

# Cambodia Fundamental Freedoms Monitor

## Fourth Annual Report

April 2019 -  
March 2020



The Fundamental Freedoms Monitoring Project



Supported by:  
**ICNL**  
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# Executive Summary

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

The FFMP is a joint initiative of the Cambodian Center for Human Rights (CCHR), the Cambodian Human Rights and Development Association (ADHOC), and the Solidarity Center (SC), in cooperation with the International Center for Not-For-Profit Law (ICNL).

This report outlines key findings from 1 April 2019 – 31 March 2020, the fourth year of monitoring (Year Four).<sup>1</sup> The information contained in this report has been compiled using data systematically recorded from several qualitative and quantitative data sources (see Annex 1). In Year Four the FFMP analyzed a total of 1,194 media articles and 119 incident reports, completed a public poll (with 779 responses in total), completed a survey of civil society organization (CSO) and trade union (TU) leaders (with 142 responses in total), and conducted a legal analysis of developments in Cambodia’s legal framework governing fundamental freedoms.

The space to exercise fundamental freedoms continues to be restricted. Key developments in Year Four included: (a) a continued crackdown on political dissent; (b) silencing of speech cultivating an environment of self-censorship; (c) arbitrary uses of the Cambodian Criminal Code (the Criminal Code) – namely the crimes of defamation, plotting, incitement to commit a felony, and falsifying information; and (d) a decrease in the public’s understanding of fundamental freedoms.

**Figure 1: Total number of incidents, incidents of restriction(s) and incidents of violation(s) in Year Four**

Between 1 April 2019 – 31 March 2020, the FFMP recorded a total of 656 incidents related to the exercise of fundamental freedoms. Two-thirds of all incidents recorded by the FFMP include one or more restriction or violation of fundamental freedoms.<sup>2</sup> Out of the 656 incidents recorded, 440 involved at least one restriction to the fundamental freedoms, and 246 involved at least one violation.



<sup>1</sup> Year Three of FFMP took place from 1 April 2018 to 30 March 2019, Year Two took place from 1 April 2017 to 30 March 2018, while Year One of the FFMP took place from 1 April 2016 to 31 March 2017. Previous annual reports are available on CCHR’s website: <<https://cchrcambodia.org>>.

<sup>2</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 International Covenant on Civil and Political Rights (ICCPR). If the restriction fails the three-part test, it is deemed a violation.



Incidents recorded by the FFMP often contain violations or restrictions to multiple fundamental freedoms. The FFMP records both the number of incidents in which restrictions or violations of fundamental freedoms occur, as well as the total number of restrictions and violations of each fundamental freedom.

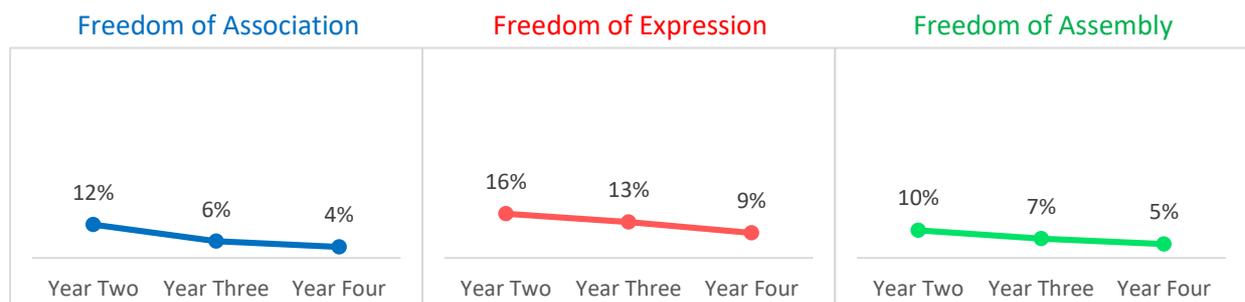
**Figure 4: Total number of restrictions for each fundamental freedom compared to Years Two and Three<sup>3</sup>**



Freedom of association was the freedom most restricted in Year Four, followed by the freedom of expression. Conversely, the freedom of assembly was mostly upheld, with the number of restrictions to the freedom of assembly decreasing significantly from Years Two and Three.

A full understanding of fundamental freedoms is essential to enable individuals to exercise them. Without the knowledge of what these rights entail, people are less likely to identify when unlawful restrictions to fundamental freedoms occur. Over the last three years, the FFMP has seen public understanding of fundamental freedoms continuing to decrease, with Year Four recording the lowest levels of understanding yet.

**Figure 5: Cambodians reporting a full understanding of each freedom compared to Years Two and Three**



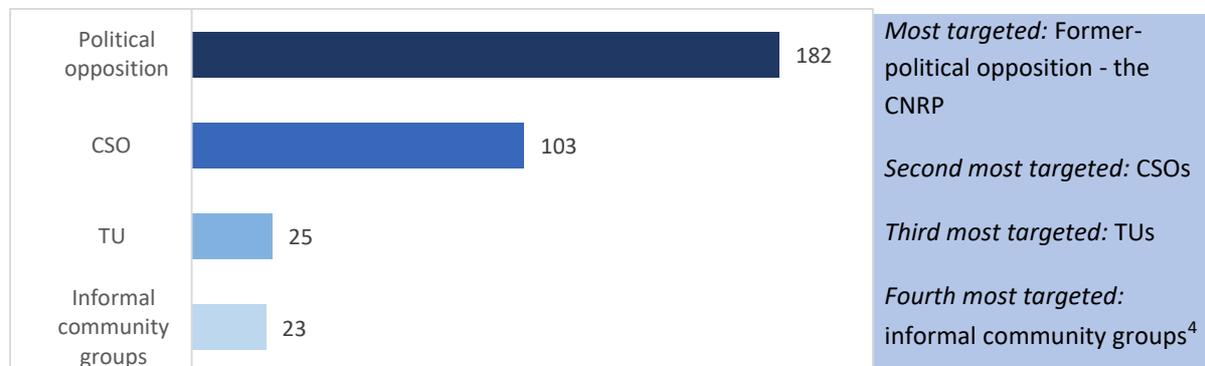
Freedom of association continues to be the least understood freedom, with levels now a third of what they were in Year Two. Freedom of expression showed the biggest decrease since Year Three, yet it still remains the most understood freedom. Understanding of freedom of assembly has decreased since Year Two with a mere 5% reporting a full understanding.

<sup>3</sup> The total number of restrictions and violations of each right includes multiple restrictions or violations from the same incident and is therefore greater than the number of incidents of restriction(s) or violation(s) as displayed in Figure 1.

## Freedom of Association

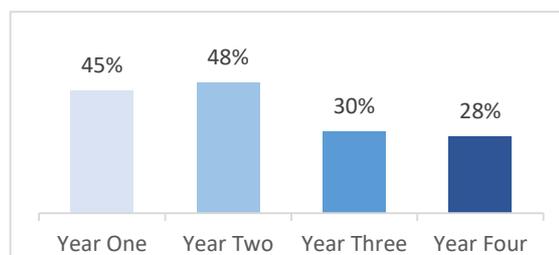
In Year Four, the FFMP documented 338 restrictions and 186 violations of the freedom of association.

**Figure 6: Groups whose freedom of association is frequently restricted by the RGC**

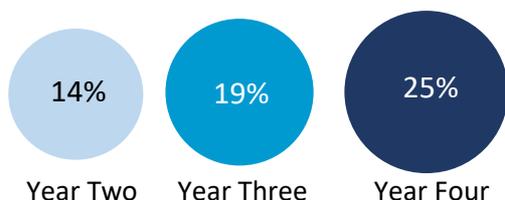


Data from Year Four shows that individuals were targeted for their actual or perceived affiliation with the CNRP (CNRP-affiliates)<sup>5</sup>. CNRP-affiliates faced a systemic campaign of judicial harassment with 120 recorded charges, 103 arrests and 97 summonses. Only 28% of respondents to the Public Poll reported feeling free to participate in political life.

**Figure 7: Individuals who feel free to participate in political life**



**Figure 8: Individuals report being victimized due to their involvement in a CSO<sup>6</sup>**



The Public Poll recorded a jump in the number of individuals reporting they have been victimized for their involvement in a CSO, with 25% of respondents answering affirmatively to the question.

CSOs continue to experience unlawful supervision and oversight by the RGC. The RGC interferes with activities of CSOs, infringing on the right to freedom of association. In Year Four, the FFMP recorded 63 incidents where the RGC's supervision or interference of CSO activities violated international law, including:

- 15 incidents where authorities took photographs of participants or staff,<sup>7</sup>
- 12 incidents where authorities requested personal details of participants or staff,<sup>8</sup> and
- Three incidents of authorities recording private CSO events.<sup>9</sup>

<sup>4</sup> "Informal community groups" refers to residents involved in land conflicts, who are not affiliated to a legal entity.

<sup>5</sup> This includes former party members and officials, as well as those believed by the RGC to be current or former supporters.

<sup>6</sup> This question was not asked in the Public Poll conducted in Year One.

<sup>7</sup> See for example, Incident Reports IRAD147 and IRCC161.

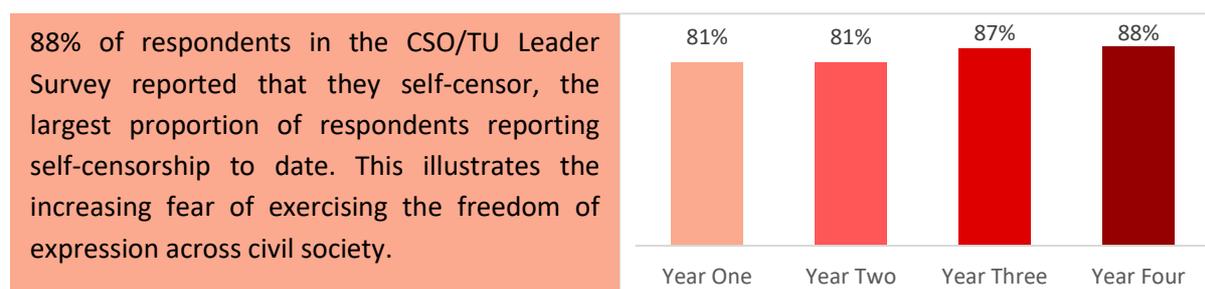
<sup>8</sup> See for example, Incident Reports IRAD142 and IRCC205.

<sup>9</sup> Incident Reports IRCC166, IRCC153 and IRCC184.

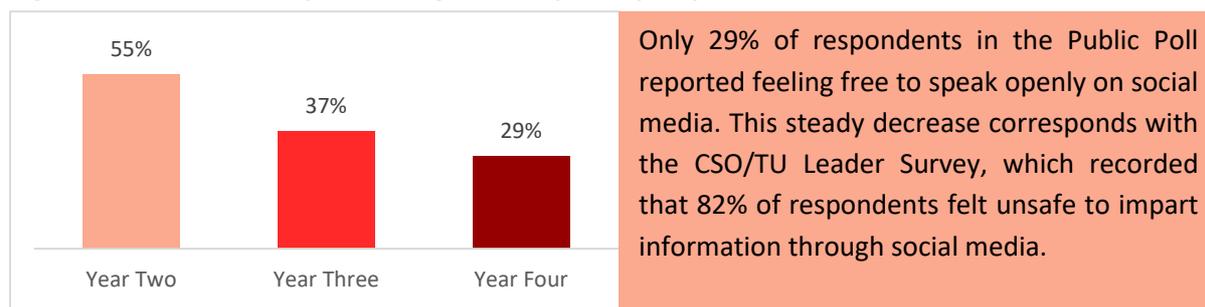
## Freedom of Expression

The freedom of expression continues to be repressed by the RGC in violation of international human rights law and the Constitution of the Kingdom of Cambodia (Constitution). In Year Four, the FFMP documented 245 restrictions and 103 violations of freedom of expression, including 166 summonses and 99 arrests for the exercise of free speech. Online dissent and criticism are consistently curtailed. Almost half of all recorded violations of freedom of expression related to online expression, including 48 arrests.

**Figure 9: CSO/TU leaders continue to self-censor<sup>10</sup>**



**Figure 10: Public who report feeling free to speak openly on social media<sup>11</sup>**



At the outset of the COVID-19 pandemic (Quarter Four of Year Four, January - March 2020), the FFMP noted a gradual increase in restrictions to the freedom of expression. There were 26 incidents of restrictions to the freedom of expression related to COVID-19 through 31 March 2020.<sup>12</sup> These restrictions took the form of accusations, arrests, and charges for spreading “fake news”,<sup>13</sup> including legitimate criticisms of the RGC’s response to the virus, and government threats against spreading “fake news”.

<sup>10</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.

<sup>11</sup> This question was not asked in the Public Poll conducted in Year One.

<sup>12</sup> Please note that these restrictions continued after the end of the reporting period and will be included within our subsequent annual report (Year Five).

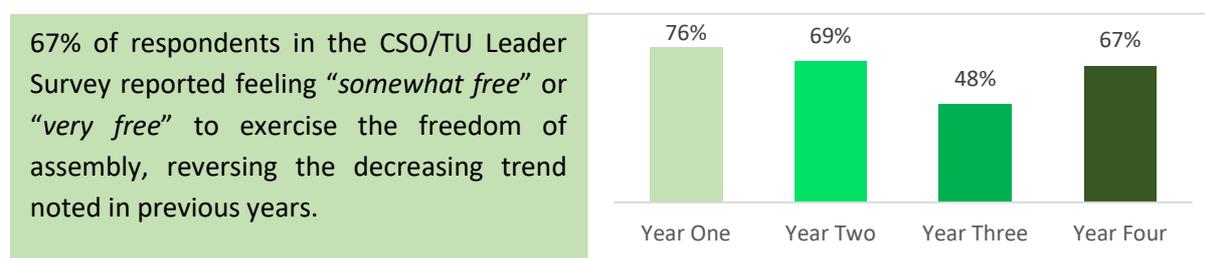
<sup>13</sup> “Fake news” is criminalized in Cambodia under Article 425 of the Criminal Code, falsifying information. The Minister of Health issued a press release in January 2020 warning that legal action will be taken under Article 425 against the spread of false information on Facebook. See, Heng Raksmeay, ‘The Ministry of Health warns Facebook activity that Corona virus has infected Cambodia’ (RFA, 26 January 2020) <<https://www.rfa.org/khmer/news/health/health-ministry-warns-fake-news-on-facebook-01272020042835.html>>. See also example of the offense being utilized, Hul Reksmeay, ‘Sar Kheng defends arrest of person sharing fake information about Covid-19’ (VOA, 12 March 2020) <<https://khmer.voanews.com/a/third-cambodian-arrested-for-fake-news-on-covid-19-sar-kheng-defends-arrests/5326092.html>>.

## Freedom of Assembly

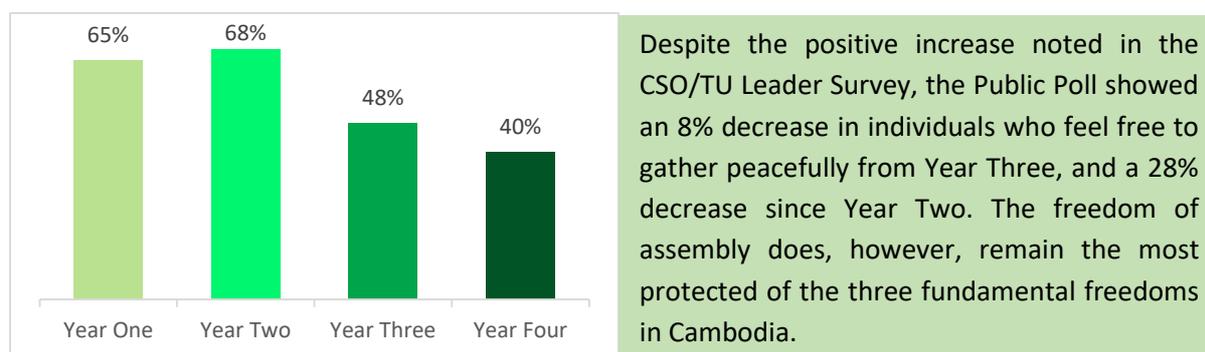
The freedom of assembly is frequently exercised in Cambodia, particularly by those advocating for land rights and by employees calling for rights in their workplace. In Year Four, the FFMP recorded 185 assemblies. The FFMP also recorded a total of 53 restrictions and 21 violations of the right to freedom of peaceful assembly, including:

- Five assemblies that were prohibited by the RGC;
- Nine assemblies that had restrictions imposed upon them in advance of the assembly;
- 20 assemblies that were met with RGC interference, nine of which were subject to RGC authorities using force against peaceful protestors.

**Figure 11: CSO/TU leaders largely feel free to exercise the freedom of assembly**



**Figure 12: Individuals who feel free to gather peacefully**



The full findings from Year Four are presented in the narrative report and its accompanying annexes. The findings analyze the legal framework for fundamental freedoms (Key Milestone One), the extent to which relevant laws and policies are properly implemented (Key Milestone Two), the public’s knowledge of and ability to exercise fundamental freedoms (Key Milestone Three), and whether CSOs and TUs are recognized by, and can work in partnership with, the RGC (Key Milestone Four).

# 1. Introduction

The Fundamental Freedoms Monitoring Project (FFMP), which began on 1 April 2016, is a multi-year project that monitors and evaluates the state of three fundamental freedoms – the freedom of association, the freedom of expression and the freedom of assembly (fundamental freedoms)<sup>14</sup> – in the Kingdom of Cambodia (Cambodia). The FFMP tracks the exercise of fundamental freedoms by utilizing its Monitoring and Tracking Tool (MTT). This report covers the fourth year of monitoring (Year Four) which began on 1 April 2019 and ended on 31 March 2020.

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 Monitoring Team designed the MTT to provide a balanced and objective framework for monitoring the state of fundamental freedoms in Cambodia, with a focus on civil society and civic participation. The MTT systematically and objectively assesses whether, and to what extent, the freedoms of association, assembly and expression are guaranteed and 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 fundamental freedoms meets international standards;
- KM2:** The legal framework for fundamental freedoms is implemented and properly enforced;
- KM3:** Individuals understand fundamental freedoms, and feel free to exercise them; and,
- KM4:** Civil society organizations (CSOs) and trade unions (TUs) are recognized and can work in partnership with the Royal Government of Cambodia (RGC).

In Year Four there were six data collection methods used to measure the KMs: Incident Reports;<sup>15</sup> Media Monitoring;<sup>16</sup> a desk review of relevant laws (Desk Review);<sup>17</sup> a Trade Union Registration Evaluation Tool;<sup>18</sup> a Public Poll;<sup>19</sup> and a survey of CSO and TU leaders (CSO/TU Leader Survey).<sup>20</sup> This report presents an analysis of key findings and trends based on the data collected in Year Four.

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<sup>14</sup> Fundamental freedoms – for the purposes of this report – comprise the freedom of association, freedom of expression and freedom of assembly. The FFMP adopts the definition of “*association*” used by the Special Rapporteur on the rights to freedom of peaceful assembly and of association.

<sup>15</sup> Incident Reports are collected through a form developed to capture restrictions to the freedom of association and related rights against individuals or associations.

<sup>16</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>17</sup> The Desk Review is an expert analysis of Cambodian laws, policies, reports and other official documents that assesses the degree to which legal guarantees and other conditions are in place to ensure the protection of fundamental freedoms.

<sup>18</sup> The Trade Union Registration Evaluation Tool records the experiences of TU representatives as they attempt to register their unions under the *Law on Trade Unions*.

<sup>19</sup> The Public Poll aims to gauge the general public’s sentiment towards the fundamental freedoms. It was conducted in Khmer between 17 February and 19 March 2020.

<sup>20</sup> The CSO/TU Leader Survey is conducted on an annual basis online and through face-to-face interviews to capture the beliefs and experiences of CSO and TU leaders in relation to their ability to exercise the fundamental freedoms. The CSO/TU Leader Survey for Year Four was conducted between 18 November 2019 and 8 January 2020.

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

Key Milestone One examines the extent to which Cambodia's legal framework complies with international human rights law governing fundamental freedoms.<sup>21</sup>

**Key Findings:** The *Law on Trade Unions* was amended in Year Four. The amendments, however, fail to bring the law into compliance with Cambodia's human rights obligations.

The *Law on the Management of the Nation in State of Emergency* was promulgated in April 2020. Because this law has the potential to severely restrict fundamental freedoms, it is discussed briefly in Key Milestone One even though it was enacted after Year Four ended. A full analysis will be available in the subsequent FFMP reports.

The FFMP recorded no other primary or secondary laws or regulations enacted in Year Four that impact fundamental freedoms.

Year Four saw several draft laws or draft legislative amendments that pose a threat to the exercise of fundamental freedoms, namely, amendments to the *Press Law (1995)*, the draft *Law on Access to Information*, the draft *Cybercrime Law*, and a proposed *Anti-Fake News Law*. The FFMP will continue to monitor and review the progress of these laws and draft amendments. Once they are enacted, the FFMP will conduct a full legal analysis in accordance with the MTT to analyze their compliance with the relevant international standards.

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<sup>21</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 UN Human Rights Committee and UN Special Rapporteurs.

In this report, "*international human rights law and standards*" refers to international human rights law and standards related to fundamental freedoms, namely freedom of association, freedom of assembly, and freedom of expression, derived from the international treaties to which Cambodia is a party. Article 31 of the Constitution of Kingdom of Cambodia gives constitutional status to the human rights contained in the United Nations Charter, the Universal Declaration on Human Rights (the UDHR), and the covenants and conventions related to human rights, women's rights and children's rights. The decision of Cambodia's Constitutional Council on 10 July 2007 authoritatively interpreted Article 31 of the Cambodian Constitution as meaning that international treaties ratified by Cambodia are directly applicable in domestic law. See Constitutional Council of the Kingdom of Cambodia, Decision No. 092/003/2007 (10 July 2007). The treaties ratified by Cambodia include *inter alia* the International Covenant on Civil and Political Rights (the ICCPR), the International Covenant on Economic, Social and Cultural Rights (the ICESCR), the Convention on the Elimination of all Forms of Discrimination Against Women (the CEDAW), and the Convention on the Rights of the Child (the CRC). In addition to these treaties, the FFMP also uses international standards as interpreted by the UN Human Rights Committee, and by UN Special Rapporteurs.

## 2.1 Amendments to the *Law on Trade Unions* lessen the law’s infringement of fundamental freedoms, but it still remains unduly restrictive

### 2.1.1. The Law continues to infringe the freedom of association

In January 2020, the *Law on Trade Unions (TUL)*<sup>22</sup> was amended.<sup>23</sup> The amendments revised ten articles.<sup>24</sup> Despite the amendments, some of which improved the law,<sup>25</sup> the *TUL* continues to impinge upon the right to freedom of association.<sup>26</sup> The law has a narrow scope, which excludes many workers from the protection of the law. The law also contains several burdensome requirements that restrict the ability of TUs to operate, and allow for undue interference in TUs’ affairs.

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 necessary in a democratic society.<sup>27</sup> In addition to the ICCPR, the freedom of association of workers and employers, along with their right to organize, are protected by the International Labour Organization (ILO) standards, notably Convention 87, which was ratified by Cambodia on 23 August 1999.<sup>28</sup> The ILO provides jurisdiction for principles including the freedom of association, recognizing them as a means of improving conditions of labor.

#### Article 3

Article 3, which pertains to the *TUL*’s scope of application, was amended. The scope of the *TUL* is now narrower, only covering “enterprises or establishments and all persons who fall within the provisions of the labour law”. Personnel serving in air and maritime transportation, previously specifically mentioned in Article 3, are no longer covered by the law. Furthermore, draft versions of the amendments to Article 3 included expanding the scope of the *TUL* to domestic workers, yet these amendments were not included in the final draft, so the scope of the *TUL* was ultimately not expanded to include domestic workers. Domestic workers, along with many other sectors of the Cambodian workforce including, but not limited to, self-employed workers, public

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<sup>22</sup> Law on Trade Unions (2016), <[http://sithi.org/temp.php?url=law\\_detail.php&lg=&id=278](http://sithi.org/temp.php?url=law_detail.php&lg=&id=278)>. See also legal analysis of the law: CCHR, ADHOC, SC and ICNL, ‘Fundamental Freedoms Monitoring Project: First Annual Report’ (August 2017), 4 <<https://cchrcambodia.org/admin/media/report/report/english/2017-08-10-CCHR-FFMP-Annual-Report-Eng.pdf>>.

