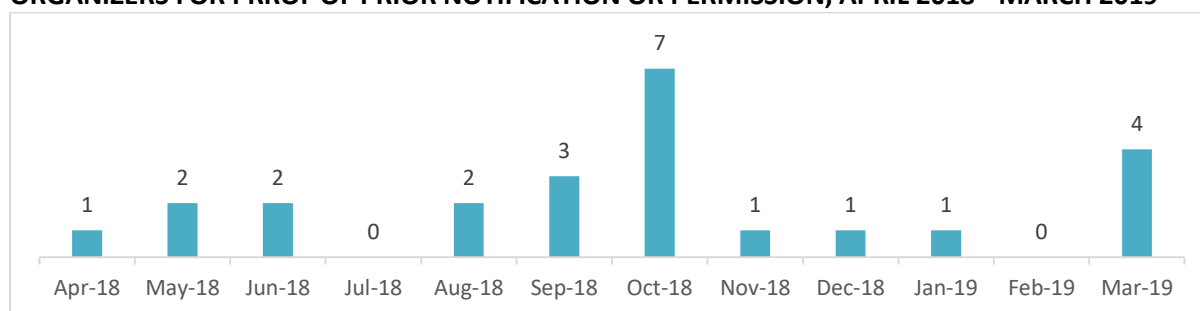
Examples of excessive monitoring and interference with CSO activities by the RGC include:

- In August 2018, a commune police chief interrupted an organization’s monthly meeting in Phnom Penh, requested the meeting agenda and took photographs of the organization’s private meeting room.<sup>84</sup>
- In October 2018, authorities in Mondulakiri province attended an NGO workshop, requested documents of the participants, and took photographs of the event.<sup>85</sup>
- In November 2018, an NGO training on community empowerment, which was scheduled to be held at a restaurant in Phnom Penh, was forced to relocate to the NGO’s office after local authorities approached the restaurant’s owner requesting that the workshop be shut down; police monitored the event at the NGO’s office.<sup>86</sup>
- In February 2019, a deputy commune police officer visited a training workshop on community empowerment in Kampong Cham province, asked to see the attendance list, and ordered the deputy village chief to take photos of the training. On the second day of the workshop, the deputy commune police officer returned to take photographs of the event.<sup>87</sup>

**C.2.2 Effects of the “prior notification regime”**

From 01 April 2018 to 31 March 2019, the FFMP recorded 24 incidents where the RGC interfered with associations’ activities by asking organizers for proof of prior notification or permission. Notably, six of these incidents occurred *after* the Mol directive of 27 November 2018 which explicitly repealed the prior notification requirement<sup>88</sup> (See Figure 11).

**FIGURE 11: INCIDENTS WHERE THE RGC INTERFERED WITH ASSOCIATIONS ACTIVITIES BY ASKING ORGANIZERS FOR PROOF OF PRIOR NOTIFICATION OR PERMISSION, APRIL 2018 - MARCH 2019**



Source: FFMP Media Monitoring and Incident Reporting Databases, March 2019

Illustrative examples of CSOs’ activities interrupted by authorities due to lack of prior authorization or notification before the repeal of the prior notification requirement include:

- In April 2018, a training session on the Land Law, organized by a community member in Preah Vihear province, was interfered with by local authorities, who asserted that prior

<sup>84</sup> Incident Report IRCC081.

<sup>85</sup> Incident Report IRCC105.

<sup>86</sup> Incident Report IRCC106.

<sup>87</sup> Incident Report IRAD 128/129.

<sup>88</sup> See Key Milestone One.

## Fundamental Freedoms Monitoring Project

authorization was needed before the training could take place. They stated that a community that organizes trainings without prior permission would face legal action. The community members decided to cancel the training.<sup>89</sup>

- In September 2018, a training workshop in Svay Rieng province on chicken-raising organized by the Coalition of Cambodian Farmer Community was shut down by the police based on claims that the training was not approved by local authorities. The organizers reported that they had informed local authorities of the activity.<sup>90</sup>

The following are illustrative examples of CSOs' activities that were interrupted by authorities due to lack of prior authorization or notification *after* the Mol directive of 27 November 2018 explicitly repealed the prior notification requirement:

- In January 2019, a training session conducted by an NGO in Kampong Speu province was interrupted by the commune chief, village chiefs, police officers, and individuals dressed as soldiers who demanded a letter of mission, a letter of permission/notification, and a copy of the organization's certificate. Despite NGO representatives informing the authorities of the repeal of the prior notification regime and providing a copy of the repeal letter to them, the authorities said they were ordered by their superiors to prevent any activity from happening without prior permission. The United Nations Office of the High Commissioner for Human Rights intervened at which point the authorities stopped demanding a letter of prior notification. The authorities did, however, continue to demand the attendance list which the NGO refused to provide, and took photos of the event.<sup>91</sup>
- In March 2019, four police officers requested a notification letter during an NGO's community empowerment training session organized in Monduliri province. Once the NGO showed the authorities the Mol directive dated 27 November 2018, the police authorities stopped requesting the letter, but nevertheless took photographs and requested the attendance list.<sup>92</sup>

### C.3 CSO/TU leaders report interferences with their ability to exercise their right to freedom of association

#### ***C.3.1 Excessive monitoring of CSOs and Trade Unions***

In the CSO/TU Leader Survey conducted in Year Three, 48% of CSO and TU leaders reported that RGC authorities engaged in monitoring or surveillance of their organization's activities, which is roughly the same percentage as the previous two years (See Figure 12). Of the CSO/TU leaders who reported such monitoring or surveillance, 74% felt it was excessive and took the form of intimidation.<sup>93</sup>

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<sup>89</sup> Incident Report IRAD085.

<sup>90</sup> LICADHO, 'Police Shut Down Chicken-Raising Workshop in Svay Rieng,' LICADHO, (17 September 2018), available at: <https://www.licadho-cambodia.org/flashnews.php?perm=256&english>.

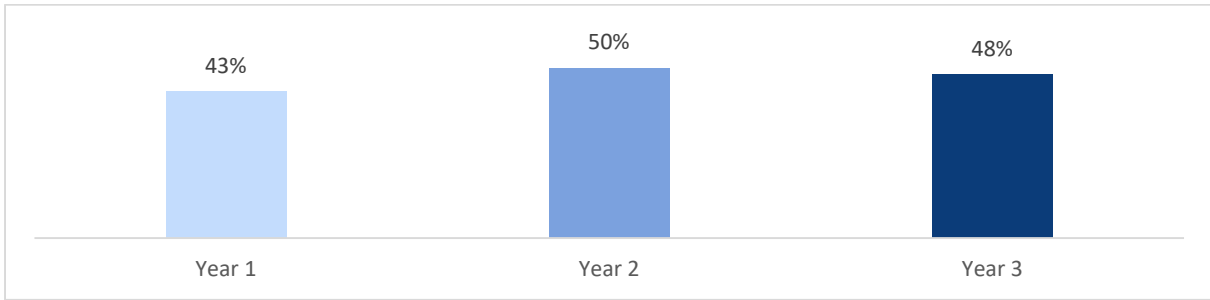
<sup>91</sup> Incident Report IRSC040.

<sup>92</sup> Incident Report IRAD133.

<sup>93</sup> See full results from the CSO/TU leaders survey in Annex 4.



**FIGURE 12: CSO/TU LEADER WHO REPORT THAT GOVERNMENT OFFICIALS HAVE UNDERTAKEN MONITORING OR SURVEILLANCE OF THEIR CSO OR ITS ACTIVITIES IN THE PAST YEAR**

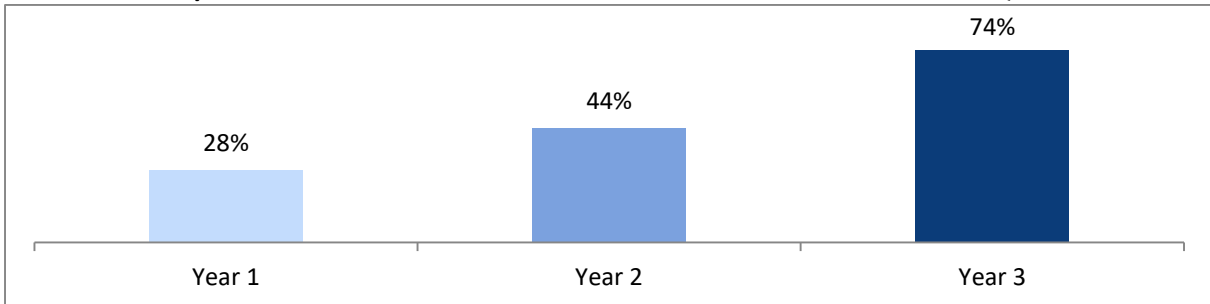


Source: FFMP CSO/TU Survey, December 2016, December 2017, January 2019

**C.3.2 The proportion of CSOs able to meet reporting requirements under the LANGO and TUL is increasing**

Almost three quarters (74%) of respondents in the CSO/TU Leader Survey stated that their CSO/TU was able to meet the non-financial reporting requirements set out in the LANGO or TUL. A comparison between Years One, Two and Three of the FFMP reveals that CSO/TU leaders report that they are increasingly able to meet the RGC non-financial reporting requirements (See Figure 13).

**FIGURE 13: CSO/TU LEADERS ABLE TO MEET RGC NON-FINANCIAL REPORTING REQUIREMENTS**



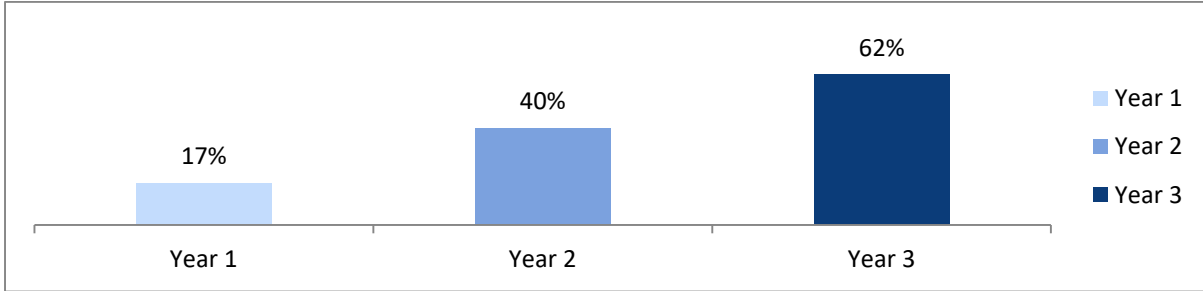
Source: FFMP CSO/TU Survey, December 2016, December 2017, January 2019

Although the proportion of CSOs/TUs leaders who reported that they can meet the non-financial reporting requirements for associations increased over the years of monitoring, over half of respondents in Year Three (58%) stated that they felt that the non-financial reporting requirements were excessive and burdensome.<sup>94</sup>

In the Year Three CSO/TU Leader Survey, 62% of respondents stated that their organization was able to meet the financial reporting requirements set by the RGC. This is an increase from 17% in Year One and 40% in Year Two (See Figure 14).

<sup>94</sup> See full results from the CSO/TU leaders survey in Annex 4.

**FIGURE 14: CSO/TU LEADERS ABLE TO MEET RGC FINANCIAL REPORTING REQUIREMENTS**



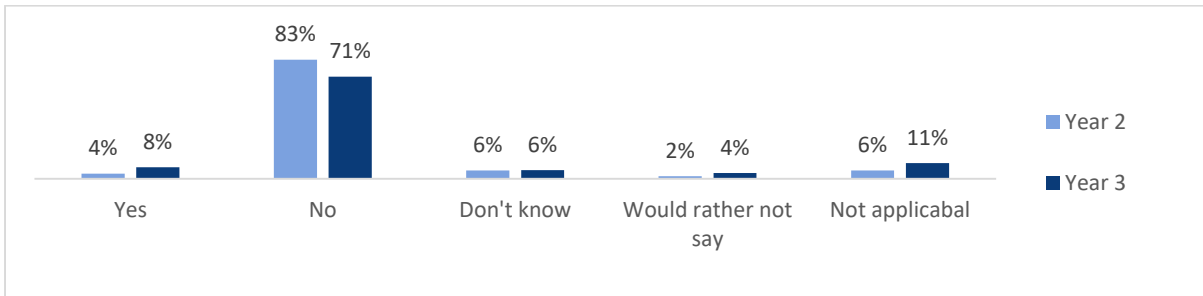
Source: FFMP CSO/TU Survey, December 2016, December 2017, January 2019

Although more CSO/TU leaders report that they can meet financial reporting requirements compared to previous years, 66% of respondents in Year Three stated that the non-financial reporting requirements were excessive or burdensome.<sup>95</sup>

**C.3.3 The proportion of CSO/TU leaders who report facing restrictions when receiving foreign funding is increasing**

In the CSO/TU Leader Survey, 8% of respondents in Year Three stated that their organization faced government restrictions when receiving funding from foreign sources - a two-fold increase from the 4% recorded in Year Two. However, the vast majority of respondents in Year Three (71%) stated that their organization faced no restriction from the RGC when receiving funding from foreign sources (See Figure 15).

**FIGURE 15: CSO/TU LEADERS WHO REPORT THAT THEIR CSO FACED GOVERNMENT RESTRICTIONS IN RECEIVING FUNDING FROM FOREIGN DONORS IN THE LAST YEAR<sup>96</sup>**



Source: FFMP CSO/TU Survey, December 2017, January 2019

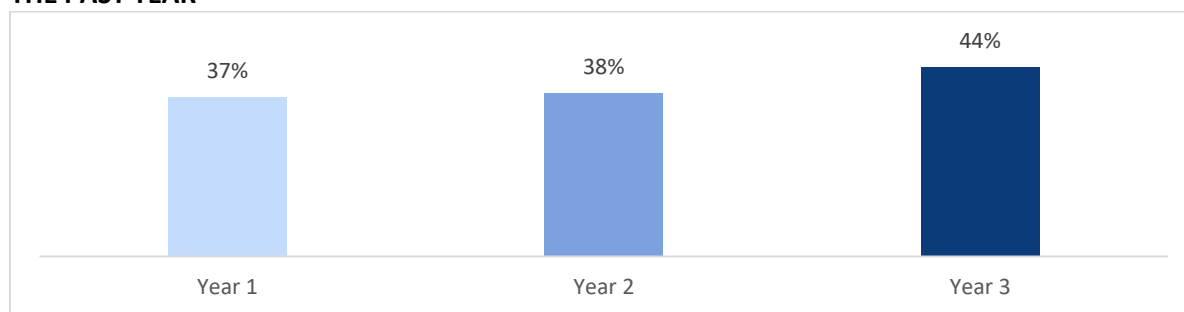
**C.3.4 CSOs report facing restrictions or threats when forming networks, coalitions, and federations**

In the Year Three CSO/TU Leader Survey, 44% of respondents stated that their organization faced government restrictions or threats when forming networks, coalitions, federations, or other types of unions with others. This is an increase from 38% recorded in Year Two (See Figure 16).

<sup>95</sup> See full results from the CSO/TU leaders survey in Annex 4.

<sup>96</sup> This question was not asked in the CSO/TU leader survey conducted in Year One.

**FIGURE 16: CSO/TU LEADERS WHO REPORT THAT THEIR CSO FACED RESTRICTIONS OR THREATS IN FORMING NETWORKS, COALITIONS, FEDERATIONS, OR OTHER TYPES OF UNIONS WITH OTHERS IN THE PAST YEAR**



Source: FFMP CSO/TU Survey, December 2016, December 2017, January 2019

#### C.4 Former members of the dissolved CNRP continue to be targeted

From April 2018 to March 2019, 42% of violations to the freedom of association targeted former members of the CNRP. The FFMP recorded 46 incidents of the RGC harassing or intimidating former CNRP members and officials. The FFMP also recorded 25 incidents that involved the use of judicial harassment against former CNRP members. Illustrative examples of this intimidation and harassment include:

- In July 2018, several former CNRP members were charged and fined by provincial election commissions for posting photographs related to the “Clean Finger Campaign” on social media.<sup>97</sup>
- In September 2018, former CNRP supporters and officials in Svay Rieng province reported that provincial authorities repeatedly monitored their activities.<sup>98</sup>
- In January 2019, Kong Mas, a former CNRP member from Svay Rieng province, was arrested and sent to pre-trial detention on charges of “Insult” and “Incitement to commit a felony” reportedly for Facebook posts he made in April 2018, but his arrest occurred right after he posted Facebook messages criticizing RGC policies and discussing the suspension of rice tariffs.<sup>99</sup>
- In January 2019, commune police in Banteay Meanchey province questioned a homeowner for one hour because he allegedly allowed former CNRP members to gather at his house. The authorities forced the homeowner to thumbprint a letter stating that he was responsible for the gathering. Participants in the gathering also received phone calls requesting their presence at the commune police station for questioning.<sup>100</sup>

<sup>97</sup> In the weeks leading up to the 2018 National Assembly elections, calls to boycott the polls reverberated around social media. This became known as the “clean finger campaign,” in reference to the absence of the ink on the index fingers of those who do not vote. See Soth Koemsoeun, ‘Council upholds verdict on finger flying Battambang CNRP,’ The Phnom Penh Post, (16 August 2018), available at: <https://www.phnompenhpost.com/national/council-upholds-verdict-finger-flying-battambang-cnrp>. See Taing Vida, ‘Five more fined over election boycott campaign,’ Khmer Times, (8 August 2018), available at: <https://www.necselect.org.kh/khmer/content/3480>.

<sup>98</sup> Sek Bandith, ‘The former opposition activist in Svay Rieng said that authorities were restricting their freedom of assembly,’ Radio Free Asia, (4 September 2018), available at: <https://www.rfa.org/khmer/news/human-rights/authority-threaten-localcnrp-activists-09042018194140.html>.

<sup>99</sup> Sun Narin, ‘Cambodia takes aim at critics who post on Facebook,’ Voice of America, (18 March 2019), available at: <https://www.voacambodia.com/a/cambodia-takes-aim-at-critics-on-facebook/4835777.html>; Kim Sarom, ‘Supreme Court hears CNRP activist’s bail request,’ The Phnom Penh Post, (7 May 2019), available at: <https://www.phnompenhpost.com/national-politics/supreme-court-hears-cnrp-activists-bail-request>.

<sup>100</sup> Ven Somet, ‘Poipet police intimidate CNRP Supporter’, Radio Free Asia, (2 January 2019), available at: <https://www.rfa.org/khmer/news/politics/poipet-police-intimidates-sam-rainsy-supporters-01022019064101.html>.

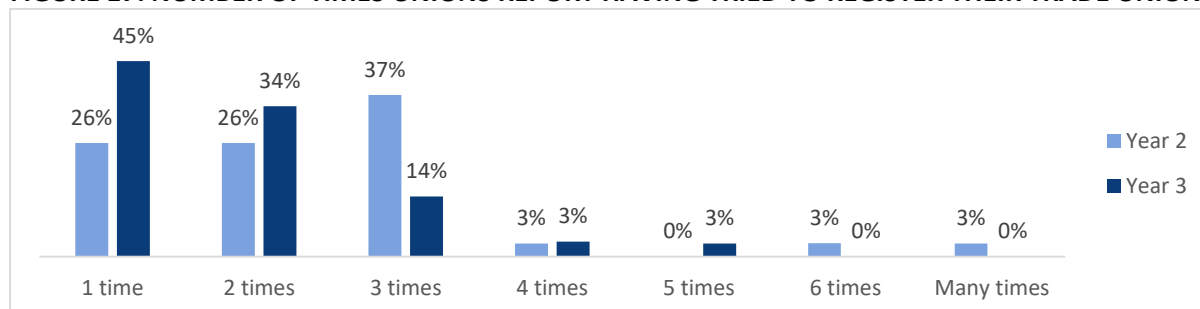
## C.5 Unions continue to have mixed experiences when attempting to register under the Trade Union Law

Trade unions are required to register pursuant to the Trade Union Law – and Prakas No. 249/16, “The Registration of Trade Unions and Employer’s Associations.”<sup>101</sup>

In Year Three, the FFMP’s Trade Union Registration Evaluation Tool (the Evaluation Tool) recorded the experiences of 46 trade unions as they attempted to register. Among the 46 trade unions who attempted to register under these laws, 38 (83%) successfully registered. However, four attempts to register were still pending at the end of Year Three.

The Evaluation Tool revealed a number of trends related to the experiences of trade unions when attempting to register. In Year Two of the FFMP, 72% of trade unions reported that they had to make multiple attempts before completing registration, while 46% of trade unions reportedly made three or more attempts. In Year Three this percentage dropped; 54% of the trade unions reported that they made multiple attempts before completing registration, while 20% of the trade unions made three or more attempts (See Figure 17).

**FIGURE 17: NUMBER OF TIMES UNIONS REPORT HAVING TRIED TO REGISTER THEIR TRADE UNION**



Source: FFMP Trade Union Registration Evaluation Tool, March 2019

Moreover, in Year Two, trade unions reported that they did not feel that it was easy to complete the registration form,<sup>102</sup> whereas focus group discussions conducted in Year Three revealed that the majority of trade unions felt that it was easy to complete the registration form.<sup>103</sup> Based on these focus group discussions, the Monitoring Team made several additional observations regarding union’s experiences when trying to register.<sup>104</sup>

Trade unions appeared to have increased knowledge of the registration process, largely because they were given the opportunity to attend several NGO training sessions on the TUL and registration. Trade unions have also benefited from consultations with NGOs before and after submitting their registration applications. Nevertheless, trade unions maintained that the registration process is complex and lengthy. To register successfully, many documents must be included as part of the application, and some of the required documents are difficult to obtain. In some cases, it was reported that authorities contributed to delays by making errors when issuing official documents,

<sup>101</sup> 2016 Law on Trade Unions available at: [https://www.arbitrationcouncil.org/uploads/afca9-trade-union-law\\_promulgated-17may2016-eng.pdf](https://www.arbitrationcouncil.org/uploads/afca9-trade-union-law_promulgated-17may2016-eng.pdf). Prakas No. 249/16, ‘The Registration of Trade Unions and Employer’s Associations,’ available at: <http://www.arbitrationcouncil.org/en/resources/labour-law-and-regulations/prakas>.

<sup>102</sup> 19% of respondents reported that it was easy to complete the trade union registration form in Year Two. See CCHR, ADHOC, SC and ICNL, ‘Cambodia Fundamental Freedoms Monitor: Second Annual Report,’ (September 2018), p. 25.

<sup>103</sup> Focus group discussions facilitated by CCHR in November 2018 and December 2018, attended by the Monitoring Team and local trade union leaders.

<sup>104</sup> Focus group discussions facilitated by CCHR in November 2018 and December 2018, attended by the Monitoring Team and local trade union leaders.

## Fundamental Freedoms Monitoring Project

which must then be corrected to successfully register. It is also important to note that trade unions are often not well prepared before commencing the registration process, therefore causing delays.

The following is an illustrative example of a long delay:

- Since January 2018, the registration process of a local trade union in the municipality of Phnom Penh has been delayed three times after authorities claimed that the application form was incorrect. As of June 2019, this trade union's registration still has not been successfully completed.<sup>105</sup>

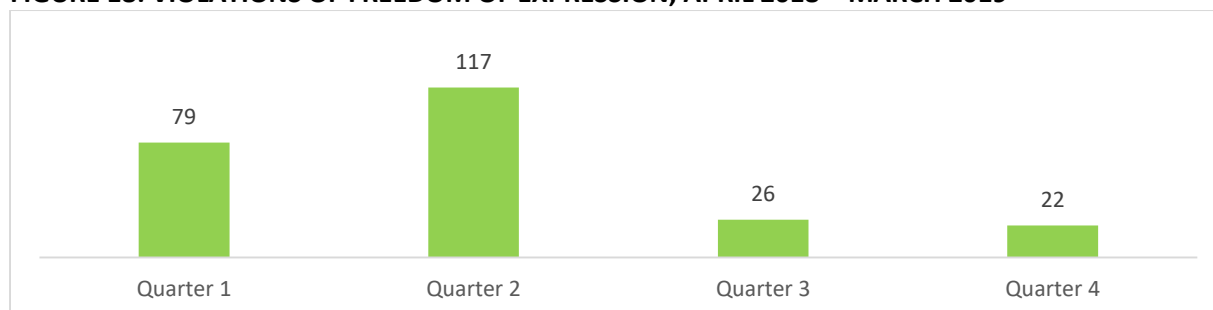
### Freedom of Expression

#### C.6 Expression of dissenting opinions continues to be systematically repressed

In Year Three, the RGC continued to severely repress the expression of dissenting opinions. In particular, the RGC authorities continued to crackdown on social media posts deemed critical of the RGC and its policies.<sup>106</sup>

From 01 April 2018 to 31 March 2019, the FFMP recorded 244 incidents that involved violations to the freedom of expression (See Figure 18).

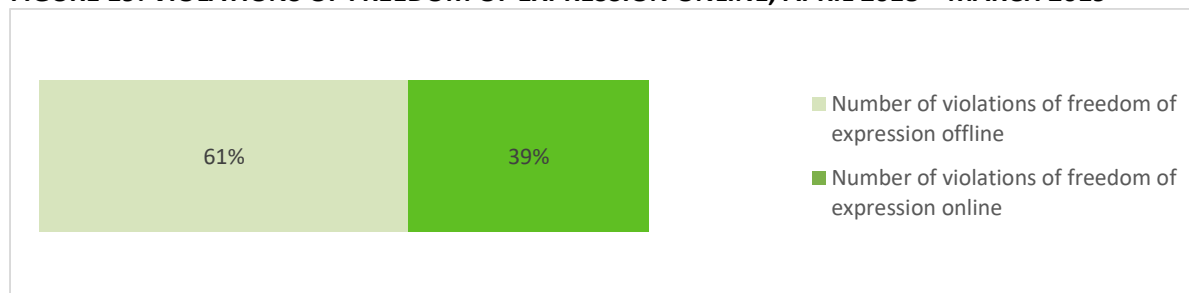
**FIGURE 18: VIOLATIONS OF FREEDOM OF EXPRESSION, APRIL 2018 – MARCH 2019**



Source: FFMP Media Monitoring and Incident Reporting Databases, March 2019

During Year Three, on average, 39% of violations to the freedom of expression by RGC authorities were related to online speech (See Figure 19).

**FIGURE 19: VIOLATIONS OF FREEDOM OF EXPRESSION ONLINE, APRIL 2018 – MARCH 2019**



Source: FFMP Media Monitoring and Incident Reporting Databases, March 2019

<sup>105</sup> Incident reported during focus group discussions facilitated by CCHR in November 2018 and December 2018, attended by the Monitoring Team and local trade union leaders.

<sup>106</sup> During Year Two of the FFMP, the trend of freedom of expression being increasingly restricted online was already recorded. See CCHR, ADHOC, SC and ICNL, 'Cambodia Fundamental Freedoms Monitor: Second Annual Report,' (September 2018), p. 26.

## Fundamental Freedoms Monitoring Project

The RGC continued to monitor social media commentary and bring charges against individuals for speech deemed critical of the RGC. From April 2018 to March 2019, 20 individuals were charged with various crimes including defamation, incitement to commit a felony, and insulting the King as a result of comments they made online. Illustrative examples include:

- In April 2018, Banteay Meanchey provincial police arrested Men Voeurn and placed him in pre-trial detention, without an arrest warrant, after he allegedly criticized Prime Minister Hun Sen in a video posted on his personal Facebook page in February 2016.<sup>107</sup> Voeurn was eventually charged with “public defamation” and “incitement to commit discrimination” (Articles 305 and 496 of the Criminal Code of the Kingdom of Cambodia (Criminal Code)).<sup>108</sup>
- In March 2019, Military General Lee Davet was placed in pre-trial detention after he was arrested on 26 March 2019 for allegedly insulting the Prime Minister on Facebook. He was reportedly charged with several charges including “incitement to commit a felony” and “inciting military personnel to disobedience” (Articles 471 and 495 of the Criminal Code).<sup>109</sup>

### **C.6.1 Application of “lèse-majesté” offense to convict two individuals in relation to online speech**

The Criminal Code was amended on 27 February 2018 to include Article 437-bis, titled “Insulting the King”. Commonly referred to as the “lèse-majesté” law, Article 437-bis restricts the freedom of expression and prescribes excessive punishments for legal entities in violation of the freedom of association.<sup>110</sup>

Between 01 April 2018 and 31 March 2019, within one year of the promulgation of the lèse-majesté offense, two individuals were convicted for allegedly insulting the King via content posted on social media.

- In May 2018, Ban Samphy, a 70 year old barber and former CNRP Chi Kreng district deputy party leader, was arrested in Siem Reap for allegedly sharing a picture and text on Facebook that was deemed insulting to the King.<sup>111</sup> In October 2018, he was convicted by the Siem Reap Provincial Court, and sentenced to one-year imprisonment, five months of which were suspended. This marked the first conviction under the “lèse-majesté” criminal offense in Cambodia.<sup>112</sup> In March 2019, he was released from prison.<sup>113</sup>
- In June 2018, Ieng Cholsa was arrested in Phnom Penh under the lèse-majesté offense for posting messages and images on Facebook which allegedly criticized the King. He was convicted and sentenced to three years in prison and ordered to pay five million riel by the Phnom Penh Municipal court on 9 January 2019.<sup>114</sup>

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<sup>107</sup> Niem Chheng, ‘Migrant arrested for insulting PM on Facebook,’ The Phnom Penh Post, (04 April 2018), available at: <https://www.phnompenhpost.com/national/migrant-arrested-insulting-pm-facebook>.

<sup>108</sup> Tina Zakariya, ‘A man who criticized Mr. Hun Sen on Facebook was arrested by police,’ Radio Free Asia, (04 April 2018), available at: <https://www.rfa.org/khmer/news/law/criticism-on-FB-arrested-04042018095756.html>.

<sup>109</sup> Soth Koemsoeun, ‘General held for PM ‘insult’, The Phnom Penh Post, (01 April 2019), available at: <https://www.phnompenhpost.com/national-politics/general-held-pm-insult>.

<sup>110</sup> See CCHR, ADHOC, SC and ICNL, ‘Cambodia Fundamental Freedoms Monitor: Second Annual Report,’ (September 2018).

<sup>111</sup> Niem Chheng, ‘Second Man Charged Under Country’s Lèse Majesté Law,’ The Phnom Penh Post, (22 May 2018), available at: <https://www.phnompenhpost.com/national/second-man-charged-under-countrys-lese-majeste-law>.

<sup>112</sup> Kim Sarom, ‘Barber Jailed For Insulting The King,’ The Phnom Penh Post, (05 October 2018), available at: <https://www.phnompenhpost.com/national/barber-jailed-insulting-king>.

<sup>113</sup> Soth Koemsoeun, ‘Ex-CNRP official out of jail,’ The Phnom Penh Post, (25 March 2019), available at: <https://www.phnompenhpost.com/national/ex-cnrp-official-out-jail>.

<sup>114</sup> Prak Chan Thul, ‘Cambodian jailed for three years for insulting king on Facebook,’ Reuters, (09 January 2019), available at: <https://www.reuters.com/article/us-cambodia-king/cambodian-jailed-for-three-years-for-insulting-king-on-facebook-idUSKCN1P31OD>. See also Niem Chheng, ‘Second Man Charged Under Country’s Lèse Majesté Law,’ The Phnom Penh Post,

## Fundamental Freedoms Monitoring Project

In addition to these two convictions, the lèse-majesté provision was also used to bring charges against two additional individuals in relation to posts on social media:

- In May 2018, school principal, Kheang Navy, was reportedly arrested and placed in pre-trial detention in Kampong Thom province for allegedly making comments on Facebook about the purported role of the King in CNRP's dissolution; he was reportedly released from pre-trial detention in December 2018.<sup>115</sup>
- In June 2018, former opposition leader Sam Rainsy was summonsed to appear at the Phnom Penh Municipal Court on 12 July 2018 for questioning in relation to a Facebook post that allegedly violated the "lèse-majesté" offense; Mr. Rainsy currently lives in exile and failed to appear in Court.<sup>116</sup>

### **C.6.2 At least fifteen websites of news outlets were blocked by the RGC during the National Assembly elections**

On 28 and 29 July 2018, the eve and day of the National Assembly elections, the Mol ordered Cambodian internet service providers to block at least 15 news websites.<sup>117</sup> These included Voice of Democracy, Voice of America, Radio Free Asia, Vayo FM Radio, Monorom.info, The Independent Network for Justice, and the Phnom Penh Post, amongst others. However, several websites of media outlets perceived as being less critical of the RGC were allowed to remain online during this time.

RGC officials stated that the reason for blocking these websites was due to "White Day." White Day, enshrined in Article 72 of the LEMNA, prohibits political parties from campaigning during the 24 hours prior to the election.<sup>118</sup> However, Article 72 of the LEMNA places no restrictions on the media. Notably, media outlets generally considered as being "pro-government" (such as the Khmer Times and Fresh News Asia) were not blocked and remained accessible during this period. When asked about the blocking of websites, a Mol spokesperson stated that "[f]rankly speaking, we cannot control the concerned media outlets. That's it."<sup>119</sup>

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(22 May 2018), available at: <https://www.phnompenhpost.com/national/second-man-charged-under-countrys-lese-majeste-law>.

<sup>115</sup> CCHR, 'Snapshot: The Lèse-Majesté Criminal Offense', (April 2019), available at: [https://cchrcambodia.org/admin/media/newsletter/newsletter/english/Lese%20Majeste%20Criminal%20Offense%20Snapshot\\_Final\\_Eng.pdf](https://cchrcambodia.org/admin/media/newsletter/newsletter/english/Lese%20Majeste%20Criminal%20Offense%20Snapshot_Final_Eng.pdf). See also Kim Sarom, 'Lese majeste convict not free', The Phnom Penh Post, (13 February 2019), available at: <https://www.phnompenhpost.com/national/lese-majeste-convict-not-free>.