<sup>23</sup> Passed by the National Assembly in November 2019, and approved by the Senate and the Constitutional Council in December 2019 before being promulgated in January 2020.

<sup>24</sup> The articles amended are: 3, 17, 20, 21, 27, 28, 29, 54, 55 and 59.

<sup>25</sup> For instance, Article 29 was amended in a positive fashion, as the provision permitting a union to be dissolved in the event that its leaders or managers commit a serious misconduct or offense, was removed. Article 28’s amendment was also welcomed as it added the requirement for wages and other benefits to be fully paid to all workers before automatic dissolution of the union can occur upon closure of the enterprise.

<sup>26</sup> The right to freedom of association is protected through Article 22 of the ICCPR. It includes the right of individuals to form, join, and participate in groups to pursue common interests. These can include CSOs, TUs, political parties or corporations. International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), Article 22. The right to freedom of association is also protected in domestic law through Article 42 of the Constitution.

<sup>27</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), Article 22.

<sup>28</sup> International Labour Organisation (ILO), *Freedom of Association and Protection of the Right to Organise Convention, C87*, 9 July 1948, <[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C087](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C087)>.

servants, teachers and workers in the informal sector, are still excluded from the protections of the *TUL* and not eligible to form unions.<sup>29</sup> Article 3 therefore likely violates Cambodia's international human rights obligations, namely Article 2 of ILO Convention 87 which grants workers the right to establish and join associations "*without distinction whatsoever*".<sup>30</sup>

The exclusion of self-employed workers, public servants, teachers and informal sector workers from the *TUL* is also likely in contravention of Article 22 of the ICCPR because it restricts their right to freedom of association without a legitimate aim, failing to meet the second requirement of Article 22's three-part test. To satisfy this requirement, the onus is on the RGC to show that the exclusion of these workers from the *TUL* is warranted to counter a specific threat to national security, public safety or public order, public health or morals, or meant to protect the rights and freedoms of others. Yet, no such argument has been put forward to justify the limited scope of the *TUL*.

#### Article 17

Article 17 was revised so that in order for unions to maintain their registration they are required to "*prepare*" instead of "*submit*" annual financial statements and activity reports. The amendments also added the provision that unions must submit these financial documents to independent auditors at the request of any donor, 10% of total union members, or 5% of total members of union federations/confederations.<sup>31</sup> Article 17 continues to be overly restrictive on freedom of association because under international law, unions have the right to determine their own rules and reporting requirements.

ILO Convention 87 provides unions the sole right to draft and adopt their own constitutions and rules, and to organize their administration and activities without interference by government authorities.<sup>32</sup> Both of these rights are violated by Article 17. The conditions warranting the preparation and presentation of reports and audits mentioned in Article 17(a) should be determined by the union itself. Indeed, the primary purpose of preparing activity and financial reports is for a union to be transparent and accountable to its members. Choosing when and how to conduct audits is also solely for the union

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<sup>29</sup> When read in conjunction with Article 10, which provides that at least ten workers of a given enterprise or establishment are needed to establish a local union, the newly-amended Article 3 also fails to protect the right to unionize of individuals who work alone or in small groups, such as domestic workers, with Article 10 fettering their freedom of association.

<sup>30</sup> The exclusion of members of the armed forces and the police from the *TUL*'s scope is lawful, as both the ICCPR and ILO Convention 87 provide for an exception regarding these two occupational categories of workers. Article 22(2) of the ICCPR states that "*This Article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of [the right to freedom of association with others]*". As for ILO Convention 87, its Article 9 states that "*The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations*".

<sup>31</sup> Article 17-New: "*In order to maintain the approved registration to be valid, each union or employer association shall: (a) Prepare an annual financial statement and an annual activity report, based on the financial books and records that have been kept to their members for information by the end of March of the following year at the latest, and shall be audited by independent auditing institutions which are legally registered in the Kingdom of Cambodia in case there is a request from:*

- 10% (ten percent) or more of total union members or any donor for local union and employer association;
- 5% (five percent) of total members or any donor for union federation, union confederation, and employer federation".

<sup>32</sup> ILO, *Freedom of Association and Protection of the Right to Organise Convention*, C87, 9 July 1948, Article 3 <[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C087](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C087)>. See also, "*Freedom of association implies the right of workers and employers to elect their representatives in full freedom and to organize their administration and activities without any interference by the public authorities*" ILO, 'Compilation of decisions of the Committee on Freedom of Association 2018', §666, <[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/publication/wcms\\_632659.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_632659.pdf)>. See also, Committee on Freedom of Association Case No. 422 (Ecuador) Report No. 103, para. 160 – 163.

to determine. A legal requirement forcing unions to conduct audits interferes with a union's right to administer its own affairs. The requirement that Article 17 imposes on TUs likely contravenes ILO Convention 87.

#### Article 20

The amendment to Article 20 of the *TUL* removed two of the most restrictive requirements for holding a union leadership position. Union leaders who are Cambodian nationals no longer need to prove they are literate in Khmer and all union leaders, regardless of nationality, no longer need to prove they have no previous criminal convictions.<sup>33</sup> However, two problematic requirements remain in Article 20.

The first problematic requirement is that a leader of a union must, “[b]e at least 18 (eighteen) years of age or be a minor who has been emancipated”. This requirement has been found to be inconsistent with international standards by the Committee on Freedom of Association;<sup>34</sup> placing an age restriction on TU leaders is incompatible with the principles of freedom of association, as it interferes with the right of workers’ organizations to elect their own representatives freely.<sup>35</sup>

The second problematic requirement is that a leader of a union must, “[m]ake their own declaration of a legal and specific residential address”. Yet, the Committee on Freedom of Association has found that “...it is contrary to [ILO Convention 87] to demand information from the founders of an organization such as their telephone number, marital status or home address (this indirectly excludes from membership workers with no fixed abode or those who cannot afford to pay for a telephone)”.<sup>36</sup>

Under international law, determining the eligibility conditions of a union leader is a matter that should be left to the discretion of the union’s by-laws. Public authorities should refrain from any intervention which might impair the exercise of this right.<sup>37</sup> This ensures the right of workers and employers “to elect their representatives in full freedom”.<sup>38</sup> In light of these requirements, Article 20 fails to adequately protect the freedom of association.

#### Article 21

Article 21 of the *TUL* was amended to rescind the requirement that leaders, managers and those responsible for the administrative affairs of *employer associations* have no prior criminal convictions. However, Article 21 still requires that the leaders of employer associations

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<sup>33</sup> The original Article 20(d) required of Cambodian nationals who are leaders, managers and those responsible for the administration of a union to “make their own declaration that they have never been convicted of any criminal offense”. The term “criminal offense” included both misdemeanors and felonies.

<sup>34</sup> The Committee on Freedom of Association (CFA) was set up by the ILO in 1951 for the purpose of examining complaints of violations of freedom of association by countries, irrespective of whether or not the country concerned had ratified ILO Conventions 87 and 98 on freedom of association and collective bargaining. The CFA is composed of an independent chairperson and three representatives each of governments, employers and workers. If it finds that there has been a violation of freedom of association standards or principles, it makes recommendations on how the situation could be remedied. Governments are subsequently requested to report on the implementation of the CFA’s recommendations.

<sup>35</sup> Committee on Freedom of Association Case No. 2443 (Cambodia) Report No. 343, para. 310.

<sup>36</sup> Committee on Freedom of Association Case No. 2868 (Panama) Report No. 363, para. 1005, “...it is contrary to C87 to demand information from the founders of an organization such as their telephone number, marital status or home address (this indirectly excludes from membership workers with no fixed abode or those who cannot afford to pay for a telephone)”.

<sup>37</sup> ILO, ‘Compilation of decisions of the Committee on Freedom of Association 2018’, §606, <[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/publication/wcms\\_632659.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_632659.pdf)>.

<sup>38</sup> ILO, *Freedom of Association and Protection of the Right to Organise Convention, C87*, 9 July 1948, Article 3 <[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::P12100\\_ILO\\_CODE:C087](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::P12100_ILO_CODE:C087)>.

“[b]e at least 18 (eighteen) years of age” and “[m]ake their own declaration of a specific residential address”. These requirements, as discussed above, violate ILO Convention 87.

**Article 27** Article 27 was amended similarly to Article 17 and reiterates that TUs’ “financial records”<sup>39</sup> may be audited if a donor or a minimum percentage of members (10% for local unions and 5% for union federations/confederations) requests it.<sup>40</sup> Substantively Article 17 and 27 confer the same provisions and as such, identical concerns than those articulated for Article 17 (see above) arise for Article 27, namely that conditions warranting an audit of financial records would best be determined by TUs and their donors together, rather than by the law. Further, the low threshold that needs to be met to trigger an audit raises fears that, like Article 17, Article 27 could be misused to unduly interfere with and disturb the affairs of TUs, in violation of ILO Convention 87.

**Article 28** Article 28 was amended to change the circumstances for automatic dissolution of a TU. The Article previously provided that a union could be dissolved in the event of a complete closure of the enterprise or establishment. Article 28 now mandates automatic dissolution, “in the event of a complete closure of the enterprise or establishment, and after full payment to the workers of their salaries and other benefits”. However, a union may still have legitimate interests in continuing operations past the closure of an enterprise and full payment of workers. For example, a union may need to pursue or defend claims on behalf of itself or its members, like filing a complaint against an enterprise, even after it has been closed, to collect improperly deducted union dues. Therefore, Article 28 remains problematic because it allows for automatic dissolution preventing a TU from carrying out its functions.

**Article 29** Article 29 was amended in a positive fashion; it prevents unions from being dissolved in the event its leaders or managers commit serious misconduct or a serious offense.<sup>41</sup> However, the other problematic grounds for dissolving a union, which are imprecise, broad and in contravention of international law, were neither amended nor removed. Article 29(a) provides that a TU or employer organization may be dissolved if its activities “contravene the law or the objectives of the union or the employer association as stated in its statutes”. To be in accordance with international standards, any restriction to freedom of association must comply with the three-part test set out in Article 22 of the ICCPR. Yet, Article 29(a) likely fails to meet the ICCPR’s test’s first element of legality for not defining what would constitute “a contravention of the law”. The broad language of this article suggests that even minor breaches of any law or a minor breach of a union’s objective will trigger dissolution of the union. Dissolution in these types of circumstances would also likely fail the third prong of the ICCPR’s test because dissolution is not the least restrictive measure needed to protect a

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<sup>39</sup> Article 27 governs “financial records” while Article 17 governs an “annual financial statement”.

<sup>40</sup> Article 27-New, “All unions or employer associations shall keep the financial records in conformity with the format to be determined in Prakas of the Minister in charge of Labor and shall present the annual financial statements to members of the union or the employer association, in accordance with the statutes of the unions or the employer associations, and shall be audited by independent auditing institutions which are legally registered in the Kingdom of Cambodia in case there is a request from:

- 10% (ten percent) of total members or any donor for local union and employer association;
- 5% (five percent) of total members or any donor for union federation, union confederation and employer federation”.

<sup>41</sup> Prior to the 2020 amendments, Article 29 permitted dissolution when “Leaders, managers and those responsible for the administration were found of committing a serious misconduct or an offense in the capacity of the union or the employer association”.

legitimate aim. The restriction to the freedom of association would be disproportionate to the legitimate aim of protecting the rights and freedoms of others. Less harsh measures could be used to sanction a union or employer association whose activities contravene the law or their stated objectives. Dissolution should be reserved for the most serious of incidents.

#### Articles 54 and 55

The amendments to Articles 54 and 55 revise the requirements for a union to obtain the most representative status (MRS). Both Articles now require unions applying for MRS to submit a list naming their due-paying members.<sup>42</sup> However, the Committee on Freedom of Association has previously found that this requirement poses a problem with regard to the principles of freedom of association, considering the risk of reprisals and anti-union discrimination that workers whose names figure on that list may face.<sup>43</sup>

Articles 54 and 55, despite their amendments, still provide exclusive rights in collective bargaining and labor dispute resolution to the MRS union.<sup>44</sup> Thus, both Articles continue to impede upon the ability of minority unions to participate in collective bargaining and labor dispute resolutions with the MRS union. In prohibiting minority unions from participating in collective bargaining and dispute resolutions with the MRS union, Articles 54 and 55 unduly deprive minority unions of two essential means to defend the occupational interests of their members.<sup>45</sup>

#### Article 59

Article 59 was amended to add an exception enabling minority unions to “[r]epresent their own members in collective labor disputes that are not emanating from the collective bargaining agreement”. This provision now protects the right of minority unions to represent their own members in collective labor disputes that do not stem from a collective bargaining agreement. However, this exception is minor and the *TUL* still deprives the participation of minority unions in collective bargaining or labor dispute resolutions alongside MRS unions. Articles 54, 55 and 59 therefore continue to prevent minority unions from representing their members in all disputes, restricting their right to freedom of association, likely in contravention of international standards.

In conclusion, the amended *TUL* continues to fall short of international labor standards and unduly restricts the freedom of association. The amended articles along, with other problematic provisions that were not amended,<sup>46</sup> demonstrate that the *TUL* does not fully protect the right to freedom of association as outlined in both the ICCPR and ILO Convention 87.

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<sup>42</sup> Article 54(2)(c) provides that a union will obtain the most representative status (MRS) if it has “a list with the most due-paying members”. As for Article 55, it provides that to become a MRS union, a union must, among other criteria, have “a list of members whose membership dues have been deducted from 30% or more of the total workers”.

<sup>43</sup> ILO, ‘Compilation of decisions of the Committee on Freedom of Association 2018’, §536, <[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/publication/wcms\\_632659.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_632659.pdf)>.

<sup>44</sup> Article 54(1) provides that “...For the purpose of the collective bargaining or collective labor dispute resolution, the most representative status union is granted the exclusive right to do so”. As for Article 55(2), it states that “The most representative status union has the exclusive right to represent all workers in negotiating a collective bargaining agreement or to resolve collective labor disputes with the employer or an employer association of that particular profession or economic activity or sector”.

<sup>45</sup> See for example, Committee on Freedom of Association Case No. 3123 (Paraguay) Report No. 378 (June 2016), para. 627: “In this regard, the Committee considers that neither the legislation nor the application thereof should limit the right of employers’ and workers’ organizations to represent their members...”; Committee on Freedom of Association Case No. 1385 (New Zealand) Report No. 259 (November 1988), para. 545: “...minority organizations should be permitted to carry out their activities and at least to have the right to speak on behalf of their members and to represent them”.

<sup>46</sup> Articles 65 and 92. See CCHR, ‘Protecting Fundamental Freedoms: A Desk Review of Domestic Legislation and its Compliance with International Law’ (December 2019), 40 – 41

## 2.2 The *Law on the Management of the Nation in State of Emergency* provides broad and unfettered powers to unduly restrict fundamental freedoms during a State of Emergency

The *Law on the Management of the Nation in State of Emergency* (the *State of Emergency Law*) contains several provisions that restrict human rights in contravention of the Constitution of the Kingdom of Cambodia (Constitution) and international law. While states may introduce legislation to govern the declaration of a State of Emergency, State of Emergency laws must comply with relevant legal standards.<sup>47</sup> International human rights law prescribes that such legislation may permit *temporary* derogation from *some* human rights in circumstances of public emergencies, but these permissible derogations are subject to strict legal conditions to ensure human rights are adequately protected during a time of emergency. The *State of Emergency Law* does not comply with these conditions.

The *State of Emergency Law* introduces 12 measures that the government can implement during a state of emergency. These measures, outlined in Article 5, are excessively broad and do not satisfy international standards. As a result, the *State of Emergency Law* undermines the freedoms of association,<sup>48</sup> assembly<sup>49</sup> and expression.<sup>50</sup> An overview of four provisions that impact fundamental freedoms are detailed below.

### Article 5(2)

Article 5(2) permits the RGC to “*prohibit or restrict the right of meeting and grouping people*”. This is essentially unfettered power to ban or limit citizens from gathering or congregating. This restriction on the freedoms of peaceful assembly, and association likely violates international law.

### Article 5(3)

Article 5(3) permits the RGC to “*ban or restrict work or business activities*”. This article could be used to prohibit the work of any business, including a CSO or TU, impacting freedom of association. It could also be used to infringe upon the right to work of media outlets and journalists, even shuttering media outlets altogether in violation of the freedom of expression.

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[https://cchrcambodia.org/index\\_old.php?url=media/media.php&p=report\\_detail.php&reid=140&id=5](https://cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=140&id=5).

<sup>47</sup> ICCPR Article 4. See also, UN Human Rights Committee, CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency, 31 August 2001, CCPR/C/21/Rev.1/Add.11.

<sup>48</sup> Ibid n 26.

<sup>49</sup> The right to freedom of peaceful assembly, recognized by Article 21 of the ICCPR, includes the right to participate in all intentional and temporary peaceful gatherings in a private or public space for a specific purpose, including: assemblies, inside meetings, protests, strikes, sit-ins, demonstrations, and other temporary gatherings for a specific purpose. UN Human Rights Council, First Thematic 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. 24. The right to freedom of assembly is also protected in domestic law through Article 42 of the Constitution, in addition to the right to strike and to organize peaceful demonstrations protected in Article 37.

<sup>50</sup> The right to freedom of expression is enshrined in Article 19(2) of the ICCPR, “*Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice*”. The right to freedom of expression is also protected in domestic law through Article 41 of the Constitution.

#### Article 9

Article 9 states that legal entities can be held criminally liable for disobedience or obstruction of national measures as granted under the *State of Emergency Law* during a declared State of Emergency. A CSO, for example, could be held subject to “one or more additional penalties as stated in article 168 of the Criminal Code”, including dissolution or forced closure of an entity,<sup>51</sup> which is incompatible with the freedom of association.

#### Article 5(11)

Article 5(11) gives the RGC power to “prohibit or restrict news sharing or media” when the expression in question could “cause people panic or chaos or bring damage to the national security”, or could “cause confusion” among the public. This Article violates the freedom of expression because it permits the restriction of speech based on vague, undefined, and arbitrary categories of expression.

A comprehensive analysis of the *State of Emergency Law’s* compliance with the fundamental freedoms of association, expression and peaceful assembly will be included in the FFMP Year Five Report.

There were few legal developments in Year Four that impacted the freedoms of association, assembly and expression. The one primary law that was amended, the *TUL*, continues to contain several provisions that contravene international human rights law and standards. The RGC had the opportunity to bring the *TUL* in line with international law, but the amendments made are insufficient and leave the freedom of association inadequately protected. Stakeholders communicated regularly with the RGC for more comprehensive amendments to bring the law into compliance with international standards. Despite this, the RGC left many of the edits outlined by stakeholders out of the amendments. As a result, the *TUL* remains non-compliant with Cambodia’s human rights obligations.

The conclusion drawn from the legislative developments in Year Four is that the Cambodian legal framework continues to not fully comply with international human rights law and standards on fundamental freedoms. Domestic laws continue to restrict the freedoms of association and expression, while the laws surrounding the freedom of peaceful assembly are relatively compliant with Cambodia’s human rights obligations.

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<sup>51</sup> “The suspension and the involuntarily dissolution of an association are the severest types of restrictions on freedom of association. As a result, it should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law”. UN Human Rights Council, A/HRC/20/27, ‘Report of UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai’ May 21, 2012, para. 75 <[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)>.

### **3. Key Milestone Two: Is the legal framework for fundamental freedoms implemented and properly enforced?<sup>52</sup>**

Key Milestone Two examines the extent to which the domestic legal framework for the fundamental freedoms is properly implemented and enforced.

**Key Findings:** 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 Four, the FFMP recorded persistent restrictions to the fundamental freedoms, carried out by national and local authorities, demonstrating a lack of compliance with international human rights law and domestic law. The FFMP recorded that CSO and TU leaders are often targeted by the authorities for exercising their fundamental freedoms. Overall, the FFMP highlights that laws affecting fundamental freedoms continue to be systematically misapplied.

The FFMP recorded a total of 656 incidents related to the exercise of fundamental freedoms in Year Four. 537 of these incidents were recorded through media monitoring and an additional 119 unique incidents were reported via the FFMP's incident reporting mechanism. Key findings from these incidents are outlined below.

#### **3.1 Fundamental freedoms are restricted and violated resulting in a curtailed civic space**

Despite fundamental freedoms being protected in national and international laws, restrictions and violations of fundamental freedoms continue to occur regularly. These restrictions and violations are a result of a systemic misapplication of laws.

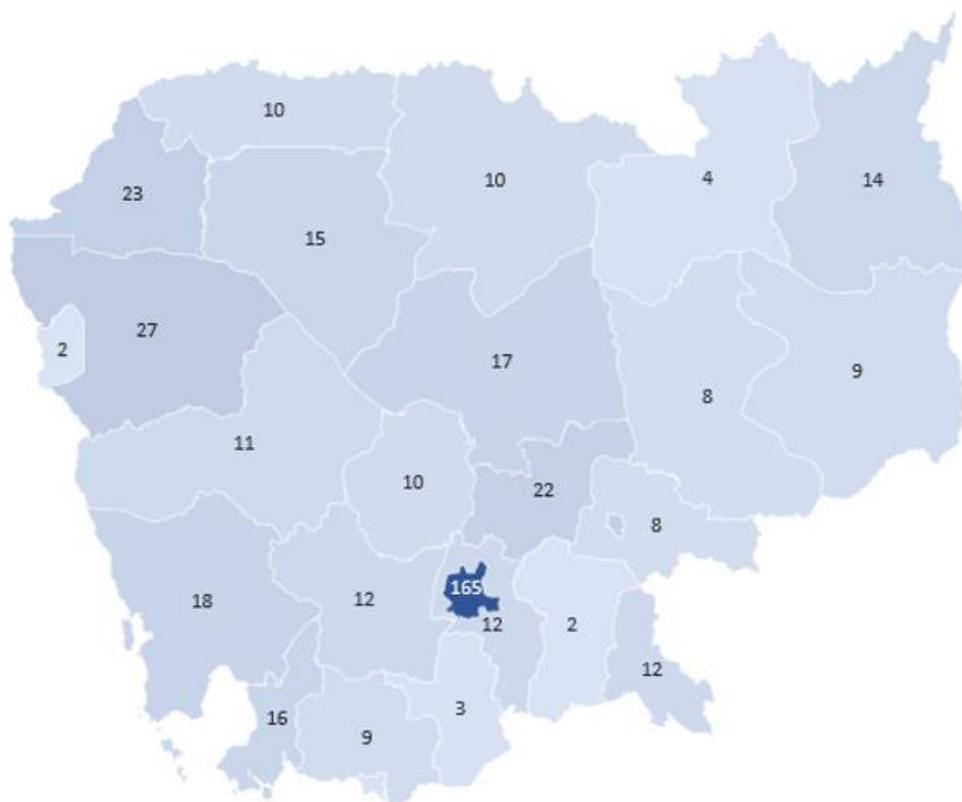
In Year Four, the FFMP recorded restrictions to fundamental freedoms in every province. The restrictions seem to occur at the precise times when large numbers of citizens try to exercise fundamental freedoms. Two-thirds of all incidents recorded by the FFMP include one or more restriction or violation of fundamental freedoms.<sup>53</sup> Out of the 656 incidents recorded, 440 involved at least one restriction to the fundamental freedoms (67%), and 246 involved at least one violation (38%).

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<sup>52</sup> The findings in Key Milestone Two are based on Media Monitoring, Incident Reports, a CSO/TU Leader Survey conducted in January 2020, a Public Poll conducted in March 2020 and a Trade Union Registration Evaluation Tool. These data collection methods are presented in Annex 1.