<sup>116</sup> Although outside of the reporting period, Sam Rainsy was convicted in absentia to four years imprisonment under the lese-majesté offense in May 2019 Niem Chheng, 'Rainsy handed eight-year prison sentence by Phnom Penh court, The Phnom Penh Post, (03 May 2019), available at: <https://www.phnompenhpost.com/national-politics/rainsy-handed-eight-year-prison-sentence-phnom-penh-court>.

<sup>117</sup> Sun Narin and Aun Chhengpor, 'Government confirms blocking 15 independent news sites over poll 'disruption,' Voice of America, (28 July 2018), available at: <https://www.voacambodia.com/a/government-confirm-blocking-fifteen-independent-news-sites-over-poll-disruption/4503739.html>.

<sup>118</sup> LEMNA, Article 72: "The electoral campaign period shall last 21 (twenty-one) days and all activities of the electoral campaign shall end 24 (twenty four) hours prior to the polling day."

<sup>119</sup> Sun Narin and Aun Chhengpor, 'Government confirms blocking 15 independent news sites over poll 'disruption,' Voice of America, (28 July 2018), available at: <https://www.voacambodia.com/a/government-confirm-blocking-fifteen-independent-news-sites-over-poll-disruption/4503739.html>. Under international human rights law, it is not permissible to "prohibit a site or an information dissemination system from publishing material solely on the basis that it may be critical of the government or the political social system espoused by the government." UN CCPR Human Rights Committee, General Comment 34 (Article 19), UN Doc CCPR/C/GC/34, 12 Sep 2011, para. 43.

The blocking of these websites constituted an arbitrary ban on the operation of certain news outlets websites, without legitimate aim, and therefore constitutes a an impermissible restriction on freedom of expression.

## Fundamental Freedoms Monitoring Project

Ultimately, the blocking of these websites represents a severe restriction of two aspects of the right to freedom of expression: a restriction to the freedom of expression of the media and the freedom to receive news of the general public, which is “most essential...during times of political change.”<sup>120</sup>

### **C.6.3 Journalists questioned, arrested and detained for reporting on land disputes**

During Year Three, three journalists reporting on natural resources issues were questioned, arrested and detained.

- In September 2018, TNM Online TV journalists Min Phon and Sarak Dara were arrested in Pursat province after tycoon Try Pheap filed a complaint against them for broadcasting a news story about Try Pheap’s MDS Company excavating approximately 30 meters of a rice field. After the arrest of these journalists, police sent them to the provincial police station and then one day later, they were sent to the provincial court for questioning over “incitement and broadcasting disinformation.” While these journalists were released a few days after their arrest, it is unclear whether any charges against them remain.<sup>121</sup>
- In September 2018, another TNM journalist, Khin Sokhorn, was summonsed for questioning by the Monduliri Provincial Court over allegations of “defamation” following a complaint by the head of the office of Keo Seima Wildlife Sanctuary, Din Bunthoeun.<sup>122</sup> Bunthoeun alleged that Khin Sokhorn had wrongly accused him of colluding with traders to log and haul luxury timber in the Keo Seima protected area.

### **C.6.4 Artistic works censored by the RGC**

Arbitrarily censoring artistic work violates the freedom of expression. In spite of this, in Year Three, the FFMP recorded two incidents in which the RGC banned songs. It is unclear where the legal authority to ban these songs comes from.

- In September 2018, the Ministry of Labor requested the MoI and Ministry of Culture and Fine Arts to ban a Khmer song that highlighted social issues related to domestic workers. The MoI subsequently ordered all media to stop broadcasting the song, citing the need to prevent “negative effects on the feelings and dignity of domestic workers while the government has been focusing on them to give them full rights” as the reason for the ban.<sup>123</sup>
- In October 2018, the Ministry of Labor requested the MoI and Ministry of Culture and Fine Arts to ban a Khmer song related to garment workers. The song describes the anguish experiences by garment workers over not being able to go back home for the Pchum Ben holiday due to the fact that they have not yet been paid.<sup>124</sup>

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<sup>120</sup> “It is during times of political change that the right to freedom of expression is most essential, ensuring that a well-informed and empowered public is free to exercise their civil and political rights.” (UN Human Rights Council, ‘Report of the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue,’ UN DOC A/HRC/26/30 (30 May 2014), para. 10, available at: [https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A%20HRC%2026%2030\\_AUV.doc](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A%20HRC%2026%2030_AUV.doc)).

<sup>121</sup> Soth Koemsoeun, ‘Journos held for ‘fake news,’ The Phnom Penh Post, (20 September 2018), available at: <https://www.phnompenhpost.com/national/journos-held-fake-news>.

<sup>122</sup> Soth Koemsoeun, ‘Journos held for ‘fake news,’ The Phnom Penh Post, (20 September 2018).

<sup>123</sup> Sen David, ‘Government bans song on domestic workers,’ Khmer Times, (19 September 2018), available at: <https://www.khmertimeskh.com/50534218/government-bans-song-on-domestic-workers/>.

<sup>124</sup> Sen David, ‘Labour Ministry seeks ban on missing Pchum Ben pay song,’ Khmer Times, (05 October 2018), available at: <https://www.khmertimeskh.com/539593/labour-ministry-seeks-ban-on-missing-pchum-ben-pay-song/>; Khouth Sophak Chakrya, ‘Minister wants Pchum Ben song banned,’ The Phnom Penh Post, (05 October 2018), available at: <https://www.phnompenhpost.com/national/minister-wants-pchum-ben-song-banned>.



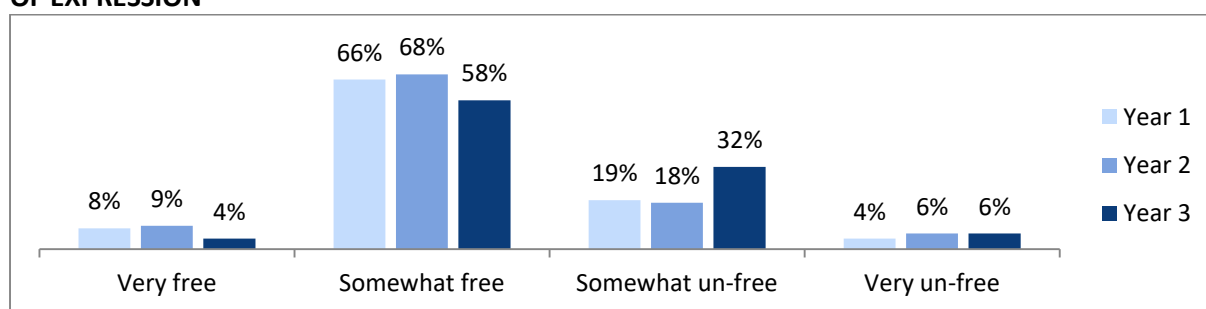
## Fundamental Freedoms Monitoring Project

In addition, in September 2018, authorities in Phnom Penh’s Tuol Kork district seized copies of two books written by former CNRP lawmaker Yem Ponhearith, claiming that the books were published without the approval of the Ministry of Culture and Fine Arts.<sup>125</sup> A Ministry spokesperson stated that: “I don’t think all books published abroad have obtained the Ministry’s permission. If the book’s contents are fine, then it is okay. But authorities would check some books to ensure they do not harm the peace in Cambodia...action will be taken on any book which has contents that threaten public security and provoke people inside or outside the country to take revenge against the government.”<sup>126</sup>

### C.7 CSO and Trade Union leaders feel increasingly unable to exercise freedom of expression, especially on social media

The CSO/TU Leader Survey revealed that an increasing number of CSO and TU leaders feel un-free to exercise the freedom of expression in Year Three compared to previous years (See Figure 20).

**FIGURE 20: CSO/TU LEADERS WHO REPORT FEELING FREE TO EXERCISE THEIR RIGHT TO FREEDOM OF EXPRESSION**



Source: FFMP CSO/TU Survey, December 2016, December 2017, January 2019

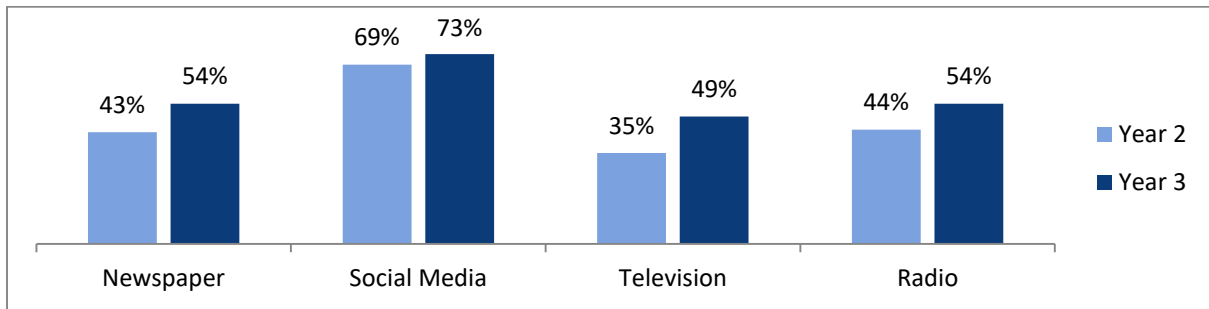
CSO/TU leaders also reported an increase in feeling unsafe to impart information through any media. Social media remains perceived as the most unsafe mean to impart information for CSO/TU leaders (See Figure 21).

<sup>125</sup> Kong Meta, 'CNRP-linked books seized from in front of capital high school', The Phnom Penh Post, (03 September 2018), available at: <https://www.phnompenhpost.com/national/cnrp-linked-books-seized-front-capital-high-school>. To publish a book in Cambodia, it is normally only required to obtain an International Standard Book Number number from the National Library, there are no laws stating that the publication of the book requires the prior authorization by the Ministry of Culture and Fine Arts.

<sup>126</sup> Kong Meta, 'CNRP-linked books seized from in front of capital high school', The Phnom Penh Post, (03 September 2018), available at: <https://www.phnompenhpost.com/national/cnrp-linked-books-seized-front-capital-high-school>.

Under international human rights law, even if claiming that a restriction to freedom of expression is necessary protect national security, the government has the burden to demonstrate that (a) the expression is intended to incite imminent violence; (b) it is likely to incite such violence; and (c) there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence. (United Nations Human Rights Council, A/HRC/17/27, United Nations Human Rights Council, 'Report of UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue,' UN Doc A/HRC/17/27 (16 May 2011) para. 73). "Using 'national security' as a grounds to restrict speech should be limited to situations in which the interest of the whole nation is at stake, which would thereby exclude restrictions in the sole interest of a Government, regime or power group...Similarly, public order (order public) must be limited to specific situations in which a limitation [to speech] would be demonstrably warranted." (United Nations Human Rights Council, 'Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,' UN Doc A/71/373 (6 September 2016), para. 18, available at: <https://undocs.org/A/71/373>).

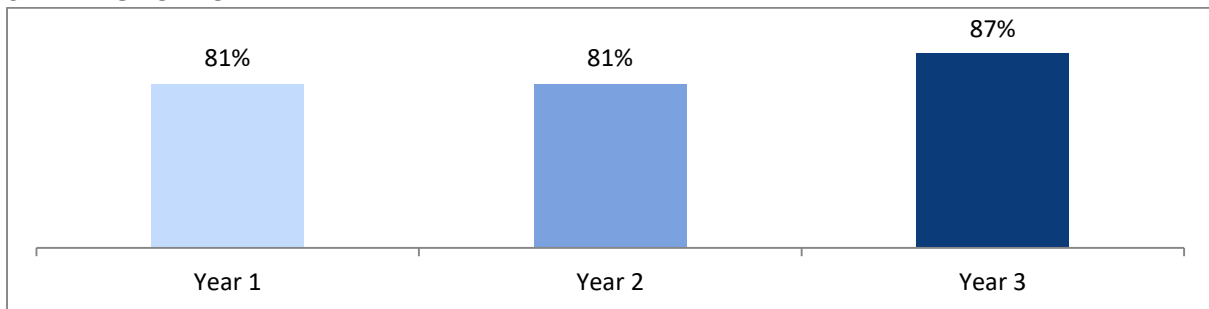
**FIGURE 21: CSO/TU LEADERS WHO REPORT FEELING UNSAFE IMPARTING INFORMATION BY MEDIA TYPES<sup>127</sup>**



Source: FFMP CSO/TU Survey, December 2017, January 2019

The survey also revealed that 87% of CSO/TU leaders felt that it was necessary to censor themselves while speaking publicly – 15% reported “always” self-censoring, 33% reported that they “regularly” self-censor, and 39% reported “sometimes” self-censoring<sup>128</sup> (See Figure 22).

**FIGURE 22: CSO/TU LEADERS WHO FELT IT WAS NECESSARY TO CENSOR THEMSELVES WHILE SPEAKING PUBLICALLY<sup>129</sup>**



Source: FFMP CSO/TU Survey, December 2016, December 2017, January 2019

### C.8 Association leaders continue to believe their communications are subject to extralegal surveillance

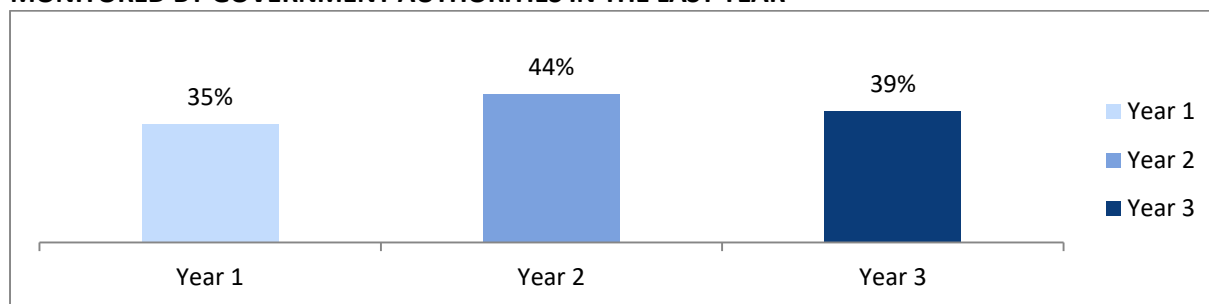
Data from the CSO/TU Leader Survey revealed high levels of perceived communication surveillance among association leaders across the years. In Year Three, 39% of respondents reported that they believed their communications had been monitored (See Figure 23).

<sup>127</sup> This question was not asked in the CSO/TU leader survey conducted in Year One.

<sup>128</sup> Self-censorship is an indication of the ability of citizens to exercise their freedom of expression. High percentages of self-censorship demonstrate an environment where people (in this case CSO and TU leaders) feel unable or are unwilling to speak freely.

<sup>129</sup> The data presented in this graph includes the proportion of CSO/TU leaders who reported “always,” “regularly,” and “sometimes” feeling it necessary to censor themselves while speaking in public.

**FIGURE 23: CSO/TU LEADERS WHO FELT THAT THEIR CSO'S COMMUNICATIONS WERE BEING MONITORED BY GOVERNMENT AUTHORITIES IN THE LAST YEAR**



Source: FFMP CSO/TU Survey, December 2016, December 2017, January 2019

## Freedom of Assembly

### C.9 The freedom of assembly continues to be restricted

The FFMP recorded 411 assemblies between April 2018 and March 2019. 276 of these assemblies were not restricted by the RGC. However, the RGC interfered with or restricted 113 assemblies and prohibited 22 assemblies.

Illustrative examples of assemblies that were prohibited or restricted include:

- In September 2018, the Cambodian Independent Teachers' Association applied to hold rally at Wat Phnom on World Teacher's Day to demand an increase in the minimum wage for teachers, as well as other benefits. Their request was denied, with a city hall spokesman saying it could affect public order and disrupt traffic. However, the teachers were allowed to gather in Freedom Park.<sup>130</sup>
- In October 2018, Phnom Penh authorities stopped the Prek Takong 60 Metre community from collecting garbage on UN World Housing Day. The authorities claimed that the gathering was illegal, and one community representative was reportedly detained and forced pledge not to organize such events in the future without the Government's permission.<sup>131</sup>
- In March 2019, on International Women's Day, approximately 400 women from various CSOs, including unions, were blocked by Phnom Penh municipal security forces from marching from Olympic Stadium to the Council of Ministers to deliver a joint petition on women's rights. Once peaceful demonstrators had gathered at the stadium, over a hundred security forces in civilian clothes blocked those gathered from leaving the site to conduct the march. Phnom Penh Municipal Hall spokesperson said the authorities blocked the procession because the group failed to follow a mutual agreement, "We told them about public order issues such as traffic congestion and security, so we couldn't grant their wishes. As you can see in Phnom Penh currently, there are traffic jams even without such marches."<sup>132</sup>

<sup>130</sup> Mom Kunthear, 'Teachers to gather despite rally ban,' Khmer Times, (27 September 2018), available at: <https://www.khmertimeskh.com/50536965/teachers-to-gather-despite-rally-ban/>.

<sup>131</sup> LICADHO, 'Authorities Banned The Community From Collecting Garbage And Discussing Land Rights,' LICADHO, (1 October 2018), available at: <http://www.licadho-cambodia.org/articles/20181001/152/inde.html?khmer>.

<sup>132</sup> Khorn Savi, 'Forces prevent Women's Day march', The Phnom Penh Post, (11 March 2019), available at: <https://www.phnompenhpost.com/national/forces-prevent-womens-day-march>.

## Fundamental Freedoms Monitoring Project

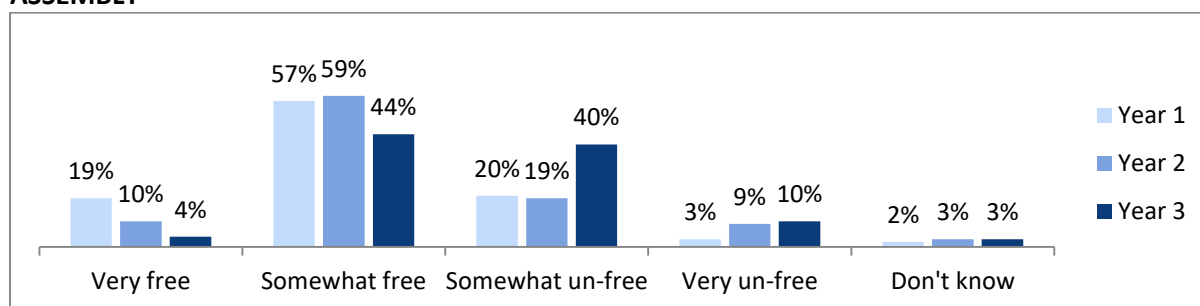
The FFMP recorded one instance of excessive use of force during assemblies in Year Three.

- In January 2019, between 100-300 armed government authorities attempted to enter Kokir village in Preah Sihanouk province, with the intention of enforcing a Supreme Court decision related to a land dispute. This resulted in a violent clash that led to protestors facing serious injuries. Reportedly, security forces fired dozens of shots of live ammunition into the air and into the crowd and video footage emerged showing military police officers tying up and kicking residents. Subsequently, one construction worker sustained a serious bullet wound, while another construction worker was taken to hospital for his injuries.<sup>133</sup> Four protestors were arrested, but were later released after signing a contract that stipulated they would agree to cease protesting. Once footage emerged showing military police officers tying up and kicking residents, the national military police commander established a fact-finding commission to investigate the clash. The violence was publicly condemned by the Prime Minister and the Minister of Interior, and the province’s military commander and deputy governor were fired. Moreover, a task force was created to resolve the land dispute, four military police officers received administrative punishment for the violence, while a military officer and a soldier were sent to court over the beatings of protestors.<sup>134</sup>

### **C.9.1 CSO and TU leaders feel increasingly un-free to exercise the right to freedom of assembly**

In the CSO/TU Leader Survey, 40% of CSO/TU leaders reported feeling “somewhat unfree” to exercise their right to freedom of assembly in Year Three. Similarly, the proportion of CSO/TU leaders reporting feeling “very free” to exercise the right to freedom of assembly has continuously declined from 19% in Year One to only 4% in Year Three (See Figure 24).

**FIGURE 24: CSO/TU LEADERS WHO REPORTED FEELING FREE TO EXERCISE THE FREEDOM OF ASSEMBLY**



Source: FFMP CSO/TU Survey, December 2016, December 2017, January 2019

<sup>133</sup> LICADHO, 'Authorities Shoot Land Protestor in Latest Use of Lethal Force', LICADHO, (26 January 2019), available at: <https://www.licadho-cambodia.org/articles/20190126/159/index.html?english>. See also Pech Sotheary, 'Police to probe Sihanoukville Clash', Khmer Times, (31 January 2019), available at: <https://www.khmertimeskh.com/50573950/police-to-probe-sihanoukville-clash/>.

<sup>134</sup> Sen David, 'Garment workers accused company of hiring thugs to disrupt protest', Khmer Times, (20 December 2018), available at: <https://www.khmertimeskh.com/50561138/garment-workers-accuse-company-of-hiring-thugs-to-disrupt-protest-2>; Kuth Sokn, '10 workers beaten during protest for working condition', Voice of Democracy, (19 December 2018), available at: <https://www.vodhotnews.com/2018/12/19/90136/nearly-10-workers-beaten-they-protested-working-conditions>; 'Factory hired gangsters to break protest', Kampuchea Thmey, (19 December 2018), available at: <http://kampuhealthmey.com/2016/archives/1005565>.

### **C.9.2 Strikes sometimes result in violations of fundamental freedoms**

Of the 33 strikes recorded by the FFMP in Year Three, four strikes resulted in violations of fundamental freedoms.

- In December 2018, over 500 garment workers at City Spark Cambodian Co Ltd in Phnom Penh protested for a union and better working conditions; approximately ten armed, unidentified individuals attacked the protestors, leading to injuries. The authorities intervened, but the unidentified individuals fled.<sup>135</sup>
- In December 2018, 100 workers at Prestige Garment in Kandal province were threatened with dismissal for continuing to protest the dismissal of one of their colleagues. The colleague in question had been dismissed on the same day he was voted union leader.<sup>136</sup>
- In January 2019, approximately 200 garment factory workers from Seduno Investment Cambo Fashion in Phnom Penh protested to demand their severance pay. Approximately 100 workers returned to work after their employer issued an ultimatum requiring them to return or face potential dismissal.<sup>137</sup>
- In January 2019, W&D factory in Phnom Penh dismissed over 1,000 garment workers after a three-month long dispute between the factory and its workers. After intervention by the RGC, the majority of dismissed employees were reinstated.<sup>138</sup>

### **C.10 Incidents related to land disputes result in violations of fundamental freedoms**

During Year Three, 30% of incidents related to land disputes recorded by the FFMP resulted in violations of fundamental freedoms. Out of a total of 139 recorded incidents, 42 violations of fundamental freedoms were identified. This indicates that a high frequency of violations of fundamental freedoms linked to land disputes has persisted in Year Three, a concerning trend that has persisted across all three years of the FFMP<sup>139</sup> (See Figure 25).

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<sup>135</sup> Sen David, 'Garment workers accused company of hiring thugs to disrupt protest', Khmer Times, (20 December 2018), available at: <https://www.khmertimeskh.com/50561138/garment-workers-accuse-company-of-hiring-thugs-to-disrupt-protest-2>; Kuth Sokn, '10 workers beaten during protest for workng condition', VOD, (19 December 2018), available at: <https://www.vodhotnews.com/2018/12/19/90136/nearly-10-workers-beaten-they-protested-working-conditions>; 'Factory hired gangsters to break protest', Kampuchea Thmey, (19 December 2018), available at: <http://kampuheatmey.com/2016/archives/1005565>.

<sup>136</sup> Mong Nareth, 'Many factory workers in Banteay Meanchey district have been protesting to demand that they accept the union's representatives', Radio Free Asia, (24 December 2018), available at <https://www.rfa.org/khmer/news/social-economy/garment-workers-protest-12242018093643.html>.

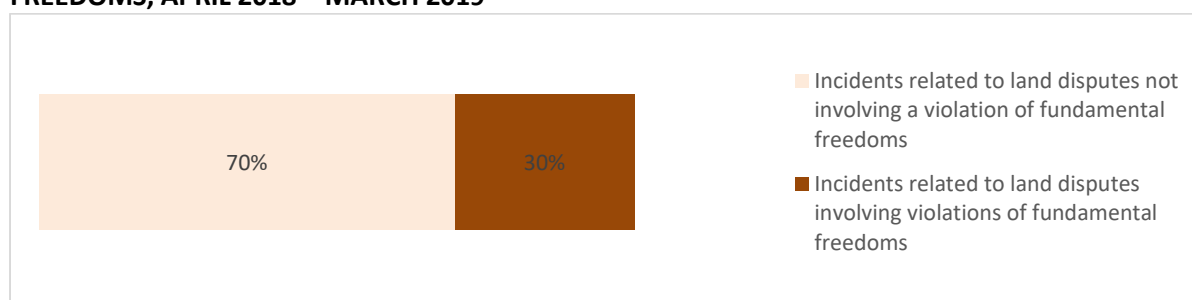
<sup>137</sup> Sen David, ' Garment workers rally for severance', Khmer Times, (27 December 2018), available at: <https://www.khmertimeskh.com/50563278/garment-workers-rally-for-severance>.

<sup>138</sup> Mom Kunthear, 'Factory sacks striking garment workers', Khmer Times, (7 January 2019), available at: <https://www.khmertimeskh.com/50566431/factory-sacks-striking-garment-workers>; Long Kimmarita, 'Workers to protest mass lay-off', The Phnom Penh Post, (08 January 2019), available at: <https://www.phnompenhpost.com/national/dispute-ends-wd-factory-rehires-workers>; Soth Koemsoeun, 'Dispute end as W&D factory rehires workers', The Phnom Penh Post, (28 March 2019), available at: <https://www.phnompenhpost.com/national/dispute-ends-wd-factory-rehires-workers>.

<sup>139</sup> See CCHR, ADHOC, SC and ICNL, 'Cambodia Fundamental Freedoms Monitor: Second Annual Report,' (September 2018), pp. 30-31, available at: [https://cchrcambodia.org/index\\_old.php?url=media/media.php&p=report\\_detail.php&reid=128&id=5](https://cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=128&id=5).

## Fundamental Freedoms Monitoring Project

**FIGURE 25: LAND-DISPUTE RELATED INCIDENTS RESULTING IN VIOLATIONS OF FUNDAMENTAL FREEDOMS, APRIL 2018 – MARCH 2019**



Source: FFMP Media Monitoring and Incident Reporting Databases, March 2019

In Year Three, violations of fundamental freedoms in relation to land disputes involved RGC interference with attempts to seek intervention from authorities in Phnom Penh, including attempts to submit petitions. The following are illustrative examples of such interference:

- In May 2018, ten representatives of Banong ethnic villagers from Monduliri province were questioned for more than an hour by police for seeking intervention from Prime Minister Hun Sen’s cabinet over the loss of their sacred land. One of their representatives said that they were in a van on the way to Phnom Penh when ten police officers stopped them at a checkpoint, after which they were brought in for questioning at the Keo Seima district police station in Monduliri province.<sup>140</sup>
- In November 2018, approximately 700 land activists from Preah Sihanouk, Svay Rieng, Tbong Khmum, and Kandal provinces gathered at Freedom Park to march to the Ministries of Justice and Agriculture to submit petitions seeking solutions to their land disputes. However, authorities prevented the march from taking place. Journalists, civil society groups and UN officials were also barred from attending the gathering.<sup>141</sup>

In Year Three, the FFMP recorded 13 incidents of legal actions initiated against individuals in relation to land dispute; 19 people were arrested, 15 summonsed, 21 detained, 45 questioned, and five were convicted. The following are illustrative examples of land disputes resulting in such actions by authorities.

- In April 2018, a community member was asked to appear in Pursat Provincial Court for questioning over an accusation they made in 2013. The summons came after the community member who was affected by a land dispute had engaged in advocacy activities and spoken out against land grabbing in the area.<sup>142</sup>
- In January 2019, local authorities in Kratie province’s Snuol district used loudspeakers to warn residents against traveling to protest in Phnom Penh in relation to a land dispute, reportedly threatening arrest and legal action for anyone who led residents to protest in Phnom Penh. In addition, the provincial administration issued a statement declaring that people who incited residents to protest are obstructing attempts to provide social land concessions and are also affecting security and public order. Notably, the Kratie deputy governor stated that warnings by local authorities were not a threat. Nevertheless, protestors were deterred by the risk of arrest and legal action.<sup>143</sup>

<sup>140</sup> Phak Seangly, 'Ethnic group reps held after land petition bid,' The Phnom Penh Post, (9 May 2018), available at: <https://www.phnompenhpost.com/national/ethnic-group-reps-held-after-land-petition-bid>.

<sup>141</sup> Eoeung Bunthorn, 'Farmers Planning to Submit Petitions to National Institutions Were Called To Gather At The Freedom Park,' Radio France International, (6 November 2018), available at: <http://km.rfi.fr/cambodia-CCFC-protesting-06-11-2018>.

<sup>142</sup> Incident Report IRCC054.

<sup>143</sup> Pech Sotheary, 'Land dispute leaders fear for safety,' Khmer Times, (9 January 2019), available at:

<https://www.khmertimeskh.com/567129/land-dispute-leaders-fear-for-safety>; Khut Sakun, 'Representatives of villagers in Kratie land dispute after authorities warn to arrest,' Voice of Democracy, (8 January 2019), available at: <https://www.vodhotnews.com/2019/01/08/91639/nearly-10-representatives-kratie-residents-fled-kratie-after-authorities->

## Fundamental Freedoms Monitoring Project

Additionally, fundamental freedoms were violated in relation to land disputes when CSOs were prevented from speaking with affected communities or subjected to substantial monitoring while doing so.<sup>144</sup>

Overall, Year Three of the FFMP revealed that laws relating to fundamental freedoms continue to be arbitrarily enforced and extralegal actions continue to be taken by the RGC to curtail civic space.

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warned-they-arrested/?fbclid=IwAR0YDEz6UuzOjirsnBDhAi\_g8ZkYrQd\_EjqDJfLw6xIYRAKciFdD9oo6-PA; Sek Bandith, 'Representatives of people in conflict with land in Kratie province's Snuol district fled when authorities found them', Radio Free Asia, (9 January 2019), available at: <https://www.rfa.org/khmer/news/land/land-conflicted-villagers-in-kratie-escape-01092019051651.html>.

<sup>144</sup> Incident Report IRCC068. See also Soth Koemsoeun, 'UN, Licadho stopped from Oddar Meanchey dispute probe,' The Phnom Penh Post, (24 May 2018), available at: <https://www.phnompenhpost.com/national/un-licadho-stopped-oddar-meanchey-dispute-probe>.

## D. Key Milestone Three: Do individuals understand fundamental freedoms, and feel free to exercise them?

Key Milestone Three assesses the extent to which individuals in Cambodia understand their rights to freedom of association, expression and assembly, and the extent to which they feel free to exercise these rights. Information for Key Milestone Three was gathered via a Public Poll of 992 Cambodians across 22 provinces from February - March 2019. Notable findings from the Public Poll in Year Three are outlined below; the Public Poll's full results are contained in Annex 3.

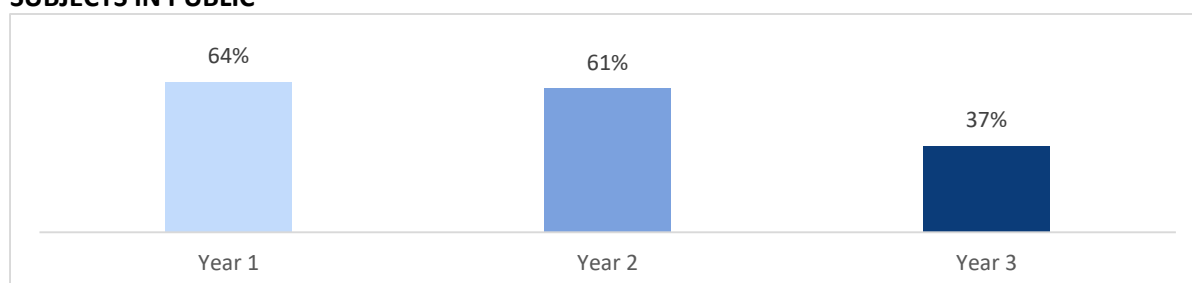
The 2019 Public Poll showed that individuals surveyed felt less free to exercise their fundamental freedoms compared to earlier polls. Overall, there appears to be a continuing decline in respondents feeling free to exercise their rights to free expression, peacefully assembly, and association. This lack of freedom is acutely felt when engaging in activities or forms of speech that are considered critical of the RGC or "political." The Public Poll also revealed that respondents' knowledge of domestic laws governing freedom of association and expression remains limited, and that confidence in redress for human rights violations remains low. Overall, results from the Public Poll suggest that the space to exercise fundamental freedoms is becoming narrower.

### D.1 The Cambodian public feels increasingly unfree to exercise their fundamental freedoms

#### D.1.1 The Cambodian public feels increasingly unfree to express themselves

The results from the Public Poll revealed that respondents feel less free to exercise the freedom of expression compared to Years One and Two. Only 37% of respondents in Year Three reported feeling free to speak openly about all subjects in public, a notable decrease from 64% of respondents in Year One and 61% of respondents in Year Two<sup>145</sup> (See Figure 26).