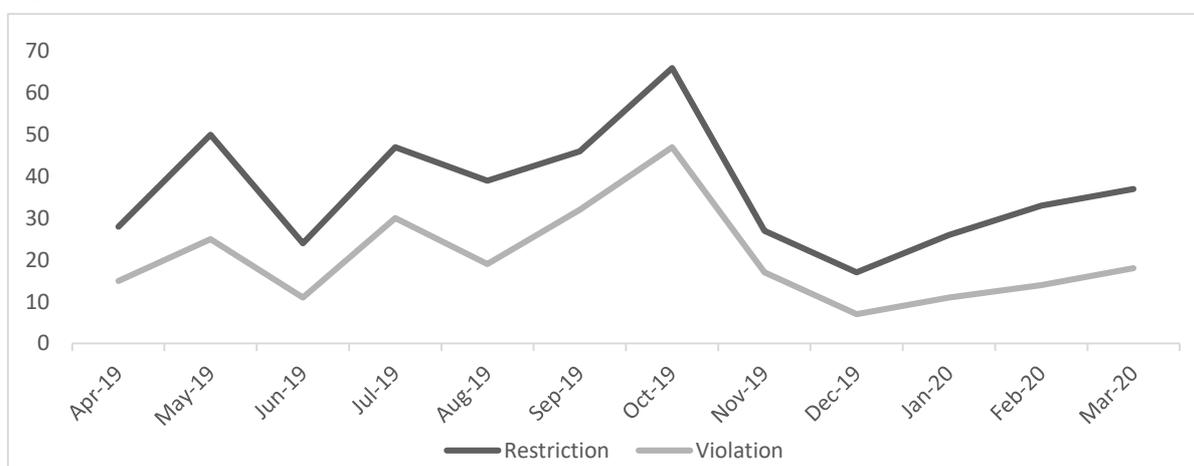
<sup>53</sup> The difference between a restriction and a violation of a right is that a restriction can be legally permissible under certain circumstances, while a violation *prima facie* contravenes international legal standards. For example, to determine whether a restriction to speech constitutes 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.

**Figure 13: Geographical mapping of incidents recording a restriction to the fundamental freedoms**



Restrictions were recorded in all provinces with the majority occurring in Phnom Penh.

**Figure 14: Frequency of incidents of restrictions or violations of fundamental freedoms**

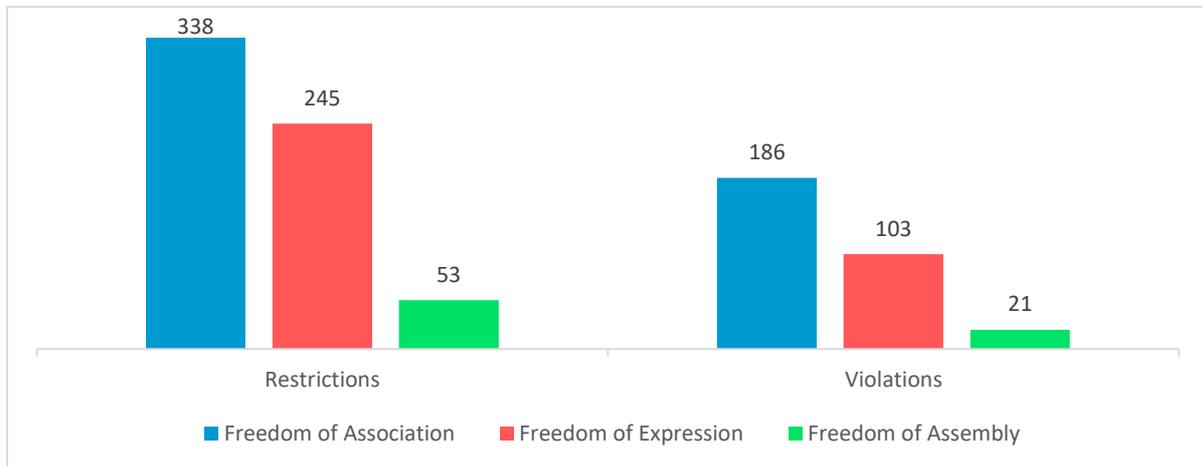


In Year Four, restrictions and violations of fundamental freedoms peaked four times:

- **May 2019:** Systematic serving of summons to former- Cambodia National Rescue Party (CNRP) members to appear in Court under accusations of violating the Supreme Court verdict from November 2017 that dissolved the CNRP;
- **July 2019:** Interferences with gatherings and memorials marking the third anniversary of the murder of Dr. Kem Ley;
- **September and October 2019:** A surge of restrictive actions by the RGC coinciding with Mr. Sam Rainsy’s planned return to Cambodia;
- **February and March 2020:** A gradual increase in restrictions, especially to the freedom of expression, at the outset of the COVID-19 pandemic.

Incidents recorded by the FFMP often contain violations or restrictions to multiple fundamental freedoms. The FFMP records the number of incidents in which restrictions or violations of fundamental freedoms occur, and the total number of restrictions and violations of each fundamental freedom. Often one incident will include multiple restrictions or violations. Thus, the total number of restrictions and violations is greater than the number of incidents.

**Figure 15: Total number of restrictions and violations for each fundamental freedom**



Year Four recorded 338 restrictions and 186 violations of the freedom of association, and 245 restrictions and 103 violations of the freedom of expression. Conversely, there were relatively fewer restrictions (53) and violations (21) of the freedom of assembly.

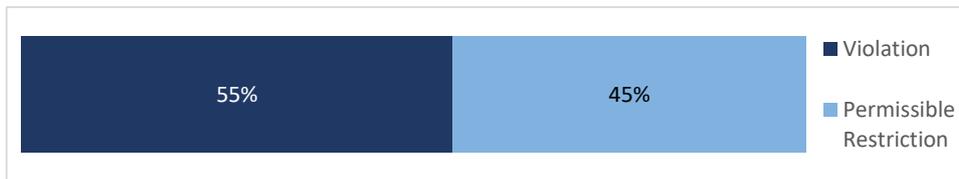
Curtailed fundamental freedoms leads to a curtailment of civic space. The freedoms of association, assembly and expression are fundamental for the exercise of all human rights. They empower citizens to engage in activities in the pursuit of bringing about societal change for the better. Without the ability to exercise their fundamental freedoms, citizens of Cambodia and others living in Cambodia, are prevented from being active members of society and prevented from holding rights violators accountable.

# Freedom of Association

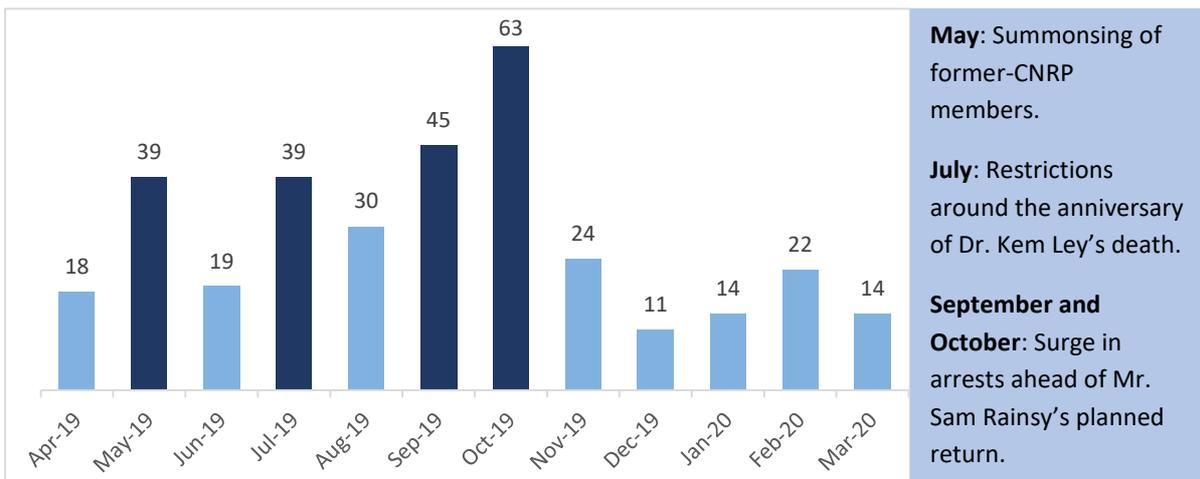
The freedom of association was restricted in Year Four, principally by the RGC, with over half of the restrictions also amounting to violations. Restrictions to the freedom of association seem to be often used to target political dissent and to curtail civil society.



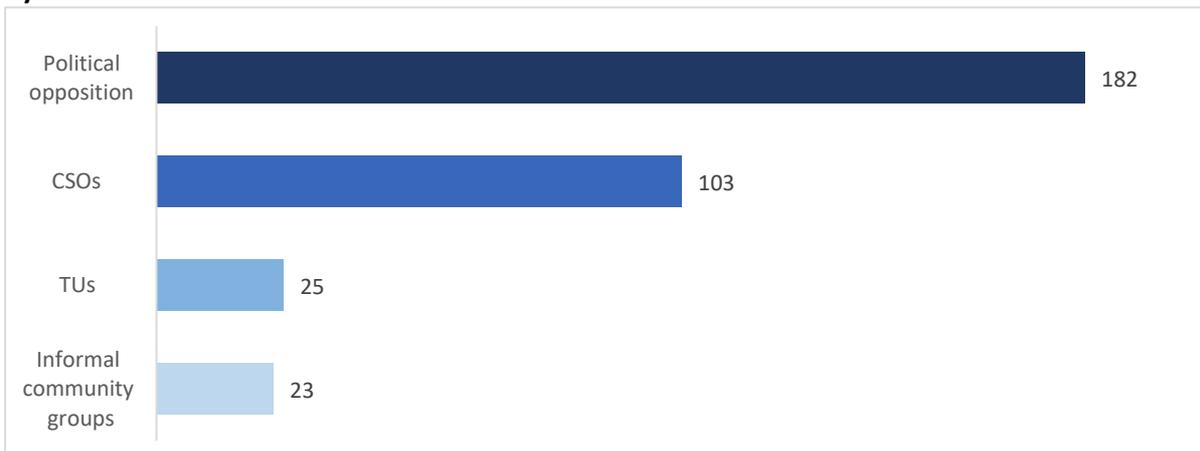
**Figure 16: 55% of all restrictions to the freedom of association surpass lawful standards and amount to violations, 45% are permissible restrictions**



**Figure 17: Restrictions to the freedom of association peaked in May, July, September and October**



**Figure 18: The political opposition is the most frequent target of freedom of association restrictions by the RGC**

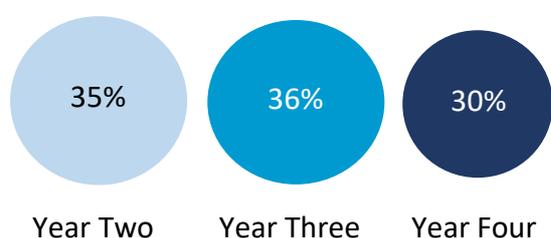


## 3.2 The RGC interferes with the right to freedom of association

Between April 2019 and March 2020, the FFMP recorded a total of 114 incidents of the RGC targeting the right to freedom of association of a CSO or TU. There were 101 restrictions against a CSO or CSO affiliate,<sup>54</sup> and 13 against a TU. Restrictions vary from criminal actions taken against CSO members,<sup>55</sup> monitoring and interruption of CSO activities,<sup>56</sup> prohibiting CSO's events,<sup>57</sup> intimidation and harassment of CSO staff, including threats of legal action,<sup>58</sup> prohibiting TUs from protesting,<sup>59</sup> and judicial harassment of unionists.<sup>60</sup>

In the CSO/TU Leader Survey and the Public Poll, respondents reported being targeted by the RGC for their association with a CSO or TU (see Figures 19 and 20).

**Figure 19: CSO/TU leaders report being targeted by the RGC<sup>61</sup>**



30% of respondents from the CSO/TU Leader Survey reported being targeted by the RGC due to their involvement with their CSO or TU. This represents a slight decrease from previous years. However, almost one-third of all survey respondents report being targeted for exercising their right to freedom of association.

**Figure 20: The public reports being victimized due to their involvement in a CSO<sup>62</sup>**

The Public Poll recorded a jump in the number of individuals reporting they have been victimized for their involvement in a CSO, with 25% of respondents answering affirmatively to the question compared to 19% in Year Three.



### 3.2.1. CSOs are still required to give prior notification before undertaking activities

Despite the Ministry of Interior (Mol)'s explicit repeal of the three-day prior notification requirement for all CSO activities in November 2018, this prior notification requirement is still being implemented.

<sup>54</sup> CSO affiliate refers to both CSO staff members as well as members of the public who engage with CSOs.

<sup>55</sup> Soth Koemsoeun, 'Court summons Adhoc staffer' (*The Phnom Penh Post*, 25 July 2019)

<<https://www.phnompenhpost.com/national/court-summons-adhoc-staffer>>.

<sup>56</sup> Sek Bandeth, 'Battambang police interrupted NGOs meeting' (*RFA*, 18 October 2019)

<<https://www.rfa.org/khmer/news/human-rights/battambang-police-harasses-Adhoc-officer-10182019053713.html>>.

<sup>57</sup> Khorn Savi, 'Authorities block Prey Lang community ordination event' (*The Phnom Penh Post*, 23 February 2020)

<<https://www.phnompenhpost.com/national/authorities-block-prey-lang-community-ordination-event>>.

<sup>58</sup> Sek Pandit, 'Mr. Hun Sen warns of arrest of deputy director of rights group Licadho for defending false informers' (*RFA*, 30 March 2020) <<https://www.rfa.org/khmer/news/human-rights/hun-sen-warns-to-arrest-Am-Sam-Ath-a-rights-defender-03302020024938.html>>.

<sup>59</sup> Voun Dara, 'May Day marches 'not allowed'' (*The Phnom Penh Post*, 26 April 2019)

<<https://www.phnompenhpost.com/national/may-day-marches-not-allowed>>.

<sup>60</sup> Mom Kunthear, 'Ath Thorn summoned over violent 2013 factory protest' (*Khmer Times*, 25 October 2019)

<<https://www.khmertimeskh.com/50654402/ath-thorn-summoned-over-violent-2013-factory-protest/>>.

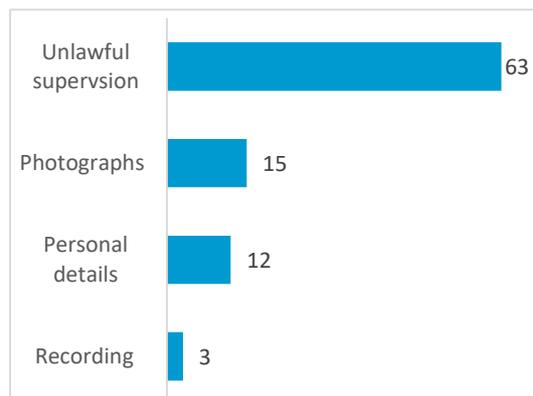
<sup>61</sup> This question was not asked in the CSO/TU Leader Survey conducted in Year One.

<sup>62</sup> This question was not asked in the Public Poll conducted in Year One.

The FFMP recorded 16 instances of the RGC enforcing the prior notification requirement against CSOs.<sup>63</sup> For example, 34 police officers prevented the Community Legal Education Center (CLEC) from conducting training in Sang Khum Thmey village, Thmor Dar commune, Vel Veng district, Pursat province because authorities claimed CLEC did not obtain prior permission from the commune.<sup>64</sup> Two of these 16 incidents recorded by the FFMP were against community-based organizations (CBOs) who were excluded under the 2018 repeal of the prior notification requirement.<sup>65</sup>

### 3.2.2. Surveillance of CSOs and TUs continues to be excessive

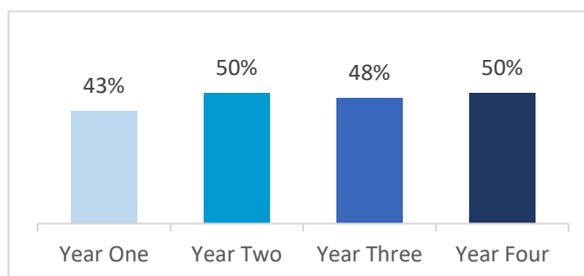
**Figure 21: Incidents of unlawful supervision and surveillance of CSO activities by the RGC**



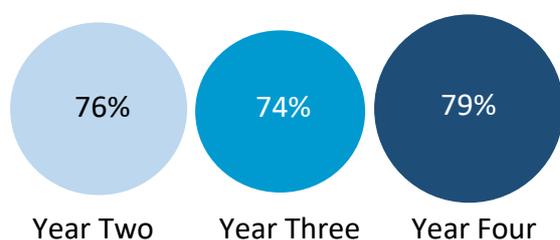
CSOs continue to experience unlawful supervision and oversight by the RGC. The RGC interferes with daily activities of CSOs, infringing on the right to freedom of association. The FFMP recorded 63 incidents where RGC supervision or interference of CSO activities violated international law. These included 15 incidents where authorities took photographs of participants or staff,<sup>66</sup> 12 incidents where authorities requested personal details of participants or staff,<sup>67</sup> and three incidents of authorities recording private CSO events.<sup>68</sup>

**Figure 22: CSO/TU leaders report monitoring or surveillance of their organization by the RGC**

This atmosphere of excessive RGC oversight is reflected in the results of the CSO/TU Leader Survey. 50% of CSO and TU leaders reported that RGC authorities engaged in monitoring or surveillance of their organization's activities. This represents a slight increase from Year Three and is on par with Year Two.



**Figure 23: CSO/TU leaders feel RGC monitoring or surveillance was excessive<sup>69</sup>**



Of those who reported monitoring or surveillance of their organization, 79% felt it was excessive, a 5% increase from Year Two. Almost four-fifths of respondents believe the monitoring or surveillance they were subjected to by the RGC likely amounted to an interference with the freedom of association.

<sup>63</sup> See for example, Incident Reports IRCC230, IRAD148 and IRAD149.

<sup>64</sup> Khorn Sari, 'The organization maintains that local authorities continue to restrict citizen gatherings in education' (*The Phnom Penh Post*, 7 August 2019) <<https://bit.ly/2KzWU2T>>.

<sup>65</sup> See for example, Mao Sotheany, 'Stung Treng Provincial Police Prevent Prey Lang Communities in Forestry' (*RFA*, 22 February 2020) <<https://www.rfa.org/khmer/news/environment/logging-preylang-02222020054947.html>>.

<sup>66</sup> See for example, Incident Reports IRAD147 and IRCC161.

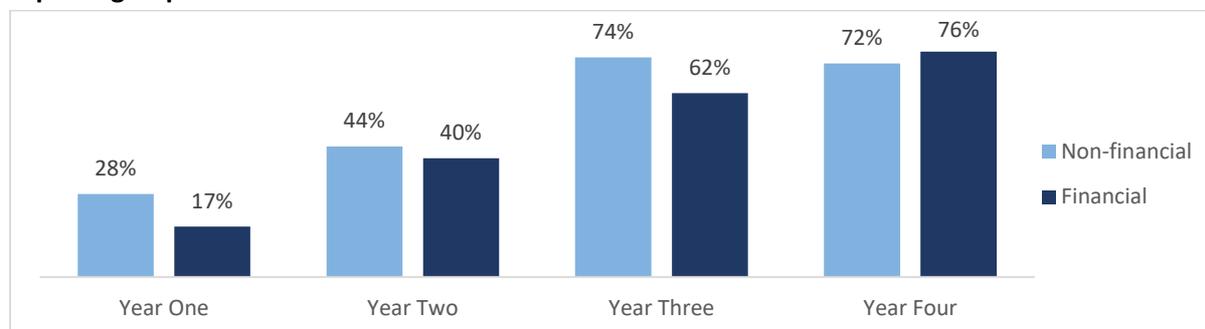
<sup>67</sup> See for example, Incident Reports IRAD142 and IRCC205.

<sup>68</sup> Incident Reports IRCC166, IRCC153 and IRCC184.

<sup>69</sup> This question was not asked in the CSO/TU Leader Survey conducted in Year One.

### 3.2.3. CSOs and TUs are able to meet reporting requirements, but find them to be excessive and burdensome

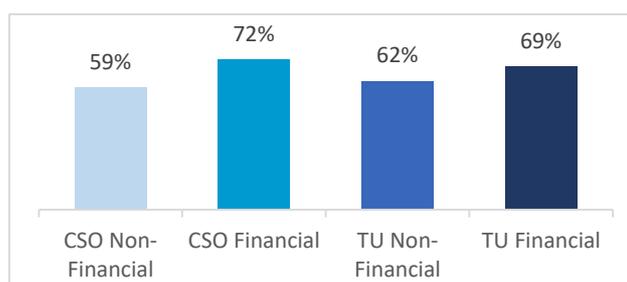
**Figure 24: CSO/TU leaders who reported they were able to meet RGC non-financial and financial reporting requirements**



Data from the CSO/TU Leader Survey revealed that CSO leaders have increasingly been able to complete both financial and non-financial reports in accordance with requirements set forth in the *Law on Associations and Non-Governmental Organizations (LANGO)* or the *TUL* (see Figure 24 above).

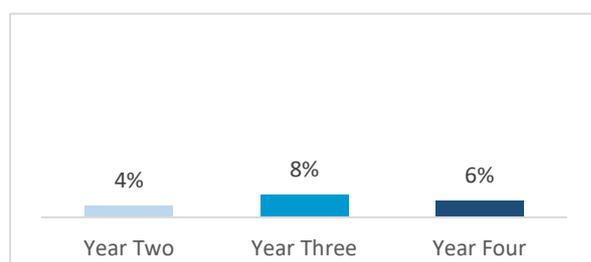
**Figure 25: % of CSO/TU leaders who find reporting requirements excessive or burdensome**

However, the majority of CSO and TU leaders perceive the reporting requirements under the *LANGO* and the *TUL* to be excessive or burdensome. CSO and TU leaders both reported the financial reporting requirements to be more burdensome than the non-financial reporting requirements.



### 3.2.4. Few CSOs and TUs experience restrictions regarding foreign funding

**Figure 26: Proportion of CSO/TU leaders who report their CSO has faced government restrictions when trying to receive funding from foreign donors in the last year<sup>70</sup>**



In Year Four, 6% of respondents to the CSO/TU Leader Survey stated that their organization faced restrictions from the RGC when receiving funding from foreign sources. The vast majority reported no interference of this nature. However, Year Four recorded a new trend of third-party interference in receiving foreign funding. The FFMP recorded

three occasions of bank staff calling CSOs to inquire about the purpose of international bank transfers. The staff requested CSOs to share funding agreements before the bank would release the funds. However, on all three occasions the CSO refused and the funds were eventually released.<sup>71</sup>

<sup>70</sup> This question was not asked in the CSO/TU Leader Survey conducted in Year One.

<sup>71</sup> Incident Reports IRCC222, IRCCC228 and IRCC229.

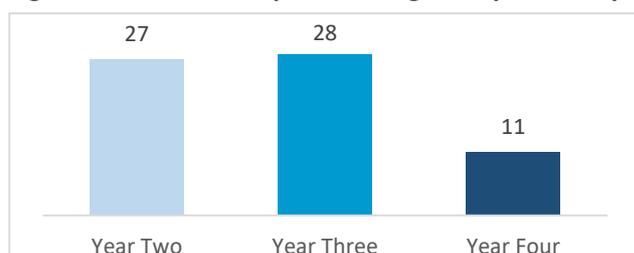
### 3.2.5. TU leaders and members risk termination of their employment due to unionism

Throughout Year Four, the FFMP recorded 168 individuals who were suspended or terminated from their employment, or did not receive a contract extension, due to their unionism.<sup>72</sup> For example, in May 2019, 105 workers at Min Rong Garment Factory Co. Ltd. had their labor contracts terminated for not resigning from their union, the Khmer Workers Heart Union. In addition, Mrs. Soy Sophaon, president of this union, was not permitted to continue her employment after her return from maternity leave.<sup>73</sup>

### 3.3 Trade unions still face challenges in the registration process

Amendments to the *TUL* in January 2020 did not alleviate any of the burdensome registration requirements for TUs. Therefore, TUs are likely to continue to face challenges when attempting to register. In Year Four, the FFMP used its Trade Union Registration Evaluation Tool (the Evaluation Tool) to document the experiences of 29 TUs attempting to register their union pursuant to the *TUL*. Among these 29 unions, 18 (or 62%) successfully registered while the attempts of the remainder of TUs were unsuccessful. This suggests that the registration requirements implemented under the *TUL* are burdensome for a large number of TUs.<sup>74</sup>

**Figure 27: TUs who report making multiple attempts at registration**



The Evaluation Tool noted a decrease in the number of TUs that report needing to make multiple attempts to register. In Year Four, 11 TUs reported undertaking multiple attempts at registration, nine of which were successfully registered by the end of Year Four.

### 3.4 Individuals are targeted due to their actual or perceived political affiliation

In Year Four, the FFMP found that 51% of the restrictions and 54% of the violations of the freedom of association involved individuals affiliated with, or perceived to be affiliated with, the CNRP (CNRP-affiliates). A total of 171 restrictions and 100 violations of freedom of association occurred against actual or perceived CNRP supporters, former-CNRP members, or former-CNRP officials. The crackdown, which commenced with the dissolution of the CNRP and the banning of 118 CNRP parliamentarians from politics in 2017, continued throughout Year Four. The RGC targeted individuals with actual or perceived affiliation with the CNRP regardless of whether such affiliation is on-going or previously ended. On 29 August 2019, Minister of Interior and Deputy Prime Minister Sar Kheng,

<sup>72</sup> Article 8 of the International Covenant on Economic, Social and Cultural Rights expressly includes “the right to form and join trade unions for the protection of his interests”. Cambodia’s constitution reinforces this right at Article 36, “Khmer citizens of both sexes shall have the right to create trade unions and to participate as their members”.