**FIGURE 26: PROPORTION OF RESPONDENTS WHO FEEL FREE TO SPEAK OPENLY ABOUT ALL SUBJECTS IN PUBLIC**



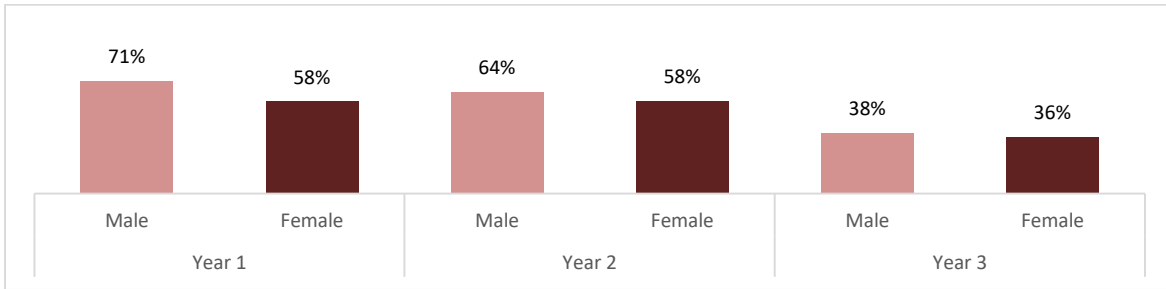
Source: FFMP Public Poll, October 2016, March 2018, March 2019

The results from the Public Poll also reveal that women feel less able than men to speak publicly (See Figure 27).

<sup>145</sup> The figure for respondents feeling "free" was calculated by summing the number of respondents who reported feeling "very free" and "somewhat free" to express themselves.



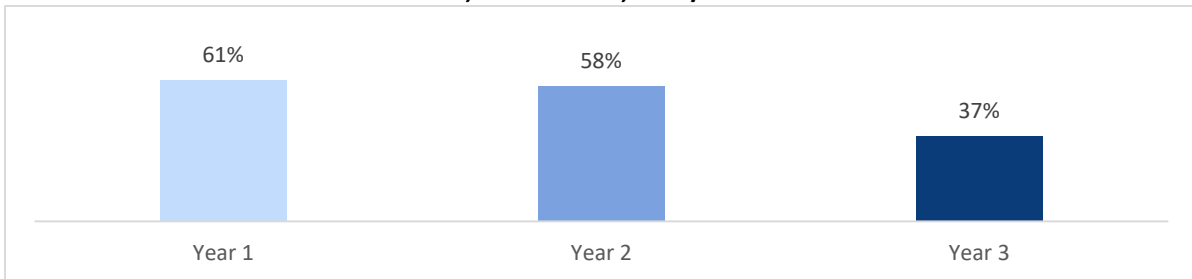
**FIGURE 27: PROPORTION OF MALE AND FEMALE RESPONDENTS REPORTING FEELING FREE TO SPEAK OPENLY ABOUT ALL SUBJECTS IN PUBLIC**



Source: FFMP Public Poll, March 2019

Additionally, the Public Poll indicated that the degree to which respondents feel free to impart information to the media – a particular component of the exercise of freedom of expression - significantly decreased in Year Three compared to Years One and Two of the FFMP. In Year Three, only 37% of respondents felt free to report information or to express opinions to a newspaper, television, and/or radio, compared to 61% in Year One and 58% in Year Two<sup>146</sup> (See Figure 28).

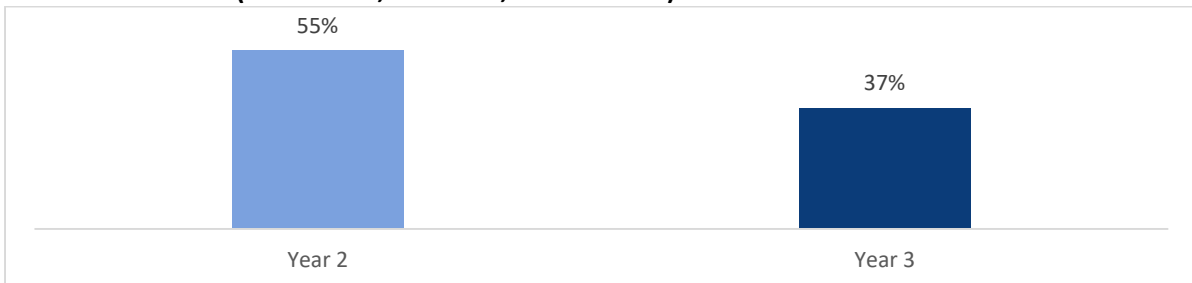
**FIGURE 28: PROPORTION OF INDIVIDUALS FEELING FREE TO SAFELY REPORT INFORMATION OR EXPRESS OPINIONS TO A NEWSPAPER, TELEVISION, AND/OR RADIO.**



Source: FFMP Public Poll, October 2016, March 2018, March 2019

The 2019 Public Poll conducted revealed that Cambodians are also increasingly reluctant to express themselves on social media (See Figure 29). In Year Three, 37% of respondents reported feeling free to express themselves on social media, compared to 55% of respondents in Year Two.<sup>147</sup>

**FIGURE 29: PROPORTION OF INDIVIDUALS FEELING FREE TO SPEAK OPENLY ABOUT ALL SUBJECTS ON SOCIAL MEDIA (FACEBOOK, TWITTER, INSTAGRAM)<sup>148</sup>**



Source: FFMP Public Poll, March 2018, March 2019

<sup>146</sup> The figure for respondents feeling “free” to safely report information was calculated by summing the number of respondents who reported feeling “very free” and “somewhat free” to safely report information express opinions to the media.

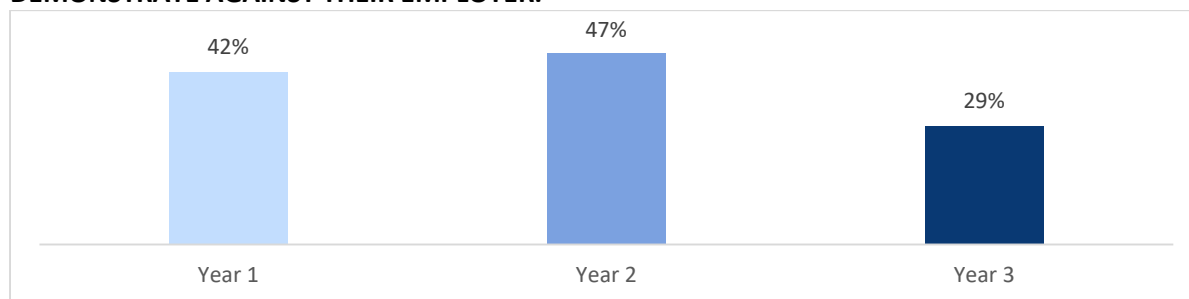
<sup>147</sup> The figure for respondents feeling “free” to express themselves on social media was calculated by summing the number of respondents who reported feeling “very free” and “somewhat free” to express themselves on social media.

<sup>148</sup> Note: This question was not asked in the Public Poll conducted in Year One.

**D.1.2 A decreasing proportion of the Cambodian public feels free to strike and/or demonstrate against their employer**

The number of Public Poll respondents who reported feeling free to strike and/or demonstrate against their employer decreased in Year Three compared to previous years. In Year Three, 29% of respondents reported feeling free to peacefully strike and/or demonstrate against an employer, a decrease compared to the 47% in Year One and 42% in Year Two<sup>149</sup> (See Figure 30).

**FIGURE 30: PROPORTION OF RESPONDENTS WHO FEEL FREE TO PEACEFULLY STRIKE AND/OR DEMONSTRATE AGAINST THEIR EMPLOYER.**



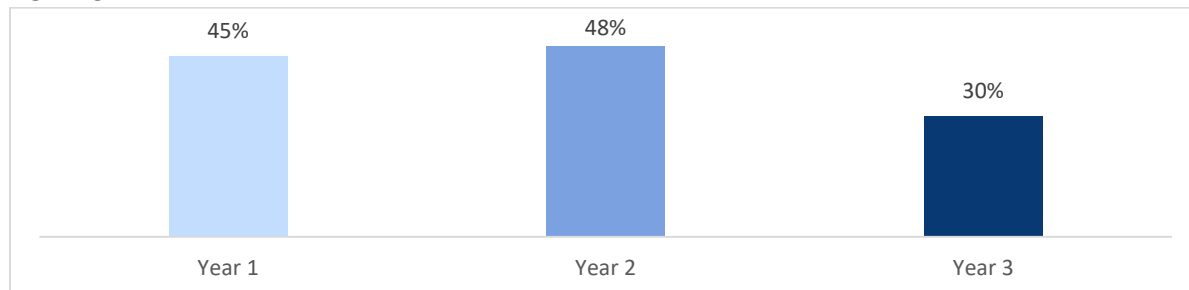
Source: FFMP Public Poll, October 2016, March 2018, March 2019

When considered along with the data provided in Figure 39, which indicates that 42% of respondents in Years Two and Three believed striking without permission from an employer is illegal, these responses indicate that a minority of the Cambodian population feels entitled to the full exercise of freedoms of assembly and association.

**D.1.3 The public reports being increasingly unfree to participate in political life**

The 2019 Public Poll results showed that fewer respondents feel free to participate in political life compared to respondents than in Year One and Year Two. In Year Three, 30% of respondents reported feeling free to participate in political life, compared to 48% of respondents in Year Two and 45% in Year One<sup>150</sup> (See Figure 31).

**FIGURE 31: PROPORTION OF INDIVIDUALS WHO REPORT FEELING FREE TO PARTICIPATE IN POLITICAL LIFE**



Source: FFMP Public Poll, October 2016, March 2018, March 2019

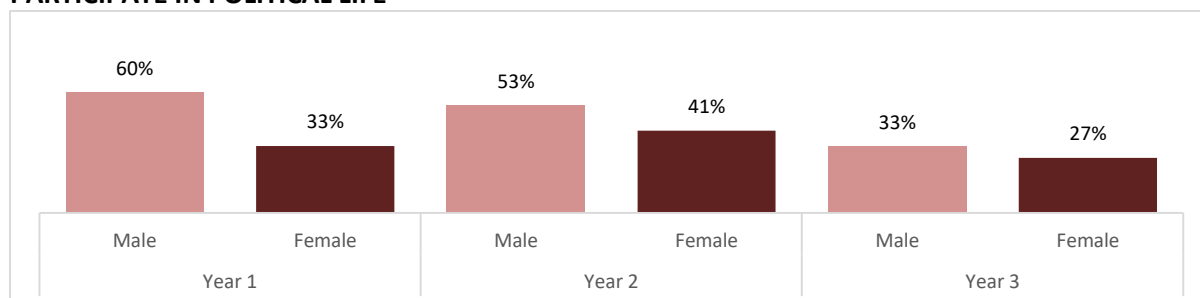
<sup>149</sup> The figure for respondents feeling “free” to peacefully strike and/or demonstrate against an employer was calculated by summing the number of respondents who reported feeling “very free” and “somewhat free” to peacefully strike and/or demonstrate against an employer.

<sup>150</sup> The figure for respondents feeling “free” to participate in political life was calculated by summing the number of respondents who reported feeling “very free” and “somewhat free” to participate in political life.

## Fundamental Freedoms Monitoring Project

Notably, over the three years of monitoring, female respondents consistently reported feeling less free to participate in political life compared to male respondents (See Figure 32).

**FIGURE 32: PROPORTION OF MALE AND FEMALE RESPONDENTS WHO REPORT FEELING FREE TO PARTICIPATE IN POLITICAL LIFE**

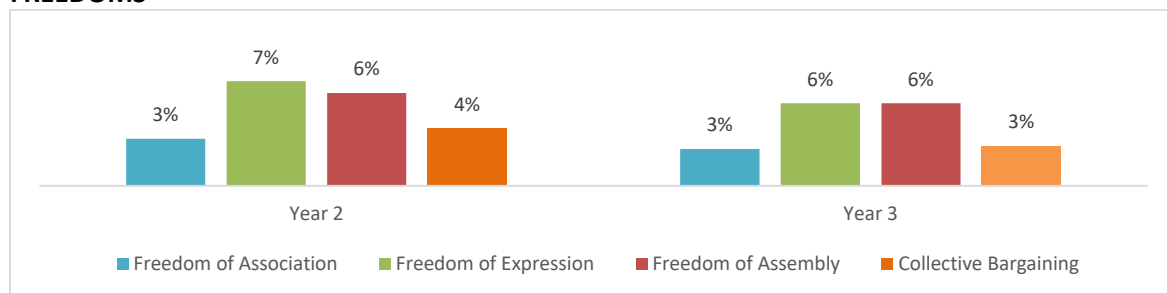


Source: FFMP Public Poll, March 2019

### D.2 The public's understanding of fundamental freedoms remains low

The Public Polls consistently demonstrate that respondents continue to have a limited understanding of fundamental freedoms.<sup>151</sup> Freedom of association and collective bargaining (a particular exercise of freedom of association) were least understood, with only 3% of respondents demonstrating full knowledge of these rights in Year Three (See Figure 33). Freedom of expression and freedom of assembly were best understood, with 6% of respondents in Year Three indicating that they fully understood these rights. This suggests that a large proportion of the Cambodian public may be unable to identify occurrences when their fundamental freedoms are restricted.

**FIGURE 33: FEW CAMBODIANS DEMONSTRATED A FULL UNDERSTANDING OF FUNDAMENTAL FREEDOMS<sup>152</sup>**



Source: FFMP Public Poll, March 2018, March 2019

### D.3 The public's knowledge of domestic laws governing freedom of expression and association remains limited

The Public Poll measured respondents' knowledge of Cambodian laws by asking whether certain actions were legal or illegal. The results from the Public Poll indicate that respondents display an incomplete knowledge of the legal restrictions to the freedoms of expression and association. In addition, the body of evidence gathered from the Public Poll suggests that a significant proportion of

<sup>151</sup> Public understanding of the fundamental freedoms was measured by asking respondents to answer two questions: "Do you know what freedom of \_\_\_ means?" and, after the interviewer provided an explanation of the fundamental freedom in question, "Now that I have explained what the freedom of \_\_\_ is, how has your understanding of this freedom changed?" Those individuals who responded to the first question, "Yes I know clearly," and to the second, "My understanding has not changed (it is the same as before)" were considered as showing a full understanding of that fundamental freedom.

Understanding of collective bargaining was determined by asking questions of the same format.

<sup>152</sup> Note: This question was not asked in the Public Poll conducted in Year One.

## Fundamental Freedoms Monitoring Project

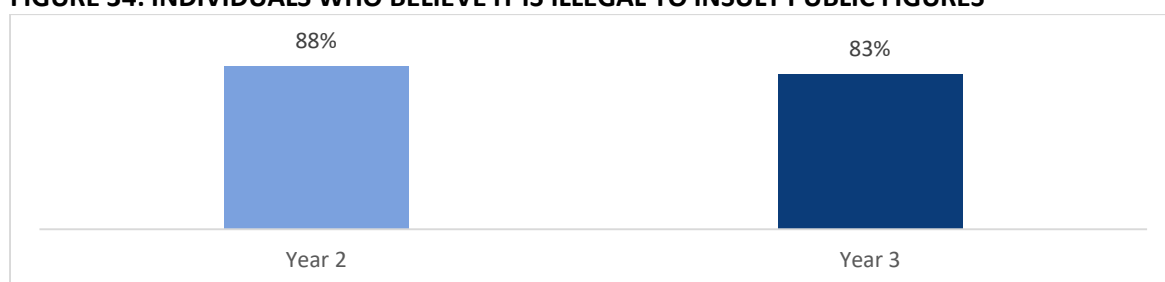
respondents believed that some aspects of laws pertaining to freedom of association and expression were more restrictive than they actually are, which could lead people to feeling less able to exercise their rights.

### D.3.1 Freedom of expression

Respondents were able to correctly identify some of the legal limitations to the freedom of expression that exist in Cambodian law. For instance, most respondents correctly stated that it is illegal to insult public figures. However, a large proportion of respondents incorrectly believed that it was illegal to discuss politics or criticize government policies.

A majority of respondents (83% in Year Three and 88% in Year Two) correctly stated that it was illegal to insult a public figure under Cambodian law (See Figure 34).<sup>153</sup>

**FIGURE 34: INDIVIDUALS WHO BELIEVE IT IS ILLEGAL TO INSULT PUBLIC FIGURES<sup>154</sup>**

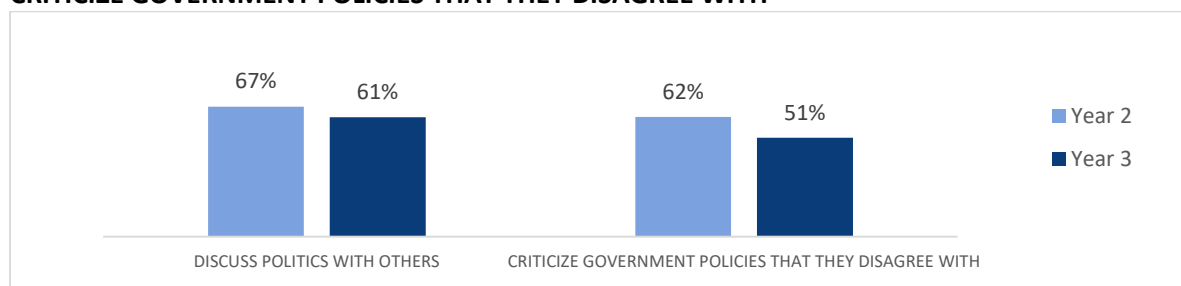


Source: FFMP Public Poll, March 2018, March 2019

Only 61% of respondents in Year Three correctly believed it was legal to discuss politics with others, compared to 67% of respondents in Year Two. Additionally, only 51% of respondents in Year Three correctly believed it was legal to criticize government policies, a decline from 62% of respondents in Year Two (See Figure 35).

Even though both these forms of speech are legal under domestic law and protected under the Constitution and international human rights law and standards, this form of speech has led to the prosecution of individuals in Cambodia (See Key Milestone Two). This factor may partly explain the significant number of individuals who do not believe that criticism of government policy and the discussion of politics are legal.

**FIGURE 35: INDIVIDUALS WHO BELIEVE IT IS LEGAL TO DISCUSS POLITICS WITH OTHERS OR TO CRITICIZE GOVERNMENT POLICIES THAT THEY DISAGREE WITH<sup>155</sup>**



Source: FFMP Public Poll, March 2018, March 2019

<sup>153</sup> "Insult of a Public Official" is criminalized under Article 502 of the Penal Code, and "Insult" is criminalized under Article 307 of the Penal Code, although both provisions contravene Article 19 of the ICCPR. (See CCHR, ADHOC, SC 'Fundamental Freedoms Monitoring Project – First Annual Report', (August 2017), p. 8.

<sup>154</sup> Note: This question was not asked in the Public Poll conducted in Year One.

<sup>155</sup> Note: This question was not asked in the Public Poll conducted in Year One.

## Fundamental Freedoms Monitoring Project

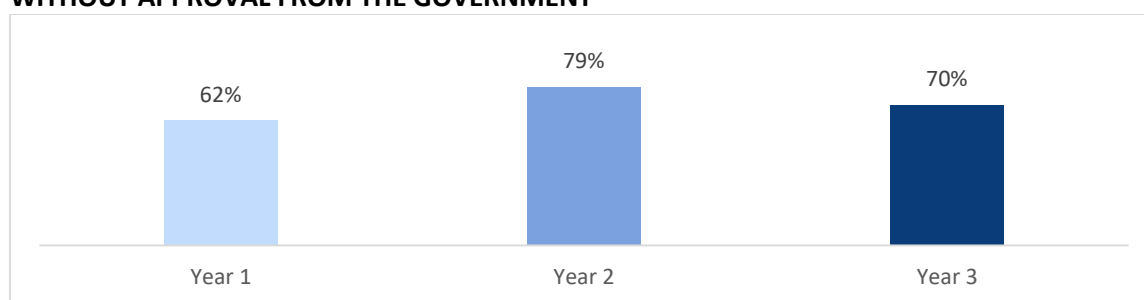
The number of respondents who incorrectly believed that these forms of speech were illegal,<sup>156</sup> indicates that a proportion of the public believes that the domestic legal framework surrounding freedom of speech is more restrictive than it actually is.

### **D.3.2 Freedom of association**

While the results from the Public Poll indicate that there is a general improvement in respondents' understanding of laws related to freedom of association, respondents still do not fully understand certain aspects of the LANGO, which is the main law regulating the freedom of association.

The majority of respondents surveyed correctly noted that under Cambodian Law, specifically the LANGO, it is illegal to form an NGO without approval from the government<sup>157</sup> (See Figure 36).

**FIGURE 36: PROPORTION OF RESPONDENTS WHO BELIEVE IT IS ILLEGAL TO CREATE AN NGO WITHOUT APPROVAL FROM THE GOVERNMENT**



Source: FFMP Public Poll, October 2016, March 2018, March 2019

Respondents also displayed a similar level of knowledge regarding the ability of CSOs to carry out activities without notifying authorities. The proportion of respondents who incorrectly believed it was illegal for CSOs to carry out activities without notifying authorities decreased from 41% in Year Two to 37% of respondents in Year Three (See Figure 37). It should be noted that the Public Poll in Year Three was undertaken after the MoI issued a directive in November 2018 which repealed the prior notification regime for all CSO activities that had been introduced in October 2017.<sup>158</sup> Under Cambodian law, it is legal for CSOs to carry out activities without notifying authorities in advance.<sup>159</sup>

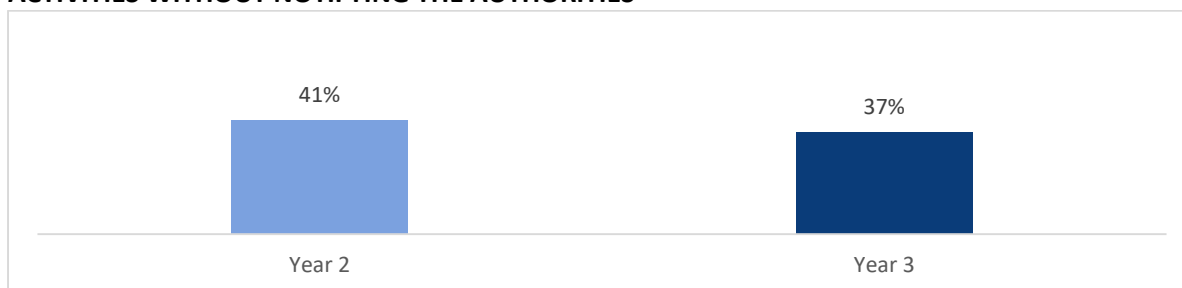
<sup>156</sup> The Public Poll revealed that 17% of respondents in Year Three (16% in Year Two) incorrectly believed it is illegal to criticize government policies that they disagree with. In addition, 10% of respondents in Year Three (9% in Year Two) incorrectly believed it was illegal to discuss politics with others. See Annex 3 for the full results.

<sup>157</sup> Article 9 LANGO bans unregistered NGOs or associations from conducting activities of any kind, and Article 32 provides for criminal punishment in case of any violation of Article 9. As noted in the Year One Annual Report, this provision of the LANGO violates Article 22 of the ICCPR.

<sup>158</sup> See Section B, Key Milestone One. At the time of the Public Poll in Year Two, the MoI announced that all NGOs must notify the authorities in advance of carrying out any activities.

<sup>159</sup> CCHR, ADHOC, SC and ICNL, 'Cambodia Fundamental Freedoms Monitor: Second Annual Report,' (September 2018), Key Milestone One, Section 2.1.

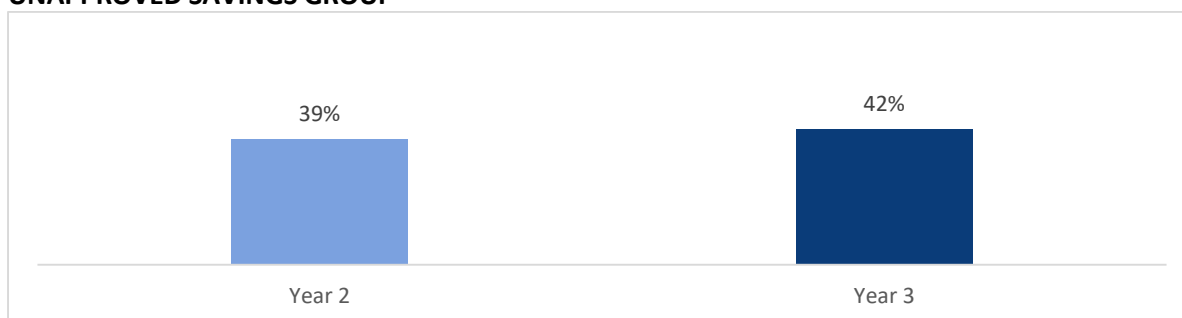
**FIGURE 37: PROPORTION OF RESPONDENTS WHO BELIEVE IT IS ILLEGAL FOR A CSO TO CARRY OUT ACTIVITIES WITHOUT NOTIFYING THE AUTHORITIES<sup>160</sup>**



Source: FFMP Public Poll, March 2018, March 2019

Despite widespread knowledge of the LANGO’s mandatory registration requirement, other aspects of the LANGO are less well understood by the Cambodian public. For instance, the proportion of respondents who correctly stated that it was illegal to run a saving group without permission from the authorities increased from 39% in Year Two to 42% in Year Three <sup>161</sup> (See Figure 38). However, the Public Poll revealed that a significant proportion of respondents still incorrectly believed that it was legal to run an unapproved savings group (42% in Year Two and 33% in Year Three). While these results indicate that there is a general improvement in the public’s understanding of the law, there is still a gap in knowledge regarding the legality of running unapproved savings groups. When the public does not fully understand the law, it may impede their ability to make an informed judgement.

**FIGURE 38: PROPORTIONS OF RESPONDENTS WHO BELIEVE IT IS ILLEGAL TO RUN AN UNAPPROVED SAVINGS GROUP<sup>162</sup>**



Source: FFMP Public Poll, March 2018, March 2019

Respondents were also asked about legal restrictions to the right to strike, a subset of the freedom of association.<sup>163</sup> 42% of respondents in Year Three incorrectly believe that it is illegal to strike without the permission of an employer or the authorities, a similar proportion to respondents in Year Two<sup>164</sup> (See Figure 39). Furthermore, these findings suggest that a large proportion of respondents believe that the domestic legal framework on the right to strike is more restrictive than it is, which could lead to them feeling less able to exercise their right to strike.

<sup>160</sup> Note: This question was not asked in the Public Poll conducted in Year One.

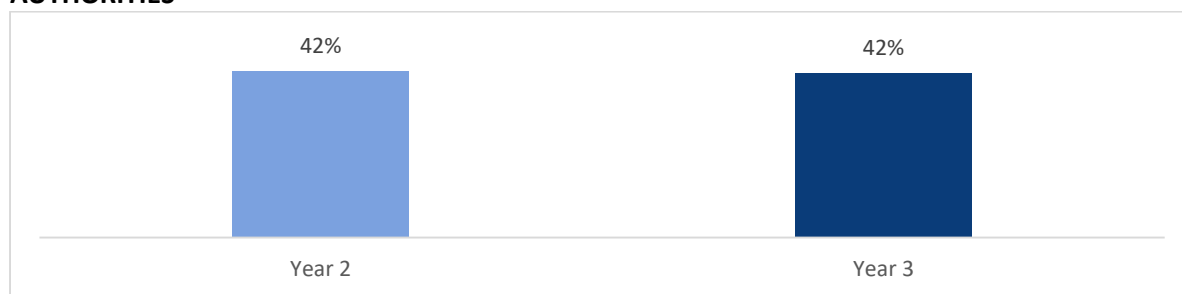
<sup>161</sup> According to the LANGO, all associations and NGOs, including savings groups, are subject to mandatory registration, and thus it is illegal to operate a savings group if the savings group has not been officially registered with the Mol.

<sup>162</sup> Note: This question was not asked in the Public Poll conducted in Year One.

<sup>163</sup> Note: This question was not asked in the Public Poll conducted in Year One.

<sup>164</sup> According to the Labor Law, workers are required to notify their employers at least one week in advance of a strike. (See Labor Law (1997), Article 324, available at: <http://www.ilo.org/dyn/travail/docs/701/labour>.) However, no provisions within either the Labor Law or the Trade Union Law require that workers receive prior permission to strike.

**FIGURE 39: PROPORTION OF RESPONDENTS WHO BELIEVE IS IT ILLEGAL TO STRIKE OVER DANGEROUS WORKING CONDITIONS WITHOUT THE PERMISSION OF AN EMPLOYER OR THE AUTHORITIES<sup>165</sup>**



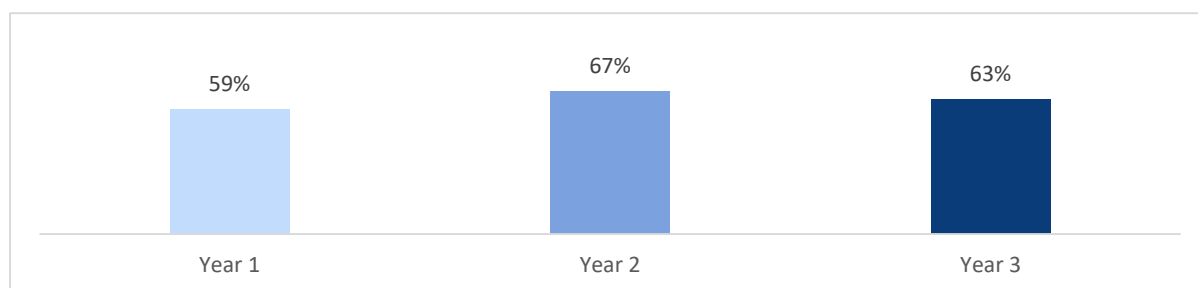
Source: FFMP Public Poll, March 2018, March 2019

The results displayed in Figures 36-39 show that the public demonstrates an incomplete knowledge of domestic legal restrictions on freedom of association. Even if respondents' knowledge of the legal framework on freedom of association has improved, significant proportion of respondents still do not understand important aspects of the freedom of association.

#### D.4 Confidence in redress for human rights violations remains low

There appears to be a low level of confidence in governmental and judicial systems of redress for human rights violations. In Year Three, 63% of respondents in the public poll indicated that they were not confident that the government or judicial system would resolve human rights violations,<sup>166</sup> similar to Years One and Two (See Figure 40).

**FIGURE 40: INDIVIDUALS REPORTING BEING NOT CONFIDENT THAT IF THEY REPORT A HUMAN RIGHTS VIOLATION, THE GOVERNMENT OR JUDICIAL SYSTEM WILL SOLVE THEIR PROBLEM**



Source: FFMP Public Poll, October 2016, March 2018, March 2019

The low level of confidence individuals have when seeking redress for human rights violations roughly corresponds to perceptions of the accessibility of the government and judicial system. Respondents to the Public Poll in Years Two and Three do not feel it is easy for them to report human rights violations to the government or courts.

A majority of respondents in the Public Poll, 72% of respondents in Year Three and 74% in Year Two, felt that accessing the government or courts to complain about human rights violations would be

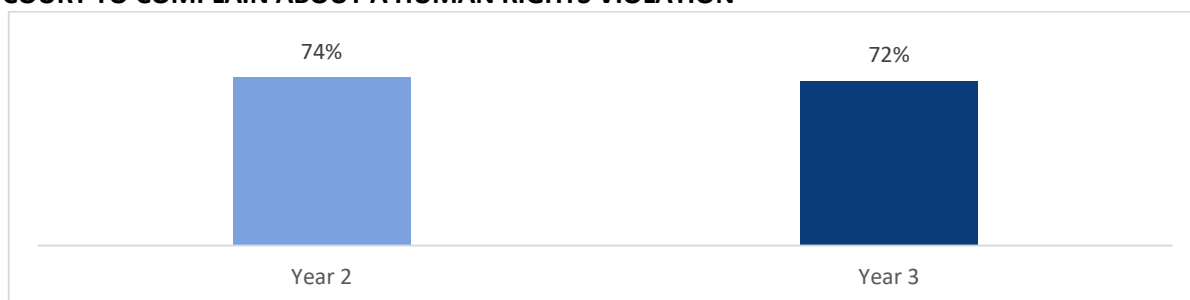
<sup>165</sup> Note: this question was not asked in Year One.

<sup>166</sup> The figure for respondents feeling "not confident" that the government or judicial system will solve their problem if they report a human rights was calculated by summing the number of respondents who reported feeling "somewhat not confident" and "very not confident."

## Fundamental Freedoms Monitoring Project

difficult<sup>167</sup> (See Figure 41). Such low levels of confidence and perceived accessibility in these institutions suggest that many people may be unable or unwilling to report incidences of human rights violations and seek redress.

**FIGURE 41: INDIVIDUALS FEELING IT IS DIFFICULT FOR THEM TO ACCESS THE GOVERNMENT OR COURT TO COMPLAIN ABOUT A HUMAN RIGHTS VIOLATION<sup>168</sup>**



Source: FFMP Public Poll, March 2018, March 2019

Taken together, results shown in Figures 40 and 41 suggest that although high percentages of respondents display a low confidence in seeking redress for human rights violations and perceive that accessing government authorities or courts to complain is difficult, there seems to nevertheless be a slight improvement in the level of confidence in redress for human rights violations and perceived accessibility of complaints mechanisms in Year Three compared to Year Two.

In Year Three, commune/village councils (23%), courts (21%), the police (20%) and NGOs (18%) are cited as institutions where respondents feel most able to lodge a complaint if human rights are violated. In comparison, in Years One and Two, respondents felt most able to complain about human rights violations to a commune council, village leader, or to an NGO (See Figure 42).