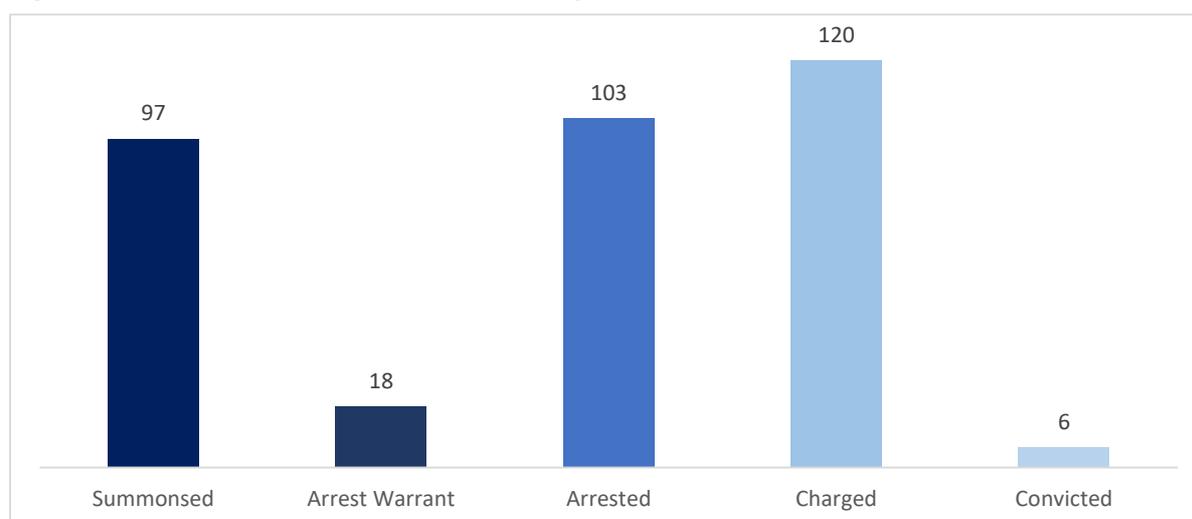
<sup>73</sup> Incident Report IRSC044.

<sup>74</sup> CCHR, ADHOC, SC and ICNL, ‘Fundamental Freedoms Monitoring Project: First Annual Report’ (August 2017), 4 <<https://cchrcambodia.org/admin/media/report/report/english/2017-08-10-CCHR-FFMP-Annual-Report-Eng.pdf>>.

imposed an absolute ban on all activities associated with the CNRP and threatened that action would be taken against any gathering in support of the CNRP.<sup>75</sup> This prohibition on all actions of association with the CNRP is a violation of the freedom of association under Article 22 of the ICCPR, which explicitly protects the right to associate with political parties, and Articles 35 and 42 of the Constitution which protect political rights and the freedom of association, respectively.<sup>76</sup>

The RGC frequently targets those believed to be CNRP-affiliates through criminal sanctions and judicial harassment. In Year Four, 120 CNRP-affiliates were charged, 103 were arrested and 97 were summonsed.

**Figure 28: Number of CNRP-affiliates criminally sanctioned**



### 3.4.1. CNRP-affiliates are targeted and attacked

In addition to criminal sanctions, CNRP-affiliates have been subjected to physical violence.<sup>77</sup> The FFMP recorded eight incidents of unidentified third-party actors committing violence against CNRP-affiliates.<sup>78</sup> Each incident was a spontaneous and unprovoked attack, often with metal pipes as the weapon, conducted by individuals on motorbikes unknown to the victims. These third-party attacks represent failings of the RGC as the duty bearers with a legal obligation to ensure protection of the right to freedom of association across its territory. The RGC has stated that the attacks are being investigated, however the status of these investigations is unknown and no arrests have been made.

<sup>75</sup> Niem Chheng, 'CNRP support will not be tolerated' (*The Phnom Penh Post*, 29 August 2019) <<https://m.phnompenhpost.com/national-politics/cnrp-support-will-not-be-tolerated>>.

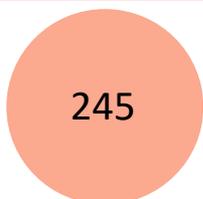
<sup>76</sup> The Constitution of the Kingdom of Cambodia, Article 35, "Khmer citizens of both sexes have the right to participate actively in the political, economic, social and cultural life of the nation"; Article 42, "Khmer citizens shall have the right to create associations and political parties".

<sup>77</sup> Hun Serey Vath, 'Another former opposition activist has suffered violence at the Phnom Penh Municipality' (*VOD*, 20 January 2020) <<https://vodkmer.news/2020/01/20/another-ex-cnrp-activist-got-attack/>>.

<sup>78</sup> See for example, Joshua Lipes, 'Assault of Cambodia Opposition Activist Latest in a Dozen Attacks Ahead of Sam Rainsy Return' (*RFA*, 25 September 2019) <<https://www.rfa.org/english/news/cambodia/attacks-09252019160320.html>>.

## Freedom of Expression

The freedom of expression continues to be repressed by the RGC in violation of international human rights law and the Constitution. Dissenting or critical opinions are systematically silenced, often through arrests or judicial threats, which is likely to cultivate an atmosphere of fear and self-censorship. The RGC seems to be intolerant of speech regarding government officials, government policies or the Prime Minister, which often results in a lack of public debate on important policy matters.

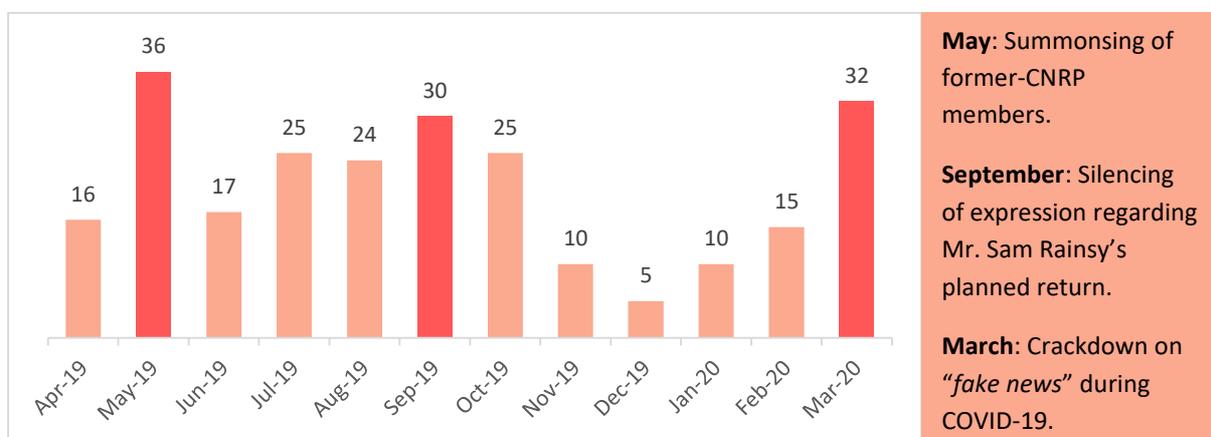


245 Restrictions to the freedom of expression in Year Four

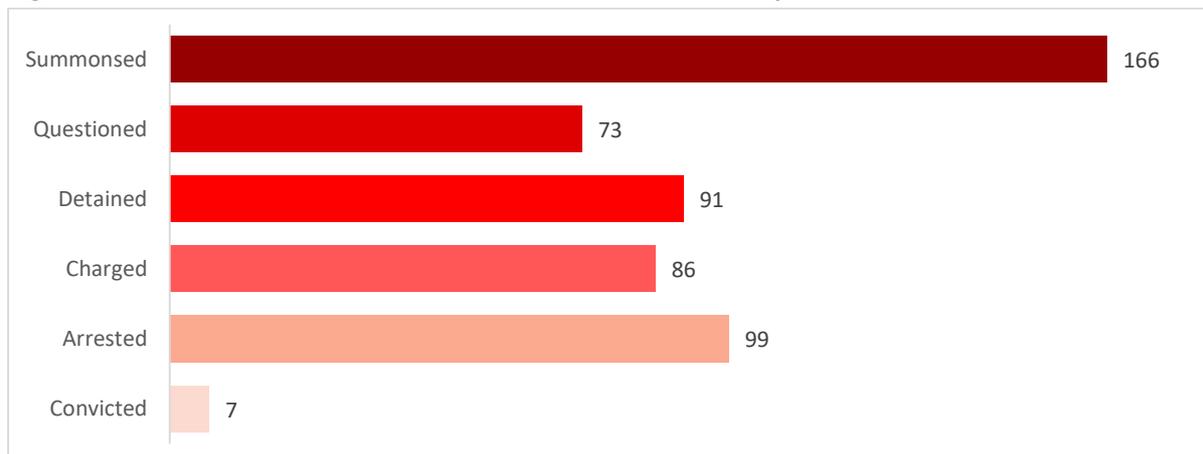


103 Violations of the freedom of expression in Year Four

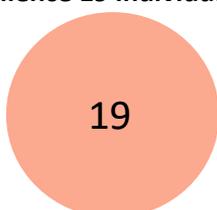
**Figure 29: Restrictions to the freedom of expression peaked in May, September and March**



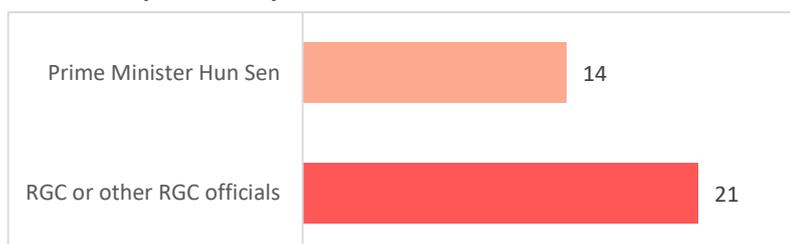
**Figure 30: Criminal sanctions are used to silence freedom of expression**



**Figure 31: Defamation charges were used to silence 19 individuals**

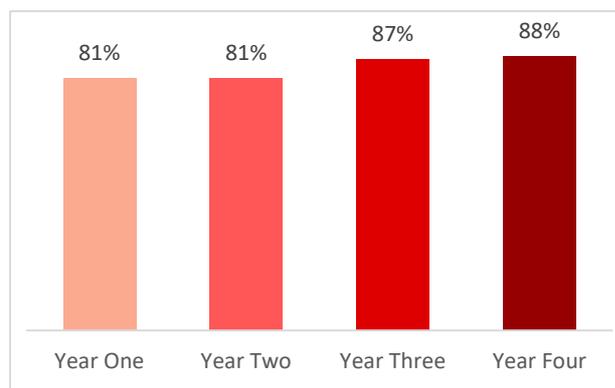


**Figure 32: Free speech regarding Prime Minister Hun Sen and the RGC is particularly restricted**



### 3.5 The right to freedom of expression is insufficiently protected

**Figure 33: % of CSO/TU leaders who self-censor while speaking in public<sup>79</sup>**

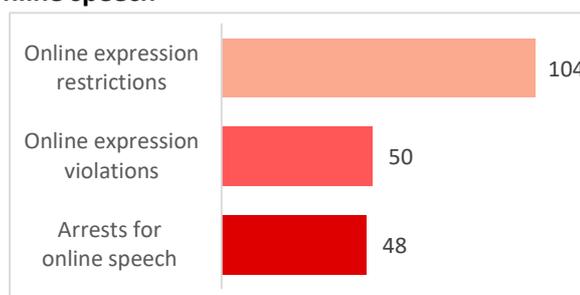


In the CSO/TU Leader Survey, 88% of respondents reported that they self-censor, which is the largest proportion of respondents reporting self-censorship to date. This illustrates the increasing fear of exercising the freedom of expression across civil society. Surveillance and intimidation of CSOs and TUs by the RGC (see Section 3.2.2.) and criminal sanctions for free speech (see Figure 30) creates an environment of intimidation and self-censorship.

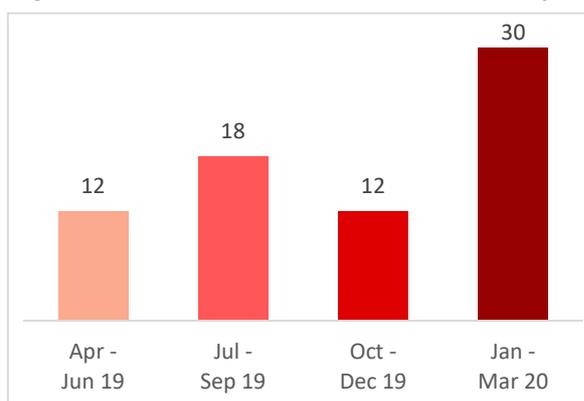
#### 3.5.1 Online expression continues to be restricted and violated, particularly on social media

**Figure 34: Restrictions, violations and arrests for online speech**

Year Four recorded 104 restrictions to the freedom of expression related to online expression (42% of all recorded expression restrictions), along with 50 violations (48% of all recorded expression violations). 48 individuals were arrested for exercising their freedom of expression online.



**Figure 35: Restrictions to the freedom of expression on social media**



In Year Four, the FFMP recorded 72 restrictions to the freedom of expression that took place on social media. 69 occurred Facebook, two occurred YouTube and one occurred on TikTok. 43 individuals were arrested for exercising expression on Facebook. The FFMP recorded 39 incidents where individuals were accused of spreading “fake news” through social media;<sup>80</sup> 23 were arrested or detained with the remainder subject to threats or summonses. Of those 23, 14 were subsequently

released, 12 of which were conditional upon thumb-printing an agreement promising not to share “fake news” again.<sup>81</sup> The remaining nine await trial in detention.<sup>82</sup>

<sup>79</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.

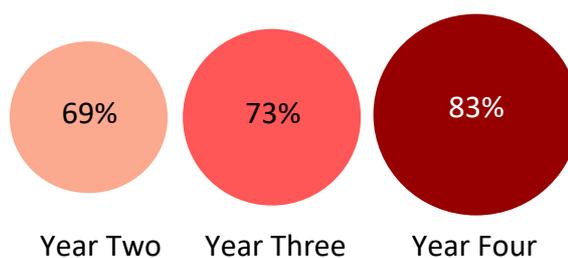
<sup>80</sup> “Fake news” is criminalized in Cambodia under Article 425 of the Criminal Code, falsifying information.

<sup>81</sup> See for example, Fresh News, 'Koh Kong police arrested a youth after he posted in the Facebook related the Koronavirus infection' (Fresh News, 29 January 2020) <<http://freshnewsasia.com/index.php/en/localnews/146833-2020-01-29-07-13-37.html>>.

<sup>82</sup> See for example, Fresh News, 'Takeo youth arrested and sent to court for spreading false information' (Fresh News, 12 March 2020) <<http://freshnewsasia.com/index.php/en/localnews/151312-2020-03-12-08-29-46.html>>.

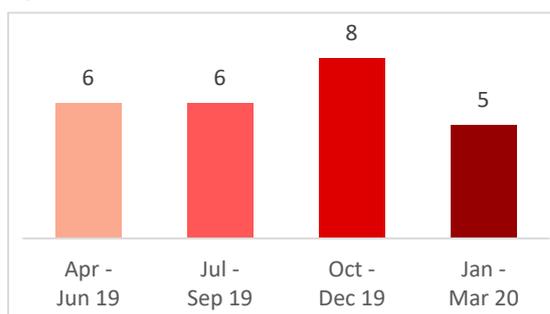
**Figure 36: CSO/TU leaders who report feeling unsafe to impart information through social media<sup>83</sup>**

83% of CSO and TU leaders feel unsafe imparting information through social media. Social media was the medium respondents felt least safe exercising expression through. CSO and TU leaders also felt unsafe exercising the freedom of expression through, newspapers (76%), radio (75%) and television (72%).



### 3.5.2. Journalists and media outlets are targeted

**Figure 37: Restrictions to the fundamental freedoms that targeted journalists and media outlets**



The FFMP recorded 25 incidents in Year Four where journalists or a media outlet faced judicial actions for engaging in journalistic activities. The judicial actions recorded include summonses, questioning, arrests and charges.<sup>84</sup> Targeted media outlets include *The Cambodia Daily*, *Apsara TV*, *Voice of Democracy*, *Rithy Sen* radio station, *Rasmei Kampuchea Daily*, and *Monoroom.info*.

### 3.5.3. Clothing and fashion is restricted

In Year Four, the FFMP recorded eight incidents of restrictions to the freedom of expression relating to clothing. The right to freedom of expression extends to expression “in the form of art, or through any other media”<sup>85</sup> and the means of expression protected includes “dress”.<sup>86</sup> The incidents included: (a) the arrest of four individuals for selling T-shirts displaying an image of murdered political analyst Dr. Kem Ley,<sup>87</sup> (b) the termination of an individual’s employment contract for her possession of a T-shirt supporting a wage increase at Naga World Casino,<sup>88</sup> and (c) the arrest of one Facebook seller for wearing clothing deemed to be provocative.<sup>89</sup> In this latter case, Ms. Thai Srey Neang was arrested for selling clothes and cosmetics on Facebook in “sexy” outfits, and charged with pornography under Article 39 of the *Law on the Suppression of Human Trafficking and Sexual Exploitation*. Her arrest also

<sup>83</sup> This question was not asked in the CSO/TU Leader Survey conducted in Year One.

<sup>84</sup> CCHR *et al*, ‘Civil society organizations call for all baseless charges against journalists to be dropped’ (22 December 2019) <[https://cchrcambodia.org/index\\_old.php?title=Civil-society-organizations-call-for-all-baseless-charges-against-journalists-to-be-dropped&url=media/media.php&p=press\\_detail.php&pid=738&id=5](https://cchrcambodia.org/index_old.php?title=Civil-society-organizations-call-for-all-baseless-charges-against-journalists-to-be-dropped&url=media/media.php&p=press_detail.php&pid=738&id=5)>.

<sup>85</sup> Article 19, ICCPR.

<sup>86</sup> UN Human Rights Committee, General Comment No.34: Article 19: Freedoms of opinion and expression, 12 September 2011, CCPR/GC/34.

<sup>87</sup> Taing Vida, ‘Activist charged with incitement over Kem Ley t-shirt sales’ (*Khmer Times*, 12 July 2019) <<https://www.khmertimeskh.com/50623244/activist-charged-with-incitement-over-kem-ley-t-shirt-sales/>>.

<sup>88</sup> Kuth Sokun, ‘Union leader for Naga World terminated’ (*VOD*, 25 September 2019) <<https://vodkhmer.news/2019/09/25/naga-world-union-chiefs-ousted-from-company-after-plans-to-lead-members-to-wage-hike>>.

<sup>89</sup> Mom Kuntear, ‘Woman jailed for using ‘sexy’ photos to promote lingerie online’ (*Khmer Times*, 24 February 2020) <<https://www.khmertimeskh.com/50694281/woman-jailed-for-using-sexy-photos-to-promote-lingerie-online>>.

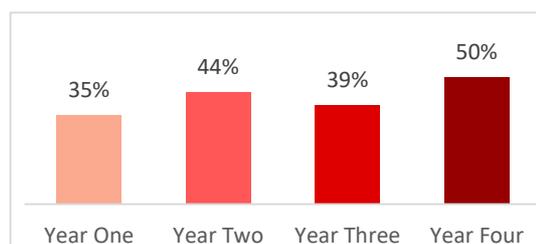
led to the creation of an inter-ministerial group to take action against online sellers that utilize sexual imagery to sell their products such as "showing excessive cleavage".<sup>90</sup>

### 3.6 The RGC conducts surveillance of private communication without judicial oversight

The *Law on Telecommunications* permits the secret listening and recording of telephone conversation if approved by an undefined "legitimate authority".<sup>91</sup> This legislation is too vague to meet international standards for the freedom of expression and creates an environment ripe for abuse.<sup>92</sup> The FFMP documented six incidents of government surveillance of private communications without known judicial oversight. Three were regarding communication about the return of Mr. Sam Rainsy. In one incident, private phone communications between two former-CNRP officials were recorded and used as a basis for criminal charges. The police, who did not have a warrant granting them permission to record the conversation, read out a transcript of the private phone call to the pair and their lawyer during questioning at the Kampong Thom provincial police office.<sup>93</sup> The other three incidents of RGC surveillance were in relation to information about COVID-19 shared privately through phone conversations or voice messages sent through Facebook.<sup>94</sup> In one such incident a phone seller from Kandal province was detained and questioned over a private voice message he sent on Facebook messenger stating that there was a positive COVID-19 case in his village.<sup>95</sup>

**Figure 38: CSO/TU leaders who felt that their organization's communications have been monitored by government authorities in the last year**

In Year Four, 50% of respondents to the CSO/TU Leader Survey reported a belief that their communications are being monitored by the RGC. This is an increase from previous years and represents the largest proportion since the start of the FFMP.



### 3.7 The impacts of COVID-19 on freedom of expression

In the first three months of 2020, the FFMP recorded 26 incidents that restricted freedom of expression related to COVID-19. 19 of these restrictions took the form of accusations, arrests, and charges for spreading "fake news", while five were government threats against spreading "fake

<sup>90</sup> Soth Koemsoeun, 'Ministry supports 'sexy' ban', (*The Phnom Penh Post*, 25 February 2020) <<https://www.phnompenhpost.com/national/ministry-supports-sexy-ban>>.

<sup>91</sup> The *Law on Telecommunications* (17 February 2016), Article 97 <[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>92</sup> CCHR, 'Digital Wrongs? An overview of the situation of digital rights in Cambodia' (2016), 12 <[https://cchrcambodia.org/admin/media/analysis/analysis/english/2016\\_03\\_03\\_CCHR\\_Briefing\\_Note\\_Digital\\_Wrongs\\_EN\\_G.pdf](https://cchrcambodia.org/admin/media/analysis/analysis/english/2016_03_03_CCHR_Briefing_Note_Digital_Wrongs_EN_G.pdf)>.

<sup>93</sup> Andrew Nachemson and Kong Meta, 'Cambodia's digital surveillance serves to silence the opposition and suppress criticism of the government' (*Post Magazine*, 19 October 2019) <<https://www.scmp.com/magazines/post-magazine/long-reads/article/3033508/cambodias-digital-surveillance-serves-silence>>.

<sup>94</sup> RFA, 'Phnom Penh police arrest another opposition official in Prey Veng province over a phone call over concerns over the disease' (RFA, 18 March 2020) <<https://www.rfa.org/khmer/news/politics/an-opposition-activist-in-prey-veng-arrested-because-talking-about-covid-19-fear-on-phone-03182020105614.html>> and Facebook Kampong Speu Police (19 March 2020) <<https://web.facebook.com/watch/?v=663756797785924>>.

<sup>95</sup> Sen David, 'Kandal man questioned over alleged fake news distribution' (*Khmer Times*, 27 March 2020) <<https://www.khmertimeskh.com/50706332/kandal-man-questioned-over-alleged-fake-news-distribution/>>.

news".<sup>96</sup> The remaining two cases were criticisms of the RGC's response to the virus. In one incident Prime Minister Hun Sen threatened the arrest of Mr. Am Sam Ath, Deputy Director of human rights non-governmental organization (NGO), LICADHO, for stating that the RGC had been restricting freedom of expression about the pandemic. Prime Minister Hun Sen stated, "you have to be careful about what you say in this situation. Even if the emergency law is not in effect, I can arrest you".<sup>97</sup> In the second incident a citizen was arrested for thanking Vietnam for advising of a positive COVID-19 test from a man who had travelled to Vietnam from Cambodia.<sup>98</sup> These cases form part of a systemic silencing of all information related to the pandemic.

A stark example of how much the RGC limits the freedom expression related to COVID is the reporter and publisher of *TVFB*, Mr. Sovann Rithy. Rithy was arrested for accurately quoting Prime Minister Hun Sen in a Facebook post. Rithy's post repeated the Prime Minister's statement that moto taxi drivers should sell their motorbikes to combat financial difficulties caused by the COVID-19 pandemic. Rithy was charged with incitement to commit a felony under Article 495 of the Criminal Code. In addition to Rithy's arrest, the Ministry of Information revoked *TVFB*'s operating license and closed its website. Even though this incident occurred after Year Four ended, it is highlighted here because it represents the state of the freedom of expression during the COVID-19 pandemic.