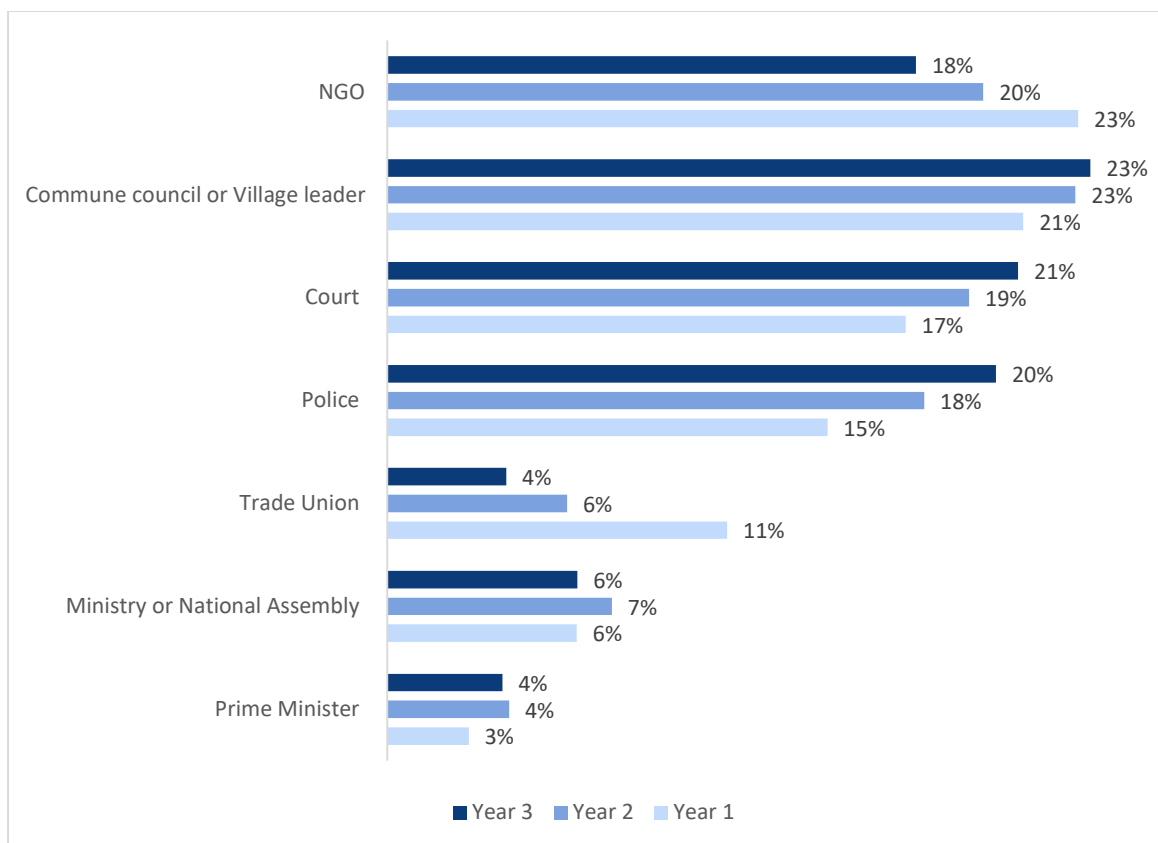
**FIGURE 42: INSTITUTIONS RESPONDENTS FELT THEY COULD APPROACH TO COMPLAIN IF THEIR HUMAN RIGHTS ARE VIOLATED**

<sup>167</sup> The figure for respondents feeling it would be “difficult” to access the government or courts to complain about a human rights violation was calculated by summing the number of respondents who reported it they could access them “with a little difficulty” and “with a lot of difficulty.”

<sup>168</sup> Note: This question was not asked in the Public Poll conducted in Year One.



## Fundamental Freedoms Monitoring Project



Source: FFMP Public Poll, October 2016, March 2018, March 2019

These findings suggest that while a growing proportion of individuals believe that the government and courts should address complaints of human rights violations these institutions are perceived not to fulfill this function.

Compared to the Year One and Two of FFMP, the results of the 2019 Public Poll revealed that respondents feel less free to express themselves, to peacefully assemble, and to associate. There has been a continuing decline in respondents feeling free to exercise these rights over the three years of monitoring. The public's trust in NGOs remains relatively high, however confidence in state redress mechanisms for human rights violations remains low. Overall, the Public Poll results suggest that the space for the peaceful exercise of fundamental freedoms is becoming narrower.

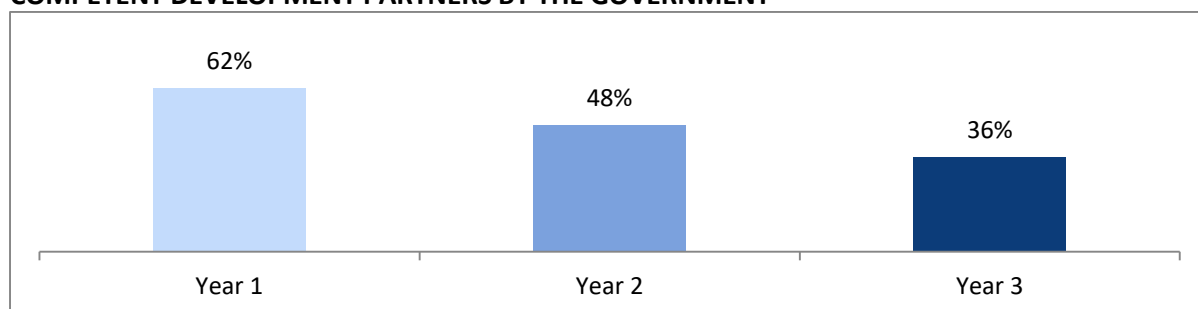
## E. Key Milestone Four: Are CSOs and TUs recognized by, and can work in partnership with, the RGC?

Key Milestone Four examines the extent to which the RGC views and treats CSOs (including NGOs, trade unions, and community-based organizations, amongst others) as meaningful stakeholders in Cambodian society and the country’s development.

### E.1 Fewer associations embraced by the RGC as competent development partners

Results from the CSO/TU Leader Survey showed a decline in the number of CSOs and TU leaders who believe the RGC recognizes them as competent partners in Cambodia’s development. Only 36% of respondents in Year Three indicated that they were recognized by the RGC as competent partners, compared to 62% of respondents surveyed in Year One (See Figure 43).

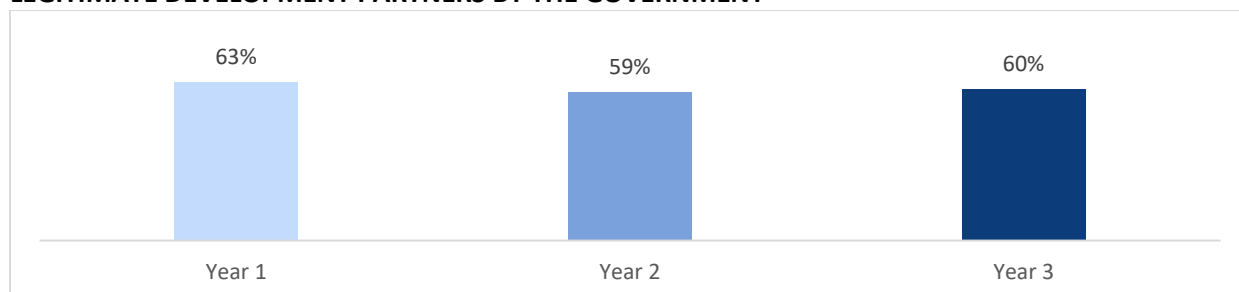
**FIGURE 43: PROPORTION OF CSO/TU LEADERS WHO BELIEVE THEY ARE RECOGNIZED AS COMPETENT DEVELOPMENT PARTNERS BY THE GOVERNMENT**



Source: FFMP CSO/TU Survey, December 2016, December 2017, January 2019

Most CSOs and TUs leaders - around 60% of respondents every year - feel that they are recognized as legitimate development partners by the RGC (See Figure 44).

**FIGURE 44: PROPORTION OF CSO/TU LEADERS WHO BELIEVE THEY ARE RECOGNIZED AS LEGITIMATE DEVELOPMENT PARTNERS BY THE GOVERNMENT**



Source: FFMP CSO/TU Survey, December 2016, December 2017, January 2019

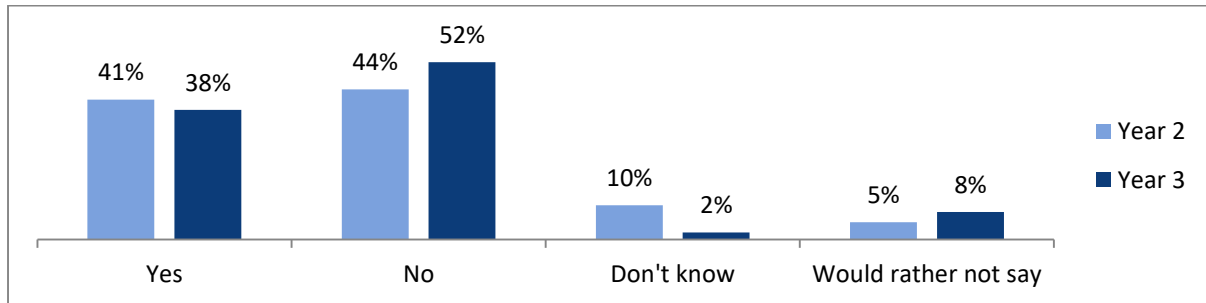
The decline in the number of CSO/TU leaders who feel that the RGC recognizes them as competent partners contributing to the country’s development is concerning – although the reasons behind this decline are not known. Nevertheless, a majority of CSO leaders still feel that the government

recognizes them as legitimate partners.<sup>169</sup> These results suggest that there is room for the RGC and CSO/TUs to continue to improve relations.

**E.2 Fewer CSOs report collaboration with the government**

The CSO/TU Leader Survey shows that the levels of official and unofficial cooperation between CSOs and TUs, and the RGC has decreased in Year Three; 38% of CSO/TU leaders reported that they officially collaborated with the RGC on a project in the last year, while 52% reported not collaborating with the RGC (See Figure 45).

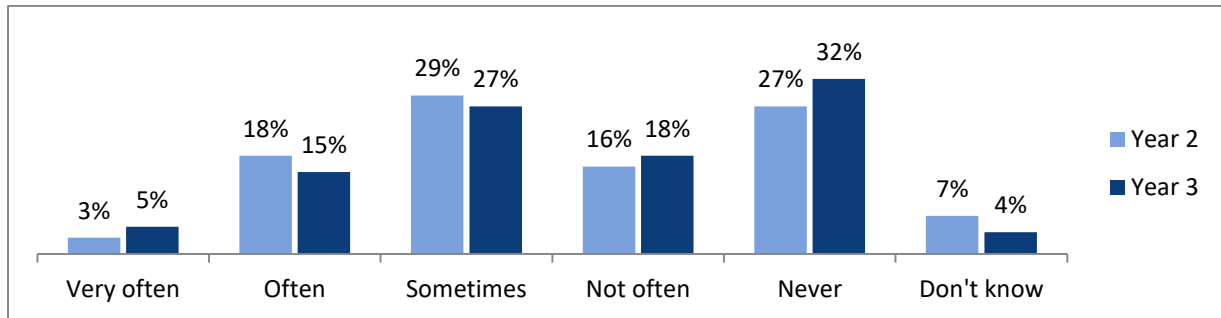
**FIGURE 45: PROPORTION OF CSO/TU LEADERS WHO REPORT OFFICIALLY COLLABORATING WITH THE RGC ON A PROJECT IN THE PAST YEAR<sup>170</sup>**



Source: FFMP CSO/TU Survey, December 2017, January 2019

Regarding informal partnerships or unofficial collaborations, 32% of CSO/TU leaders reported never informally partnering with the RGC, and 15% reported that they have often informally partnered with the RGC (See Figure 46).

**FIGURE 46: FREQUENCY OF UNOFFICIAL COLLABORATION BETWEEN CSO/TU LEADERS AND THE RGC IN THE PAST YEAR<sup>171</sup>**



Source: FFMP CSO/TU Survey, December 2017, January 2019

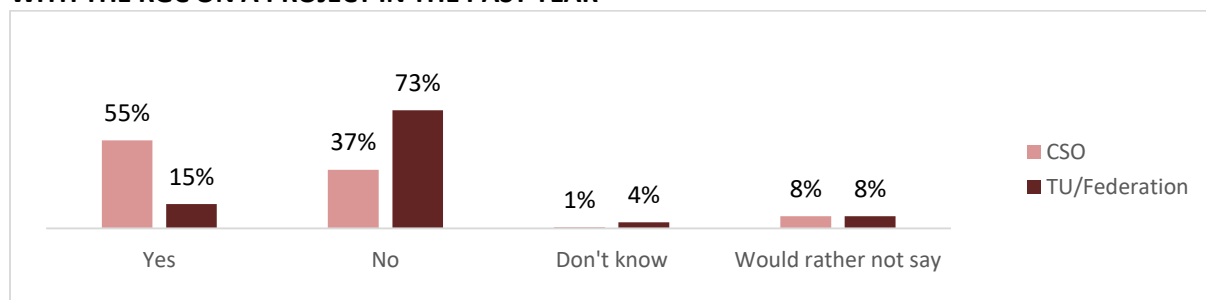
Trade union leaders reported that they less frequently entered into official collaboration with the RGC compared to CSO leaders (See Figure 47).

<sup>169</sup> Recognition as ‘competent development partners’ implies that CSO/TU leaders perceive that the government recognizes their capacity and professionalism to carry out activities that will contribute to the country’s development. Recognition as ‘legitimate development partners’ reflects the idea that the government acknowledges that CSOs are important and valid actors to contribute to the country’s and work in partnership with to achieve these goals. The terms in Khmer language used in the CSO/TU Leader Survey reflect these differences.

<sup>170</sup> This question was not asked in the CSO/TU leader survey conducted in Year One.

<sup>171</sup> This question was not asked in the CSO/TU leader survey conducted in Year One.

**FIGURE 47: PROPORTION OF CSO AND TU LEADERS WHO REPORT OFFICIALLY COLLABORATING WITH THE RGC ON A PROJECT IN THE PAST YEAR**



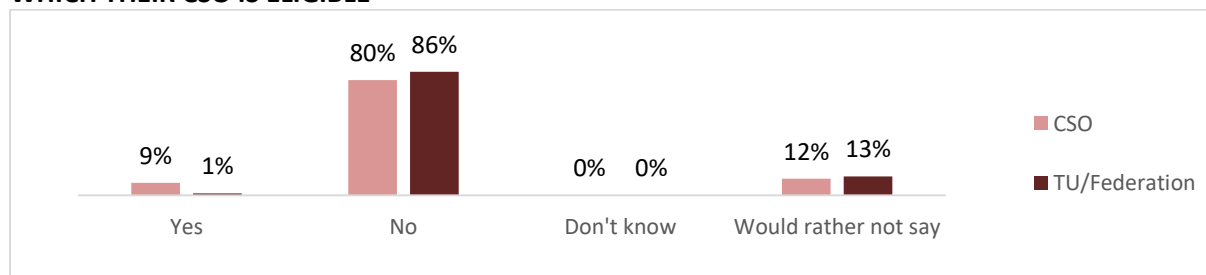
Source: FFMP CSO/TU Survey, January 2019

The declining number of CSOs and TUs who report collaborating with the RGC suggests that the culture of partnership between the RGC and civil society should be improved. Ultimately, Cambodian people will see the greatest benefit when CSOs and TUs are able to work with the RGC to achieve development goals.

### E.3 CSO and TU Leaders have limited awareness of opportunities for public financing and participation in RGC panels and committees

The CSO/TU Leader Survey results showed that only 6% of respondents (10 respondents) indicated an awareness of RGC financing opportunities. Of the 10 respondents who indicated awareness of these opportunities, 4 respondents believed that the financing opportunities were explicit, open, and transparent, 3 believed they were not, 2 reported not knowing and one respondent answered “would rather not say.” CSO leaders were also more frequently aware of opportunities compared to trade union leaders (See Figure 48).

**FIGURE 48: CSO/TU LEADERS AWARE OF FUNDING OPPORTUNITIES FROM THE GOVERNMENT FOR WHICH THEIR CSO IS ELIGIBLE**



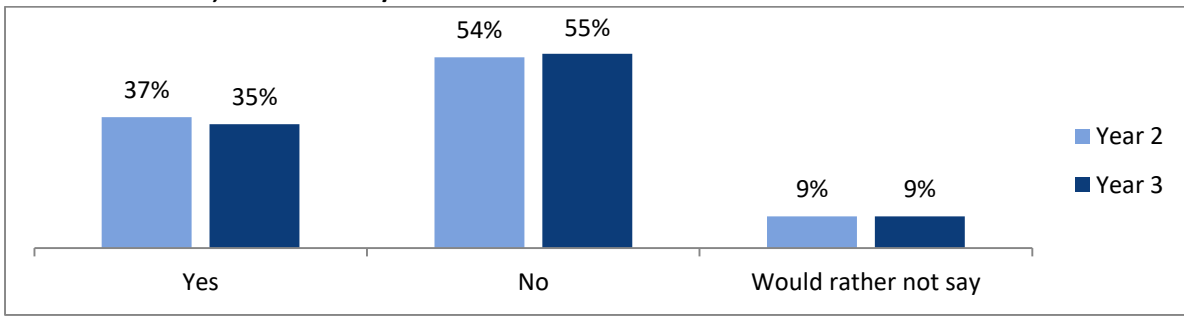
Source: FFMP CSO/TU Survey, January 2019

The CSO/TU Leader Survey also asked whether respondents were aware of any opportunities to participate in RGC consultations, panels and/or committees (See Figure 49).<sup>172</sup> Of the 35% (64 respondents) of CSO/TU Leaders who were aware of such opportunities in Year Three, 31% believed that they were explicit, open, and transparent; 50% felt they were not.<sup>173</sup>

<sup>172</sup> Shortly after the survey data was collected, on January 11 2019, the Ministry of Interior announced the planning of a consultation with CSOs which took place on January 17 2019. This may represent a shift in Government policy. See <http://www.ccc-cambodia.org/en/resources/event-archives/brief-note-on-partnership-btw-csos-govt-on-17-jan-2019>.

<sup>173</sup> See full results from the CSO/TU leaders survey in Annex 4.

**FIGURE 49: CSO/TU LEADERS AWARE OF OPPORTUNITIES TO PARTICIPATE IN GOVERNMENT CONSULTATIONS, PANELS AND/OR COMMITTEES**



Source: FFMP CSO/TU Survey, December 2017, January 2019

The limited number of CSOs who are aware of opportunities to participate in RGC panels and committees, and the low number of respondents who felt that these opportunities were open, explicit, and transparent, suggest that there is room for the RGC to better. Broad participation of all stakeholders in such panels and committees is contingent on these opportunities being widely and publicly disseminated with transparent selection requirements and processes.

It is concerning that CSOs perceive themselves as less competent in the eyes of the RGC. Cambodia's development is the responsibility of all sectors of society. The data from Key Milestone Four highlights that collaborations and partnerships between the RGC and civil society can be improved. More collaborations and better partnerships will likely lead to more responsible and sustainable development.

## Conclusion

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The analysis conducted throughout the three years of the FFMP reveals that the Cambodian legal framework does not fully comply with international human rights law and standards on fundamental freedoms. In particular, many of the laws regarding the freedoms of association and expression contravene international law. In contrast, however, the legal framework regarding the freedom of peaceful assembly generally complies with international human rights law. New legislation enacted during Year Three of the FFMP provides the RGC with additional legal tools to suppress fundamental freedoms – especially the freedoms of association and expression - in contravention of international human rights law and standards.

A strong legal framework that complies with international human rights law and standards is only one element of an enabling environment to exercise fundamental freedoms. The laws must be enforced in a fair, consistent and transparent manner. The FFMP found in Year Three, as in the previous years, that laws relating to fundamental freedoms continue to be arbitrarily enforced, and the RGC continues to take extralegal actions that curtail civic space.

Over the three years of the FFMP, the FFMP has showed that civil society leaders and the Cambodian public feel increasingly unfree to exercise fundamental freedoms. Although the FFMP has not investigated the reasons for this in any depth, it is a worrying trend because a vibrant civic space is a necessary component of a healthy society.

The FFMP provides a unique insight into the real situation of fundamental freedoms in Cambodia. It is hoped that the trends identified in this report will lead to better-informed, more constructive discussions to design new strategies to improve the legal environment for civil society and civic freedoms.

## Annex 1 – Methodology and Data Collection

*This Annex presents the methodology and data collection tools used to collect and analyze data for the FFMP.*

### Section 1: Methodology

The Monitoring Team began the FFMP by utilizing the Monitoring and Tracking Tool (MTT). The purpose of the MTT is to provide a clear and consistent mechanism for monitoring the legal and regulatory framework that governs civil society and civic participation in Cambodia, with a focus on the Law on Associations and Non-Governmental Organizations (LANGO) and other legislation affecting freedom of association, freedom of assembly and freedom of expression (fundamental freedoms). The MTT is the centerpiece of a long-term monitoring project, and was designed to systematically show the extent to which domestic laws comply with international human rights law and standards, and how the RGC and the Cambodian public understand and exercise fundamental freedoms.

The MTT was developed in November and December 2015, and was finalized in March 2016. The MTT has since been further adapted to mitigate issues highlighted by the first year of monitoring (01 April 2016 – 31 March 2017).

The third year of monitoring took place from 01 April 2018 – 31 March 2019. Results from monitoring were collated and reviewed on a quarterly basis: the First Quarter, 01 April 2018 – 30 June 2019; the Second Quarter, 01 July 2018 – 30 September 2018; the Third Quarter, 01 October 2018 – 31 December 2018; and the Fourth Quarter, 01 January 2019 – 31 March 2019.

The MTT is comprised of 94 individual indicators that correspond to four Key Milestones:

- The legal framework for fundamental freedoms meets international standards (Key Milestone One);
- The legal framework for fundamental freedoms is implemented and properly enforced (Key Milestone Two);
- Individuals understand fundamental freedoms, and feel free to exercise them (Key Milestone Three); and
- CSOs and Trade Unions (TUs) are recognized and can work in partnership with the RGC (Key Milestone Four).

Each Key Milestone relates to, and builds upon, the other Key Milestones. Key Milestone One represents the first step in the continuum and seeks to assess the degree to which Cambodian law is grounded in international best practice, and thus determine whether fundamental freedoms are guaranteed in the Cambodian legal framework. Key Milestone Two is the second step in the continuum and focuses on the implementation and enforcement of the legal framework. If Cambodian law meets international standards and is implemented and enforced properly, it should follow that fundamental freedoms are actualized and safeguarded for the Cambodian people. Even if the legal framework does not fully meet international standards, proper implementation and enforcement of some laws affecting fundamental freedoms will ensure that some of these basic rights are guaranteed. Key Milestone Three is the third step in the continuum and seeks to assess the general public's understanding of their fundamental freedoms under Cambodian law, and their ability to exercise these freedoms. Without a proper understanding, it is unlikely that people will use the legal avenues open to them to challenge infringements on their rights, thus greatly limiting people's ability to exercise the fundamental freedoms prescribed to them by law. This milestone therefore speaks to the strength of civil society in Cambodia, as well as of individuals, to access and

## Fundamental Freedoms Monitoring Project

act on their rights under the law. Finally, Key Milestone Four seeks to understand the extent to which CSOs/TUs can work together with the RGC to achieve common outcomes. It presupposes a strong legal framework, strong independent civil society and culture of partnership. Taken together, attainment of each element would represent the ideal state for fundamental freedoms in Cambodia.

The MTT also details the key activities of the Monitoring Team. It establishes definitions to ensure consistent application of key concepts and outlines a logic model, clearly articulating the elements of the four Key Milestones. The MTT details the indicators and metrics that are used to assess changes against each element and Key Milestone, as well as the data sources, persons responsible for data collection and the frequency of data collection. The MTT then details how the indicators are implemented by describing the data collection methodologies and data management processes (including the data quality assurances, data analysis processes, reporting mechanisms and information dissemination processes), the roles and responsibilities for implementation and the necessary capacity development requirements to support implementation. Last, the document outlines the processes for reviewing, updating and strengthening the MTT in the future.

### Section 2: Data Collection Methods

The Monitoring Team utilized six data collection methods to measure indicators related to each element under the Key Milestones. These data collection methods are:

#### 1. Media Monitoring

Media monitoring focuses on news coverage of fundamental freedoms. This method is used in two ways: first, it is used to collect data for indicators that seek to measure changes in the 'enabling environment', including changes in the RGC's implementation or interpretation of laws affecting fundamental freedoms. Second, it provides a means of tracking the number and types of incidents in which fundamental freedoms are violated or restricted.

Media Monitoring is undertaken daily by the Media Monitoring Team. Major national Cambodian newspapers, and several other media sources, are reviewed to identify relevant stories. Media sources include: the Phnom Penh Post (Khmer & English), the Cambodia Daily (Khmer & English), Khmer Times, Radio Free Asia, Radio France International, Dap News, Voice of Democracy, Voice of America, VAYO, Kohsantepheap, Reaksmei Kampuchea, Thmey Thmey, Kampuchea Thmey, Freshnews, Deum Tnot News, Women's Media Center, Preinokor, Khmer Sthapana News and Norkorwat News Daily, though it is notable that this monitoring period has witnessed the closure and sanctioning of a number of these sources (The Cambodia Daily included).

Once relevant articles are identified, they are reviewed by Monitoring Officers, who then enter the key information into a Media Monitoring Database. The Media Monitoring Database was developed to classify articles across several categories that correspond to individual indicators and elements contained in the MTT. The Monitoring Database is systematically reviewed each quarter.

#### 2. The Incident Reporting Mechanism

Alongside the Media Monitoring Mechanism, the Monitoring Team designed an Incident Report Form to further capture incidents of restrictions and violations of fundamental freedoms.

The Incident Report Form provides a means for individuals or associations who believe their fundamental freedoms have been violated to report these incidents to the Monitoring Team. When the Monitoring Team receives a complaint, or hears about a violation, it follows up with the alleged victim(s) and completes an Incident Report Form.



## Fundamental Freedoms Monitoring Project

The Incident Report Form captures both qualitative and quantitative data, including information about the incident itself, the location, the people involved, the type of association (if relevant) and the type of violation. Once an Incident Report Form is completed, team enters the key information into an Incident Reporting Database, where it can then be analyzed by the Monitoring Team. Case studies have been selected from among the Incident Reporting Database in order to highlight important cases or emerging trends.

Data quality checks are carried out on an ongoing basis and at the end of each quarter.

During Year Three, the Monitoring Team captured 167 unique incidents via Incident Reports (i.e. not recorded via Media Monitoring). The majority of incidents took place in Phnom Penh, with high numbers of incidents being reported in Kampong Cham, Rattanakiri, Preah Vihear, Mondul Kiri, and Kampong Chhnang, Pursat, and Prey Veng province.

### 3. The Survey of CSO and TU leaders (the CSO/TU Leaders' Survey)

A CSO/TU Leaders' Survey is an annual survey designed to capture the feelings and experiences of CSO/TU leaders with regards to their ability to exercise fundamental freedoms, in addition to other related issues.

CSO/TU leaders were selected at random to participate in the survey, using a sampling technique based on the records from major NGO coalitions and union confederations.

In Year Three, the CSO/TU Leaders' Survey was carried out from 20 November 2018 – 10 January 2019. The survey was completed online and through face-to-face interviews with 202 respondents. The results of the survey were entered into a database, verified, translated and cleaned, before being analyzed to identify trends in the different characteristics of CSOs or TUs which participated in the survey, as well as in the MTT indicators.

### 4. The Public Poll on Freedom of Association (the Public Poll)

A Public Poll was designed to gauge the general public's sentiment towards the exercise of fundamental freedoms, and is conducted annually so as to gauge shifts in this sentiment.

Convenience sampling is used to administer the poll. Consequently, the data collection form for the Public Poll was designed to be quickly administered in public locations around Cambodia, and does not seek to assess public sentiment in significant depth. The Monitoring Team went to sites where people congregate (markets, parks, shopping centers, etc.) and randomly selected people to participate in the poll.

The Public Poll was conducted between 14 February 2019 and 30 March 2019 across 22 provinces and included 992 respondents. The results of the poll were entered into a database by Monitoring Team staff. The data was then analyzed to identify trends in the different characteristics of respondents, as well as in the MTT indicators.

### 5. The Desk Review of Relevant Laws, Regulations, Decrees and Orders (the Desk Review)

The Desk Review constitutes an analysis of relevant Cambodian laws, Prakas, Circulars, Directives, and other policies, reports and regulations that affect the protection and exercise of fundamental freedoms. The Desk Review assesses the degree to which the Cambodian legal framework

## Fundamental Freedoms Monitoring Project

sufficiently guarantees fundamental freedoms, as required under international human rights law. As such, the Desk Review is concerned with the letter of the law, as opposed to its implementation.

Following a thorough review of international human rights law and standards, 36 indicators were identified as illustrative of whether or not fundamental freedoms are respected.<sup>174</sup>

As of Year Three, the following laws, subsequent amendments, and associated documents such as *Prakas*, are included in the Desk Review:

- The Constitution of the Kingdom of Cambodia (1993)<sup>175</sup>
- The Criminal Code of the Kingdom of Cambodia (2009)<sup>176</sup>
- The Civil Code of Cambodia (2007)<sup>177</sup>
- The Law on Associations and Non-Governmental Organizations (2015)<sup>178</sup>
- The Law on Peaceful Assembly (2009)<sup>179</sup> & The Implementation Guide to the Law on Peaceful Demonstration (2010)<sup>180</sup>
- The Law on Telecommunications (2016)<sup>181</sup>
- The Law on the Press (1995)<sup>182</sup>
- Law on Counter-Terrorism (2007)<sup>183</sup>
- Law on Trade Unions (2016)<sup>184</sup>
- Law on Education (2007)<sup>185</sup>
- Law on Agricultural Cooperatives (2013)<sup>186</sup>
- Law on Political Parties (1997)<sup>187</sup>
- Law on the Organization and Functioning of the Constitutional Council (1998)<sup>188</sup>
- Law on the Election of the Members of the National Assembly (1997)<sup>189</sup>
- Law on the Election of Commune Councils (2001)<sup>190</sup>
- Law on Anti-Corruption (2010)<sup>191</sup>
- Sub-Decree No. 148 on the Establishment and Management of the Special Economic Zone (2005)<sup>192</sup>

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<sup>174</sup> See Annex 2.

<sup>175</sup> Available at: [http://www.sithi.org/temp.php?url=law\\_detail.php&lg=&id=222](http://www.sithi.org/temp.php?url=law_detail.php&lg=&id=222). The updated version of the Constitution, as last amended in February 2018, is not yet available online.

<sup>176</sup> Available at: [http://www.sithi.org/temp.php?url=law\\_detail.php&lg=&id=154](http://www.sithi.org/temp.php?url=law_detail.php&lg=&id=154). The updated version of the Code, as last amended in February 2018, is not yet available online.

<sup>177</sup> Available at: [http://sithi.org/temp.php?url=law\\_detail.php&id=201](http://sithi.org/temp.php?url=law_detail.php&id=201).

<sup>178</sup> Available at: [http://www.sithi.org/temp.php?title=Law-on-Associations-and-Non-government-organizations&url=law\\_detail.php&lg=&id=275](http://www.sithi.org/temp.php?title=Law-on-Associations-and-Non-government-organizations&url=law_detail.php&lg=&id=275).

<sup>179</sup> Also translated as “Law of Peaceful Demonstration”, available at: [http://www.sithi.org/admin/upload/law/New\\_Law\\_on\\_Peaceful\\_Demonstration2009\(Kh\).pdf](http://www.sithi.org/admin/upload/law/New_Law_on_Peaceful_Demonstration2009(Kh).pdf) (Khmer) and <https://www.licadho-cambodia.org/delusion2011/laws/DemonstrationLaw-English.pdf> (English).

<sup>180</sup> Decision No. 2337, Decision on the Introduction of the Implementation Guide to the Law on Peaceful Demonstration (8 December 2010), Ministry of Interior, available at: [http://cambodia.ohchr.org/sites/default/files/Implementation\\_Guide-Rev\\_Eng.pdf](http://cambodia.ohchr.org/sites/default/files/Implementation_Guide-Rev_Eng.pdf).

<sup>181</sup> Available at: [http://www.sithi.org/temp.php?url=law\\_detail.php&lg=&id=277](http://www.sithi.org/temp.php?url=law_detail.php&lg=&id=277).

<sup>182</sup> Available at: [http://sithi.org/temp.php?url=law\\_detail.php&lg=&id=75](http://sithi.org/temp.php?url=law_detail.php&lg=&id=75).

<sup>183</sup> Available at: [http://www.sithi.org/temp.php?title=Law-on-Counter-Terrorism&url=law\\_detail.php&lg=&id=133](http://www.sithi.org/temp.php?title=Law-on-Counter-Terrorism&url=law_detail.php&lg=&id=133).

<sup>184</sup> Available at: [http://www.sithi.org/temp.php?title=The-Law-on-Trade-Union&url=law\\_detail.php&lg=&id=278](http://www.sithi.org/temp.php?title=The-Law-on-Trade-Union&url=law_detail.php&lg=&id=278).

<sup>185</sup> Available at: <http://www.moeys.gov.kh/en/laws-and-legislations/law/%E1%9E%85%E1%9F%92%E1%9E%94%E1%9E%B6%E1%9E%94%E1%9F%8B-%E1%9E%9F%E1%9F%92%E1%9E%8A%E1%9E%B8%E2%80%8B%E1%9E%96%E1%9E%B8-%E1%9E%80%E1%9E%B6%E1%9E%9A%E2%80%8B%E1%9E%A2%E1%9E%94%E1%9F%8B%E1%9E%9A%E1%9F%86.html#.W0Q1c9IzbDd>.

<sup>186</sup> Available at: <https://ctoacu.com/wp-content/uploads/2018/02/95208.pdf>.

<sup>187</sup> Available at: [http://www.sithi.org/temp.php?url=law\\_detail.php&lg=&id=65](http://www.sithi.org/temp.php?url=law_detail.php&lg=&id=65). The updated version of the Law, as last amended in July 2017, is not yet available online.

<sup>188</sup> Available at: <http://ngocedaw.org/wp-content/uploads/2014/10/Law-on-CC.-Eng.pdf>. The updated version of the Law, as last amended in February 2018, is not yet available online.

<sup>189</sup> Available at: [http://aceproject.org/ero-en/regions/asia/KH/cambodia-law-on-elections-of-members-of-the/at\\_download/file](http://aceproject.org/ero-en/regions/asia/KH/cambodia-law-on-elections-of-members-of-the/at_download/file). The updated version of the Law, as last amended in October 2017, is not yet available online.

<sup>190</sup> Available at: [http://sithi.org/temp.php?url=law\\_detail.php&id=67&lg=](http://sithi.org/temp.php?url=law_detail.php&id=67&lg=). The updated version of the Law, as last amended in October 2017, is not yet available online.

<sup>191</sup> Available at: [http://www.cambodiainvestment.gov.kh/anti-corruption-law\\_100417.html](http://www.cambodiainvestment.gov.kh/anti-corruption-law_100417.html).

## Fundamental Freedoms Monitoring Project

Several MTT indicators rely on these laws and regulations as the primary data source. On completing an analysis of each relevant law or regulation, staff assigned a rating, based on a five-point scale that scored Cambodia's legal framework against international human rights law and standards. The Monitoring Team assesses each of these indicators as impartially and objectively as possible, based only on the laws and regulations that are available. Where laws or regulations are not available, the indicator is deemed immeasurable.

The Desk Review is an ongoing exercise throughout the FFMP. Desk Review reports are generated quarterly to update analyses of laws and regulations that have been amended, as well as to include analyses of new or recently reviewed laws and regulations.<sup>193</sup>

### 6. Trade Union Registration Evaluation Tool

The mandatory registration of associations is one of the most contentious aspects of the Trade Union Law, which presents opportunities for officials to violate freedom of association. Thus, monitoring the efficiency and effectiveness of the registration processes will provide crucial insight into how well fundamental freedoms are protected.

The Monitoring Team captures this data through a "mystery shopper" exercise whereby select associations and trade unions evaluate their experiences registering under the TUL, using an evaluation form designed by the Monitoring Team. The evaluation form tracks interactions with government officials as trade unions navigate the registration process. The FFMP's Trade Union Registration Evaluation Tool recorded the experiences of 46 trade unions as they attempted to register under the TUL in Year Three.

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<sup>192</sup> Available at: [http://www.cambodiainvestment.gov.kh/sub-decree-148-ankr-bk-on-the-establishment-and-management-of-the-special-economic-zone-final\\_060314.html](http://www.cambodiainvestment.gov.kh/sub-decree-148-ankr-bk-on-the-establishment-and-management-of-the-special-economic-zone-final_060314.html).

<sup>193</sup> More information regarding the desk review is available upon request.

## Annex 2 – FFMP Results Table

The table below provides a summary of the data gathered by the Monitoring Team over ‘Year Three’ of monitoring (01 April 2018 – 31 March 2019). For Indicators that relied on a desk review as the source of data, a rating out of five was assigned in keeping with an assessment of the relevant documents (1=lowest rating possible, 3=average rating, 5=highest rating possible). For Indicators that relied on data sourced from the CSO/TU Leader Survey and Public Poll, a number was generated from an analysis of the responses. For Indicators that relied on Media Monitoring and Incident Reports as a data source, data was tallied and analyzed on a quarterly basis. Where possible, the annual result has been included for each indicator and has been color coded according to the following key.

Key:

	Highest Possible Ranking
	Average Rating
	Lowest Possible Ranking
	Unable to Rate

## Fundamental Freedoms Monitoring Project

Element	Indicator/s	Data Source	Year 1	Year 2	Year 3							Notes	
			Y1 Score	Y2 Score	Q1	Q2	Q3	Q4	Num.	De no m.	Y3 Score		
<b>1.1: FoAA&amp;E are guaranteed under domestic law</b>	Degree to which Cambodian laws or policies respect FoAA&E	Desk Review of Laws and Regulations	3	3	3	3	3	3	3	n/a	n/a	3	<i>Cambodia does not fully meet this element. The rights to freedom of association, assembly and expression are guaranteed by Article 42 of the Constitution of the Kingdom of Cambodia (Constitution).<sup>194</sup> However, these guarantees are significantly weakened by the February 2018 constitutional amendments, which, using overly broad language, require both individuals and political parties to "uphold national interests" and prohibits them from undertaking "any activities" which "directly or indirectly" affect "the interests" of the Kingdom of Cambodia and of Khmer citizens".<sup>195</sup> Guarantees related to fundamental freedoms also only apply to Cambodian citizens, and not others living in Cambodia. Thanks to Sub-decree 148 on Special Economic Zones, such rights also extend to workers in the SEZ. Additionally, the LANGO &amp; TUL provide some guarantees, but also contain a number of provisions that restrict fundamental freedoms.<sup>196</sup> Freedom of expression is significantly curtailed in a number of laws, including the Law on Political Parties, the Education Law, the Penal Code and Telecommunications Law. The Law on Peaceful Assembly, while being partially consistent with international standards, also contains vague provisions which could jeopardize freedom of assembly.</i>
<b>Freedom of Association</b>													
<b>1.2: The registration process for associations is fair and transparent</b>	Degree to which the registration process and fee schedule for registering associations is publicly advertised and clearly prescribed	Desk Review of Laws and Regulations	n/a	1	1	1	1	1	1	n/a	n/a	1	<i>Cambodia fails to meet this element. The registration requirements for CSOs and TUs under both the LANGO and the TUL are burdensome, onerous and vague, and do not comply with international standards.<sup>197</sup> Notably, Article 5 of the LANGO prevents certain individuals, such as individuals who do not hold the Khmer nationality, as well as persons under 18, from establishing a domestic association or NGO. There is also a lack of procedural safeguards in the registration process set out in the LANGO,<sup>198</sup> including an absence of clearly set out grounds for rejection of a registration request, thereby leaving the door open for arbitrary rejection. The TUL contains similarly onerous requirements for registration. In Year Three, the MoLVT</i>

<sup>194</sup> The Constitutional Council of the Kingdom of Cambodia's decision of 10 July 2007 authoritatively interpreted Article 31 of the Cambodian Constitution as meaning that international treaties ratified by Cambodia, including the ICCPR, are directly applicable in domestic law. See Constitutional Council of the Kingdom of Cambodia, Decision No. 092/003/2007 (10 July 2007).

<sup>195</sup> Draft Penal Code Amendment related to Lèse-majesté and Constitutional Amendments Promulgated, *Fresh News English*, 3 Mar 2018, <https://bit.ly/2DZYnKM>.

<sup>196</sup> The LANGO imposes mandatory registration for all associations (Article 6), and provides for burdensome, onerous and vague registration requirements (Chapters 2 and 3). The LANGO also provides for broad government oversight to deny registration (Article 8) and imposes onerous activity and financial reporting requirements (Article 25) while sanctions (Article 30) are disproportionate. The TUL imposes mandatory and burdensome registration requirements and broad grounds for the denial of registration (Article 15 and Prakas 249) and burdensome reporting requirements (Article 17).

<sup>197</sup> See CCHR, ADHOC, SC 'Fundamental Freedoms Monitoring Project – First Annual Report', (August 2017), pp. 4-7 available at: <https://cchrcambodia.org/admin/media/report/report/english/2017-08-10-CCHR-FFMP-Annual-Report-Eng.pdf>.

<sup>198</sup> Under Article 8, the Mol may deny the request for registration of a domestic association or NGO if its "purpose and goals" would "endanger the security, stability and public order, or jeopardize national security, national unity, culture, traditions and customs of Cambodian national society". The LANGO leaves the actual registration procedure to be determined by the Mol through administrative orders or *Prakas*.

## Fundamental Freedoms Monitoring Project

													issued a “Directive on Facilitating Procedures and Formalities for Union Registration”, <sup>199</sup> which instructs relevant officials to lift some of the existing registration requirements for unions. <sup>200</sup> While the MoLVT Directive removes some of the onerous registration requirements, it fails to remove other significant burdensome mandatory registration requirements set forth in the TUL and Prakas 249 which restrict the ability of unions to carry out their activities. <sup>201</sup> In particular, Article 15 of the TUL and Prakas 249 set forth broad ground for denial of registration, and impose registration requirements such as the requirement to provide a thumb-printed declaration that states that the individual can read and write Khmer and has never been convicted of a misdemeanor or felony. These requirements are inconsistent with international best practices.
<b>1.3: There is no limitations to the number of associations that can exist for similar purposes</b>	Degree to which laws or policies limit associations from being established for similar purposes	Desk Review of Laws and Regulations	5	5	5	5	5	5	n/a	n/a	5	Cambodia meets this element as there is no limit on the number of associations that may exist for similar purposes in the LANGO or other laws. Article 7 of the LANGO provides that the name, abbreviation, and logo of an association or non-governmental organization (“NGO”) shall not be the same as an association or NGO already registered, nor the Red Cross, Red Crescent, or international institutions. This restriction appears reasonable and proportionate as long as it is used in a fair, transparent, and consistent manner.	
<b>1.4: Associations can freely form networks of organizations, coalitions, federations, or other types of unions</b>	Degree to which laws or policies permit associations to form networks of organizations, coalitions, federations, or other types of unions	Desk Review of Laws and Regulations	3	3	3	3	3	3	n/a	n/a	3	Cambodia partially meets this element. The LANGO defines both domestic associations and NGOs as being potentially established by a “legal entity” which implies that networks of organizations, coalitions, etc. would be permitted. While the TUL explicitly recognizes the right for unions and employer associations to freely consult each other and affiliate with other unions and employer associations, the TUL also sets out an impermissibly restrictive test which constitutes an unjustified barrier to the formation of such network. <sup>202</sup>	
<b>1.5: Registration for associations is voluntary</b>	Degree to which laws or policies permit the voluntary registration of associations	Desk Review of Laws and Regulations	1	1	1	1	1	1	n/a	n/a	1	Cambodia fails to meet this element because the LANGO, TUL, LPP, and Law on Agricultural Cooperatives require mandatory registration. The LANGO’s definition of association is exceptionally broad, potentially applying to every informal group in Cambodia. Denying legal capacity and prohibiting unregistered entities from conducting any activity is inconsistent with the right to FoA – associations should be presumed to be operating lawfully until proven otherwise. Registration should be voluntary, based on a system of notification rather than authorization, and aimed only at obtaining legal capacity; it should not be a prerequisite for the ability to function lawfully.	

<sup>199</sup> Ministry of Labor and Vocational Training, “Directive on Facilitating Procedures and Formalities for Union Registration”, (Directive No: 039/18... K.B/ D.K.B.K); ‘Ministry of Labor calls for facilitation of union registration’, Thmey Thmey (16 Jan 2019), available at: <https://thmeythmey.com/?page=detail&id=73554/>.

<sup>200</sup> The specific registration requirements lifted in the MoLVT directive include: (1) No requirement of providing additional information of union leader’ family members; (2) No immediate requirement to submit work book and NSSF membership card when submitting the application forms for union registration, by allowing union to provide these documents within 45 days from the day that the union was registered; (3) Allow administrative staff of union federation or union confederation to help facilitate registration of their own local union.

<sup>201</sup> See CCHR, ADHOC, Solidarity Center, ‘Fundamental Freedoms Monitoring Project, First Annual Report,’ (August 2017), p. 4.

<sup>202</sup> Article 10 of the TUL.

## Fundamental Freedoms Monitoring Project

<b>1.6: Provisions for the supervision of associations comply with international standards</b>	Degree to which laws or policies for the oversight of associations that are in keeping with international standards	Desk Review of Laws and Regulations	2	1	1	1	2	2	n/A	n/a	2	Cambodia does not meet this element. International best practices dictate a minimalist approach to regulation/oversight, with very close scrutiny of attempts to interfere with the choices that associations and their members make about the organization and its affairs. The LANGO requires associations to give advance notification of certain activities that take place outside the 'home' province, and demands that INGOs closely cooperate with the RGC. The TUL specifies the content of unions' statutes, the amount of members' dues, and leaders' term limits. The issuance of the October 2017 Mol letter implementing a prior notification regime for all CSO activities contravened international standards for supervision of association activities. This led the score to be reduced to 1 in Year Two, but this regime of prior notification was repealed by a Mol directive in November 2018. The scope of the 2018 directive appears limited to civil society groups who have registered with the Mol, therefore leaving open the possibility that activities of unregistered small groups or communities may still be hindered by the local authorities.
<b>1.7: Protections for associations from third parties are in place</b>	Degree to which laws or policies protect associations from third party interference	Desk Review of Laws and Regulations	3	3	3	3	3	3	n/a	n/a	3	Cambodia does not fully meet this element. Freedom of association is guaranteed in the Constitution, but the LANGO contains no specific protections for associations or sanctions for third parties who interfere with associations. The TUL, however, contains protections for unions from interference by employers into their internal affairs and collective bargaining, and from illegal disruptions to a strike. There are also sanctions for those who interfere with the formation of unions, federations and coalitions. <sup>203</sup> The Special Economic Zones Trouble Shooting Committee has the power to receive complaints but only from the zone investors or the zone developer. This Committee could be used by such actors to interfere with relevant associations, such as trade unions.
<b>1.8: Association reporting requirements to the RGC comply with international best practices</b>	Degree to which reporting requirements comply with international best practices	Desk Review of Laws and Regulations	2	2	2	2	2	2	n/a	n/a	2	Cambodia fails to meet this element. The reporting requirements for CSOs and TUs under both the LANGO and the TUL are deemed onerous and not in compliance with international standards. Smaller organizations or informal groups are likely to be disproportionately affected because they have fewer resources to devote to complying with the numerous requirements. Both the LANGO and TUL require CSOs or TUs to submit frequent financial and activity reports to the Mol. <sup>204</sup> In Year Three, the Ministry of Economy and Finance issued a "Declaration on the Implementation Guidelines on Tax Obligations of the Associations and NGOs". The reporting requirements set forth in this Declaration also amount to an overly burdensome reporting requirement, which likely impermissibly restricts the freedom of association. <sup>205</sup>

<sup>203</sup> In addition, The Special Economic Zones Trouble Shooting Committee has the power to receive complaints but only from the zone investors or the zone developer. This Committee could be used by such actors to interfere with relevant associations, such as trade unions.

<sup>204</sup> See CCHR, ADHOC, SC 'Fundamental Freedoms Monitoring Project – First Annual Report', (August 2017), pp. 4-7 available at: <https://cchrcambodia.org/admin/media/report/report/english/2017-08-10-CCHR-FFMP-Annual-Report-Eng.pdf>.

<sup>205</sup> Prakas No. 464 SHV.BrK, 'Instruction in tax compliance of association and non-governmental organizations,' available at: [http://www.ccc-cambodia.org/kh/download?file\\_id=1982&action=view&view\\_file\\_id=15344110635b754137359069.22781697](http://www.ccc-cambodia.org/kh/download?file_id=1982&action=view&view_file_id=15344110635b754137359069.22781697) (unofficial English translation); <https://www.facebook.com/camfina/photos/pcb.1889337224451162/188933541118010/?type=3&theater> (Khmer).

## Fundamental Freedoms Monitoring Project

<b>1.9: Sanctions for associations are prescribed by law, proportionate, publicly available, narrowly defined, transparent and easy to understand</b>	Degree to which sanctions for associations are prescribed by law, proportionate, publicly available, narrowly defined, transparent and easy to understand	Desk Review of Laws and Regulations	2	1.5	1.5	1.5	1.5	1.5	1.5	n/a	n/a	1.5	Cambodia fails to meet this element. Sanctions for CSOs, TUs and political parties under the LANGO, TUL and the amended LPP, respectively, are disproportionate and do not meet international standards. <sup>206</sup> Many sanctions under the TUL and LANGO are also not narrowly defined, easy to understand, or transparent. The LANGO provides a wide range of sanctions, including dissolution and deregistration, for vague, ill-defined and difficult to understand actions, such as not being "political neutral". The TUL contains similarly ill-defined, vague actions that can result in sanctions, including a ban on organizing for "political purposes" or for "personal ambitions". Furthermore, The Penal Code enumerates many ill-defined and disproportionate sanctions that can apply to associations and leaders, including for "incitement to commit a crime", "insult", "criticism of a judicial order" and defamation. The Telecommunications Law, <sup>207</sup> Counter Terrorism Law, <sup>208</sup> The Law on the Election of Members of the National Assembly, and the Law on the Election of Commune Councils also contains sanctions for disproportionate, broad and ill-defined actions. <sup>209</sup>
<b>1.10: Procedural safeguards are in place for associations facing sanctions</b>	Degree to which safeguards are in place for associations facing sanctions	Desk Review of Laws and Regulations	2	2	2	2	2	2	2	n/a	n/a	2	Cambodia does not meet this element. There are some safeguards included in the LANGO, such as escalating penalties and a right of appeal in cases of deregistration, but overall safeguards are inadequate. The TUL contains no right of appeal to a court of law for administrative sanctions, although Prakas 251 of the Ministry of Labor and Vocational Training (MLVT) has created a limited right of administrative appeal to the MLVT when a warning letter is received or a fine imposed. For penalties contained in the Penal Code, there is a right of appeal. The LPP contains limited safeguards for sanctions, even though the executive enjoys a high degree of discretion in imposing the penalties, which are broadly and vaguely defined.
<b>1.11: The right to voluntary dissolution is protected by law</b>	Degree to which voluntary dissolution is protected by law	Desk Review of Laws and Regulations	4	4	4	4	4	4	4	n/a	n/a	4	Cambodia generally meets this element. Article 26 of the LANGO provides that a domestic association "may suspend its activities by providing a written notification to the Ministry of Interior" and by providing its final activity and financial reports. However, the vague provisions of Article 26(2) may create barriers to voluntary dissolution, as they require that a domestic association "shall, prior to its dissolution, clear its obligations in accordance with the procedures and provisions in force". The Civil Code guarantees voluntary dissolution of legal entities at Article 64(1). Under Article 64(1), a legal person shall be dissolved on "the occurrence of a ground of dissolution prescribed in the articles of incorporation." Associations may be dissolved by a vote or resolution among its members, provided the decision is supported by a majority of all the members holding not less than three-fourths of the voting rights (Article 64(2) and (3)).

<sup>206</sup> See CCHR, ADHOC, SC 'Fundamental Freedoms Monitoring Project – First Annual Report', (August 2017), pp. 4-7 available at: <https://cchrcambodia.org/admin/media/report/report/english/2017-08-10-CCHR-FFMP-Annual-Report-Eng.pdf>.

<sup>207</sup> See Article 107 of the Law On Telecommunications.

<sup>208</sup> See Articles 7, 76, 77 and 78 of the Counter-Terrorism Law.

<sup>209</sup> See Article 74 of the Law on the Election of Commune Councils.



## Fundamental Freedoms Monitoring Project

<b>1.12: Dissolution is only possible after other legal avenues are exhausted and clear and imminent danger from the association is present</b>	Degree to which dissolution processes are in place	Desk Review of Laws and Regulations	1	1	1	1	1	1	n/a	n/a	1	<i>Cambodia fails to meet this element. Dissolution of associations is possible under the Penal Code, Counter-Terrorism Law, LANGO, LPP, and TUL. In each case, dissolution can be imposed as a purely punitive measure, not as a proportionate, last-resort response to a danger presented by the continued operation of the association. Specifically, measures of suspension or dissolution of a trade union by the administrative authority constitute serious infringements of the principles of freedom of association.<sup>210</sup></i>
<b>1.13: Associations are permitted to engage in economic activities</b>	Degree to which laws or policies permit associations to engage in economic activities	Desk Review of Laws and Regulations	5	4	4	4	4	4	n/a	n/a	4	<i>Cambodia generally meets this element. There is no law regulating Cambodian NGOs' engagement in economic activities. While this right isn't protected, it is not prohibited either. The TUL however, prevents unions from running a business, except for those holding the Most Representative status in the workplace.</i>
<b>1.14: Access to foreign funding is permitted under the law</b>	Degree to which the law permit associations to access foreign funding	Desk Review of Laws and Regulations	4	4	4	4	4	4	n/a	n/a	4	<i>Cambodia meets this element. There are no legal prohibitions on associations from receiving foreign funding. However it is worth noting that Article 27 of the LANGO places additional, stringent reporting requirements on NGOs that seek and/or receive foreign funds. Additionally, Article 25 of the LANGO requires that domestic and foreign associations receiving support from donors must submit copies of the original documents sent to the donors to the Mol or MEF and MFA respectively within thirty days of the date on which they were sent to the donors; they must also submit one copy of project documents and funding agreements with donors within 30 days of date when a new project or funding agreement is established. Given that most third-party funding for associations is likely to originate in foreign sources, this may in practice act as a barrier to receipt of foreign funding, particularly for smaller organizations. There is also risk that these provisions may be abused to harass associations that receive foreign support.</i>
<b>1.15: Associations do not face unreasonable restrictions on receiving funding from private sources (domestic)</b>	Degree to which laws or policies permit associations to receiving funding from private sources without unreasonable restrictions	Desk Review of Laws and Regulations	4	4	4	4	4	4	n/a	n/a	4	<i>Cambodia meets this element. There are no legal prohibitions on receiving funding from private domestic sources. However, receipt of support from any donor, foreign or domestic, will trigger the LANGO's reporting requirements which, in practice, may act as a barrier, particularly for smaller organizations. Specifically, Article 25 of the LANGO requires that domestic and foreign associations receiving support from donors must submit copies of the original documents sent to the donors to the Mol or MEF and MFA respectively within thirty days of the date on which they were sent to the donors; they must also submit one copy of project documents and funding agreements.</i>
<b>1.16: Financial reporting obligations are not onerous</b>	Degree to which financial reporting requirements are in compliance with international best practices	Desk Review of Laws and Regulations	2	2	2	2	2	2	n/a	n/a	2	<i>Cambodia does not fully meet this element. The LANGO imposes heavy financial reporting obligations, including the provision of annual financial reports and detailed information on funding received. Stringent financial reporting requirements are also contained in the TUL, and subject to change from the Minister of Labor at any time. The Anti-Corruption law also provides a new obligation to declare assets and liabilities to the Anti-Corruption Unit.</i>

<sup>210</sup> 2016 ILO Digest on FoA, paragraph 683.

## Fundamental Freedoms Monitoring Project

													Finally, the reporting requirements set forth in the Declaration on the Implementation Guidelines on Tax Obligations of the Associations and NGOs introduced in Year Three also amount to an overly burdensome reporting requirement, which likely impermissibly restricts the freedom of association.
<b>1.17: Mechanisms for redress for violations of FoA are in place</b>	Degree to which redress systems for violations of FoA are guaranteed by laws and policies	Desk Review of Laws and Regulations	3	2.5	2.5	2.5	2.5	2.5	2.5	n/a	n/a	2.5	Cambodia does not fully meet this element. The Constitution empowers citizens to challenge any violations of their constitutional rights. However, judicial review procedures are not clearly defined, making these guarantees less effective. The Law on the Organization and the Functioning of the Constitutional Council allows for citizens to challenge laws or decisions that constitute violations of their constitutional rights. However, this law was amended in February 2018 to remove the possibility for a political party to appeal a decision of the Ministry of Interior denying its registration.
<b>Freedom of Assembly</b>													
<b>1.18: Presumption in favor of holding peaceful assemblies is clearly and explicitly established</b>	Degree to which the legal framework establishes a presumption in favor of peaceful assemblies being permitted	Desk Review of Laws and Regulations	n/a	3	3	3	3	3	3	n/a	n/a	3	Cambodia fails to fully meet this element. Cambodian legislation does not explicitly and clearly establish a presumption in favor of holding peaceful assemblies. The Law on Peaceful Assembly contains a presumption in favor of holding peaceful assemblies, as it states that the competent authority “shall respond positively in writing”. <sup>211</sup> However, the presumption does not apply if the peaceful assembly is to take place during some public holidays (the King’s birthday, Coronation Day, the Water Festival, National Independence Day, Khmer New Year Day, and Pchum Ben Day). In addition, if there is “clear information” indicating that the demonstration “may cause danger” or “may seriously jeopardize security, safety and public order,” the presumption is also nullified. <sup>212</sup> Additionally, the extremely narrow scope of the law, which excludes election campaign rallies, or assemblies related to a labor dispute for instance, goes against the establishment of the above-mentioned presumption. <sup>213</sup> Similarly, the Labor Law also excludes a number of activities from the scope of its protection. <sup>214</sup> Finally, the Law on the Election of Members of the National Assembly and the Law on the Election of Commune Council also fail to include an explicit provision that the assembly must be authorized. <sup>215</sup>
<b>1.19: Assemblies do not require previous authorization by RGC or other</b>	Degree to which the legal framework protects the right to assembly without	Desk Review of Laws and Regulations	n/a	3.5	3.5	3.5	4	4	4	n/a	n/a	4	Cambodia partially meets this element. Articles 5 and 7 of the Law on Peaceful Assembly sets out a system of prior notification rather than prior authorization. Additionally, Article 20 of the Law on Peaceful Assembly does not require prior notification for “other gatherings which serve religion, art, culture, national customs and tradition” or for “educational

<sup>211</sup> Article 9 of the Law on Peaceful Assembly.

<sup>212</sup> In such a case, under Article 11 of the Law on Peaceful Assembly, the competent authority must inform the organizers “immediately” in order to “have time to meet with local authorities and other relevant authorities to discuss solutions.” If no agreement is reached, the Minister of Interior shall provide the final decision in writing and at least 24 hours before the scheduled peaceful assembly (Article 12).

<sup>213</sup> Article 3 of the Law on Peaceful Assembly.

<sup>214</sup> While the Labor Law provides in Article 320 that the right to strike is “guaranteed,” it limits the circumstances in which strikes may lawfully take place. In particular, the right to strike “can be exercised only when all peaceful methods for settling the dispute with the employer have already been tried out”.

<sup>215</sup> Article 78 of the Law on the Election of Members of the National Assembly and the Law on the Election of Commune Council provides that the managers of public theaters, sport centers, and public parks and halls “shall” make their own facilities available to all candidates and political parties that have registered and requested to rent them for their electoral campaign.



## Fundamental Freedoms Monitoring Project

<b>1.23: Simultaneous assemblies at the same location and time are allowed</b>	Degree to which the legal framework allows simultaneous assemblies	Desk Review of Laws and Regulations	n/a	5	5	5	5	5	n/a	n/a	5	Cambodia meets this element. There is no prohibition on simultaneous assemblies. Article 14 of the Law on Peaceful Assembly provides that where two different groups wish to hold a peaceful assembly at the same time and venue, the authority will decide in favor of the group that submitted its notification letter first, or permit the second group to hold their assembly at least 500 meters away from the other assembly. This provision forms part of Article 14, which deals with the specific case of assemblies taking place in designated "Freedom Parks" or on private property. However, Section 2, Article 2-4-5 of the Implementation Guide make clear that authorities should "use their best efforts" to assure that all groups wanting to demonstrate are able to do so and that, "to the extent possible", they are able to do so in the manner, time and location they requested.
<b>1.24: An expedited appeal procedure before an independent and impartial body is established for assembly restrictions</b>	Degree to which expedited appeals procedures are provided for in the legal framework	Desk Review of Laws and Regulations	n/a	3	3	3	3	3	n/a	n/a	3	Cambodia does not fully meet this element. Under the Law on Peaceful Assembly, authorities must respond to a notification letter within a maximum period of three working days starting from the date of which the notification letter was submitted. <sup>223</sup> Failure to reply within this window "implies the competent municipal or provincial territorial authorities have approved". <sup>224</sup> Where there is clear information that the demonstration may cause danger or jeopardize safety or public order, the authorities must inform the organizers "immediately", and have three days to meet with the assembly leaders to reach an agreement. If no agreement is reached, Article 12 provides that the Minister of Interior shall be the one providing the final decision in writing at least 24 hours before the scheduled peaceful assembly. However, it cannot be considered to be an "independent and impartial body". The Minister of Interior – as a member of the executive branch – is not an "independent body." There is no possibility of further appeal to a court of law.
<b>1.25: Prior notification procedure for assemblies conforms with international best practice</b>	Degree to which the legal notification procedures for assemblies conforms to international best practice	Desk Review of Laws and Regulations	n/a	3.5	3.5	3.5	4	4	n/a	n/a	4	Cambodia partially meets this element. The Law on Peaceful Assembly, <sup>225</sup> the Labour Law, <sup>226</sup> and the Election Laws contain notification procedures. <sup>227</sup> Generally, the notification procedures under Cambodian law respect international human rights law and standards and appear proportionate. The information required is not too burdensome; it could legitimately be required. However, the Law on Peaceful Assembly imposes a disproportionate restriction on freedom of assembly by imposing prior notification requirements on all gatherings, with no minimum number of participants. <sup>228</sup>

<sup>223</sup> Article 12 of the Law on Peaceful Assembly.

<sup>224</sup> Article 10 of the Law on Peaceful Assembly.

<sup>225</sup> Articles 6,7,10, 14, 20 and 28 of the Law on Peaceful Assembly.

<sup>226</sup> Articles 324 and 327 of the Labour Law.

<sup>227</sup> Articles 78, 79 and 81 of the Law on Elections of Members of the National Assembly; Article 78 of the Law on the Election of Commune/Sangkat Council.

<sup>228</sup> Articles 6,7,10, 14, 20 and 28 of the Law on Peaceful Assembly.

## Fundamental Freedoms Monitoring Project

<b>1.26: Organizers are not subject to criminal or administrative sanctions for failure to notify authorities</b>	Degree to which the legal framework contains criminal and/or administrative sanctions for organizers failing to notify authorities of an assembly	Desk Review of Laws and Regulations	n/a	3	3	3	3	3	3	n/a	n/a	3	<i>Cambodia does not fully meet this element. The Law on Peaceful Assembly provides for a warning to be given to an assembly organizer who does not provide a notification.<sup>229</sup> Both the TUL and the Labor Law provide that strikes not complying with their provisions, including the prior notification requirements, are to be considered unlawful.<sup>230</sup> However, only a court can determine the legality or illegality of a strike.<sup>231</sup> Nevertheless, the Trade Union Law provides that if the strikers continue a strike declared to be illegal and fail to comply with a warning, they will be subjected to a “transitional fine” not exceeding 5 million riel (approximately \$1200).<sup>232</sup> While the fine is only a last recourse following several warnings, the amount of the fine constitutes a disproportionate restriction on workers right to freedom of association.</i>
<b>1.27: Police are obliged to facilitate peaceful assemblies</b>	Degree to which policing laws and policies support the peaceful assemblies	Desk Review of Laws and Regulations	n/a	5	5	5	5	5	5	n/a	n/a	5	<i>Cambodia meets this element. The Law on Peaceful Assembly provide that the competent authorities should be responsible in protecting the peaceful demonstration, and shall not interfere in the conduct of the peaceful assembly.<sup>233</sup> Competent authorities to respond to requests for assistance from assembly organizers, to ensure “their right to freedom of peaceful assembly and the exercise of their right to freedom of expression publicly with dignity”.<sup>234</sup> In case of violence, the implementation guidelines state unequivocally that an assembly can only be dispersed when no other options exist;<sup>235</sup> it adds that the actions of the police must be proportional to the situation and only be used to the extent necessary.<sup>236</sup></i>
<b>1.28: Organizers of assemblies are not responsible for financial charges for the provision of public services</b>	Degree to which the legal framework protects organizers from being financially responsible for the provision of public services during assemblies	Desk Review of Laws and Regulations	n/a	5	5	5	5	5	5	n/a	n/a	5	<i>Cambodia meets this element. The Law on Peaceful Assembly does not provide that assembly organizers are responsible for financial charges for the provision of public services.</i>

<sup>229</sup> Article 21 of the Law on Peaceful Assembly; See also Section 3, Article 4-4-1 of the Implementation Guide.

<sup>230</sup> Article 92 of the Trade Union Law.

<sup>231</sup> Article 337 of the Labour Law.

<sup>232</sup> Article 92 of the Trade Union Law.

<sup>233</sup> Article 17 of the Law on Peaceful Assembly.

<sup>234</sup> Article 18 of the Law on Peaceful Assembly.

<sup>235</sup> Section 2, Article 3-6-4.

<sup>236</sup> Section 2, Article 3-6-5.

## Fundamental Freedoms Monitoring Project

<b>1.29: Assembly organizers and participants are not responsible or liable for the unlawful conduct of others, or the maintenance of public order</b>	Degree to which the legal framework enables organizers and participants to be held legally responsible for the unlawful conduct of others and/or the maintenance of public order	Desk Review of Laws and Regulations	n/a	4	4	4	4	4	n/a	n/a	4	Cambodia generally meets this element. Assembly organizers are not responsible or liable for property damage related to an event turned violent. In case a peaceful assembly turns violent, as referred to in Article 20 (2) of the Law on Peaceful Assembly, the assembly organizers shall receive a written warning. Articles 23 to 27 deal with a number of situations such as the carrying of weapons or dangerous substances, robbery, damage to private or public property, violence resulting in injuries or death. In all cases, the law states clearly that the individual who commits the act is to be held responsible. It does not attribute liability for the organizers and participants for the actions or others.
<b>1.30: State use of force is mandated only when indispensable to control the situation in a reasonable and proportional manner</b>	Degree to which the legal framework limits the State's use of force to situations where it is indispensable to control the situation, in a reasonable and proportional manner	Desk Review of Laws and Regulations	n/a	4	4	4	4	4	n/a	n/a	4	Cambodia generally meets this element. If a peaceful assembly turns violent, competent authorities shall take proper measures to prevent and stop the demonstration immediately. <sup>237</sup> Articles 23-27 of the Law on Peaceful Assembly set out how authorities should respond if a demonstration turns violent or demonstrators commit crimes. Responses range from confiscating weapons, to taking a person into custody, to application of the criminal law. Any intervention by the police must be proportional to the situation, and be only used to the extent necessary to promptly restore order. <sup>238</sup> Moreover, the law makes no provision for the use of force by the authorities, although it does not explicitly prohibit it.
<b>1.31: A communications records system to monitor orders, those responsible for them, and those implementing them, is mandated</b>	Degree to which a communications records system is mandated by the legal framework	Desk Review of Laws and Regulations	n/a	2	2	2	2	2	n/a	n/a	2	Cambodia fails to meet this element. The Law on Peaceful Assembly does not provide for such a communications record system, although Article 19 provides that "competent authorities designated to maintain security, safety and public order at venues of peaceful assembly shall wear proper uniforms and display name plates and identity codes on the front parts of their uniforms," which promotes accountability and facilitates the identification of wrongdoers.
<b>Freedom of Expression</b>												
<b>1.32: Restrictions to FoE comply with the three-part test from Article 19 of ICCPR</b>	Degree to which laws affecting FoE comply with the three-part test from Article 19 of ICCPR	Desk Review of Laws and Regulations	n/a	1	1	1	1	1	n/a	n/a	1	A significant number of Cambodian laws place restrictions upon the right to freedom of expression which do not comply with the three part test from Article 19 of ICCPR. Cambodia therefore fails to meet this element. <sup>239</sup> In particular, the Criminal Code of the Kingdom of Cambodia (specifically the criminal offenses of defamation, insult, incitement, and the February 2018 introduction of a lèse-majesté offense); the Law on Associations and Non-Governmental Organizations (LANGO); the Law on Election of Members of the National Assembly (LEMNA); the

<sup>237</sup> Articles 20(2), 23-27 of the Law on Peaceful Assembly.