### 3.7.1. CNRP-affiliates disproportionately targeted for spreading "fake news" about COVID-19

Amongst the 26 incidents that restricted freedom of expression related to COVID-19, six CNRP-affiliates were arrested. In one case, 29 year-old Mr. Ngin Khean, who was head of the CNRP's youth wing in Preah Sdach district, Prey Veng province, was arrested by police in Phnom Penh and accused of posting "fake news" regarding COVID-19 on his Facebook page. He was questioned and subsequently charged with plotting and incitement to commit a felony under Articles 453 and 495 of the Criminal Code respectively. Khean was sent to pre-trial detention.<sup>99</sup> His charges mirror those of other CNRP-affiliates systematically prosecuted throughout Year Four (see Section 3.4) and are distinct from the other non-CNRP "fake news" cases. In the non-CNRP "fake news" cases recorded by the FFMP, individuals were arrested under Article 425 of the Criminal Code, falsifying information, and in the majority of cases subsequently released without charge. Falsifying information carries a prison sentence of one to two years, much less than the crime of plotting which carries a sentence of five to ten years imprisonment. This disproportionate impact against individuals associated with the former political opposition could suggest a political motive or an increased scrutiny of CNRP-affiliates.<sup>100</sup>

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<sup>96</sup> See for example, Heng Reksmey, 'Ministry of health will take action who continue spreading Corona Virus in Cambodia' (RFA, 26 January 2020) <<https://www.rfa.org/khmer/news/health/health-ministry-warns-fake-news-on-facebook-01272020042835.html>>.

<sup>97</sup> Sek Pandit, 'Mr. Hun Sen warns of arrest of deputy director of rights group Licadho for defending false informers' (RFA, 30 March 2020) <<https://www.rfa.org/khmer/news/human-rights/hun-sen-warns-to-arrest-Am-Sam-Ath-a-rights-defender-03302020024938.html>>.

<sup>98</sup> Heng Reksmey, 'Authorities in Phnom Penh have arrested a citizen who posted messages on social media related to the disease' (RFA, 9 March 2020) <<https://www.rfa.org/khmer/news/law/facebook-user-arrested-after-flying-covid-19-related-news-03092020111159.html>>.

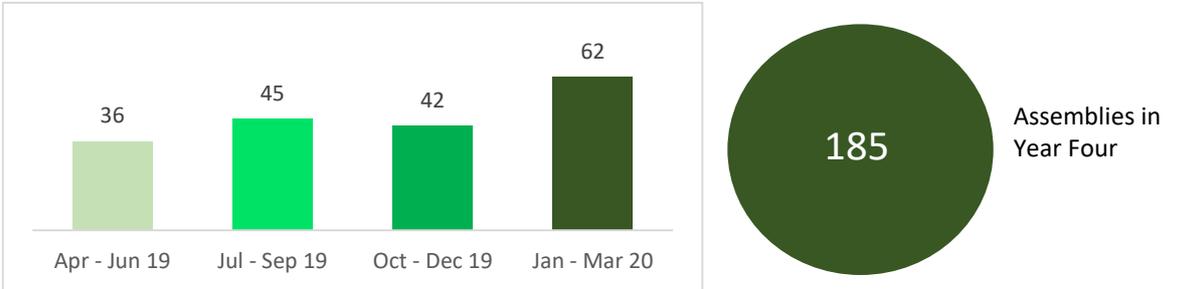
<sup>99</sup> Human Rights Watch, 'List of arrests and persons in detention for COVID-19 related offenses' (25 March 2020) <<https://www.hrw.org/video-photos/interactive/2020/03/23/list-arrests-and-persons-detention-covid-19-related-offenses>>.

<sup>100</sup> Human Rights Watch, 'Cambodia: End Crackdown on Opposition' (17 June 2020) <<https://www.hrw.org/news/2020/06/17/cambodia-end-crackdown-opposition>> and UNOHCHR, 'Asia: Bachelet alarmed by clampdown on freedom of expression during COVID-19' Geneva (3 June 2020) <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25920&LangID=E>>.

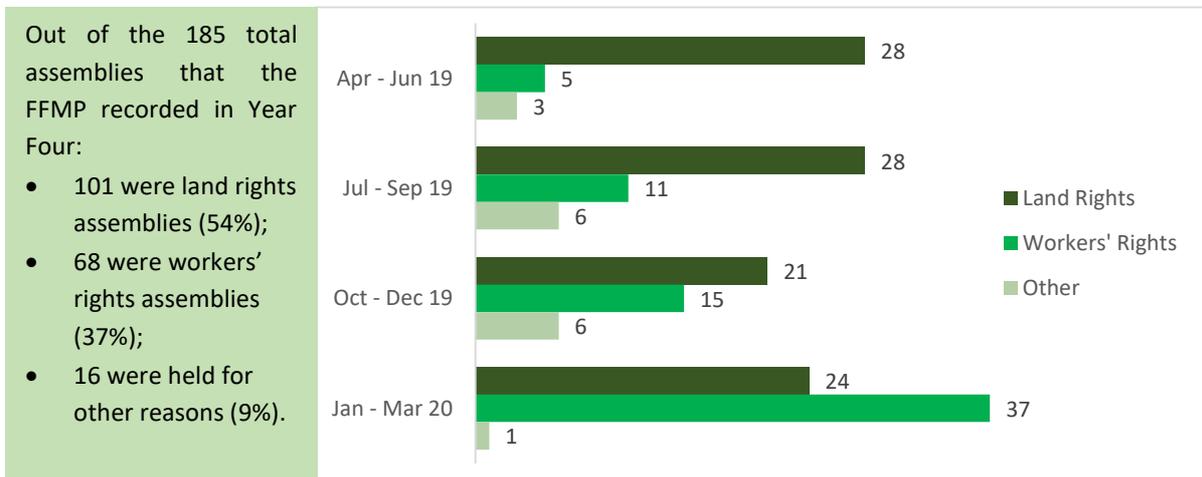
# Freedom of Assembly

The freedom of assembly is frequently exercised in Cambodia, particularly by those advocating for land rights and by employees calling for rights in their workplace. It is the most protected freedom with the fewest number of restrictions and violations in Year Four.

**Figure 39: 185 assemblies took place in Year Four, the majority in January – March 2020**



**Figure 40: Most assemblies are held to advocate for land rights**



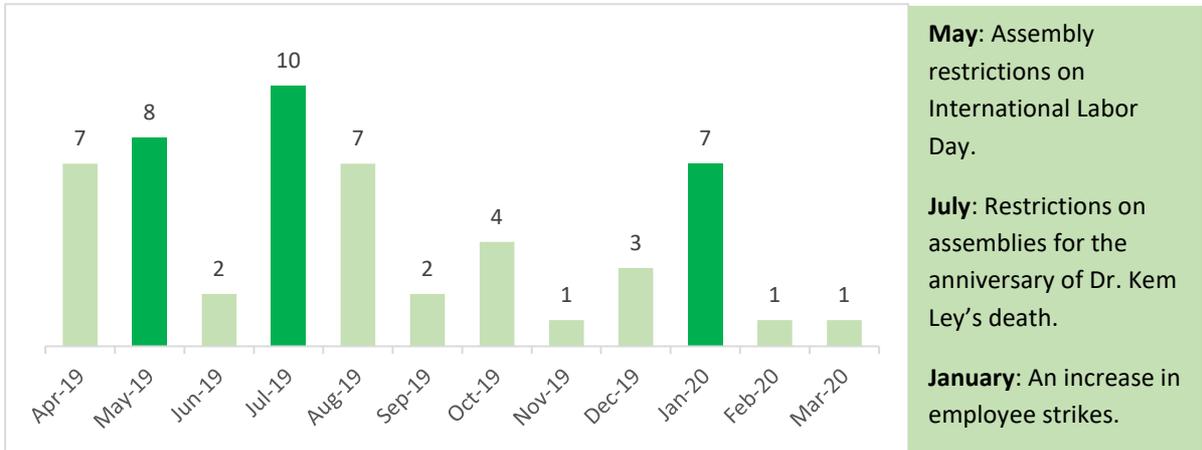
53

Restrictions to the freedom of assembly in Year Four

21

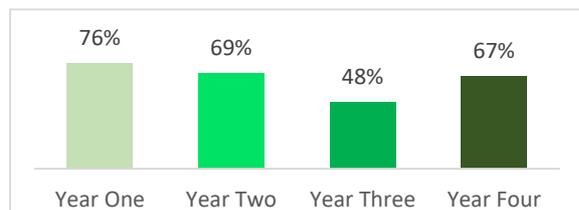
Violations of the freedom of assembly in Year Four

**Figure 41: Frequency of restrictions to the freedom of assembly by month**



### 3.8 The right to freedom of assembly is largely upheld but occasionally restricted

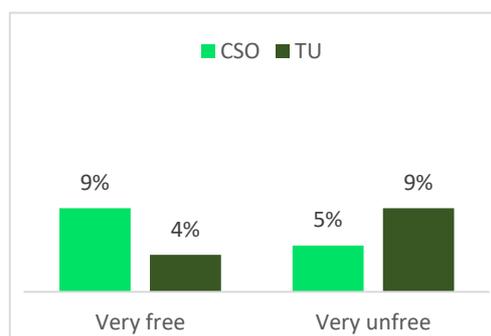
**Figure 42: CSO/TU leaders who reported feeling free to exercise the freedom of assembly**



67% of respondents to the CSO/TU Leader Survey reported feeling “*somewhat free*” or “*very free*” to exercise the right to freedom of assembly, reversing the decreasing trend from previous years.

**Figure 43: Association leaders who reported feeling very free or very unfree to exercise the freedom of assembly**

CSO leaders reported feeling freer than TU leaders to engage in peaceful assemblies, with 9% of CSO leaders reporting they feel “*very free*”, while only 4% of TU leaders feel the same. Similarly, almost double the number of TU leaders reported feeling “*very unfree*” compared to CSO leaders. This disparity between CSO and TU leaders suggests that assemblies or strikes undertaken by TUs are more likely to have negative consequences.



#### 3.8.1. RGC actions to prohibit assemblies

In Year Four, the FFMP recorded five assemblies that were planned but were prohibited by the RGC. The prohibited assemblies included, an International Human Rights Day celebration,<sup>101</sup> gatherings for the third anniversary of the murder of Dr. Kem Ley,<sup>102</sup> and an assembly calling for the retention of the European Union’s Everything but Arms (EBA) trade agreement.<sup>103</sup> Some of the prohibitions lacked legitimate aims, such as the refusal to permit a Human Rights Day celebration for a community in Kampot. All five prohibitions were not necessary as there were less restrictive actions available to the RGC that would have been sufficient to protect national security, public safety, public health or morals, or the rights and freedoms of others.<sup>104</sup> For example, the RGC could have limited marches or gatherings to different, safer locations, or the RGC could have provided adequate security to police assemblies. Each prohibition therefore exceeded the limits of a permitted restriction likely violating the ICCPR.

#### 3.8.2. Few assemblies were limited by the RGC

In Year Four, the FFMP also recorded that nine assemblies had restrictions imposed upon them in advance of the assembly. The restrictions included: restricting planned assemblies to designated

<sup>101</sup> Incident Report IRCC219.

<sup>102</sup> Kley Kley, 'Authority not allow to gathered at Kem Ley dead scene' (*Kley Kley*, 4 July 2019) <[http://kleykley.sabay.com.kh/article/1149462#utm\\_campaign=onpage](http://kleykley.sabay.com.kh/article/1149462#utm_campaign=onpage)>.

<sup>103</sup> Nhem Sakhorn, 'Teachers urge free politician for EBA' (*VOD*, 31 July 2019) <<https://vodhotnews.com/2019/07/31/rong-chhun-announces-plans-to-urge-the-government-to-maintain-the-eba/>>.

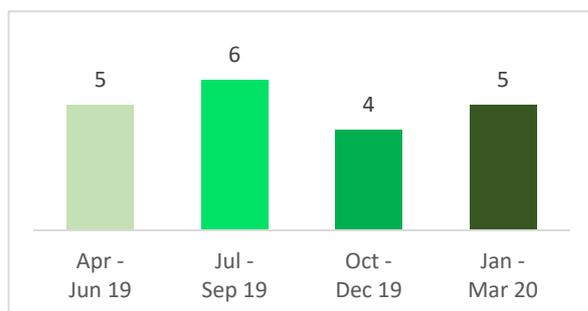
<sup>104</sup> Restrictions to the right to freedom of assembly must be “(a) imposed in conformity with the law; (b) in pursuit of a legitimate aim; and (c) necessary in a democratic society”, ICCPR, Article 21.

locations, frequently Freedom Park,<sup>105</sup> preventing protestors from marching,<sup>106</sup> limiting the number of participants,<sup>107</sup> and restricting the hours of a protest.<sup>108</sup> All nine restrictions lessened the impact of the planned assemblies. Timely and legitimate reasons for the restrictions were only given in two of the nine incidents.

Imposing restrictions on an assembly can be compliant with international standards, but only if the imposed restrictions comply with the relevant law, are made in pursuit of a legitimate aim, and are necessary in a democratic society.<sup>109</sup> Restrictions that meet these requirements, while they may lessen the impact of an assembly, are preferable to an outright prohibition and do not necessarily constitute a violation of freedom of assembly.

### 3.9 11% of all assemblies experience undue interference by the authorities

**Figure 44: Assemblies interfered with by the RGC**



In addition to assemblies having restrictions imposed upon them by the RGC in advance, the RGC also interfered with assemblies after they began. Of the 185 assemblies recorded by the FFMP, 20 (11%) experienced RGC interference. The remaining 165 assemblies took place unimpeded and were sufficiently protected by the RGC. Examples of interferences include, blocking

the path of protestors,<sup>110</sup> removing banners or speakerphones from protestors,<sup>111</sup> detaining vehicles,<sup>112</sup> and arrest and detention of protestors.<sup>113</sup>

#### 3.9.1. RGC used force in nine assemblies

In Year Four, the FFMP recorded nine assemblies where the RGC used force against peaceful protestors. International legal standards stipulate that the use of force by law enforcement officials should be exceptional, and assemblies should ordinarily be managed with no resort to force. In

<sup>105</sup> Mom Kunthear, 'City Hall prohibits planned teacher march' (*Khmer Times*, 25 September 2019) <<https://www.khmertimeskh.com/50646072/city-hall-prohibits-planned-teacher-march/>>.

<sup>106</sup> Khan Lekena, 'The commissioner considers union marching projects illegal' (*VOD*, 30 April 2019) <<https://vodhotnews.com/2019/04/30/99341/the-phnom-penh-municipal-police-did-not-allow-the-unions-to-march/>>.

<sup>107</sup> Thmey Thmey, 'Phnom Penh authorities do not allow 118 former CNRP officials to join Chea Vichea' (*Thmey Thmey*, 21 January 2020) <<https://thmeythmey.com/?page=detail&id=87359>>.

<sup>108</sup> Khan Lekena, 'Mondulkiri provincial authorities block the preparation of indigenous ceremonies' (*VOD*, 9 August 2019) <<https://vodhotnews.com/2019/08/09/190809-vod-leakhena-f-gg-mondulkiri-authorities-prevent-the-celebration-of-world-indigenous-peoples-day-meta-ed/>>.

<sup>109</sup> ICCPR, Article 21.

<sup>110</sup> Khan Lekhena, 'Takhmao authorities blocked factory workers from striking the PM's Office' (*VOD*, 17 January 2020) <<https://vodkhmer.news/2020/01/17/takhmao-authorities-prevent-factory-workers-from-petitioning-the-pm-office/>>.

<sup>111</sup> Soth Koemsoeun, 'Chinese Embassy petitioned' (*The Phnom Penh Post*, 9 July 2019) <<https://www.phnompenhpost.com/national/chinese-embassy-petitioned>>.

<sup>112</sup> Sek Bandeth, 'Police blocked 200 villagers from travel to support their representative' (*RFA*, 22 October 2019) <<https://www.rfa.org/khmer/news/land/tbaung-khmum-police-bars-200-villagers-from-accompanying-their-representatives-at-court-and-demand-release-2-others-10222019104106.html>>.

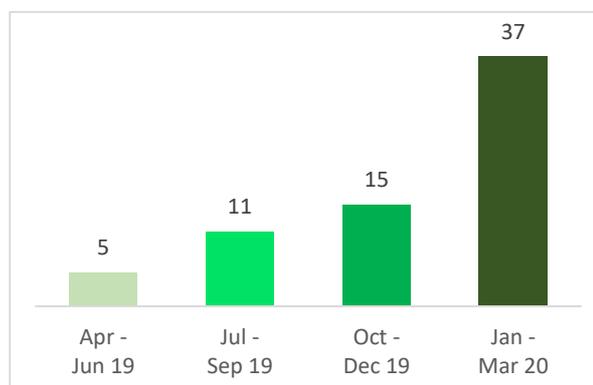
<sup>113</sup> Daily News, 'Land grabbing in Banteay Meanchey provincial prison causes one death and four injuries' (*Daily News*, 7 January 2020) <<http://www.fridaydailynews.com/Detail/202016203455394>>.



### 3.11 Increase in assemblies for the purpose of workers' rights

**Figure 46: Workers' rights assemblies**

Quarter Four of Year Four (January – March 2020) witnessed a surge in the number of assemblies held by workers calling for their rights, with 37 such assemblies occurring. In Quarter Four alone, 21 assemblies by workers were to demand unpaid wages or severance pay. In many of these incidents the businesses, including construction sites<sup>118</sup> and factories,<sup>119</sup> were suspended or closed due to COVID-19, leaving salaries or compensation unpaid. This peak in business



closures may also be in part attributable to the February 2020 announcement of the partial withdrawal of the European Union's EBA trade agreement.<sup>120</sup> The imminent trade restrictions will likely significantly impact multiple labor sectors in Cambodia and this announcement could have discouraged business owners leading to business closures.

Overall, in Year Four the FFMP revealed that laws relating to fundamental freedoms continue to be arbitrarily enforced and systematically misapplied. Actions that exceed the limits of permissibility of the fundamental freedoms continue to be commonplace in Cambodia. Data shows that the RGC seemingly operates without respect for rule of law to curtail civic space and restrict the exercise of fundamental freedoms. This environment has led to widespread self-censorship amongst CSO and TU leaders, along with near constant harassment for individuals being affiliated with CSOs or TUs. While the freedom of assembly is comparatively well protected, incidents of surveillance, monitoring and harassment are frequent occurrences, resulting in a restrictive environment for civil society.

<sup>118</sup> Long Kimmarita, 'Workers get \$100 handout in lieu of wages' (*The Phnom Penh Post*, 31 March 2020) <<https://www.phnompenhpost.com/national/workers-get-100-handout-lieu-wages>>.

<sup>119</sup> Sen David, 'Suspended factory workers demand partial pay' (*Khmer Times*, 30 March 2020) <<https://www.khmertimeskh.com/50707269/suspended-factory-workers-demand-partial-pay/>>.

<sup>120</sup> European Commission, 'Commission Delegated Regulation (EU) 2020/550' (12 February 2020) <[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2020.127.01.0001.01.ENG&toc=OJ:L:2020:127:TOC](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2020.127.01.0001.01.ENG&toc=OJ:L:2020:127:TOC)>.

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

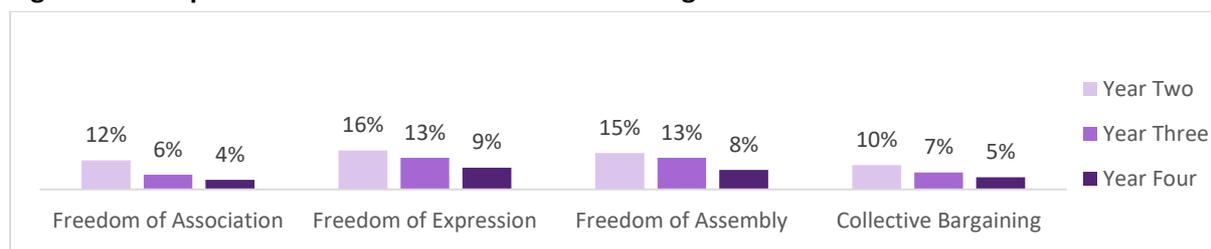
Key Milestone Three assesses the extent to which individuals in Cambodia understand their rights to freedom of association, expression and assembly, and the extent to which they feel free to exercise these rights.<sup>121</sup> The data for Key Milestone Three was gathered via a Public Poll of 779 Cambodians across 25 provinces from February – March 2020.<sup>122</sup> Due to the health risk posed by the COVID-19 pandemic, the Public Poll was not completed as planned. In previous years, the FFMP surveyed approximately 1,000 people. This Year, the FFMP surveyed 779 before the COVID-19 pandemic was declared. The risks associated with the pandemic were deemed too great to continue the Public Poll. This sample size of 779 polls is significant enough to compare to other years.

**Key Findings:** The data from Key Milestone Three highlights that public understanding of the freedoms of association, expression and assembly is minimal. Knowledge of the domestic legal framework governing these fundamental freedoms has decreased from previous years. According to results from the Public Poll, Cambodians feel increasingly unfree to exercise their fundamental freedoms.

### 4.1 The public’s understanding of fundamental freedoms continues to decrease

In order for individuals to fully recognize and exercise their fundamental freedoms, it is essential for them to possess a firm understanding of what fundamental freedoms are. Without the knowledge of what these rights entail individuals are likely to be unable to identify when unlawful restrictions to fundamental freedoms occur. The Public Poll examines the proportion of the public who report they have a full understanding of fundamental freedoms. Those individuals who responded “Yes I know clearly” when asked “Do you know what freedom of \_\_\_ means?” were recorded as having a full understanding.<sup>123</sup> Reported levels of understanding for each fundamental freedom has decreased with Year Four recording the lowest levels of understanding yet.

**Figure 47: The public does not have a full understanding of fundamental freedoms<sup>124</sup>**



Freedom of association continues to be the least understood of the fundamental freedoms, with levels now a third of what they were in Year Two. Collective bargaining, which is an important subset of freedom of association, continues to be poorly understood. While the freedoms of expression and assembly were better understood, a full understanding was possessed by few respondents.

<sup>121</sup> The data for Key Milestone Three is drawn from the FFMP’s Public Poll conducted in October 2016 (Year One), March 2018 (Year Two), March 2019 (Year Three), and March 2020 (Year Four).

<sup>122</sup> Full results from the Year Four Public Poll are contained in Annex 3.

<sup>123</sup> Understanding of collective bargaining was determined by asking questions of the same format.

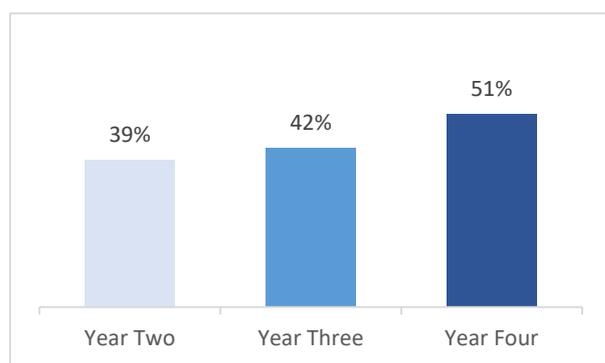
<sup>124</sup> This data cannot be determined for Year One as the formulation of the question was changed in Year Two.

## 4.2 The public’s level of understanding of domestic laws governing fundamental freedoms remains low, with freedom of expression reporting the largest decrease in understanding

The Public Poll examines the level of understanding about domestic laws governing fundamental freedoms by asking whether respondents believe a certain action is legal or illegal. An understanding of the legislation is important for citizens to make informed decisions. Misunderstanding could lead to citizens acting unlawfully or, if the public believe the domestic legal framework to be more restrictive than it actually is, citizens not exercising their lawful rights.