<sup>238</sup> Article 3-6-5 of the Implementation Guide.

<sup>239</sup> Article 2(1) of the ICCPR requires each State Party to the ICCPR to "respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant." Furthermore, the Constitutional Council of the Kingdom of Cambodia's decision of 10 July 2007 authoritatively interpreted Article 31 of the Cambodian Constitution as meaning that international treaties ratified by Cambodia, including the ICCPR, are directly applicable in domestic law. See Constitutional Council of the Kingdom of Cambodia, Decision No. 092/003/2007 (10 July 2007).







## Fundamental Freedoms Monitoring Project

<b>2.1: RGC institutions understand the rights and obligations related to FoAA&amp;E</b>	% of statements in the media that show a correct understanding of FoAA&E by RGC representatives	Media Monitoring	48%	23%	10%	0%	3%	2%	101	658	15%	See question 2.1 of the MM.
<b>Freedom of Association</b>												
<b>2.2: RGC institutions respect the rights, obligations and exercise of FoA</b>	# of reports in the media where the RGC demonstrates respect the rights, obligations and exercise of FoA	Media Monitoring	202	33	20	0	7	8	35	n/a	33	See question 2.1 of the MM.
	# of incidents reported where RGC institutions are violating FoA	Incident Reporting	114	220	30	32	28	11	101	n/a	101	See question 2.2 of the IR
<b>2.3: The registration process for associations is implemented fairly and transparently</b>	Degree to which the registration process for associations is implemented fairly and transparently	'Mystery Shopper' Evaluation of the Registration Process for Associations	n/a	1	n/a	n/a	n/a	n/a	n/a	n/a	1	Information on this indicator was only available from three NGOs in Year Three. The data is therefore insufficient to determine any illustrative trend. Two NGOs were told to correct their application a few times after submitting their application. One NGO was required to change the name of their organization, as well as to change their by-laws. No reasons were given for these requirements. However, two NGOs still highlighted a general improvement related with the process of registration.
<b>2.4: Multiple associations may exist for similar purposes</b>	# of registration applications denied due to multiple associations existing for similar purposes	Incident Reporting	0	1	0	0	0	0	0	n/a	0	See question 2.4 of IR.
		'Mystery Shopper' Evaluation of the Registration Process for Associations	n/a	0	0	0	0	0	0	n/a	0	No registrations were denied for this reason.
<b>2.5: Associations can freely form networks, coalitions, federations, or other types of unions</b>	% of association leaders who report interference with attempts to form networks, coalitions, federations, or other types of unions	CSO-TU Leader Survey	n/a	38%			44%		82	186	44%	See question 4.1 of the CSO/TU leader survey.
	# of incident reports that includes interference in attempts by associations	Incident Reporting	0	14	0	0	0	0	0	n/a	0	See question 2.5 of the IR.

## Fundamental Freedoms Monitoring Project

	to form networks, coalitions, federations, or other types of unions											
<b>2.6: Associations operate without excessive RGC supervision</b>	% of associations leaders who report excessive supervision by the RGC in the last year	CSO-TU Leader Survey	n/a	76%			74%		68	92	74%	See question 4.5 of the CSO/ TU leader survey.
	# of incidents of RGC supervision of associations violating international standards reported in the media	Media Monitoring	188	184	22	11	3	7	43	n/a	43	See question 2.6 of the MM.
<b>2.7: Individuals are not targeted due to their involvement with associations</b>	% of association leaders who report victimization due to their involvement in their association	CSO-TU Leader Survey	3%	35%			36%		65	182	36%	See question 5.6 the CSO/TU leader survey.
	% of individuals who report victimization due to their involvement in an association	Public Poll	n/a	14%			19%		71	371	19%	See question 3.3 of the Public Poll.
<b>2.8: Associations are protected from third party interference</b>	% of association leaders who report third party interference	CSO-TU Leader Survey	23%	25%			17%		31	184	17%	See question 4.7 of the CSO/TU leader survey.
	# of incidents of third party interference	Media Monitoring	24	35	3	3	3	1	10	n/a	10	See question 2.8 of the MM.
		Incident Reporting	n/a	8	8	1	2	3	14	n/a	14	See question 2.8 of the IR.
<b>2.9: Associations are not subject to excessive or burdensome reporting requirements</b>	% of association leaders who report being subject to excessive or burdensome reporting requirements	CSO-TU Leader Survey	n/a	60%			58%		104	180	58%	See question 4.12 of the CSO/TU leader survey.
<b>2.10: Sanctions for associations are implemented in accordance with Cambodian law</b>	% of association leaders know their rights under Cambodian law and report that the sanctions did not follow the processes prescribed in Cambodian law	CSO-TU Leader Survey	100%	100%			100%		14	14	100%	See question 4.18 of the CSO/TU leader survey. Small number of respondents to this question means great variance from year to year.
	# of incidents reported that include sanctions that are not	Media Monitoring	n/a	12	1	0	0	0	1	n/a	1	See question 2.10 of the MM.

## Fundamental Freedoms Monitoring Project

	implemented in accordance with Cambodian law											
		Incident Reporting	n/a	3	0	0	0	0	0	n/a	0	See question 2.10 of the IR.
<b>2.11: Associations have recourse to safeguards if they are sanctioned</b>	% of association leaders who report having recourse to safeguards in cases of sanctions	CSO-TU Leader Survey	50%	42%			9%		3	35	9%	See question 4.19 of the CSO/TU leader survey. Small number of respondents to this question means great variance from year to year.
	# of association leaders who report having recourse to safeguards in cases of sanctions	Incident Reporting	0	0	0	0	1	0	1	n/a	1	See question 2.11 of the IR.
<b>2.12: Dissolution of association occurs only after legal avenues are exhausted and clear and imminent danger is present</b>	# of involuntary dissolutions of associations	Incident Reporting	0	0	0	0	0	0	0	n/a	0	See question 2.12 of the IR.
	# of dissolutions which occur before legal avenues are exhausted and without clear and imminent danger present	Incident Reporting	n/a	0	0	0	0	0	0	n/a	0	See question 2.12 Incident report.
<b>2.13: Associations are not restricted from engaging in economic activities</b>	% of association leaders reporting that associations are being restricted in engaging in economic activities	CSO-TU Leader Survey	4%	7%			3%		6	184	3%	See question 4.22 of the CSO/TU leader survey.
<b>2.14: Associations are not restricted in accessing funding</b>	% of association leaders reporting that associations are not restricted in accessing funding		n/a	83%			72%		263	366	72%	See questions 4.24 and 4.26 of the CSO/TU leader survey. Domestic funding = 73%, Foreign funding = 71%.
<b>2.15: Associations do not face complicated Government procedures to access funding</b>	% of association leaders reporting that associations do not face complicated procedures to access funding	CSO-TU Leader Survey	0%	0%			0%		0	14	0%	See questions 4.25 and 4.27 of the CSO/TU leader survey.

## Fundamental Freedoms Monitoring Project

<b>2.16: Associations are not subject to excessive financial reporting requirements</b>	% of association leaders reporting that associations are subject to excessive financial reporting requirements	CSO-TU Leader Survey	n/a	60%			58%		104	180	58%	See question 4.12 of the CSO/TU leader survey.
	% of association leaders reporting that associations cannot meet financial reporting requirements	CSO-TU Leader Survey	62%	36%			16%		29	184	16%	See question 4.10 of the CSO/TU leader survey.
<b>2.17: Authorities that violate FoA and related rights are held accountable for such violations by an independent oversight body and/or courts of law</b>	# of instances reported where FoA violations are resolved by an independent oversight body and/or courts of law	CSO-TU Leader Survey	70%	18%			0%		0	31	0%	See question 4.21 of the CSO/TU leader survey. Small number of respondents to this question means great variance from year to year.
		Incident Reporting	0	0	0	0	0	0	0	n/a	0	See question 2.17 of the IR.
<b>2.18: RGC institutions take actions that respect and promote marginalized groups' FoA</b>	# of instances reported in the media of FoA related issues for marginalized groups	Media Monitoring	n/a	2	1	0	0	1	2	n/a	2	See question 2.18 of MM.
	# of instances reported where RGC discriminates against marginalized groups	Media Monitoring	20	10	1		2		3	n/a	3	See question 2.18 of MM.
		Incident Reporting	n/a	4	0	0	0	0	0	n/a	0	See question 2.18 of IR.
<b>2.19: Laws and regulations affecting FoA are accessible to the general public</b>	% of laws and regulations affecting FoA that are advertised in the Royal Gazette	Desk Review of the Royal Gazette	n/a	0	1	0	0	1	n/a	n/a	0	Since the start of Year 3, FOA has been affected by the Amended Law on Political Party (January 2019) and Prakas No.464 SHV/Br.K on Tax Obligations of Association and NGOs (April 2018), which appears in the Royal Gazette.
<b>Freedom of Assembly</b>												
<b>2.20: Association representatives, individually or through their organization, can exercise the freedom of peaceful assembly</b>	% of association leaders who report being able to exercise the freedom of peaceful assembly freely	CSO-TU Leader Survey	19%	10%			4%		7	184	4%	See question 5.2 of the CSO/TU leader survey.
	# of incidents reported that identify a restriction on the freedom of assembly	Incident Reporting	n/a	45	11	10	19	17	57	n/a	57	See question 2.20 of IR.

## Fundamental Freedoms Monitoring Project

	% of assemblies' subject to undue interference reported in the media	Media Monitoring	n/a	6%	2%	4%	1%	1%	57	658	9%	See question 2.20 of MM.
<b>2.21: Groups can assemble without seeking or receiving prior authorization from the authorities</b>	# of assemblies which are restricted or prohibited in advance due to a lack of prior authorization	Media Monitoring	n/a	7	2	2	0	2	6	n/a	6	See question 2.21 of MM.
		Incident Reporting	n/a	2	1		4	5	10	n/a	10	See question 2.21 of IR.
	# of assemblies which are interfered with due to a lack of prior authorization	Media Monitoring	n/a	6	3	1	7	5	16	n/a	16	See question 2.21 of MM.
		Incident Reporting	n/a	9	2	1		2	5	n/a	5	See question 2.21 of IR.
<b>2.22: Prohibiting an assembly is a measure of last resort, where necessary and proportionate to the aim pursued</b>	% of planned assemblies reported in the media which are prohibited	Media Monitoring	n/a	3%	1%	1%	1%	1%	22	658	3%	See question 2.22 of MM.
	% of prohibitions reported in the media with a clear justification provided	Media Monitoring	n/a	2%	1%	0%	0%	0%	11	658	2%	See question 2.22 of MM.
	% of prohibitions reported in the media that were a measure of last resort, necessary and proportionate	Media Monitoring	n/a	3%	0%	0%	0%	0%	0	658	0%	See question 2.22 of MM.
	# of incident reports of prohibitions of planned assemblies	Incident Reporting	n/a	10	2	1	4	3	10	n/a	10	See question 2.22 of IR.
	# of incident reports of prohibitions without a clear justification provided	Incident Reporting	n/a	9	2	1	2	0	5	n/a	5	See question 2.22 of IR.
	# of incident reports of prohibitions that were not a measure of last resort, necessary and proportionate	Incident Reporting	n/a	10	1	1	0	0	2	n/a	2	See question 2.22 of IR.
	# of assembly prohibitions which occur as a measure of last resort, where	Incident Reporting	n/a	0	0	0	0	0	0	n/a	0	See question 2.22 of IR.

## Fundamental Freedoms Monitoring Project

	necessary and proportionate to the aim pursued												
<b>2.23: Legitimate, timely and fulsome reasons for the imposition of any restrictions are provided by authorities to organizers</b>	% of demonstrations subject to the imposition of restrictions reported in the media which were provided with timely and fulsome reasons for the imposition	Media Monitoring	n/a	0.50 %	0%	0%	0%	0%	2	658	0%		See question 2.23 of MM.
	# of demonstrations reported where traffic flow was cited as a reason for restricting an assembly	Media Monitoring	n/a	4	4	1	0	3	8	n/a	8		See question 2.23 of MM.
		Incident Reporting	n/a	1	0	0	0	0	0	n/a	8		See question 2.23 of IR.
	# of demonstrations reported in the media that were restricted due another demonstration already taking place or being scheduled to take place	Media Monitoring	n/a	1	0	0	0	0	0	n/a	0		See question 2.23 of MM.
		Incident Reporting	n/a	0	0	0	0	0	0	n/a	0		See question 2.23 of IR.
	# of incidents reports where assemblies were restricted without timely and fulsome reasons being provided in writing	Incident Reporting	n/a	10	5	0	3	0	8	n/a	8		See question 2.23 of IR.
<b>2.24: Demonstrations are not restricted to locations or times where impact will be muted</b>	# of demonstrations reported were restricted to designated spaces or times that muted their impact	Media Monitoring	n/a	10	7	3	2	1	13	n/a	13		See question 2.24 of MM.
		Incident Reporting	n/a	3			2		2	n/a	2		See question 2.24 of IR.
<b>2.25: Spontaneous assemblies are exempt from prior notification</b>	% of assemblies reported in the media that were said to be spontaneous that faced restrictions or interference for lacking	Media Monitoring	n/a	0%	0%	0%	0%	0%	0	658	0%		See question 2.25 and 2.21 of MM.

## Fundamental Freedoms Monitoring Project

	prior notification												
	# of incidents reports of spontaneous assemblies that face restrictions or interference for lacking prior notification	Incident Reporting	n/a	0	0	0	0	0	0	0	n/a	0	See question 2.25 of IR.
<b>2.26: Assembly organizers are not penalized for failing to notify authorities</b>	# of assembly organizers who face criminal or administrative sanctions for failing to notify authorities reported	Media Monitoring	n/a	2	0	0	0	2	2	2	n/a	2	See question 2.26 of MM.
		Incident Reporting	n/a	0	0	0	0	0	0	0	n/a	0	See question 2.26 of MM.
<b>2.27: The police actively protect peaceful assemblies</b>	# of assemblies reported in the media where the police fail to protect peaceful assembly	Media Monitoring	n/a	18	0	4	6	1	11	11	n/a	11	See question 2.27 of MM.
	# of incidents reports that identify third-party interference in an assembly	Incident Reporting	n/a	0	1	0	0	0	1	1	n/a	1	See question 2.27 of IR.
<b>2.28: Assembly organizers are not financially responsible for financial charges for the provision of public services</b>	# of incident reports where assembly organizers made financially responsible for provision of public services	Incident Reporting	n/a	0	0	0	0	0	0	0	n/a	0	See question 2.28 of IR.
<b>2.29: Assembly organizers and participants are not liable for the conduct of others</b>	# of incident reports assembly organizers who are made liable for the conduct of others	Incident Reporting	n/a	0	0	0	0	0	0	0	n/a	0	See question 2.29 of IR.
<b>2.30: Redress for third-party interference with assemblies occurs</b>	# of assemblies reported in the media where there was third-party interference and there was redress	Media Monitoring	n/a	10	0	0	0	0	0	0	n/a	0	See question 2.30 of IR.
	# of incident reports where there was third-party interference	Incident Reporting	n/a	0	0	0	0	0	0	0	n/a	0	See question 2.30 of IR.

## Fundamental Freedoms Monitoring Project

	and there was no redress												
<b>2.31: State use of force is exercised only in exceptional circumstances, is proportionate and justified</b>	# of assemblies reported in the media where the state actors use force proportionately and justifiably	Media Monitoring	n/a	2	0	0	0	0	0	0	n/a	0	See question 2.31 of MM.
	# of assemblies reported where the state actors use force is disproportionate and/or exercised unjustifiably	Media Monitoring	n/a	2	0	0	0	2	2	2	n/a	2	See question 2.31 of MM.
		Incident Reporting	n/a	0	0	0	0	0	0	0	n/a	0	See question 2.31 of IR.
<b>2.32: Monitors at assemblies can operate freely</b>	# of assemblies reported where there was interference with monitors at assemblies	Media Monitoring	n/a	6	0	0	0	0	0	0	n/a	0	See question 2.32 of MM.
		Incident Reporting	n/a	2	1	0	9	3	13	13	n/a	13	See question 2.32 of IR.
<b>Freedom of Expression</b>													
<b>2.33: Association representatives, individually or through their organizations can exercise FoE</b>	% of association leaders who report being able to exercise FoE	CSO-TU Leader Survey	8%	9%			4%		8	184	4%		See question 5.1 of CSO/TU leader survey.
	# of incidents reported that identify a restriction on FoE	Incident Reporting	n/a	36	13	22	16	12	63	n/a	63		See question 2.33 of IR.
<b>2.34: Association representatives, individually and through their organizations, can safely impart information through any media</b>	% of association leaders who report being able to safely impart information through any media	CSO-TU Leader Survey	9%	17%			14%		87	641	14%		See question 5.4-5.7 of CSO/TU leader survey. Newspaper = 14%, Social Media = 13%, TV = 13%, Radio = 15%.
	# of incidents reported that identify a restriction on the ability to impart information through any media	Incident Reporting	n/a	8	2	2	0	1	5	n/a	5		See question 2.34 of IR.



## Fundamental Freedoms Monitoring Project

<b>2.35: The right to FoE can be exercised without undue interference or retaliation</b>	# reports of individuals or entities are accused of crime(s) because of exercising FoE	Media Monitoring	n/a	91	21	17	3	6	47	n/a	47	See question 2.35 of MM.
		Incident Reporting	n/a	2	5	0	1	0	6	n/a	6	See question 2.35 of IR.
	# reports of individuals are summonsed by authorities for protected speech	Media Monitoring	n/a	34	10	13	2	6	31	n/a	31	See question 2.35 of MM.
		Incident Reporting	n/a	1	4	0	0	0	4	n/a	4	See question 2.35 of IR.
	# reports of individuals are questioned by authorities for protected speech	Media Monitoring	n/a	44	11	17	10	6	44	n/a	44	See question 2.35 of MM.
		Incident Reporting	n/a	3	6	0	1	0	7	n/a	7	See question 2.35 of IR.
	# reports of individuals are detained for protected speech	Media Monitoring	n/a	37	10	8	4	8	30	n/a	30	See question 2.35 of MM.
		Incident Reporting	n/a	3	0	0	0	0	0	n/a	0	See question 2.35 of IR.
	# reports of individuals are charged with crime(s) for protected speech	Media Monitoring	n/a	33	6	10	0	4	20	n/a	20	See question 2.35 of MM.
		Incident Reporting	n/a	2	0	0	0	0	0	n/a	0	See question 2.35 of IR.
	# reports of individuals are arrested for protected speech	Media Monitoring	n/a	34	10	8	3	6	27	n/a	27	See question 2.35 of MM.
		Incident Reporting	n/a	2	1	0	0	0	1	n/a	1	See question 2.35 of IR.
	# reports of individuals are convicted of crime(s) for protected speech	Media Monitoring	n/a	13	2	3	2	0	7	n/a	7	See question 2.35 of MM.
		Incident Reporting	n/a	1	0	0	0	0	0	n/a	0	See question 2.35 of IR.
	# reports of individuals receiving administrative sanctions for protected speech	Media Monitoring	n/a	16	1	0	0	0	1	n/a	1	See question 2.35 of MM.
		Incident Reporting	n/a	0	0	0	0	0	0	n/a	0	See question 2.35 of IR.
<b>2.36: Information is not arbitrarily censored</b>	# reports of websites being blocked in Cambodia arbitrarily	Media Monitoring	n/a	1	0	15	0	0	15	n/a	15	See question 2.36 of MM.
		Incident Reporting	n/a	0	0	0	0	0	0	n/a	0	See question 2.36 of IR.
	# reports of media outlets shut down, sanctioned or suspended arbitrarily	Media Monitoring	n/a	8	2	1	1	0	4	n/a	4	See question 2.36 of MM.

## Fundamental Freedoms Monitoring Project

		Incident Reporting	n/a	0	0	0	0	0	0	n/a	0	See question 2.36 of IR.
	# of reports of artistic works banned or restricted arbitrarily	Media Monitoring	n/a	5	3	1	1	0	5	n/a	5	See question 2.36 of MM.
		Incident Reporting	n/a	0	0	0	0	0	0	n/a	0	See question 2.36 of IR.
<b>2.37: Surveillance of communications complies with the laws of Cambodia</b>	# reports of surveillance activities undertaken without judicial oversight (electronic, other)	Media Monitoring	n/a	8	2	0	0	1	3	n/a	3	See question 2.37 of MM.
		Incident Reporting	n/a	2	0	0	0	0	0	n/a	0	See question 2.37 of IR.
	# reports of private communications collected by Government being published	Media Monitoring	n/a	5	0	0	0	0	0	n/a	0	See question 2.37 of MM.
		Incident Reporting	n/a	0	0	0	0	0	0	n/a	0	See question 2.37 of IR.
<b>2.38: Access to non-classified and non-sensitive information held by the Government is not restricted</b>	# of reports of individuals seeking to access non-classified and/or non-sensitive information held by the government who are restricted	Media Monitoring	n/a	0	n/a	n/a	n/a	n/a	0	n/a	0	
		Incident Reporting	n/a	0	n/a	n/a	n/a	n/a	0	n/a	0	

**Key Milestone 3: Individuals know and understand the Freedoms of Association, Assembly and Expression, and feel free to exercise the**

Element	Indicator/s	Data Source	Year 1		Year 2		Year 3			Num .	De no m.	Y3 Score	Notes
			Y1 Score	Y2 Score	Q1	Q2	Q3	Q4					
<b>3.1: Individuals understand their rights to FoAA&amp;E</b>	% of individuals who can correctly explain or define the right of FoAA&E	Public Poll	41%	14%					11%	314	2976	11%	Average of scores below. Different approach to the question used in Year 2 may explain some of the difference to Year 1.
	Freedom of Association		17%	12%					6%	61	992	6%	See Questions 4.1 & 4.2 of the public poll. Different approach to the question used in Year 2 may explain some of the difference to Year 1.
	Freedom of Expression		56%	16%					13%	129	992	13%	See Questions 4.3 & 4.4 of the public poll. Different approach to the question used in Year 2 may explain some of the difference to Year 1.
	Freedom of Assembly		49%	15%					13%	124	992	13%	See Questions 4.5 & 4.6 of the public poll. Different approach to the question used in Year 2 may explain some of the difference to Year 1.
<b>3.2: Individuals understand the legal limitations of their rights</b>	% of individuals who can correctly identify the limitations to their rights	Public Poll	51%	60%					53%	4749	8928	53%	See Question 4.9 to 4.17 of the public poll.

## Fundamental Freedoms Monitoring Project

<b>3.3: Individuals feel they can access redress systems for infringements to their rights</b>	% of individuals who can correctly identify mechanisms for redress	Public Poll	14%	38%				47%	1106	2332	47%	See question 5.8 of public poll (the correct answer was court, ministry or national assembly, police).
	% of individuals who feel that they can access a redress mechanism if their rights are violated	Public Poll	n/a	4%				4%	40	992	4%	See Questions 5.9 of the public poll.
<b>3.4: Individuals have confidence in redress systems for infringements to their rights</b>	% of individuals who report believing that redress systems are an effective remedy	Public Poll	5%	2%				3%	28	992	3%	See Questions 5.10 of the public poll.
<b>3.5: Individuals feel free to participate in political life</b>	Extent to which people feel free to participate in political life	Public Poll	10%	8%				5%	45	992	5%	See Questions 5.7 of the public poll.
<b>Freedom of Association</b>												
<b>3.6: Individuals understand the laws pertaining to FoA</b>	% of individuals who can correctly explain or define their right to FoA under Cambodian law	Public Poll	55%	12%					61	992	6%	See Questions 4.1 of the public poll. Different approach to the question used in Year 2 may explain some of the difference to Year 1.
<b>3.7: Individuals feel free to associate (for any lawful, peaceful purpose)</b>	Extent to which people feel free to associate for any lawful purpose peacefully	Public Poll	14%	18%				13%	128	992	13%	See Questions 5.5 of the public poll.
<b>3.8: Individuals understand their right to collectively bargain</b>	% of individuals who can correctly explain or define the right to collective bargaining	Public Poll	6%	10%				7%	71	992	7%	See Questions 4.7 of the public poll. Different approach to the question used in Year 2 may explain some of the difference to Year 1.
<b>Freedom of Assembly</b>												
<b>3.9: Individuals feel free to assemble peacefully</b>	Extent to which people feel free to peacefully assemble	Public Poll	12%	20%				13%	132	992	13%	See Questions 5.3 of the public poll. Different approach to the question used in Year 2 may explain some of the difference to Year 1.
<b>3.10: Individuals feel free to strike</b>	Extent to which people feel free to strike	Public Poll	10%	5%				5%	48	992	5%	See Questions 5.6 of the public poll.
<b>Freedom of Expression</b>												
<b>3.11: Individuals feel free to impart information to the media</b>	Extent to which people feel free to impart information to the media	Public Poll	11%	10%				6%	57	992	6%	See Questions 5.4 of the public poll.

## Fundamental Freedoms Monitoring Project

<b>3.12: Individuals feel free to express themselves</b>	Extent to which people feel free to speak openly about all subjects in public	Public Poll	13%	6%				4%	39	992	4%	See Questions 5.1 of the public poll.
<b>Key Milestone 4: Civil Society Organizations and Trade Unions are recognized and can work in partnership with the RG</b>												
			Year 1	Year 2	Year 3							
Element	Indicator/s	Data Source	Y1 Score	Y2 Score	Q1	Q2	Q3	Q4	Num .	De no m.	Y3 Score	Notes
<b>4.1: CSOs and TUs are recognized as legitimate and competent development partners</b>	% of CSO and TU leaders who report being recognized as competent development partners	CSO-TU Leader Survey	63%	48%			36%		66	181	36%	See Questions 6.2 of the CSO-TU leader survey.
	% of CSO and TU leaders who report being recognized as legitimate	CSO-TU Leader Survey	62%	59%			60%		108	180	60%	See Questions 6.1 of the CSO-TU leader survey.
<b>4.2: RGC institutions are open to partnerships with CSOs and TUs that aim to improve the work or services of the institution</b>	% of CSO and TU leaders who report partnering with RGC institutions	CSO-TU Leader Survey	69%	41%			38%		69	183	38%	See Questions 6.3 of the CSO-TU leader survey. Different approach to the question used in Year 2 may explain some of the difference to Year 1.
<b>4.3: Public financing is available for capacity building of CSOs and TUs</b>	# of financing opportunities issued for CSOs and TUs in the last year reported in the media	Media Monitoring	0	0	0	0	0	0	0	n/a	0	Media monitoring found no such opportunities during the reporting period.
	% of CSO and TU leaders who report being able to access financing for capacity building of CSOs and/or TUs	CSO-TU Leader Survey	n/a	25%			0%		0	61	0%	See Questions 6.11 of the CSO-TU leader survey.
<b>4.4: Public financing opportunities for CSOs and TUs are explicit, open and transparent</b>	# of financing opportunities issued by RGC Agencies reported in the media that are explicit, open and transparent	Media Monitoring	0	0	0	0	0	0	0	n/a	0	
	% of CSO and TU leaders who report that public financing opportunities for CSOs and TUs are explicit, open and transparent	CSO-TU Leader Survey	n/a	19%			8%		5	62	8%	See Questions 6.10 of the CSO-TU leader survey.

## Fundamental Freedoms Monitoring Project

<b>4.5: Opportunities for participation and membership on RGC panels/boards for CSOs and TUs are explicit, open and transparent</b>	# of advertised opportunities for CSO and TU participation membership on RGC panels/boards for CSOs and TUs are explicit, open and transparent	Media Monitoring	0	0	0	0	0	0	0	n/a	0	See Question 4.4 of Media Monitoring.
	% of CSO-TU leaders who report opportunities for participation and membership on RGC panels/boards are explicit, open and transparent	CSO-TU Leader Survey	6%	37%			21%		20	96	21%	See Questions 6.7 of the CSO-TU leader survey. Different approach to the question used in Year 2 may explain some of the difference to Year 1.
<b>4.6: CSOs and TUs are active participants in decision and law making processes</b>	% of CSOs and TUs leaders who report being active participants in decision and law making processes	CSO-TU Leader Survey	0%	1%			1%		2	182	1%	See Questions 6.8 of the CSO-TU leader survey.
<b>4.7: Policy structure for CSOs and TUs to work as partners with the RGC is implemented</b>	Degree to which a legislative structure for CSOs and TUs to work as partners with the RGC is implemented	Desk Review of Structure	n/a	n/a			n/a				n/a	The data required to analyze this indicator is not available. No comprehensive review of relevant laws and RGCs policies could be undertaken as a result of the lack of accessibility of the required materials.
<b>4.8: Joint initiatives with CSOs and TUs are established (official collaborations for specific projects)</b>	# of joint initiatives that are undertaken by CSOs and TUs in the last year	CSO-TU Leader Survey	n/a	59			57		57	n/a	57	See Question 6.4 of CSO-TU leaders survey. The way respondents answered this question in the survey makes it difficult to quantify the result. A large number of the respondents answered 'many' rather than giving a specific number or estimate.

## Annex 3 – FFMP Public Poll 2019: Questions and Results

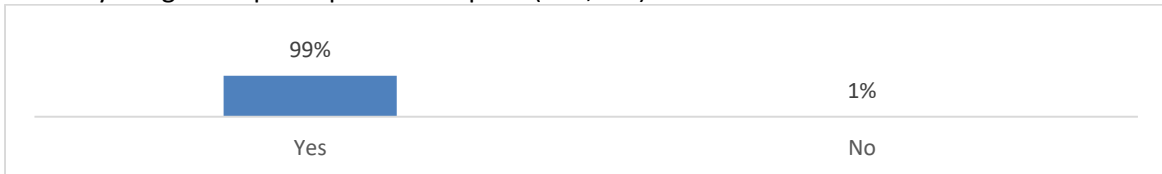
This annex presents the questions and results of the public poll, which was conducted from 14 February – 30 March 2019 across 22 provinces, and surveyed 1,002 respondents. The Project used “convenience sampling” to collect data, whereby staff members visited locations with pedestrian traffic, such as marketplaces and pagodas, and questioned members of public at random.

### Section 1: Administrative Details

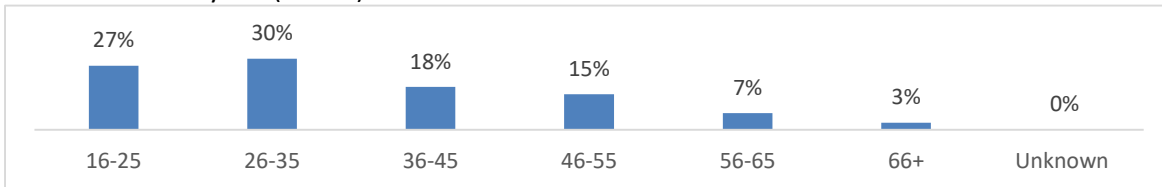
Section 1 did not contain any results. Rather, it was used by the project staff before initiating polling to record administrative details such as: date, location, interviewer, etc.

### Section 2: Consent

2.1: Do you agree to participate in this poll? (n=1,002)

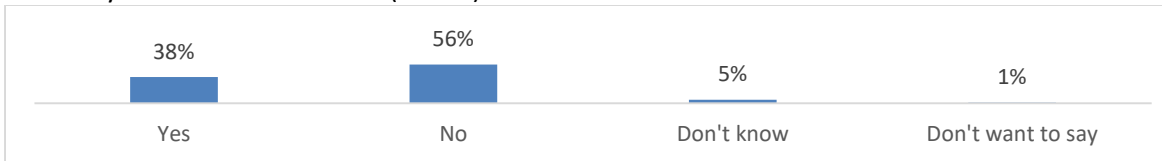


2.3: How old are you? (n=992)

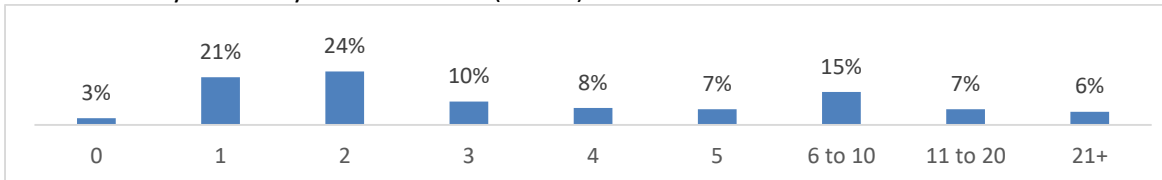


### Section 3: Civil Society Organization (CSO) Membership

3.2: Are you involved in a CSO? (n=992)



3.3: How many CSO are you involved in? (n=357)



3.4: Have you ever been victimized due to your involvement in a CSO? (n=371)



### Section 4: Understanding Fundamental Freedoms

Public understanding of fundamental freedoms was measured by asking respondents to answer two questions: “Do you know what freedom of \_\_\_ means?” and, after the interviewer provided an

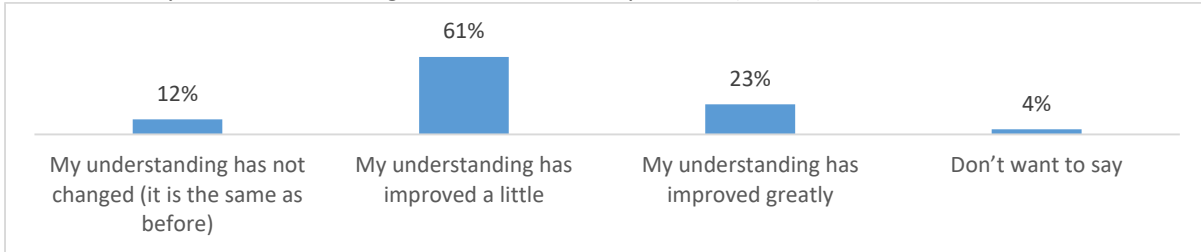
## Fundamental Freedoms Monitoring Project

explanation of the fundamental freedom in question, “Now that I have explained what the freedom of \_\_\_ is, how has your understanding of this freedom improved?” Those individuals who responded to the first question, “Yes I know clearly,” and to the second, “My understanding has not changed (it is the same as before)” were deemed to have a full understanding of the fundamental freedom. Understanding of collective bargaining was determined through the same process.

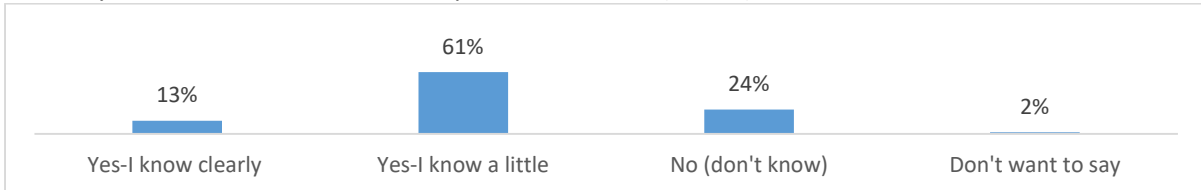
4.1: Do you know what freedom of association means? (n=992)



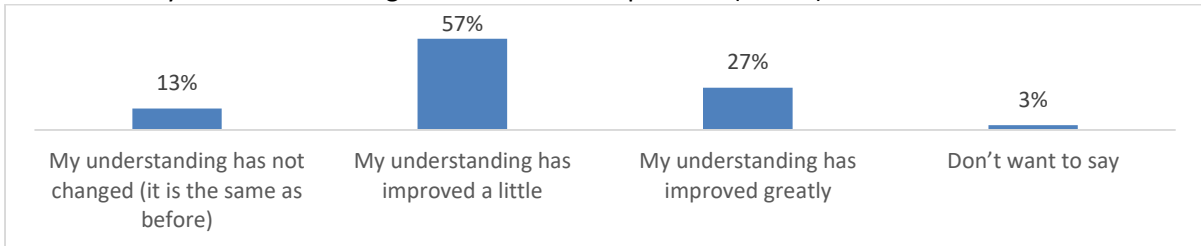
4.2: How has your understanding of this freedom improved? (n=992)



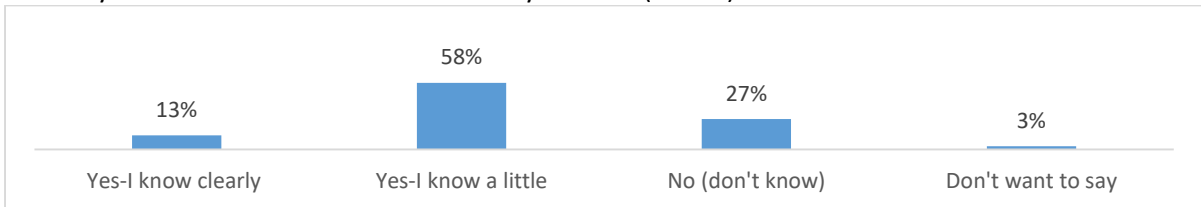
4.3: Do you know what freedom of expression means? (n=992)



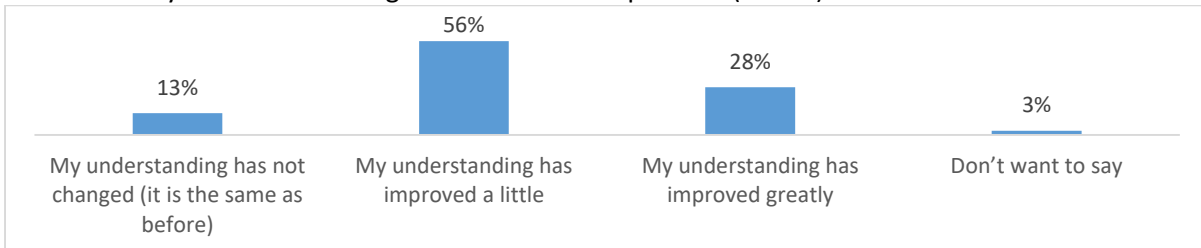
4.4: How has your understanding of this freedom improved? (n=992)



4.5: Do you know what freedom of assembly means? (n=992)

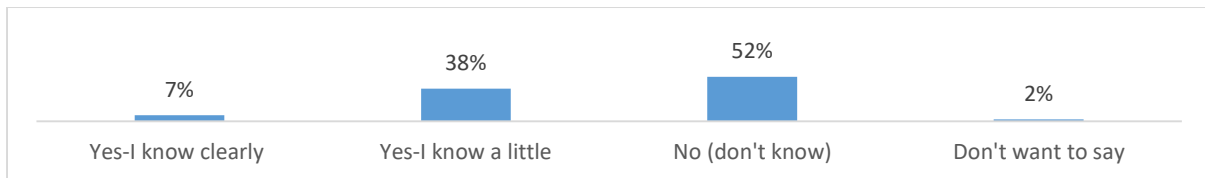


4.6: How has your understanding of this freedom improved? (n=992)

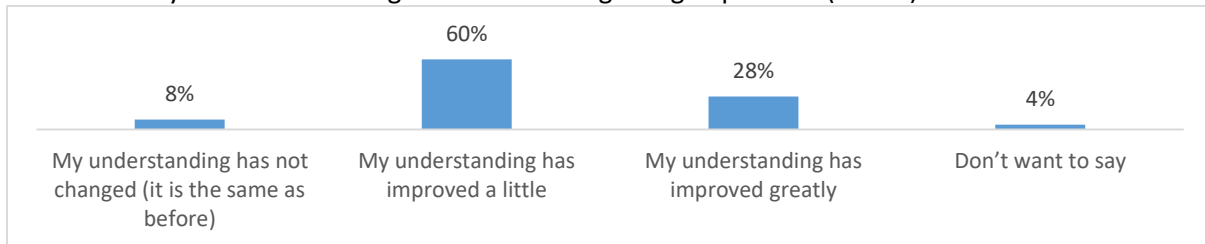


4.7: Do you know what collective bargaining means? (n=992)

## Fundamental Freedoms Monitoring Project



4.8: How has your understanding of collective bargaining improved? (n=992)



4.9: Is it legal to run an unapproved saving group? (n=992)



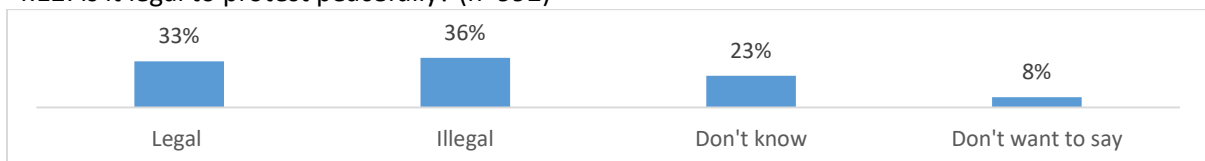
4.10: Is it legal to discuss politics with people? (n=992)



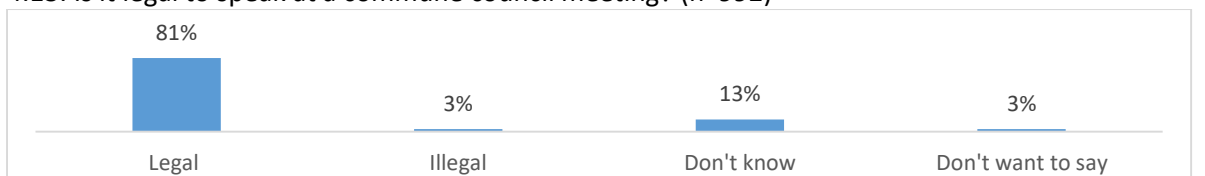
4.11: Is it legal for a CSO to carry out activities without notifying the authorities? (n=992)



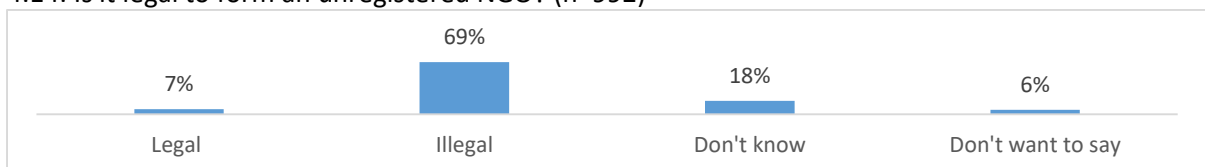
4.12: Is it legal to protest peacefully? (n=992)



4.13: Is it legal to speak at a commune council meeting? (n=992)



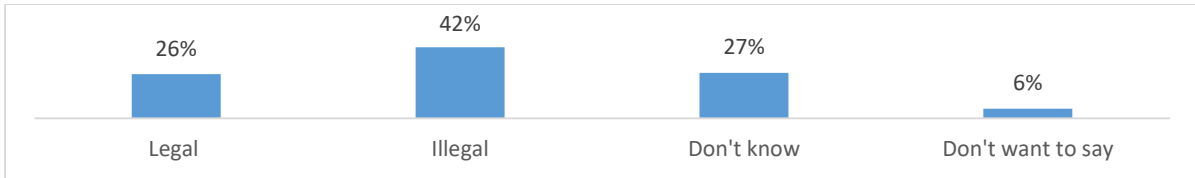
4.14: Is it legal to form an unregistered NGO? (n=992)



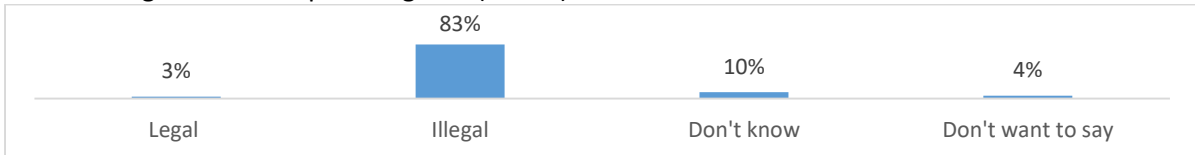
4.15: Is it legal to strike without permission? (n=992)



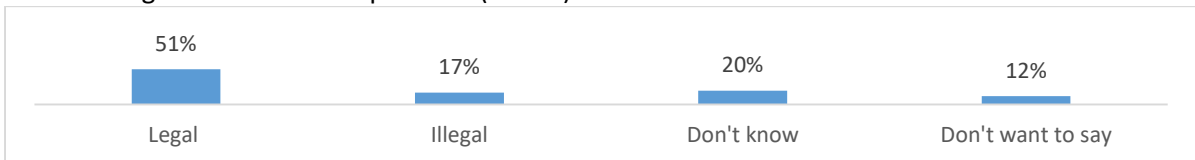
## Fundamental Freedoms Monitoring Project



### 4.16: Is it legal to insult a public figure? (n=992)

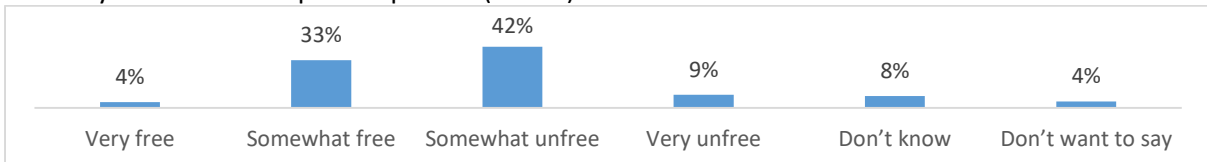


### 4.17: Is it legal to criticize RGC policies? (n=992)

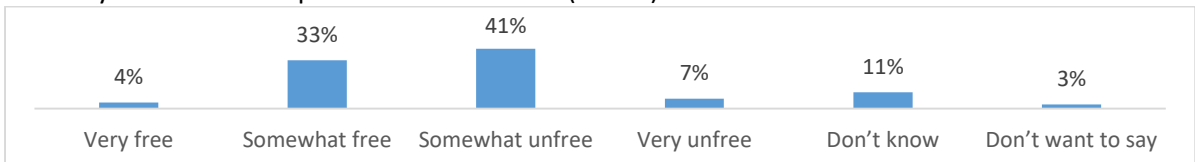


## Section 5: Exercising Fundamental Freedoms

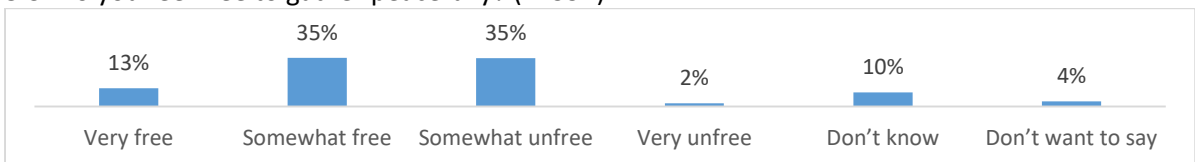
### 5.1: Do you feel free to speak in public? (n=992)



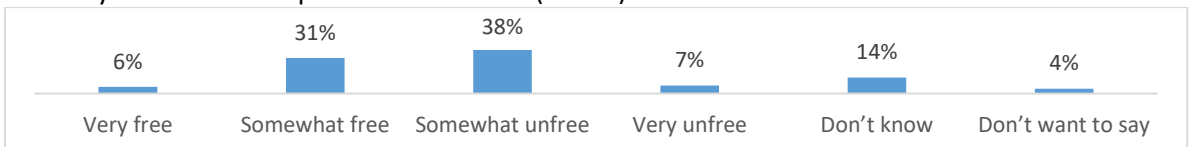
### 5.2: Do you feel free to speak on social media? (n=992)



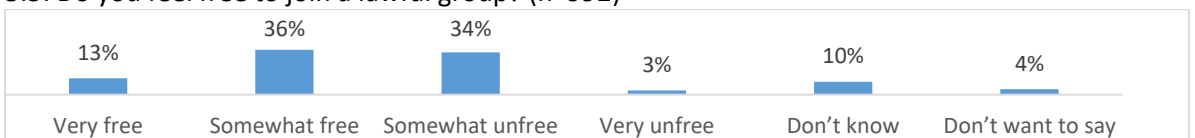
### 5.3: Do you feel free to gather peacefully? (n=992)



### 5.4: Do you feel free to speak to the media? (n=992)

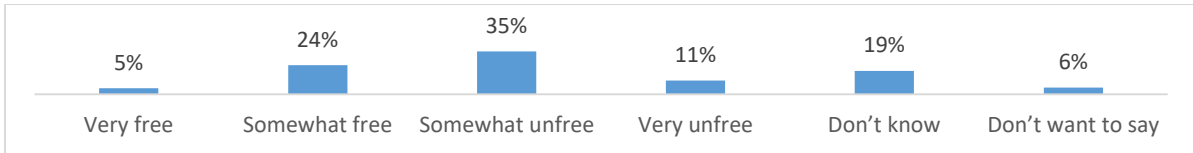


### 5.5: Do you feel free to join a lawful group? (n=992)

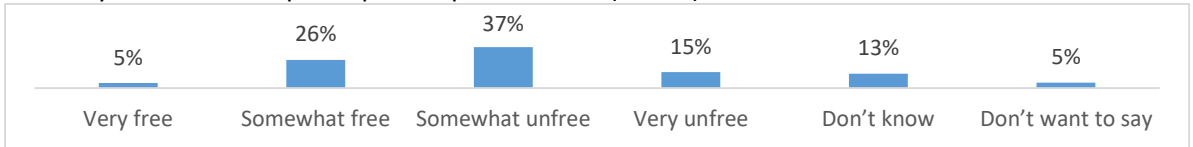


### 5.6: Do you feel free to strike peacefully? (n=992)

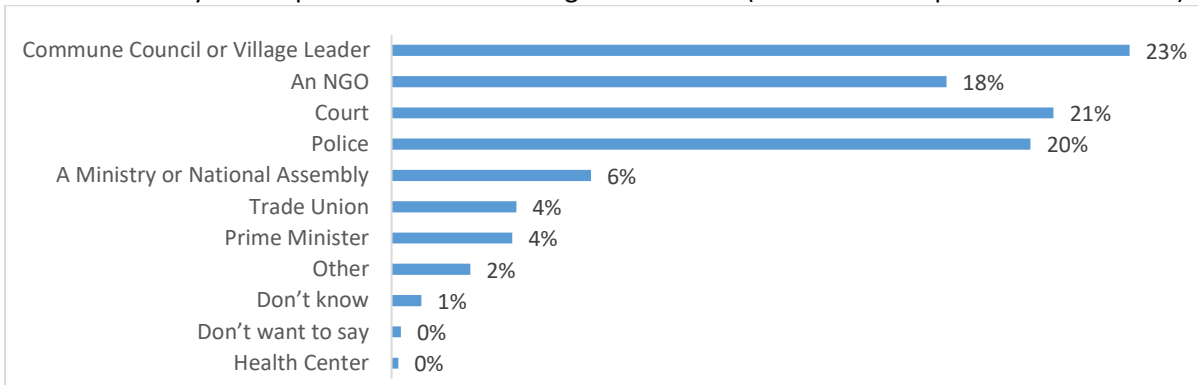
## Fundamental Freedoms Monitoring Project



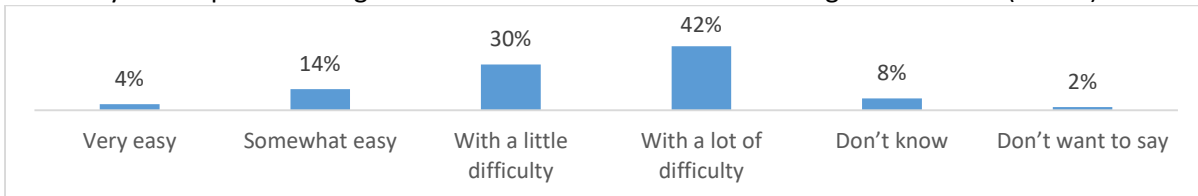
5.7: Do you feel free to participate in political life? (n=992)



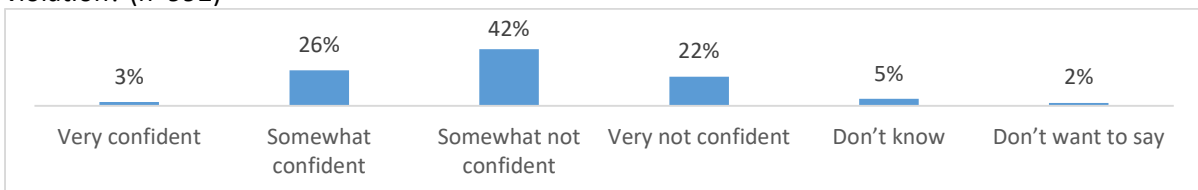
5.8: Where can you complain about a human rights violation? (n=2332 – multiple answers allowed)



5.9: Can you complain to the government or courts about a human rights violation? (n=992)

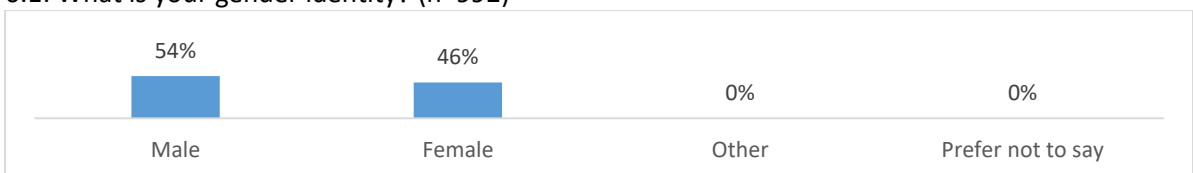


5.10: Are you confident that the government or courts would provide redress for a human rights violation? (n=992)



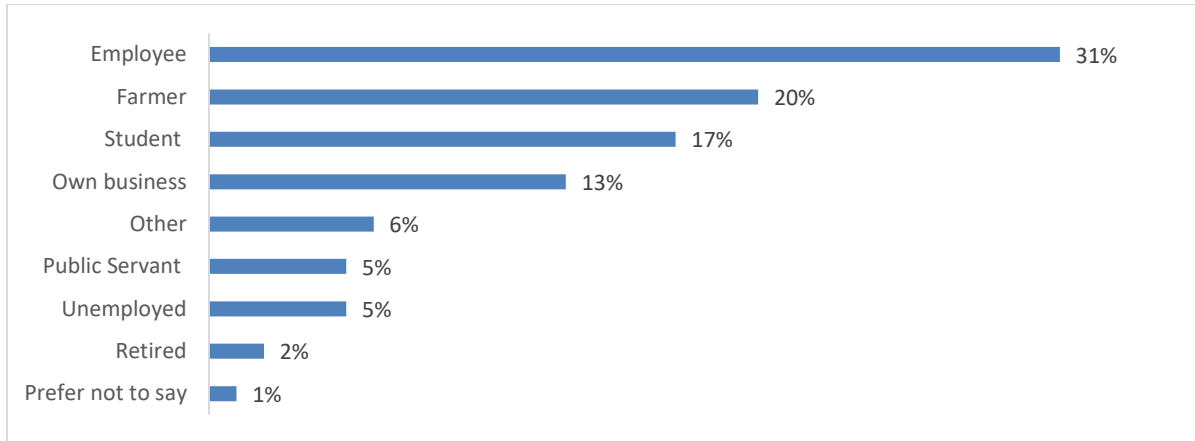
## Section 6: Demographic Information

6.1: What is your gender identity? (n=992)

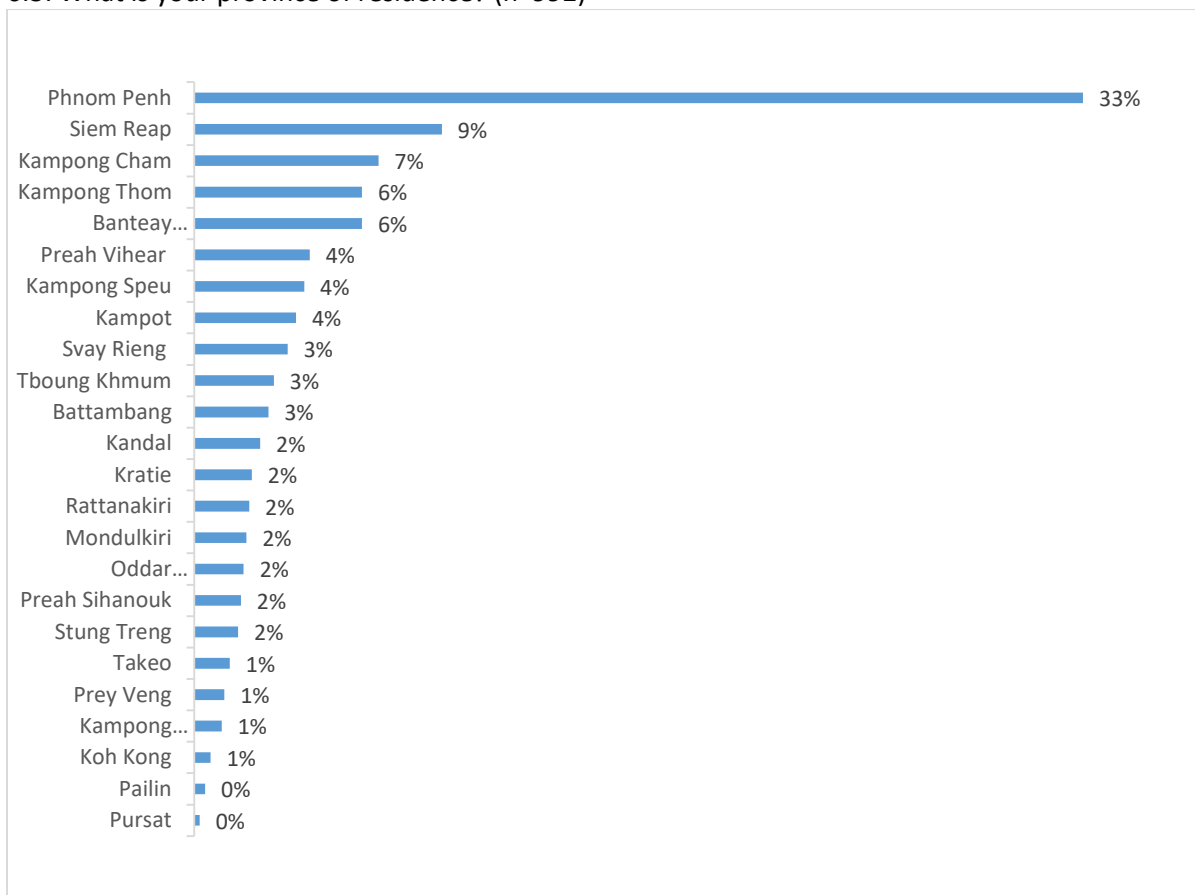


6.2: What is your primary occupation? (n=992)

## Fundamental Freedoms Monitoring Project



### 6.3: What is your province of residence? (n=992)



## Annex 4 - CSO/TU Leader Survey Questions and Results

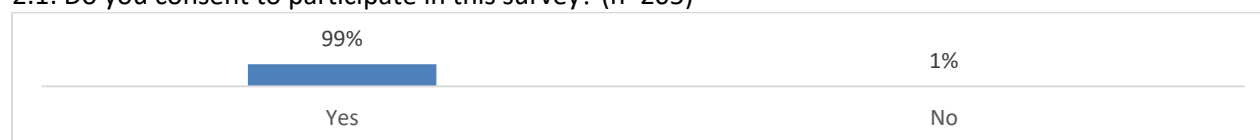
This Annex presents the questions and results of the CSO/TU Leader Survey. The survey captured the opinions of 202 CSO and TU leaders across 26 provinces. The 202 individuals surveyed consisted of, 117 lead CSOs (102 domestic/Cambodian CSOs, 15 international NGOs) and 80 lead trade unions. Five respondents did not identify whether they lead a CSO or a Trade Union. The organizations originate from 26 provinces. The survey was carried out between 20 November 2018 and 10 January 2019, via online submission and face-to face interviews.

### Section 1: Administration Detail

Section 1 did not contain any results. Rather, it was used by the team before initiating polling to record administrative details like: date, location, interviewer, etc.

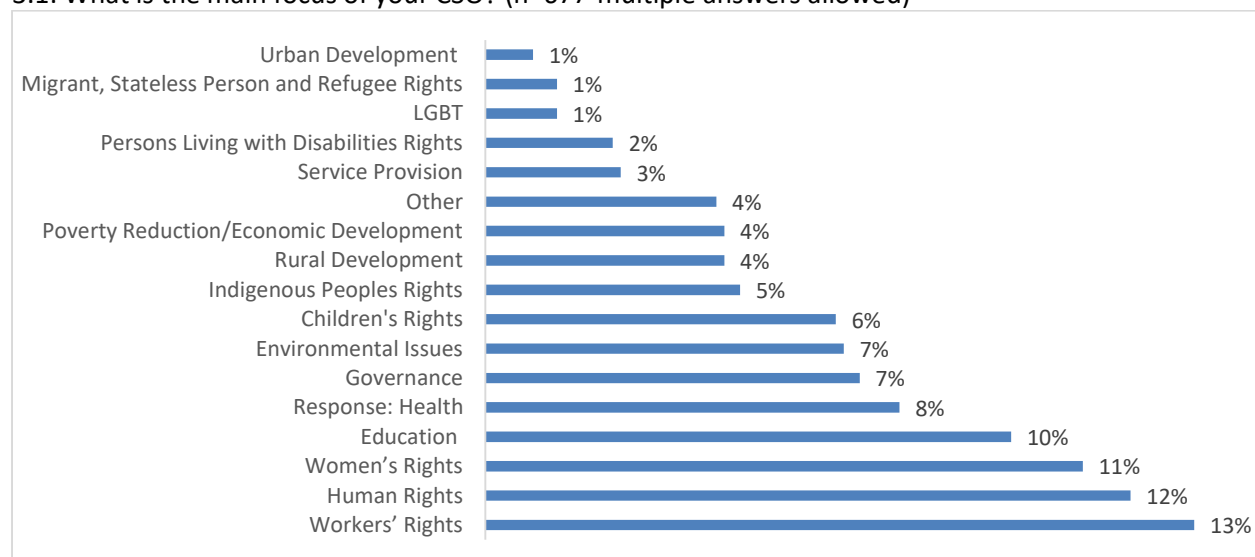
### Section 2: Consent

2.1: Do you consent to participate in this survey? (n=205)



### Section 3: CSO Profile

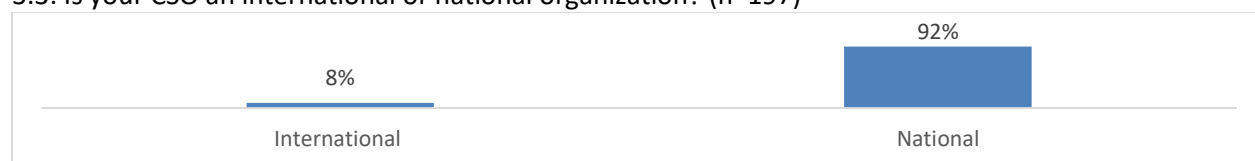
3.1: What is the main focus of your CSO? (n=677-multiple answers allowed)



3.2: Please describe in one sentence the main purpose or mission of your CSO:

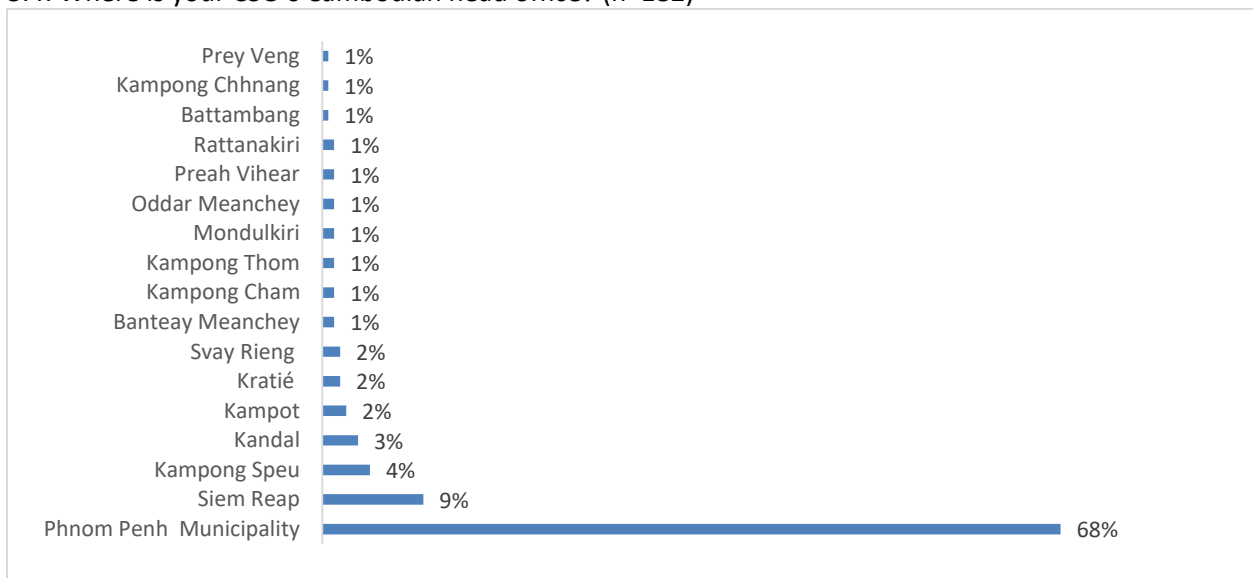
This was an open ended question and was not analyzed for the purpose of this report.