### 4.2.1. Freedom of Association

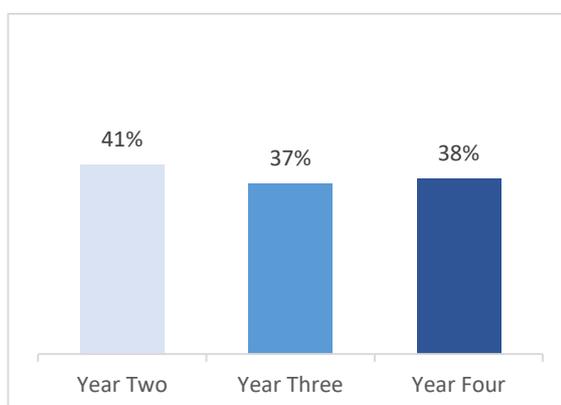
**Figure 48: Respondents who believe it is illegal to run an unapproved savings group<sup>125</sup>**



Under the *LANGO* all associations, including savings groups, must be registered with the MoI. Therefore, even though savings groups are popular throughout Cambodia, such groups are illegal if not registered with the MoI.<sup>126</sup> Results from Year Four show that half of respondents are aware that unregistered savings groups are in violation of the *LANGO*, which is an improvement from prior years.

**Figure 49: Individuals who believe it is illegal for a CSO to carry out activities without notifying RGC authorities<sup>127</sup>**

A majority of respondents wrongfully believe that it is illegal for a CSO to undertake activities without notifying RGC authorities. Less than 40% of poll respondents know that it is legal for CSOs to carry out activities without notifying the RGC or receiving prior permission from them. Although a prior notification regime for CSO activities was controversially enacted in 2017, it was repealed in 2018.<sup>128</sup> The percentage of individuals who incorrectly believe it is illegal for CSOs to carry out



activities without prior notification has remained consistent. This could be due to the fact that the directive repealing the prior permission was not widely circulated in 2018. Key Milestone Two identified that the requirement is still frequently implemented by some authorities (see Section 3.2.1). It is concerning that the majority of Cambodians still believe that CSOs need permission from the RGC before undertaking any type of meeting, activity, training or event.

<sup>125</sup> This question was not asked in the Public Poll conducted in Year One.

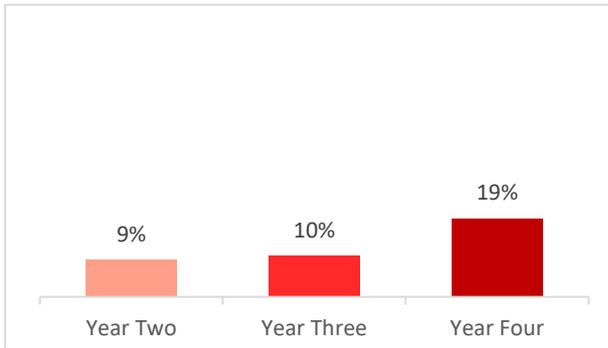
<sup>126</sup> Article 9 of the *LANGO* bans unregistered NGOs or associations from conducting activities of any kind, Article 32 provides for criminal punishment in case of any violation of Article 9. As noted in the Year One Annual Report, this provision of the *LANGO* violates Article 22 of the ICCPR.

<sup>127</sup> This question was not asked in the Public Poll conducted in Year One.

<sup>128</sup> CCHR, ADHOC, SC and ICNL, ‘Cambodia Fundamental Freedoms Monitor: Third Annual Report’ (September 2019), Key Milestone One, Section B.1.1.

### 4.2.2. Freedom of Expression

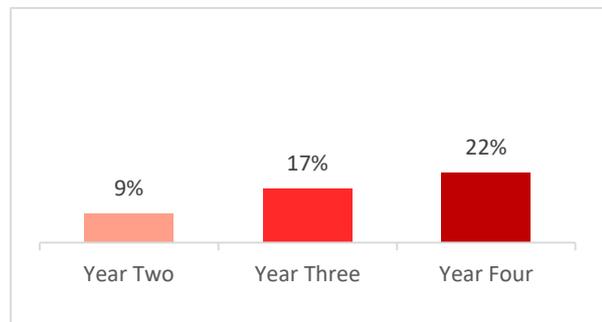
**Figure 50: Individuals who believe it is illegal to discuss politics<sup>129</sup>**



Year Four displayed a significant increase in respondents incorrectly reporting that the act of discussing politics with others is illegal. Under domestic law, people are free to discuss politics. This increased misunderstanding could be attributed to the labelling of political opposition as a “*color revolution*” and the discouragement of dissenting political expression, as discussed in Key Milestone Two.

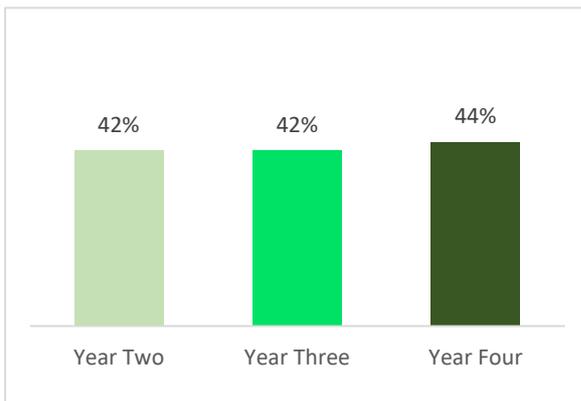
**Figure 51: Individuals who believe it is illegal to criticize RGC policies<sup>130</sup>**

22% of respondents in Year Four’s Public Poll indicated that they believe it is illegal to criticize RGC policies. This indicates that almost one quarter of the public believes that the domestic legal framework for freedom of expression is more restrictive than it actually is. This could in turn stifle free expression due to mistaken fears of acting illegally.



### 4.2.3. Freedom of Assembly

**Figure 52: Individuals who believe it is illegal to strike without permission of an employer or the RGC<sup>131</sup>**



Results from the Public Poll in Year Four show that 44% of respondents believe that workers need permission from their employer or the RGC before striking, a level consistent with prior years. The ability to strike to demand better working conditions or payment is an essential aspect of the freedom of association, and this right is not constrained by the permission of an employer or the authorities. This finding suggests that a large proportion of the public continues to believe that

the domestic legal framework on the right to strike is more restrictive than it is. This type of misunderstanding could impede the exercise of the right to strike.

<sup>129</sup> This question was not asked in the Public Poll conducted in Year One.

<sup>130</sup> This question was not asked in the Public Poll conducted in Year One.

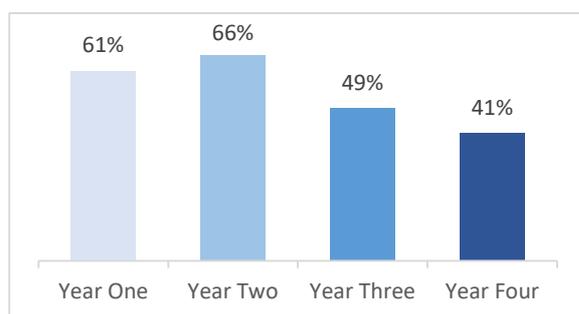
<sup>131</sup> This question was not asked in the Public Poll conducted in Year One.

### 4.3 The majority of Cambodians do not feel free to exercise fundamental freedoms

The Public Poll gauges how free people feel to exercise fundamental freedoms. Respondents were asked to answer questions of “how free do you feel to \_\_\_” with either “very free”, “somewhat free”, “somewhat unfree”, or “very unfree”. The determination of respondents feeling free was calculated by summing the number of respondents who reported feeling “very free” and “somewhat free” to the particular question. The full breakdown of the answers to each question can be found in Annex 3. Overall there is a decreasing trend in how free people feel to exercise their rights.

#### 4.3.1. Freedom of Association

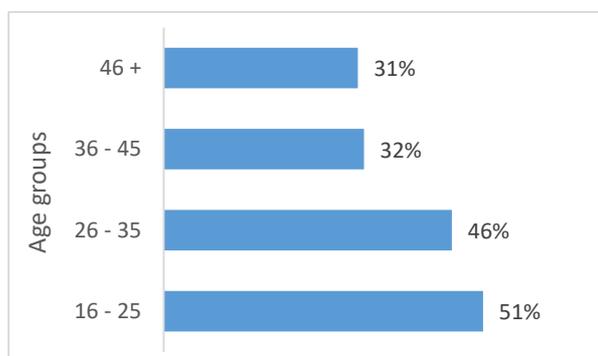
**Figure 53: Individuals who report they feel free to join a lawful group**



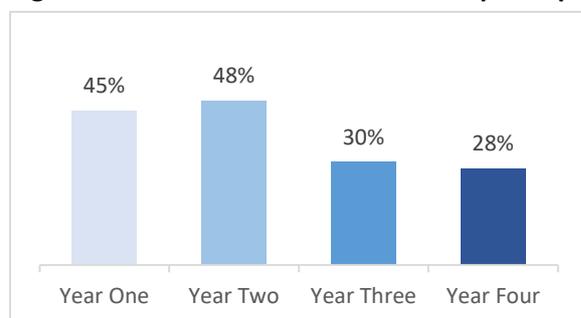
Less than half of the Cambodian population feel at liberty to lawfully exercise their freedom of association. In Year Four only 41% of individuals reported feeling free to join a lawful group, the lowest percentage recorded for this question since the beginning of the FFMP.<sup>132</sup>

**Figure 54: Individuals by age who feel free to join a lawful group**

Results from the Year Four Public Poll suggest older respondents feel less free to join a lawful group and exercise their freedom of association than younger generations. Young people are more likely to feel free to join a group than individuals aged 46 and over.



**Figure 55: Individuals who feel free to participate in political life**

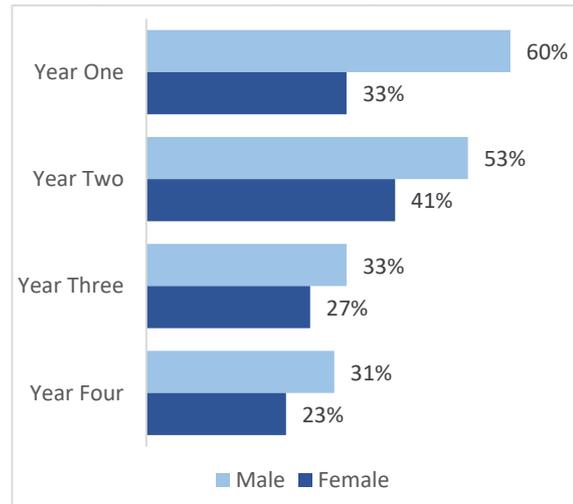


Only 28% of respondents reported feeling free to participate in political life. This is the lowest proportion recorded by the FFMP to date. This trend coincides with a political crackdown against the former-opposition party, the CNRP, which may provide an explanation for the majority of the population not feeling free to engage in politics (see Section 3.4).

<sup>132</sup> This question was asked differently in Year One “How free do you feel you are able to join a group with other people for a shared purpose?”.

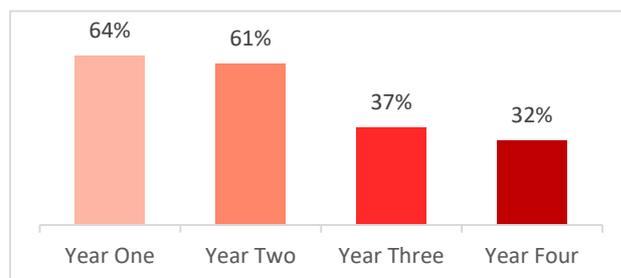
**Figure 56: Male and female respondents who report feeling free to participate in political life<sup>133</sup>**

Over the four years of monitoring, the Public Poll consistently reveals that female respondents feel less free to participate in political life compared to male respondents. Year Four results report that a mere 23% of female respondents feel free to participate in political life. This could be attributable to entrenched cultural norms that impede women’s ability to engage in all areas of political life. Male respondents who report feeling free to participate in political life have nearly halved since Year One. Female respondents who report feeling free have steadily and consistently decreased.



### 4.3.2. Freedom of Expression

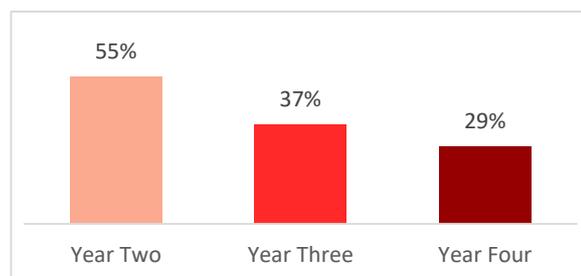
**Figure 57: Respondents who feel free to speak openly about all subjects in public**



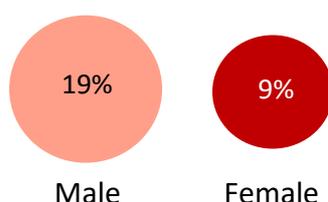
The percentage of respondents reporting they feel free to speak openly about all subjects in public has halved from 64% in Year One to only 32% in Year Four. This is the lowest percentage of respondents who report feeling free to exercise freedom of expression in public recorded by the FFMP.

**Figure 58: Public who report feeling free to speak openly on social media<sup>134</sup>**

The Public Poll in Year Four recorded a continued decline in the proportion of individuals who report feeling free to speak openly on social media (for example, Facebook, Twitter, YouTube, TikTok and Instagram). Only 29% of respondents reported feeling free to exercise their freedom of expression on social media.



**Figure 59: Male and female respondents who feel free to express themselves on social media<sup>135</sup>**



There is a notable difference in the proportions of men and women who report feeling free to express themselves on social media. Only 9% of female respondents reported feeling free to do so, compared to 19% of male respondents. This disparity may be in part attributable to the digital gender gap; levels of internet usage and smart phone

<sup>133</sup> Figure 56 excludes the 1% of respondents who did not identify as male or female, or did not respond to the question.

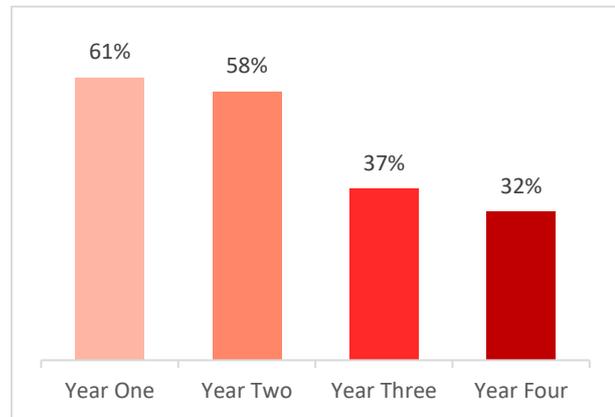
<sup>134</sup> This question was not asked in the Public Poll conducted in Year One.

<sup>135</sup> Figure 59 excludes the 1% of respondents who did not identify as male or female, or did not respond to the question.

ownership are unequal across men and women.<sup>136</sup> Online gender inequality acts as a barrier to equitable exercise of freedom of expression online, putting women and girls at a disadvantage. This inequality must be remedied to enable everyone to utilize social media as a valuable platform for free expression in this digital era.

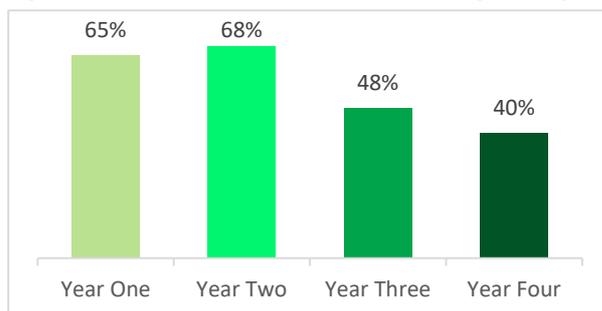
**Figure 60: Individuals who report they feel free to speak to the media**

Only 32% of respondents polled in Year Four reported feeling free to speak to the media. These results are the lowest since the public poll began. This finding raises concerns for freedom of expression and freedom of information. A free and independent media is a pivotal aspect of realizing these rights. Citizens are less likely to speak to the media now than they were four years ago, impeding the ability of media outlets to accurately share information to the population.



### 4.3.3. Freedom of Assembly

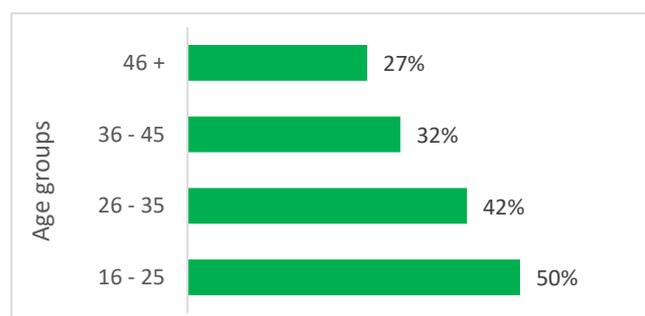
**Figure 61: Individuals who feel free to gather peacefully**



In recent years freedom of assembly has consistently been recorded as the most protected of the three fundamental freedoms in Cambodia. However, data from Year Four illustrates an 8% decrease in individuals who feel free to gather peacefully from Year Three, and a 28% decrease since year Two.

**Figure 62: Individuals by age who report they feel free to gather peacefully**

The Year Four Public Poll results suggest older respondents feel less free to gather peacefully than younger respondents. While 50% of 16 - 25 year-olds feel free to exercise their right to freedom of assembly, just 27%, of those 46 and older feel the same.

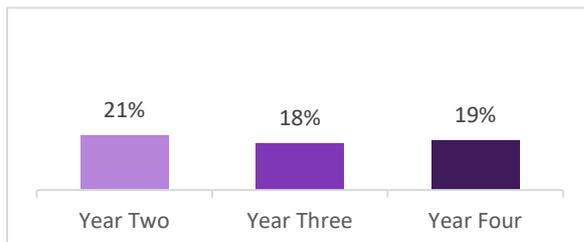


<sup>136</sup> In Cambodia 45% of men are internet users whereas only 30% of women are, and 52% of men in Cambodia own a smartphone compared to 46% of women. After Access, 'The Inside Internet Story of Africa, Asia and Latin America' (2018) <<https://afteraccess.net/wp-content/uploads/After-Access-Website-layout-r1.pdf>>.

#### 4.4 Limited confidence in redress for human rights violations

It is important for the promotion and protection of fundamental freedoms that citizens feel confident in their ability to access redress mechanisms or other remedies if their rights are violated. In Cambodia there is a low level of confidence that governmental and judicial systems can provide adequate redress for human rights violations.

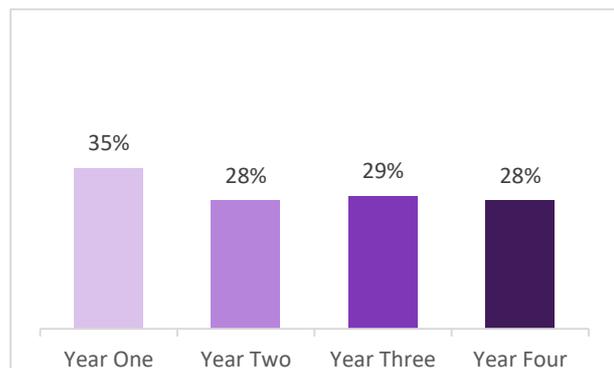
**Figure 63: Individuals who feel it is easy to complain to the RGC or Courts about a human rights violation<sup>137</sup>**



Only 19% of respondents stated that they feel it is easy to complain about a human rights violation to the RGC or a Court. This figure is consistent with prior years, but remains low.

**Figure 64: Individuals who feel confident that the RGC or Courts would provide redress for a human rights violation<sup>138</sup>**

Levels of confidence in the RGC or Courts to provide redress for a human rights violation continues to be low. Less than one-third of respondents reported feeling confident that redress would be provided by the authorities. This lack of confidence in government redress mechanisms is a concerning reality and could discourage victims of human rights violations from seeking a resolution.



Over the four years of monitoring, the data from Key Milestone Three reveals that there has been a continuing decline in respondents feeling free to exercise the freedoms of association, expression, and assembly. Individuals continue to believe the domestic legal framework that governs fundamental freedoms is more restrictive than it actually is. This is likely to prevent the full exercise of fundamental freedoms and deter public participation and civic activity. There appears to be a need to educate citizens about the laws regulating fundamental freedoms so that citizens are empowered to exercise their human rights.

<sup>137</sup> The figure for individuals who feel it is “easy” to complain was calculated by summing the number of respondents who reported it “very easy” and “somewhat easy”.

<sup>138</sup> The figure for individuals who feel “confident” was calculated by summing the number of respondents who reported feeling “very confident” and “somewhat confident”.

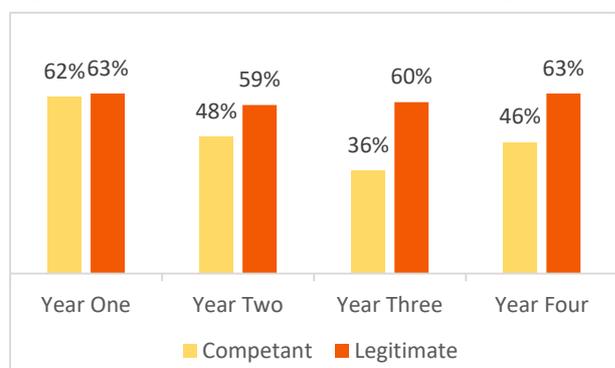
## 5. Key Milestone Four: Are CSOs and TUs recognized by, and can work in partnership with, the RGC?<sup>139</sup>

Key Milestone Four examines the extent to which the RGC views and treats CSOs (including NGOs, TUs, and CBOs, amongst others) as meaningful stakeholders in Cambodian society.

**Key Findings:** The data from Key Milestone Four highlights that civil society does not feel sufficiently recognized or valued by the RGC. It further suggests that collaborations and partnerships between civil society and the RGC are limited and in need of improvement. CSOs and TUs reported that opportunities to collaborate with, or seek funding from, the RGC are the least explicit, open, and transparent in the history of the FFMP.

### 5.1 CSO/TU leaders feel recognized by the RGC as legitimate but not competent

**Figure 65: CSO/TU leaders who feel recognized as competent/legitimate development partners**

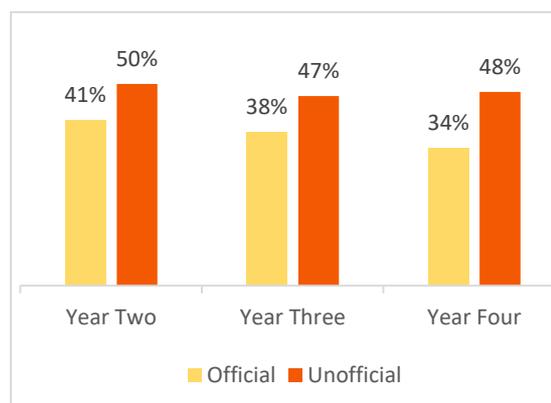


63% of respondents to the CSO/TU Leader Survey in Year Four indicated that they believe they are perceived by the RGC as *legitimate* development partners, while only 46% indicated that they believe they are recognized by the RGC as being *competent*. This data suggests that organizations feel their contributions to Cambodia are underappreciated and undervalued by the RGC.

### 5.2 Official collaboration with the RGC is declining

**Figure 66: CSO/TU leaders who report officially or unofficially collaborating with the RGC on a project<sup>140</sup>**

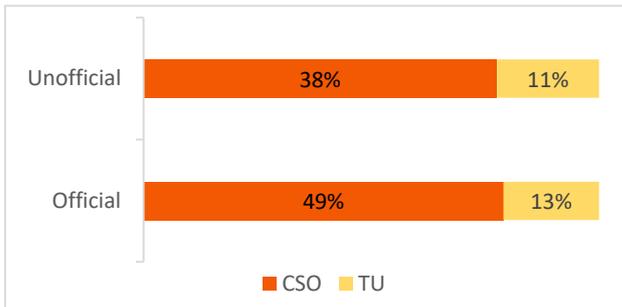
The levels of official collaboration between CSOs and TUs, and the RGC declined in the last year. The FFMP recorded a 4% regression from Year Three, while the number of informal (unofficial) partnerships between CSOs and TUs and the RGC remained largely consistent with previous years. The decline in official collaborations is concerning because Cambodia as a whole will see the greatest benefit when CSOs and TUs are able to work with the RGC to achieve development goals.



<sup>139</sup> The data for Key Milestone Four is drawn from the FFMP's CSO/TU Leader Survey conducted in December 2016 (Year One), December 2017 (Year Two), January 2019 (Year Three), and January 2020 (Year Four).

<sup>140</sup> The data presented in this graph includes the proportion of CSO and TU leaders who reported "very often", "often" or "sometimes" unofficially collaborating with the RGC in the past year. This question was not asked in the CSO/TU Leader Survey conducted in Year One.