3.3: Is your CSO an international or national organization? (n=197)

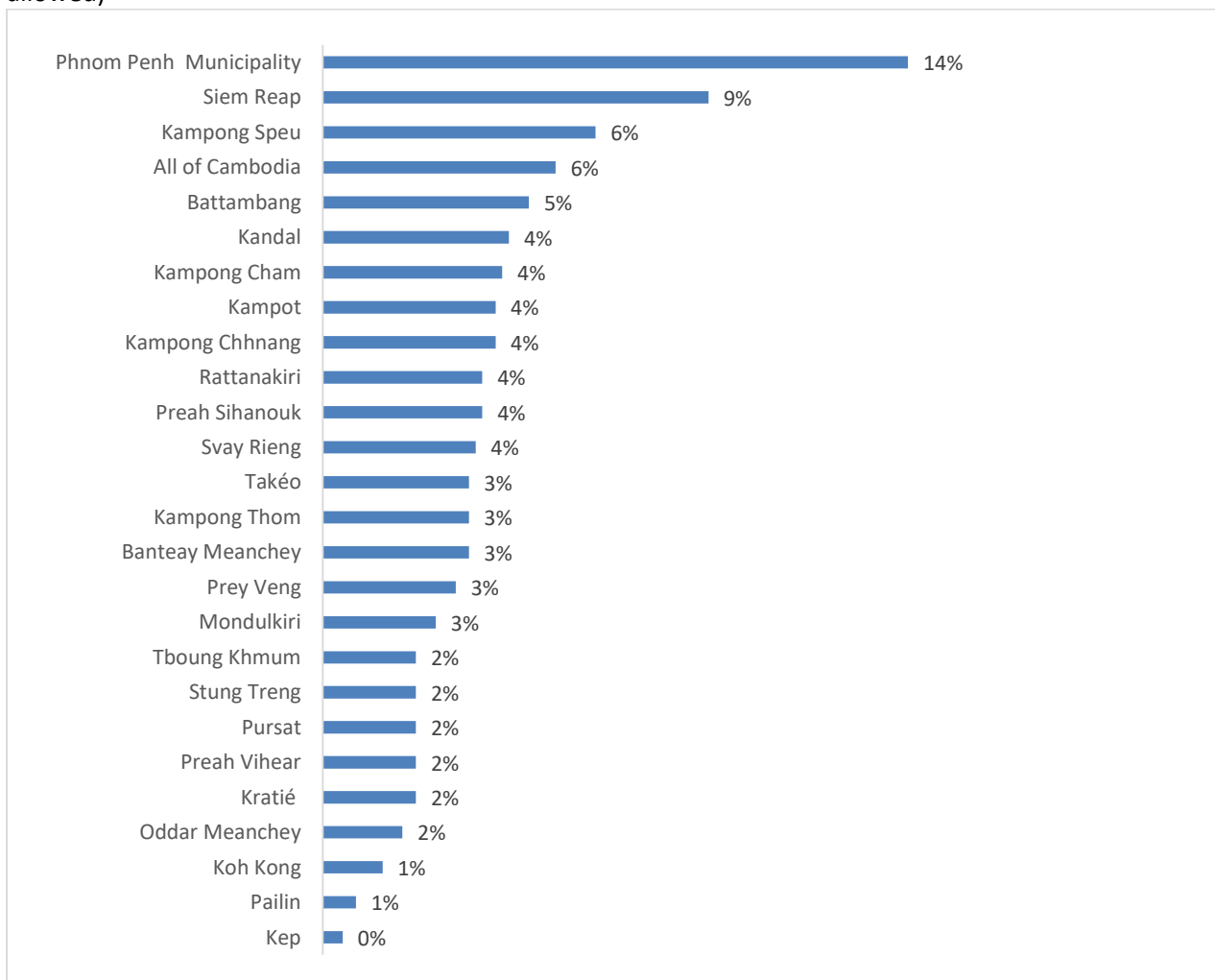


## Fundamental Freedoms Monitoring Project

### 3.4: Where is your CSO's Cambodian head office? (n=182)



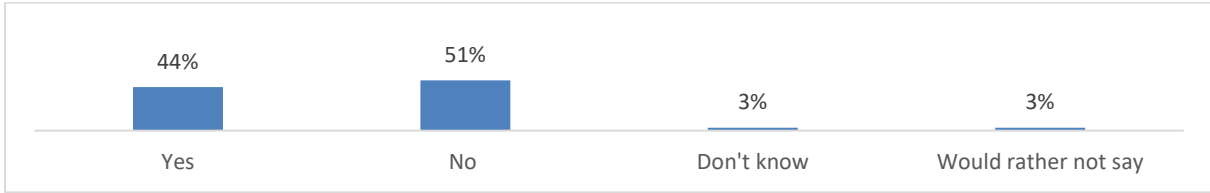
### 3.5: In which provinces of Cambodia does your CSO carry out its work? (n =633- multiple answers allowed)



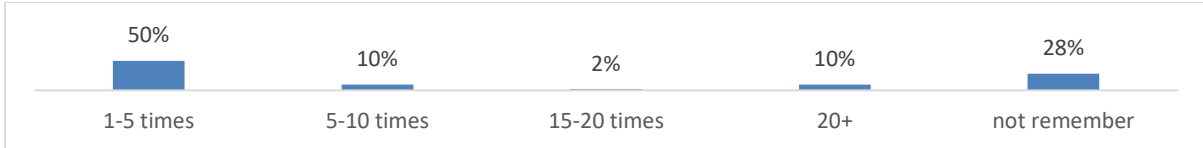
Fundamental Freedoms Monitoring Project

**Section 4: Operations of the CSO**

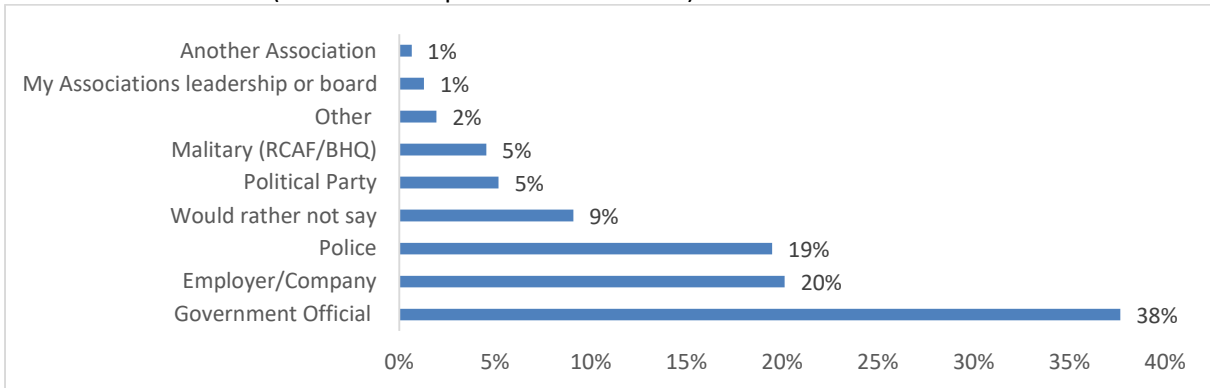
4.1: In the last year, has your CSO faced restrictions or threats in forming networks, coalitions, federations, or other types of alliances with others? (n=186)



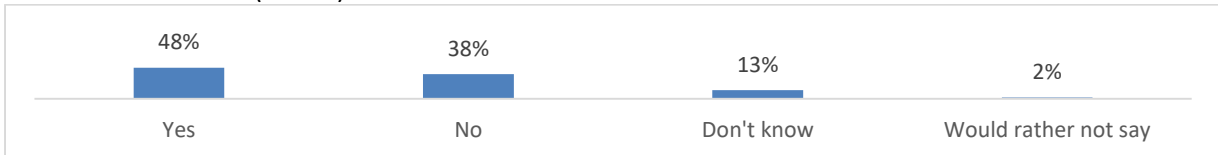
4.2: How many times has your CSO been restricted in forming networks, coalitions, federations, or other types of alliances with others? (n=50)



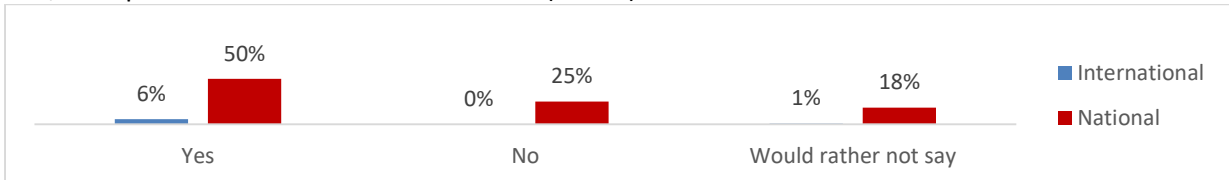
4.3: Who restricted your CSO from forming networks, coalitions, federations, or other types of alliances with others? (n=154 – multiple answers allowed)



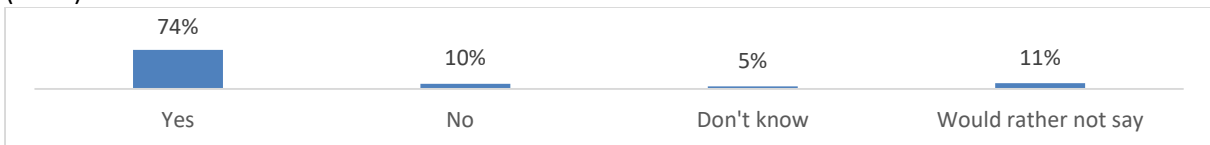
4.4: In the last year, has a Government official ever undertaken monitoring or surveillance of your CSO or its activities? (n=182)



4.4.1: In the last year has your organization done anything to increase your organization's security and/or to prevent Government surveillance? (n=104)

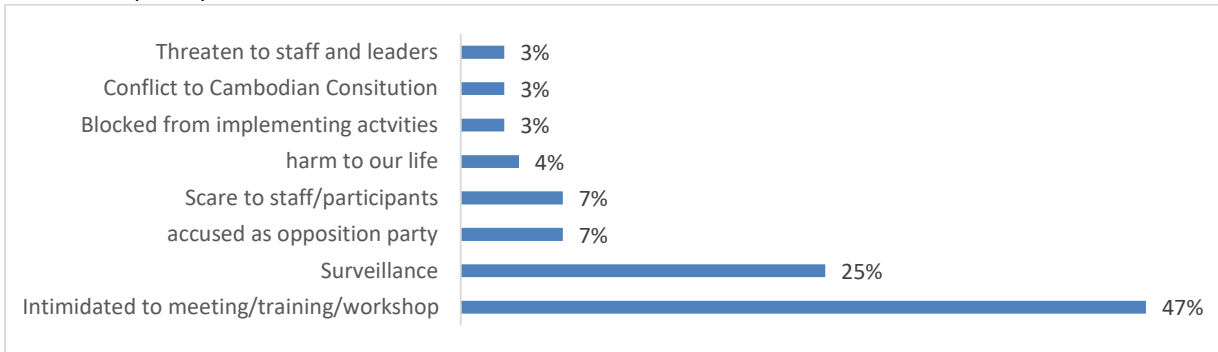


4.5: Did you feel this monitoring was ever excessive or did it interfere with your CSO's activities? (n=92)

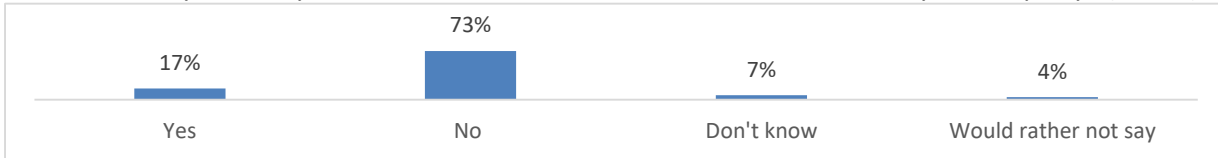


Fundamental Freedoms Monitoring Project

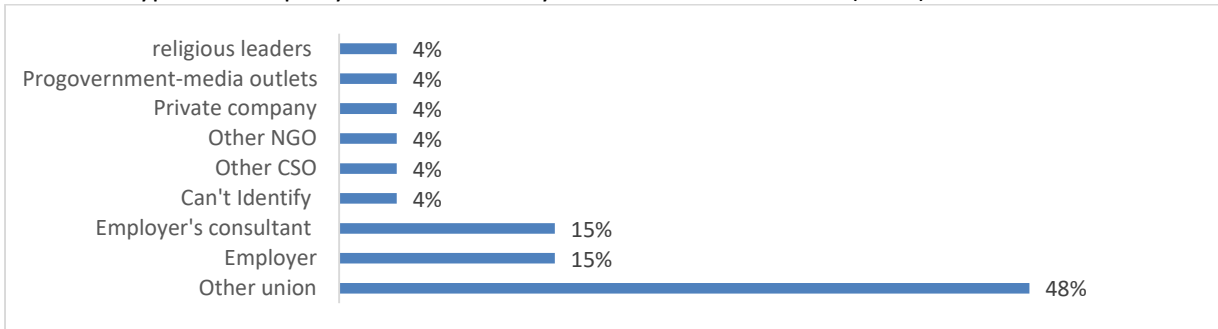
4.6: Why did you feel that this oversight was excessive or how did it interfere with your CSO's activities? (n=68)



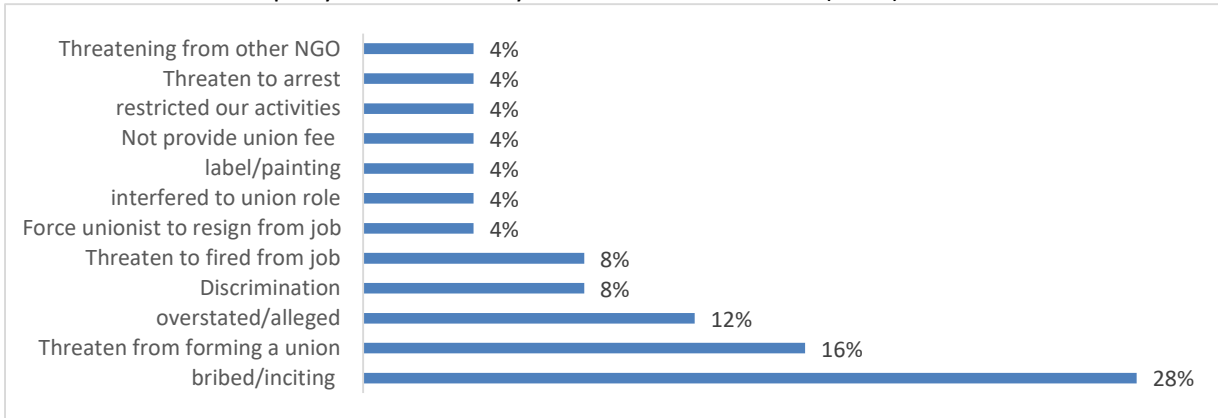
4.7: In the last year, has your CSO or its activities ever been interfered with by a third party? (n=184)



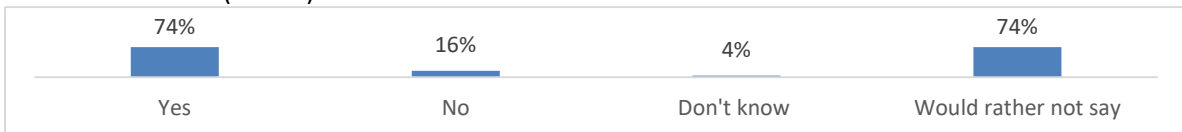
4.8: What type of third party interfered with your CSO or its activities? (n=27)



4.9: How did the third party interfere with your CSO or its activities? (n=25)

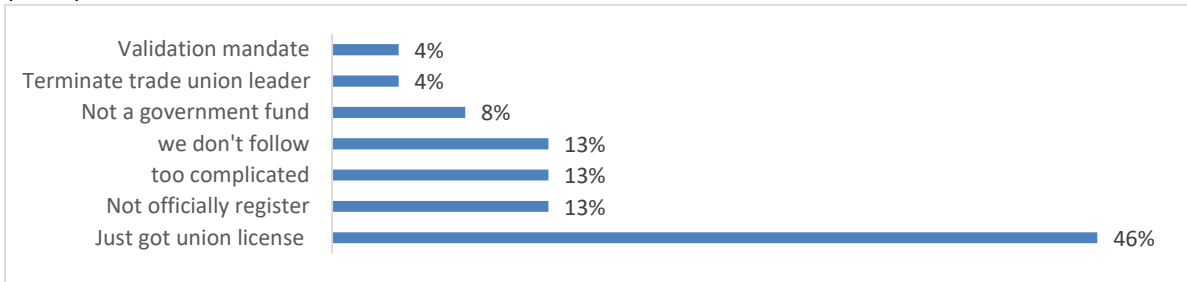


4.10: In the last year, has your CSO been able to meet the non-financial reporting requirements of the Government? (n=184)

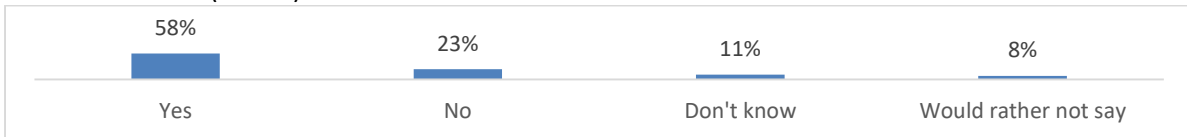


Fundamental Freedoms Monitoring Project

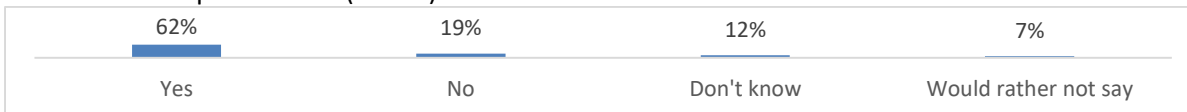
4.11: Why was your CSO unable to meet the Government’s non-financial reporting requirements? (n=24)



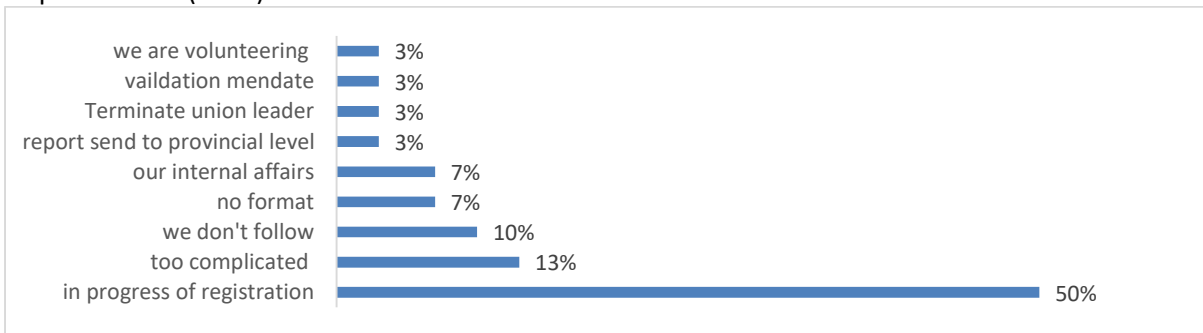
4.12: Did you feel that the non-financial reporting requirements of the Government were excessive or burdensome? (n=180)



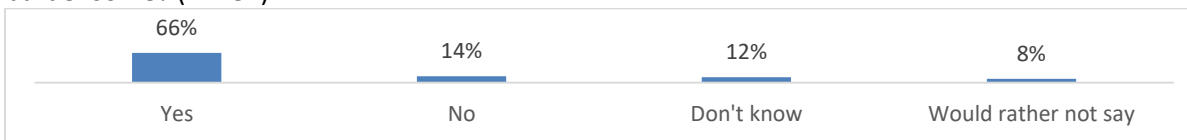
4.13: In the last year, has your CSO been able to complete financial reports in accordance with Government requirements? (n=180)



4.14: Why was your CSO unable to complete financial reports in accordance with Government requirements? (n=30)



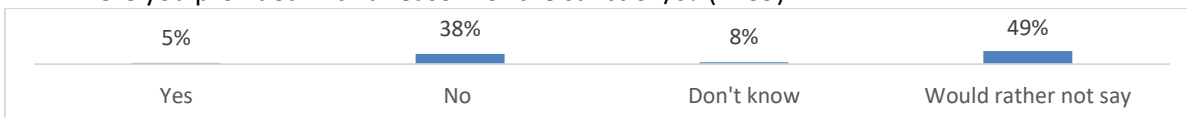
4.15: Did you feel that the financial reporting requirements of the Government were excessive or burdensome? (n=184)



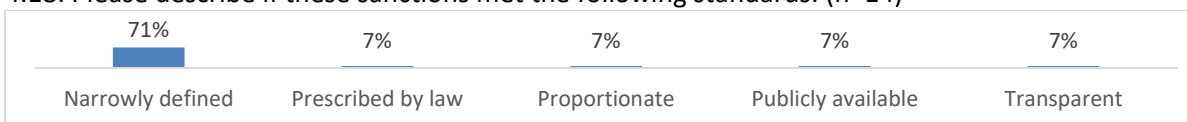
4.16: In the last year, has your CSO been sanctioned by the Government? (n=184)



4.17: Were you provided with a reason for the sanction/s? (n=39)



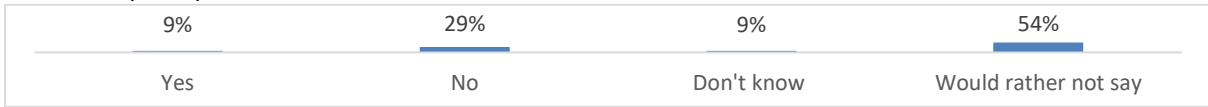
4.18: Please describe if these sanctions met the following standards: (n=14)



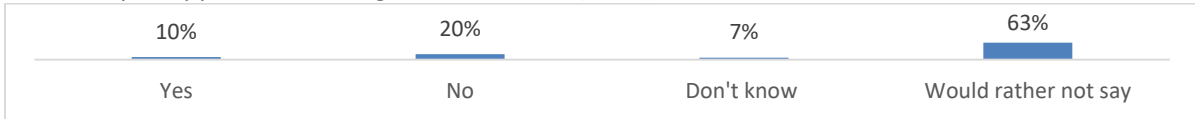


Fundamental Freedoms Monitoring Project

4.19: Before the sanctions were issued, did you have the opportunity to appeal or challenge the sanction? (n=35)



4.20: Did you appeal or challenge the sanction? (n=30)



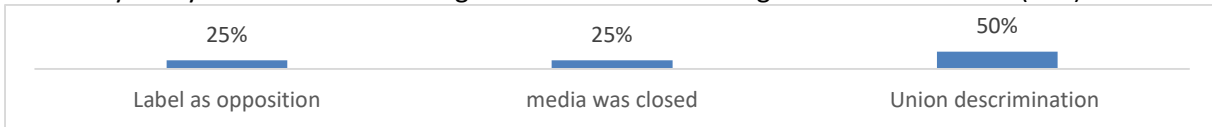
4.21: Did you feel that the appeal process was independent? (n=31)



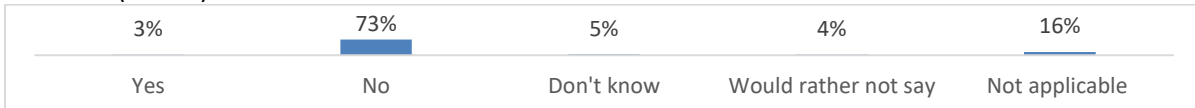
4.22: In the last year, has your CSO been denied the right to undertake income generation activities? (n=184)



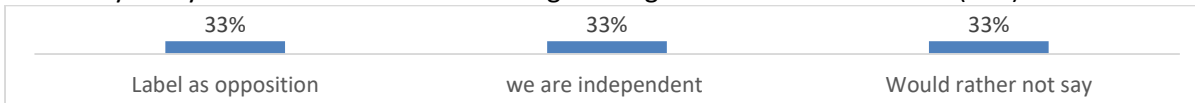
4.23: Why was your CSO denied the right to undertake income generation activities? (n=4)



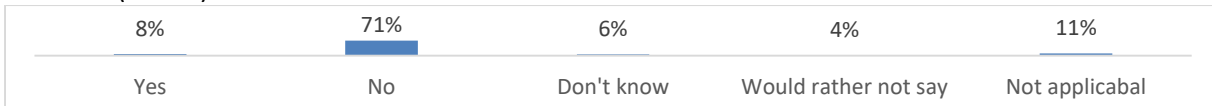
4.24: In the last year has your CSO faced Government restrictions in receiving funding from domestic sources? (n=182)



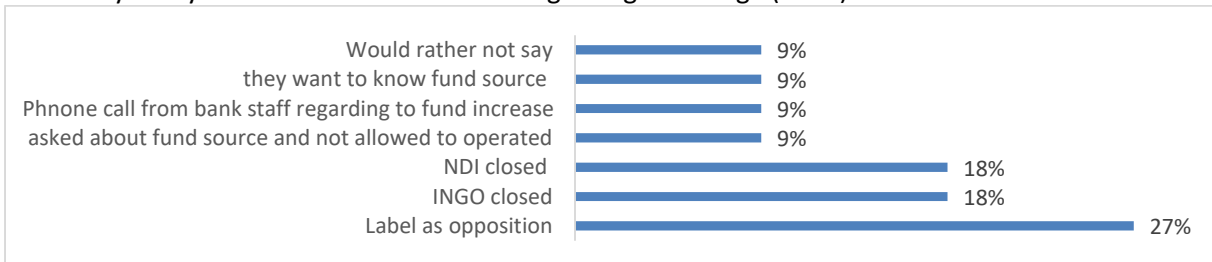
4.25: Why was your CSO restricted in receiving funding from domestic sources? (n=3)



4.26: In the last year has your CSO faced Government restrictions in receiving funding from foreign sources? (n=184)



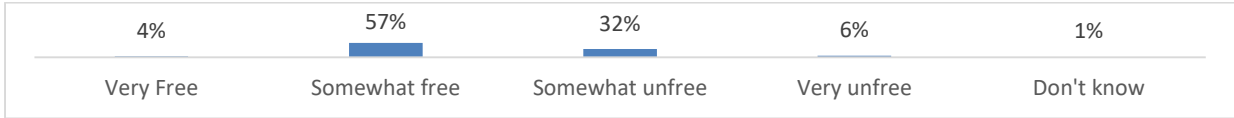
4.27: Why was your CSO restricted in receiving foreign funding? (n=11)



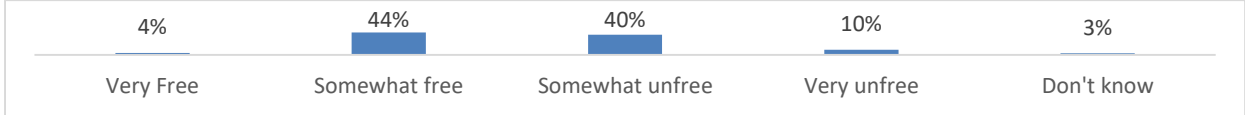
## Fundamental Freedoms Monitoring Project

### Section 5: Ability to Exercise Freedoms

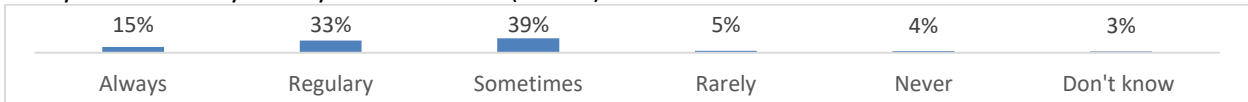
5.1: In the last year, how freely have you and your CSO been able to exercise the freedom of expression? (n=184)



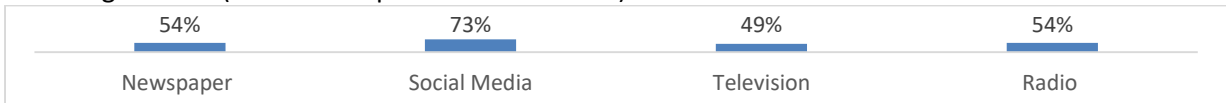
5.2: In the last year how freely have you and your CSO been able to exercise the freedom to peaceful assembly? (n=184)



5.3: In the last year how often have you been worried when expressing yourself publicly to the point that you did not say what you wanted to? (n=183)



5.4: In the last year, have you or your CSO ever felt unsafe to share information through the following means? (n=588-multiple answers allowed)



5.5: In the last year did you feel that your CSO's communication (via email, telephone, social media, etc.) were monitored by Government authorities? (n=184)

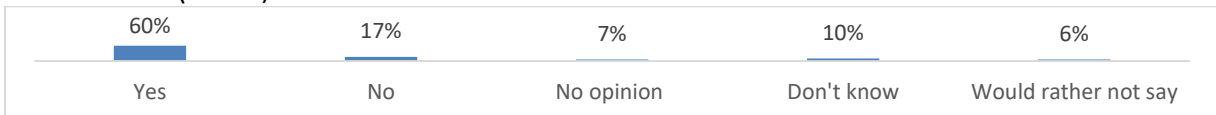


5.6: In the past year, have you been targeted by the Government due to involvement in your CSO? (n=182)

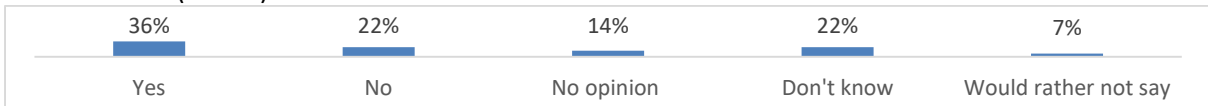


### Section 6: CSO and Trade Union Partnership with the Government

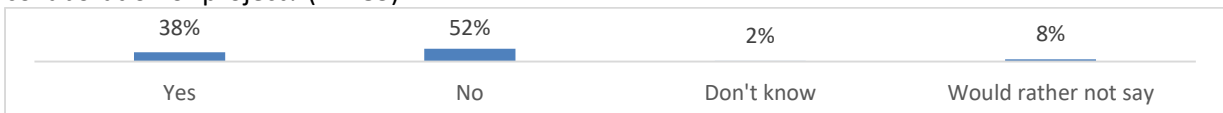
6.1: Do you believe that your CSO is recognized as a legitimate development partner by the Government? (n=180)



6.2: Do you believe that your CSO is recognized as a competent development partner by the Government? (n=181)

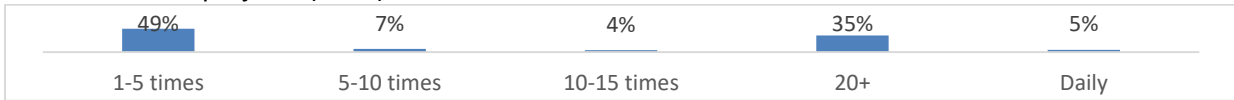


6.3: In the last year, has your CSO partnered with Government Authorities for an official collaboration or project? (n=183)

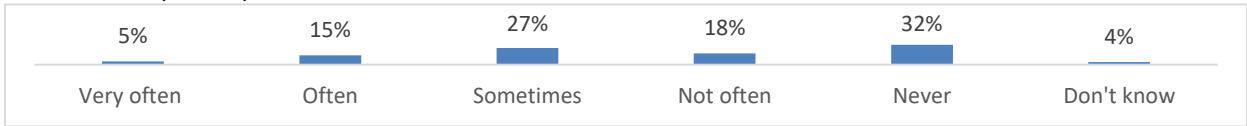


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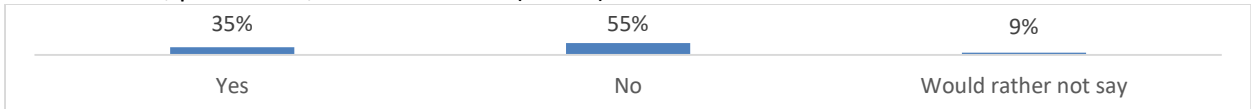
6.4: How many times has your CSO partnered with Government Authorities for an official collaboration or project? (n=57)



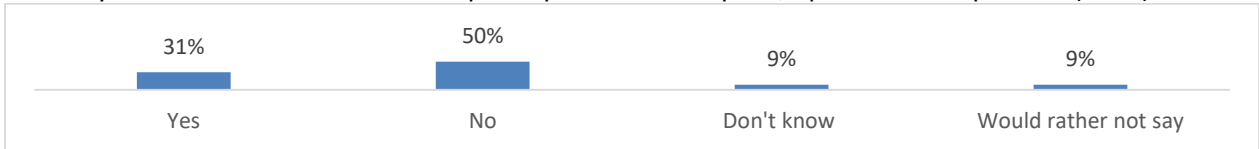
6.5: In the last year, how often has your CSO informally partnered or collaborated with Government Authorities? (n=183)



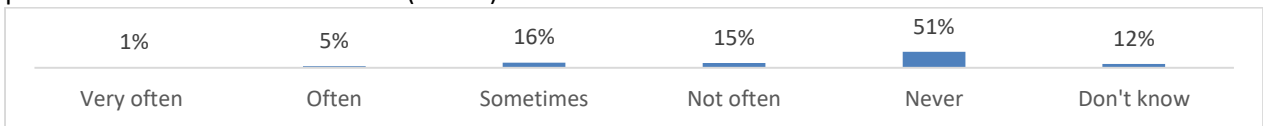
6.6: In the last year, were you aware of any opportunities to participate in Government consultations, panels and/or committees? (n=181)



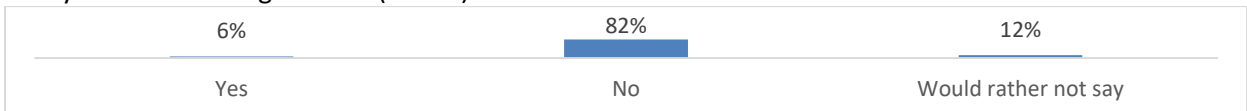
6.7: Do you believe that these calls for participation were explicit, open and transparent? (n=96)



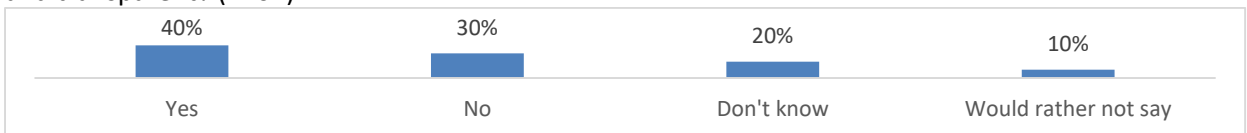
6.8: In the last year, how often has your CSO been an active participant in decision and law making processes with the Government? (n=182)



6.9: In the last year, were you aware of any financing or funding opportunities from the Government that your CSO was eligible for? (n=180)



6.10: Do you believe that these Government financing or funding opportunities were explicit, open and transparent? (n=62)



6.11: Was your CSO able to access Government financing for capacity building? (n=61)