**Figure 67: Comparison of CSO to TU leaders who report collaborating with the RGC on a project<sup>141</sup>**



Notably, TU leaders report lower levels of both official and unofficial collaboration with the RGC than CSO leaders do. This data illustrates the disparity between the partnerships the RGC engages in with CSOs versus TUs. The levels of partnership between CSOs, and particularly TUs, with the RGC should be improved.

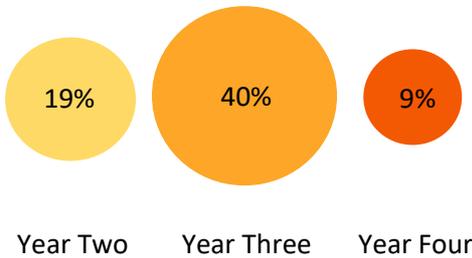
**5.3 Opportunities for public financing and participation in RGC panels and committees are not perceived as explicit, open and transparent**

**Figure 68: Few CSO/TU leaders aware of eligible funding opportunities from the RGC<sup>142</sup>**

Only 7% of respondents to the CSO/TU Leader Survey were aware of RGC financing opportunities for which their association is eligible. This aligns with the trend in previous years. There seems to be minimal awareness by CSOs and TUs of any financing or funding opportunities from the RGC.



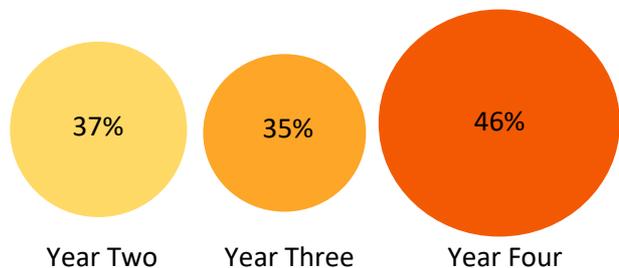
**Figure 69: Few CSO/TU leaders believe RGC financing opportunities are explicit, open, and transparent<sup>143</sup>**



While the number of respondents aware of financing opportunities remained consistent with previous years (see Figure 68), Year Four saw a stark decrease in respondents who perceive RGC financing opportunities as explicit, open, and transparent. Only 9% of respondents reported believing that funding opportunities were explicit, open, and transparent, down by 31% from Year Three.

**Figure 70: Growing awareness of CSO/TU leaders for opportunities to participate in RGC consultations, panels and/or committees<sup>144</sup>**

Just under half of all respondents in the CSO/TU Leader Survey were aware of opportunities to participate in RGC consultations, panels and/or committees. This is a noted increase from previous years.



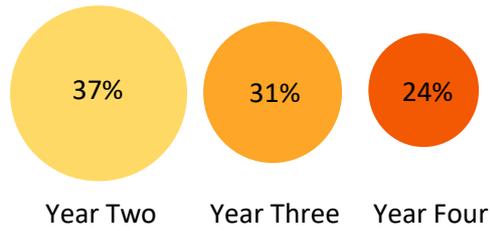
<sup>141</sup> The data presented in this graph includes the proportion of CSO and TU leaders who reported “very often”, “often” or “sometimes” collaborating with the RGC in the past year.

<sup>142</sup> This question was not asked in the CSO/TU Leader Survey conducted in Year One.

<sup>143</sup> This question was not asked in the CSO/TU Leader Survey conducted in Year One.

<sup>144</sup> This question was not asked in the CSO/TU Leader Survey conducted in Year One.

**Figure 71: Less CSO and TU leaders believe RGC participation opportunities are explicit, open, and transparent<sup>145</sup>**



While more respondents are aware of opportunities to participate with the RGC (see Figure 70), only 24% reported that they believe these opportunities for participation are explicit, open and transparent, a decrease from Year Three. This decrease signifies the need for the RGC to better advertise and explain these opportunities and the selection process.

Cambodia's development is the responsibility of all sectors of society. Findings from the CSO/TU Leader Survey highlight that the RGC does not fully utilize the abilities of civil society through meaningful collaborations or partnerships. CSOs and TUs play a vital role in advocating the interests of the citizens in Cambodia and the RGC should capitalize on the unique insights of CSOs and TUs to ensure responsible and sustainable development of the country.

<sup>145</sup> This question was not asked in the CSO/TU Leader Survey conducted in Year One.

## Conclusion

Year Four of the FFMP reveals growing limitations on the exercise of fundamental freedoms and a curtailment of civil society. The FFMP recorded restrictions to fundamental freedoms in every province, demonstrating that the infringement of fundamental freedoms extends across Cambodia. Year Four witnessed a stifling of political freedoms in a seemingly systemic silencing of expression that is dissenting or critical of the RGC and its policies.

The legal framework for the freedoms of association and expression remain repressive with pending legislative developments that could further curtail these human rights. In contrast the legal framework regarding the freedom of assembly complies with international human rights law.

Domestic legislation continues to be implemented inconsistently, which threatens the exercise of fundamental freedoms. In Year Four, the FFMP documented how laws like the Criminal Code, the *Law on Telecommunications*, the *LANGO*, and the *Law on Peaceful Assembly*, amongst others, continue to be arbitrarily enforced and systematically misapplied. Actions that exceed the limits of permissible restrictions to fundamental freedoms continue to be commonplace. The RGC appears to utilize laws, not to protect fundamental freedoms, but rather to curtail civic space and restrict the exercise of fundamental freedoms.

In Year Four, the freedom of association was most frequently restricted and violated, with restrictions and violations of this freedom higher than previous years. The freedom of expression continues to be repressed, including online speech. Violations of the freedom of expression exercised in the online sphere accounted for 48% of all violations of this freedom. While the freedom of assembly was largely recorded as being protected, the FFMP recorded nine incidents of violence during peaceful protests; to date, no one has been arrested for these illegal acts.

Public understanding of the freedoms of association, expression and assembly continues to be low. Year Four recorded the lowest levels of understanding of fundamental freedoms since the FFMP began. Similarly, knowledge of the domestic legal framework governing fundamental freedoms has decreased from previous years. Individuals continue to believe that laws governing fundamental freedoms are more restrictive than they actually are. This is likely to prevent the full exercise of fundamental freedoms, and deter public participation and civic activity.

In providing insight into the curtailment of these fundamental freedoms, the FFMP hopes to inform positive legislative developments to bring domestic law in-line with international standards and encourage constructive steps to build an enabling environment for a vibrant civil society. The ability to exercise civic freedoms is a fundamental human right, which is paramount to a healthy democracy.

## Annex 1 – Methodology and Data Collection

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

### Methodology

The Monitoring Team utilizes its Monitoring and Tracking Tool (MTT) to conduct the FFMP. The MTT provides 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 legislation affecting freedom of association, freedom of assembly and freedom of expression (fundamental freedoms). The MTT is designed and implemented to systematically show the extent to which domestic laws comply with international human rights law and standards, and how the Royal Government of Cambodia (RGC) and the Cambodian public understand and exercise fundamental freedoms.

The fourth year of monitoring (Year Four) took place from 1 April 2019 – 31 March 2020. Results from monitoring were collated and reviewed on a quarterly basis: the First Quarter, 1 April 2019 – 30 June 2019; the Second Quarter, 1 July 2019 – 30 September 2019; the Third Quarter, 1 October 2019 – 31 December 2019; and the Fourth Quarter, 1 January 2020 – 31 March 2020.

The MTT is comprised of 94 individual indicators that correspond to the four Key Milestones (KMs).<sup>146</sup>

**KM1:** The legal framework for fundamental freedoms meets international standards;

**KM2:** The legal framework for fundamental freedoms is implemented and properly enforced;

**KM3:** Individuals understand fundamental freedoms, and feel free to exercise them; and,

**KM4:** CSOs and TUs are recognized and can work in partnership with the RGC.

The MTT 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.<sup>147</sup>

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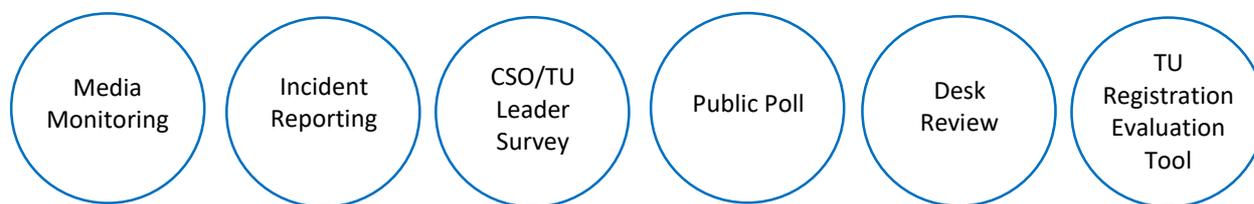
<sup>146</sup> For the full Methodology see, CCHR, ADHOC, SC and ICNL, 'Cambodia Fundamental Freedoms Monitor: Third Annual Report' (July 2019) Annex 1

<[https://cchrcambodia.org/index\\_old.php?url=media/media.php&p=report\\_detail.php&reid=130&id=5](https://cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=130&id=5)>.

<sup>147</sup> More information regarding the methodology of the MTT is available upon request.

## Data Collection Methods

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



### 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 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. Major national Cambodian newspapers, and several other media sources, are reviewed to identify relevant stories.<sup>148</sup>

Once relevant articles are identified, they are reviewed by the Monitoring Team, 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.

During Year Four, the Monitoring Team captured 537 incidents through Media Monitoring.

### Incident Reporting

Incident Reporting captures incidents of restrictions and violations of fundamental freedoms that are not captured in the media. 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. The Incident Report Forms are completed when a complainant approaches the Monitoring Team, or the team hears of an issue and follows up with the alleged victim.

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, the team enters the key information into an Incident Reporting Database, where it can then be analyzed by the Monitoring Team. Data quality checks are carried out on an ongoing basis and at the end of each quarter.

During Year Four, the Monitoring Team captured 119 unique incidents via Incident Reporting.

<sup>148</sup> Media sources include: *the Phnom Penh Post* (Khmer & English), *Khmer Times*, *Radio Free Asia*, *Radio France International*, *Dap News*, *Voice of Democracy* (Khmer & English), *Voice of America*, *VAYO*, *Kohsantepheap*, *Reaksmei News Daily*, *Thmey Thmey*, *Kampuchea Thmey*, *Freshnews*, *Deum Tnot News*, *Women's Media Center*, *Preinokor*, *Swift News Daily*, *TVFB*, *Kley Kley Sabay*, *CEN*, *Camnews*, *Cambojanews*, *Cambodia Peace Channel*, *Cambonomist*, *Cambodianess* and *Norkorwat News Daily*. A key limitation of this approach is that with the decreasing number of independent media outlets, reporting may be biased.

### **CSO/TU Leader Survey**

The CSO/TU Leader Survey is an annual survey designed to capture the feelings and experiences of civil society organization (CSO) and trade union (TU) leaders with regards to their ability to exercise fundamental freedoms.

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

In Year Four the CSO/TU Leader Survey was carried out from 18 November 2019 – 8 January 2020. The survey was completed online and through face-to-face interviews with 142 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 that participated in the survey, as well as in the MTT indicators.

### **Public Poll**

The Public Poll, conducted annually, was designed to gauge the general public's sentiment towards the exercise of fundamental freedoms, and the shift in this sentiment through the years. It does not seek to assess public sentiment in significant depth.

Convenience sampling is used to administer the poll. The poll is conducted in public locations around Cambodia. The Monitoring Team went to public areas where people congregate and randomly selected people to participate in the poll.

The Public Poll was conducted between 17 February and 19 March 2020 across 25 provinces and included 779 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.

### **Desk Review of Laws**

The Desk Review is a legal 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 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.<sup>149</sup>

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>150</sup>

### **Trade Union Registration Evaluation Tool**

The mandatory registration process required under the *Law on Trade Unions (TUL)*, presents an opportunity for the RGC to arbitrarily deny the rights of TUs. Monitoring the efficiency and effectiveness of the registration processes provides crucial insight into how well the right to form a TU is protected and exercised.

The Monitoring Team captures this data through a "mystery shopper" exercise whereby select TUs 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 TUs navigate the registration process. In Year Four, the Evaluation Tool recorded the experiences of 29 TUs as they attempted to register under the *TUL*.

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<sup>149</sup> See Annex 2.

<sup>150</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 Four of monitoring (1 April 2019 – 31 March 2020). Indicators rely on various different data sources, as identified in Annex 1.

Desk Review of Laws and Regulations: 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 (1=lowest rating possible, 3=average rating, 5=highest rating possible). The Monitoring Team assessed 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.

Media Monitoring and Incident Reporting: Data was recorded on a continuing basis throughout the year, and on a quarterly basis the data was tallied and analyzed.

CSO/TU Leader Survey, Public Poll and “Mystery Shopper” Evaluation of the Registration Process for Associations: The survey, poll and “Mystery Shopper” responses were collated and analyzed. A number or percentage was generated from an analysis of the responses.

Where possible, the annual result has been included for each indicator and has been color coded according to the below key:

|  |                         |
|--|-------------------------|
|  | Highest Possible Rating |
|  | Average Rating          |
|  | Lowest Possible Rating  |
|  | Unable to Rate          |

| Key Milestone 1: The legal framework for the freedoms of association, assembly and expression meets international standards |  |                                     |        |        |        |        |  |
|---|--|-------------------------------------|--------|--------|--------|--------|--|
| Element   | Indicator/s  | Data Source                         | Year 1 | Year 2 | Year 3 | Year 4 | Notes  |
| <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      | <i>Cambodia does not fully meet this element. The rights to freedom of association, assembly and expression are guaranteed by Articles 41 and 42 of the Constitution of the Kingdom of Cambodia (the Constitution).<sup>151</sup> However, they apply only to Cambodian citizens, and not all within its jurisdiction, thus insufficiently protecting the fundamental freedoms of others living in Cambodia.<sup>152</sup> Furthermore, these constitutional guarantees were significantly weakened by the February 2018 constitutional amendments.<sup>153</sup> Each of the domestic laws governing freedom of association – the Law on Associations and Non-Governmental Organizations (LANGO) and the TUL – contain several provisions that restrict freedom of association.<sup>154</sup> The 2020 amendments to the TUL do not significantly lessen its restriction to the freedom of association.<sup>155</sup> Freedom of expression is significantly curtailed in a number of laws and regulations, including the Law on Political Parties (LPP), the Education Law, the Press Law, the Cambodian Criminal Code (the Criminal Code), the Telecommunications Law, and the Inter-Ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet (Social Media Prakas). The Law on Peaceful Assembly (LPA), while being partially consistent with international standards, also contains vague provisions which could jeopardize the freedom of assembly, in addition to only protecting the rights of “Khmer citizens”. In 2020, the Law on the Management of the Nation in State of Emergency was introduced with the ability to severely curtail the rights to freedom of association, assembly and expression.<sup>156</sup></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      | <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>157</sup> Notably, Article 5 of the LANGO prevents certain individuals, such as individuals who do not hold Khmer nationality, as well as persons under 18, from establishing a domestic association or non-governmental organization (NGO). There is also a lack of procedural safeguards in the registration process set out in the LANGO,<sup>158</sup> including an absence of clearly set out grounds for rejection of a registration request, thereby leaving the door open for arbitrary rejection. Despite 2020 amendments to the TUL that removed two restrictive requirements for union leaders, the TUL continues to contain onerous requirements for registration of TUs. Specifically, Article 20 restricts the ability of unions to carry out their activities, namely through the requirements that leaders are 18 or over and make a declaration of a residential address,<sup>159</sup> both of which are inconsistent with international best practices and non-compliant with the right of workers to elect their representatives in full freedom.<sup>160</sup> Ultimately the TUL establishes an authorization procedure for TUs, requiring RGC approval for union registration in contravention of international human rights law.<sup>161</sup></i>  |

<sup>151</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>152</sup> Sub-decree 148 on Special Economic Zones, extends rights to workers in the Special Economic Zone.

<sup>153</sup> Using overly broad language, the amendments 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”. Fresh News, ‘Draft Penal Code Amendment related to Lèse-majesté and Constitutional Amendments Promulgated’ (Fresh News English, 3 March 2018) <<https://bit.ly/2DZYnKM>>.

<sup>154</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, which excludes workers including self-employed and informal sector workers from its protections, 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>155</sup> The amendments further narrow the scope of the law, excluding personnel serving in air and maritime transportation; they remove the requirements for union leaders to prove they are literate in Khmer (Cambodian nationals only) and prove they have no previous criminal convictions (all nationalities); they add the requirement for the full payment of salaries and other benefits to be made before automatic dissolution can be possible; and they remove the ability to dissolve a union in the event its leaders or managers commit serious misconduct or a serious offense. See Key Milestone One.

<sup>156</sup> The Desk Review of the new Law on the Management of the Nation in State of Emergency will be reflected in the subsequent, Year Five, annual FFMP report.

<sup>157</sup> See CCHR, ADHOC, SC, ‘Fundamental Freedoms Monitoring Project: First Annual Report’ (August 2017), 4-7

<<https://cchrcambodia.org/admin/media/report/report/english/2017-08-10-CCHR-FFMP-Annual-Report-Eng.pdf>>.

<sup>158</sup> Under Article 8, the Ministry of Interior (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.

<sup>159</sup> See Key Milestone One.

<sup>160</sup> International Labour Organization (ILO) Convention No. 87 on Freedom of Association and Protection of the Right to Organise (adopted 9 July 1948, entry into force 4 July 1950) Article 3 <<http://www.refworld.org/docid/425bc1914.html>>.

<sup>161</sup> International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entry into force 3 January 1976) Article 8.

|   |   |                                     |   |   |   |   |   |
|---|---|-------------------------------------|---|---|---|---|---|
| <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 | <i>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 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.</i>  |
| <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 | <i>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>162</sup></i>   |
| <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 | <i>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, including community-based organizations (CBOs).<sup>163</sup> Under these laws failure to register renders the associations illegal. Denying legal capacity and prohibiting unregistered entities from conducting any activity is inconsistent with the right to freedom of association – 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.</i>  |
| <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 | 2 | 2 | <i>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 international NGOs closely cooperate with the RGC. The TUL specifies the content of unions' statutes, the amount of members' dues, and leaders' term limits. These legal oversight mechanisms were not relieved by the 2020 amendments of the TUL. The issuance of the October 2017 letter from the Ministry of Interior (Mol) implementing a prior notification regime for all CSO activities contravenes 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 CBOs may still be hindered by the local authorities.</i> |
| <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 | <i>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. 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 TUs.</i>  |

<sup>162</sup> Article 10 of the TUL imposes minimum membership requirements which are hard to meet for informal sector workers and smaller groups thus violating their right to freedom of association.

<sup>163</sup> CCHR wrote to the Mol seeking clarification on this matter on 21 August 2015, and received a response on 22 September 2015. Encouragingly, the response letter from the Mol indicated that the LANGO should not apply to small CBOs; however, there is still significant scope for local authorities and officials to misapply the law due to the vague wording of the LANGO: see CCHR, 'Letter from CCHR to Samdech Kralahom Sar Kheng', (21 August 2015) <[https://cchrcambodia.org/index\\_old.php?title=CCHR-Open-Letter-Seeks-Clarification-Regarding-Application-of-the-LANGO-to-CBOs-and-Informal-Groups&url=media/media.php&p=press\\_detail.php&prid=569&id=5](https://cchrcambodia.org/index_old.php?title=CCHR-Open-Letter-Seeks-Clarification-Regarding-Application-of-the-LANGO-to-CBOs-and-Informal-Groups&url=media/media.php&p=press_detail.php&prid=569&id=5)>.

|   |   |                                     |   |     |     |     |   |
|---|---|-------------------------------------|---|-----|-----|-----|---|
| <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   | <i>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. International human rights law allows states to impose reporting requirements on associations if they are established to pursue the legitimate interests of transparency and accountability.<sup>164</sup> However, international standards require that such reporting obligations are not arbitrary<sup>165</sup> or burdensome.<sup>166</sup> 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>167</sup> In Year Four Article 17 of the TUL was revised requiring that unions "prepare" instead of "submit" annual financial statements and activity reports. However, the amendments added the provision that unions must submit these financial documents to independent auditors at the request of any donor, 10% of total union members, or 5% of total members of union federations/confederations. Article 17 therefore continues to be overly restrictive, amounting to interference in the internal affairs of an association.<sup>168</sup></i>                                |
| <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 | <i>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>169</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". While the TUL was amended in Year Four to remove the automatic dissolution of an association if its leaders or managers commit a serious misconduct or offense,<sup>170</sup> the TUL contains other ill-defined, vague actions that can result in sanctions, including a ban on organizing for "political purposes" or for "personal ambitions". Furthermore, the Criminal 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>171</sup> Counter-Terrorism Law,<sup>172</sup> the Law on the Election of Members of the National Assembly (LEMNA), and the Law on the Election of Commune Councils (LECC) also contain sanctions for disproportionate, broad and ill-defined actions.<sup>173</sup></i> |
| <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   | <i>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 Labour 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 Criminal 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.</i>   |
| <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   | <i>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</i>   |

<sup>164</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 <[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>165</sup> Ibid.

<sup>166</sup> UN Human Rights Council held that reporting requirements must not "inhibit the functional autonomy" of an association: UN Doc A/HRC/22/L.13 (15 March 2013), para. 9 <<https://documents-dds-ny.un.org/doc/RESOLUTION/LTD/G13/120/26/PDF/G1312026.pdf?OpenElement>>.

<sup>167</sup> See CCHR, ADHOC, SC, 'Fundamental Freedoms Monitoring Project: First Annual Report' (August 2017), 4-7 <<https://cchrcambodia.org/admin/media/report/report/english/2017-08-10-CCHR-FFMP-Annual-Report-Eng.pdf>>.

<sup>168</sup> See Key Milestone One.

<sup>169</sup> See CCHR, ADHOC, SC, 'Fundamental Freedoms Monitoring Project: First Annual Report' (August 2017), 4-7 <<https://cchrcambodia.org/admin/media/report/report/english/2017-08-10-CCHR-FFMP-Annual-Report-Eng.pdf>>.

<sup>170</sup> See Article 29 of the TUL.

<sup>171</sup> See Article 107 of the Law On Telecommunications.

<sup>172</sup> See Articles 7, 76, 77 and 78 of the Counter-Terrorism Law.

<sup>173</sup> See Article 74 of the Law on the Election of Commune Councils.

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|   |   |                                     |   |   |   |   | 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)).  |
| <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 | Cambodia fails to meet this element. Dissolution of associations is possible under the Criminal 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 TU by the administrative authority constitute serious infringements of the principles of freedom of association. <sup>174</sup>  |
| <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 | Cambodia generally meets this element. There is no law regulating Cambodian NGOs' engagement in economic activities. While this right is not 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.   |
| <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 | 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 the Ministry of Economy and Finance (MEF) and the Ministry of Foreign Affairs (MFA) respectively within 30 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.  |
| <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 receiving funding from private sources without unreasonable restrictions | Desk Review of Laws and Regulations | 4 | 4 | 4 | 4 | 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.   |
| <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 | 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 from donors. Stringent financial reporting requirements are also contained in the TUL, and subject to change from the Minister of Labour at any time. Amendments to Article 17 of the TUL require that unions "prepare" instead of "submit" annual financial statements. However, the amendments added the provision that unions must submit these financial documents to independent audits at the request of any donor, 10% of total union members, or 5% of total members of union federations/confederations. Article 17 of the TUL therefore continues to be overly restrictive on freedom of association amounting to interference in the internal affairs of an association. <sup>175</sup> The Anti-Corruption law also provides an obligation to declare assets and liabilities to the Anti-Corruption Unit. Finally, the reporting requirements set forth in the Declaration on the Implementation Guidelines on Tax Obligations of Associations and NGOs also amount to an overly burdensome reporting requirement, which likely impermissibly restricts the freedom of association. |

<sup>174</sup> ILO, 'Freedom of Association: Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO' (5<sup>th</sup> ed, ILO 2006) para. 683 <[http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@normes/documents/publication/wcms\\_090632.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@normes/documents/publication/wcms_090632.pdf)>.

<sup>175</sup> See Key Milestone One.

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| <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 | 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 Mol denying its registration. Under the LANGO there is no administrative remedy against a refusal of registration. For domestic associations, the only potential recourse against a negative registration decision is the possibility for an association or NGO to appeal the decision in the courts (Article 8(5)). Foreign associations and NGOs do not have the right to appeal registration decisions of the MFA. Under Prakas 250 and 251 which expand upon the TUL, there is a limited right of administrative appeal to the MLVT where registration is denied, but no right of appeal to courts. This does not comply with international best practice, which requires that "associations should be able to challenge any rejection [of registration] before an impartial and independent court". <sup>176</sup> |
| <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   | Cambodia fails to fully meet this element. Cambodian legislation does not explicitly and clearly establish a presumption in favor of holding peaceful assemblies. The LPA contains a presumption in favor of holding peaceful assemblies, as it states that the competent authority "shall respond positively in writing". <sup>177</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>178</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>179</sup> Similarly, the Labor Law also excludes a number of activities from the scope of its protection. <sup>180</sup> Finally, the LEMNA and the LECC also fail to include an explicit provision that the assembly must be authorized. <sup>181</sup>  |
| <b>1.19: Assemblies do not require previous authorization by RGC or other authorities</b>  | Degree to which the legal framework protects the right to assembly without authorization  | Desk Review of Laws and Regulations | n/a | 3.5 | 4   | 4   | Cambodia partially meets this element. Articles 5 and 7 of the LPA set out a system of prior notification rather than prior authorization. Additionally, Article 20 of the LPA does not require prior notification for "other gatherings which serve religion, art, culture, national customs and tradition" or for "educational dissemination activities for social interests". However, the fact that a peaceful assembly may be stopped by the competent authorities if proper notification was not submitted, does not conform to international human rights law and standards. <sup>182</sup>  |
| <b>1.20: Prohibition of assemblies is noted as a measure of last resort, and is necessary and proportionate to the aim pursued</b> | Degree to which the legal framework enables prohibition only as a measure of last resort, and when necessary and proportionate to the aim pursued | Desk Review of Laws and Regulations | n/a | 2.5 | 3   | 3   | Cambodia does not fully meet this element. Article 9 of the LPA provides two conditions under which a notification of an assembly can be denied, both of which are vaguely worded. <sup>183</sup> The Implementation Guide to the Law on Peaceful Assembly (the Implementation Guide) sets the applicable standard as to which type of information could lead to the prohibition of an assembly and suggests that alternatives other than prohibition should be discussed first. <sup>184</sup> This section of the Implementation Guide also notes that if the authorities believe that there is information such as listed in Article 9(2), they must "consider and assess that   |

<sup>176</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. 95 <[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>177</sup> Article 9 of the LPA.

<sup>178</sup> In such a case, under Article 11 of the LPA, 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 Mol shall provide the final decision in writing and at least 24 hours before the scheduled peaceful assembly (Article 12).

<sup>179</sup> Article 3 of the LPA.

<sup>180</sup> While the *Labour 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>181</sup> Article 78 of the *Law on the Election of Members of the National Assembly* and the *Law on the Election of Commune Council* provide 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.

<sup>182</sup> UN Human Rights Council, 'Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association', (21 May 2012) UN Doc A/HRC/20/27, para. 29 <[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>183</sup> Article 9 of the LPA provides that authorities may respond negatively to a notification of an assembly if one of two conditions is met: 1) the peaceful assembly is to be held on the King's birthday, Coronation Day, Water Festival, National Independence Day, Khmer New Year day or Pchum Ben day. 2) There is clear information indicating that the demonstration may cause danger or may seriously jeopardize security, safety and public order.

<sup>184</sup> Section 3, Article 2-4-7 of the Implementation Guide.

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|  |  |                                     |     |     |   |   | information to determine whether it can be substantiated” and they must notify and collaborate with the organizers to “develop solutions that eliminate the potential dangers, so that the demonstration can proceed”. <sup>185</sup> By contrast, if Article 9(1) applies, there is no provision as to how authorities should respond.  |
| <b>1.21: Timely and fulsome reasons for the imposition of any restrictions to assemblies are required</b>                    | Degree to which the legal framework requires timely and fulsome reasons for restrictions on assemblies | Desk Review of Laws and Regulations | n/a | 3.5 | 4 | 4 | Cambodia partially meets this element. The existing legal framework requires a response from the authorities to the assembly notification letter. It could be implied that this response must include reasoning should restrictions be imposed; however, this is not stated explicitly. Cambodian law also establishes a presumption of authorization if no answer is received to the notification of assembly. <sup>186</sup> Under Article 9 of the LPA, 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. Failure to reply within this window “implies the competent municipal or provincial territorial authorities have approved”. <sup>187</sup> Moreover, in cases stipulated in Article 9(2), if no agreement is reached, the Minister of Interior will provide the final decision in writing and at least 24 hours before the scheduled peaceful assembly. <sup>188</sup> This decision is not open to appeal before an independent and impartial court as international standards stipulate. <sup>189</sup> |
| <b>1.22: Blanket time and location prohibitions are not mandated</b>   | Degree to which blanket time and/or location prohibitions are stated in the legal framework            | Desk Review of Laws and Regulations | n/a | 4   | 4 | 4 | Cambodia does not fully meet this element. Article 9(1) of the LPA suggests a blanket ban on peaceful assemblies on the holiday days of the King’s birthday, Coronation Day, Water Festival, National Independence Day, Khmer New Year day and Pchum Ben day. This blanket prohibition does not appear to pursue one of the legitimate aims listed in Article 21 of the International Covenant on Civil and Political Rights (ICCPR), but rather appears to be based on convenience. In any case, a blanket ban on all peaceful assemblies for these days does not meet the necessity and proportionality requirements of the third part of the three-part test as it precludes the consideration of the specific circumstances of each assembly and would therefore be intrinsically disproportionate and discriminatory (impacting on all citizens willing to exercise their right to freedom of peaceful assembly). <sup>190</sup>  |
| <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 | Cambodia meets this element. There is no prohibition on simultaneous assemblies. Article 14 of the LPA 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 makes it 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 | Cambodia does not fully meet this element. Under the LPA, authorities must respond to an assembly notification letter within a maximum period of three working days starting from the date of which the notification letter was submitted. <sup>191</sup> Failure to reply within this window “implies the competent municipal or provincial territorial authorities have approved”. <sup>192</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 will communicate the final decision in writing at least 24 hours before the scheduled peaceful assembly. However, the Minister cannot be considered to be an “independent and impartial body”. The Minister of Interior – as a member of the executive branch – is not   |

<sup>185</sup> Section 3, Article 2-4-7 of the Implementation Guide.

<sup>186</sup> See Articles 9 and 10 of the LPA.

<sup>187</sup> Article 10 of the LPA.

<sup>188</sup> Article 12 of the LPA.

<sup>189</sup> UN Human Rights Council, ‘Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association’, (21 May 2012) UN Doc A/HRC/20/27 para. 42 <[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>190</sup> UN Human Rights Council, ‘Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies’, (4 February 2016) UN Doc. A/HRC/31/66, para. 30. See also UN Human Rights Council, ‘Second Thematic Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai’, (24 April 2013) UN Doc A/HRC/23/39, para. 63 <[https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.39\\_EN.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.39_EN.pdf)>.

<sup>191</sup> Article 12 of the LPA.

<sup>192</sup> Article 10 of the LPA.

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|   |   |                                     |     |     |   |   | independent nor impartial. 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 | 4 | 4 | Cambodia does not fully meet this element. The LPA, <sup>193</sup> the Labour Law, <sup>194</sup> and the Election Laws contain prior notification procedures for assemblies, <sup>195</sup> which can be in line with international law and are preferable to prior authorization procedures. However, International best practice recommends only requiring notice of an assembly when a substantial number of participants are expected, or only for certain types of assembly, such as assemblies where disruption is reasonably expected by the organizers. <sup>196</sup> The LPA imposes a disproportionate restriction on freedom of assembly as prior notification is uniformly required to all sizes and types of gatherings, with no minimum number of participants and without circumstantial consideration. <sup>197</sup> The majority of the information required within the prior notification appears proportionate and not too burdensome, such as an indication of the purpose for holding the assembly; the date, time, duration, route, number of participants and vehicles to be used. However, the LPA also requires the identification details of three leaders, a requirement that appears to be both disproportionate and unnecessary. <sup>198</sup> It is unclear why detailed information on three individuals would be legitimately required, and for smaller assemblies the requirement may be irrelevant or difficult to fulfill, therefore acting as an arbitrary obstacle to the freedom of assembly. Furthermore, the LPA requires prior notifications to be made at least five working days before the planned event. <sup>199</sup> This lengthy notice period acts as a restriction on freedom of assembly, as it prevents assemblies from being organized in rapid response to current events. |
| <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 | Cambodia does not fully meet this element. The LPA provides for a warning to be given to an assembly organizer who does not provide a notification. <sup>200</sup> Both the TUL and the Labour Law provide that strikes not complying with their provisions, including the prior notification requirements, are to be considered unlawful. <sup>201</sup> However, only a court can determine the legality or illegality of a strike. <sup>202</sup> Nevertheless, the TUL provides that if the strikers continue a strike that has been 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>203</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.   |
| <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 | Cambodia meets this element. The LPA provides that the competent authorities should be responsible in protecting the peaceful demonstration, and shall not interfere in the conduct of the peaceful assembly. <sup>204</sup> Competent authorities should 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>205</sup> In case of violence, the implementation guidelines state unequivocally that an assembly can only be dispersed when no other options exist; <sup>206</sup> it adds that the actions of the police must be proportional to the situation and only be used to the extent necessary. <sup>207</sup>   |

<sup>193</sup> Articles 6, 7, 10, 14, 20 and 28 of the LPA.

<sup>194</sup> Articles 324 and 327 of the Labour Law.

<sup>195</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>196</sup> OSCE-ODIHR and Venice Commission, 'Guidelines on Freedom of Peaceful Assembly', (2nd ed, 2010), para. 115

<<https://www.osce.org/odihr/73405?download=true>>; UN Human Rights Council, 'Second Thematic Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai' (24 April 2013) UN Doc A/HRC/23/39, para. 52,

<[https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.39\\_EN.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.39_EN.pdf)>.

<sup>197</sup> Articles 6, 7, 10, 14, 20 and 28 of the LPA.

<sup>198</sup> Article 6 of the LPA.

<sup>199</sup> Article 7 of the LPA.

<sup>200</sup> Article 21 of the LPA; See also Section 3, Article 4-4-1 of the Implementation Guide.

<sup>201</sup> Article 92 of the TUL.

<sup>202</sup> Article 337 of the Labour Law.

<sup>203</sup> Article 92 of the TUL.

<sup>204</sup> Article 17 of the LPA.

<sup>205</sup> Article 18 of the LPA.

<sup>206</sup> Section 2, Article 3-6-4 of the Implementation Guide.

<sup>207</sup> Section 2, Article 3-6-5 of the Implementation Guide.

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| <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 | <i>Cambodia meets this element. The LPA does not provide that assembly organizers are responsible for financial charges for the provision of public services.</i>  |
| <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 | <i>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 LPA, 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, and 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 to the organizers or participants for the actions of others.</i>   |
| <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 | <i>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>208</sup> Articles 23-27 of the LPA 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 Code. Any intervention by the police must be proportionate to the situation, and be only used to the extent necessary to promptly restore order.<sup>209</sup> Moreover, the law makes no provision for the use of force by the authorities, although it does not explicitly prohibit it.</i>   |
| <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 | <i>Cambodia fails to meet this element. The LPA 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.</i>  |
| <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 | <i>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 the ICCPR. Cambodia therefore fails to meet this element.<sup>210</sup> In particular, the Criminal Code (specifically the criminal offenses of defamation, insult, incitement, and lèse-majesté), the LANGO, the LEMNA, the Telecommunications law, the Education Law, the Code of Conduct for the Media, the Law on Minimum Wage, the Press Law, and the 2018 Amendments to the Constitution, contain provisions which do not comply with the three-part test set out in Article 19(3) of the ICCPR.<sup>211</sup> Additionally, the Social Media Prakas constitutes a restriction to the right to freedom of expression. The categories of prohibited speech in the Social Media Prakas are too broad and too vague for citizens to determine which content is or is not permissible. Moreover, 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. Finally, punishments for the publication of prohibited content include the blocking of websites and the possibility of legal actions against individuals and legal entities.<sup>212</sup> These punishments are not the least restrictive means necessary to achieve the aims of the Social Media Prakas.<sup>213</sup></i> |

<sup>208</sup> Articles 20(2) and 23-27 of the LPA.

<sup>209</sup> Article 3-6-5 of the Implementation Guide.

<sup>210</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".

<sup>211</sup> See CCHR, ADHOC, SC, 'Fundamental Freedoms Monitoring Project: First Annual Report', (August 2017), 7-8

<<https://cchrcambodia.org/admin/media/report/report/english/2017-08-10-CCHR-FFMP-Annual-Report-Eng.pdf>>. See also CCHR, ADHOC, SC and ICNL,

'Cambodia Fundamental Freedoms Monitor: Second Annual Report' (September 2018), 4

<[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)>.

<sup>212</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), 3 <[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>213</sup> Ibid, 5-8.

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| <b>1.33: Defamation is decriminalized</b>  | Degree to which defamation is decriminalized  | Desk Review of Laws and Regulations | n/a | 2 | 2 | 2 | Cambodia fails to fully meet this element as Articles 305 and 307 of the Criminal Code contain the offenses of defamation and insult, respectively. Defamation is defined as “any allegation or charge made in bad faith which tends to injure the honour or reputation of a person or an institution”. Insult is defined as an “outrageous expression, term of contempt or any invective that does not involve any imputation of fact”. The crime of defamation in domestic law is problematic because its definition is impermissibly vague and it does not require the causation of any harm. It further does not allow for the defenses of truth or public interest which are requirements under international law and standards. <sup>214</sup> In addition, the fact that criminal defamation charges can be brought against an individual for words against an “institution” is not compliant with international law. While the penalties for defamation or insult do not include imprisonment, these offenses are punishable by a fine under the Criminal Code. <sup>215</sup> Further, in February 2018, the Criminal Code was amended to include Article 437-bis titled Insulting the King (also known as a lèse-majesté offense). This offense contradicts international human rights law, which unequivocally states that public figures must withstand a higher level of criticism, and the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties. <sup>216</sup> Violating this Article results in disproportionate penalties, namely one to five years imprisonment and a fine of between two and 10 million riels. Article 71 of the LEMNA and Article 71 of the LECC also criminalize defamation by restricting political parties and candidates or supporters from making verbal remarks or written statements that are “immoral” or “insult” candidates, their supporters or any person, during an electoral campaign. <sup>217</sup> While international law allows for restrictions to speech during election times, the vague nature of this provision is unlikely to be compliant with international standards as it leaves the law open to abuse – simply disagreeing with a political party could be characterized as immoral or insulting. <sup>218</sup> Article 71 imposes both financial penalties and the deletion of candidacy. |
| <b>1.34: Surveillance of communications can occur only after meaningful judicial oversight</b> | Degree to which the legal framework ensures that surveillance of communications only occurs after meaningful judicial oversight | Desk Review of Laws and Regulations | n/a | 1 | 1 | 1 | Cambodian legislation does not meet this element. The Law on Telecommunications, promulgated in 2016, provides the RGC with unrestricted power to conduct surveillance of telecommunications without oversight from the judiciary or another independent body. Article 6 states that “all telecommunications operators and persons involved with the telecommunications sector shall provide to the Ministry of Posts and Telecommunications the telecommunications, information and communication technology service data”. Under this provision, telecommunications operators appear to be required to pass over data on their service users, without any recourse to judicial or other independent oversight. The meaning of “service data” is undefined in the law and as such could be interpreted to include all user communication records, browsing history and other confidential information. This appears to be in violation of Article 40 of the Constitution, which ensures the right to confidentiality. Article 97 of the Law on Telecommunications states that secret listening or recording of dialogue is permissible with the approval of an undefined “legitimate authority”, and also allows publication of the secretly recorded dialogue with approval from the “legitimate authority”. These provision are open to abuse as they permit surveillance without public accountability or safeguards. Similarly, the 2010 Law on Anti-Corruption confers exceptional, highly intrusive powers on the Anti-Corruption Unit (ACU), Cambodia’s national anti-corruption institution, which is not subject to judicial oversight. <sup>219</sup> According to Article 27 of this law, the ACU is authorized to “monitor, oversee, eavesdrop, record sound and take photos, and engage in phone tapping” where there is a “clear hint of corruption”. The Social Media Prakas further fails this indicator as it establishes a joint  |

<sup>214</sup> UN Human Rights Committee, ‘General Comment 34’ UN Doc. CCPR/C/GC/34, (12 September 2011), para. 47, <<https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>><<https://bit.ly/1xmySgV>>.

<sup>215</sup> CCHR, ADHOC, SC and ICNL, ‘Cambodia Fundamental Freedoms Monitor: Second Annual Report’ (September 2018), 8 <[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)>.

<sup>216</sup> UN Human Rights Committee, ‘General Comment 34’ UN Doc. CCPR/C/GC/34, (12 September 2011), para. 38, <<https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>><<https://bit.ly/1xmySgV>>.

<sup>217</sup> The electoral campaign period lasts for 21 days for national elections (Article 72 of the LEMNA) and 14 days for commune elections (Article 70 of the LECC).

<sup>218</sup> European Union, ‘Final Report, European Union Follow-up Mission to Cambodia’ (2015)

<[https://eeas.europa.eu/sites/eeas/files/efm\\_cambodia\\_2015\\_final\\_report\\_public.pdf](https://eeas.europa.eu/sites/eeas/files/efm_cambodia_2015_final_report_public.pdf)

<sup>219</sup> See details in CCHR, ADHOC, SC and ICNL, ‘Cambodia Fundamental Freedoms Monitor: Second Annual Report’ (September 2018), 9-10

<[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)>.

|  |  |                                     |               |               |               |               |  |   |
|--|--|-------------------------------------|---------------|---------------|---------------|---------------|--|---|
|  |  |                                     |               |               |               |               |  | "specialized unit" with ministry representatives in order to "cooperatively monitor" and take legal action against illegal publications on websites and social media. It fails to mention judicial supervision. <sup>220</sup>  |
| <b>1.35: The right to information is protected and promoted</b>  | Degree to which the right to information is protected and promoted by the legal framework                | Desk Review of Laws and Regulations | n/a           | 1             | 1             | 1             |  | Cambodia fails to meet this element as the right to information is not protected by law. However, the government is currently working on a draft Law on Access to Information. <sup>221</sup> Multiple laws impinge upon the right to information, including, the Press Law, and the Criminal Code. The Press Law prohibits and punishes the publication of a wide array of legitimate expression, and at Article 12 it permits the censorship of "any information that may affect national security and political stability" without requiring any nexus between the publication and the risk of harm. This fails to adequately protect the right to information. The offense of falsifying information at Article 425 of the Criminal Code, criminalizes "The act of communicating or disclosing false information with intention to create an impression that causes destruction, deterioration or damage to persons". The vague and broad wording of this offense leaves it open to misapplication to expression that is not objectively false, or information that constitutes an opinion. This would extend the law beyond the permissible levels of restriction to the freedom of expression. The crime is punishable by a one to two-year prison sentence and a fine of two to four million riels – penalties that appear to be vastly disproportionate to the criminal action. |
| <b>1.36: Internet access cannot be arbitrarily shut down</b>   | Degree to which access to the internet is guaranteed by law and protected from arbitrary restrictions    | Desk Review of Laws and Regulations | n/a           | 3             | 3             | 3             |  | Cambodia fails to fully meet this requirement. There are no legislative provisions explicitly granting the RGC the power to shut down the internet. However, the broad drafting of Article 7 of the Telecommunications Law could lead to it being used to arbitrarily shut down the internet. Article 7 of the Telecommunications Law states, "in the event of force majeure, the Ministry of Posts and Telecommunications or competent ministries or institutions may order relevant telecommunications operators to take necessary measures by relying on the Decision of the Royal Government". Further competencies are afforded to the Ministry of Posts and Telecommunications (MPTC) under Article 24, which states, "telecommunications infrastructures and networks and supporting telecommunication infrastructures shall fall under the competence of the MPTC". Under these provisions, the government appears to be granted control of the entire telecommunications industry including activity and infrastructure. The joint "specialized unit" established by the Social Media Prakas also has the power to shutdown Internet Service Providers without any judicial supervision to safeguard against arbitrary application. <sup>222</sup>   |
| <b>Key Milestone 2: The legal framework for the freedoms of association, assembly and expression are implemented and properly enforced</b> |  |                                     |               |               |               |               |  |   |
| <b>Element</b>   | <b>Indicator/s</b>   | <b>Data Source</b>                  | <b>Year 1</b> | <b>Year 2</b> | <b>Year 3</b> | <b>Year 4</b> | <b>Notes</b>   |   |
| <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%           | 15%           | 14%           | Media Monitoring recorded 22 RGC statements illustrating a correct understanding of fundamental freedoms out of the 159 total statements made. |   |
| <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            | 33            | 3             | Media Monitoring recorded three statements by the authorities that displayed a proper understanding of freedom of association.                 |   |
|  | # of incidents reported where RGC institutions are violating FoA   | Incident Reporting                  | 114           | 122           | 101           | 48            | Incident Reporting recorded 48 incidents where RGC institutions violated freedom of association.   |   |

<sup>220</sup> Social Media Prakas, clause 4; See also Kann Vicheika, 'Cambodia Forms Task Force to Monitor 'Fake News' on Social Media' (VOA, 6 June 2018), <<https://www.voacambodia.com/a/cambodia-forms-task-force-to-monitor-fake-news-on-social-media/4425534.html>>.

<sup>221</sup> In March 2018, the Minister of Information confirmed that the draft Law on Access to Information had been included in the government strategic plan. See Taing Vida, 'Access to Information draft law ready' (Khmer Times, 13 February 2019) <<https://www.khmertimeskh.com/50577422/access-to-information-draft-law-ready/>>. Draft of the Access to Information Law. Available at: <<https://www.phnompenhpost.com/Assets/doc/Doc-Jan-31-2018-15-30-en.pdf>>.

<sup>222</sup> Social Media Prakas, clause 4.

|  |  |   |     |     |     |     |  |
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| <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   | 1   | n/a | No relevant information was received by the FFMP.  |
| <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   | Incident Reporting recorded zero incidents where a registration application was denied due to multiple associations existing for a similar purpose.          |
|  |  | “Mystery Shopper” Evaluation of the Registration Process for Associations | n/a | 0   | 0   | 0   | The “Mystery Shopper” Evaluation Tool did not record any registrations that 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% | 41% | See question 4.1 of the CSO/TU Leader Survey.  |
|  | # of incident reports that includes interference in attempts by associations to form networks, coalitions, federations, or other types of unions | Incident Reporting  | 0   | 14  | 0   | 3   | Incident Reporting recorded three incidents of interference in attempts by associations 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% | 79% | 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 | 43  | 104 | Media Monitoring recorded 104 incidents of RGC supervision of an association that violated international standards.  |
| <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% | 30% | See question 5.6 of the CSO/TU Leader Survey.  |
|  | % of individuals who report victimization due to their involvement in an association   | Public Poll   | n/a | 14% | 19% | 25% | 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% | 14% | See question 4.7 of the CSO/TU Leader Survey.  |
|  | # of incidents of third-party interference   | Media Monitoring  | 24  | 35  | 10  | 15  | Media Monitoring recorded 15 incidents where an association was interfered with by a third-party.  |
|  |  | Incident Reporting  | n/a | 8   | 14  | 12  | Incident Reporting recorded 12 incidents where an association leader reported third-party interference.  |

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| <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%  | 60%  | 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% | 100% | See question 4.18 of the CSO/TU Leader Survey.  |
|  | # of incidents reported that include sanctions that are not implemented in accordance with Cambodian law  | Media Monitoring     | n/a  | 12   | 1    | 0    | Media Monitoring did not record any incidents of sanctions being imposed on an association that were not implemented in accordance with Cambodian law.          |
|  |   | Incident Reporting   | n/a  | 3    | 0    | 0    | Incident Reporting did not record any incidents of sanctions being imposed on an association that were not implemented in accordance with Cambodian law.        |
| <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%   | 32%  | See question 4.19 of the CSO/TU Leader Survey. The 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    | 1    | 0    | Incident Reporting did not record any incidents of association leaders reporting having recourse to safeguards in cases of sanctions.                           |
| <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    | Incident Reporting did not record any incidents of involuntary dissolution of an association.   |
|  | # of dissolutions which occur before legal avenues are exhausted and without clear and imminent danger present  | Incident Reporting   | n/a  | 0    | 0    | 0    | Incident Reporting did not record any incidents of dissolution that occurred before legal avenues were exhausted and without clear and imminent danger present. |
| <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%   | 4%   | 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  | CSO/TU Leader Survey | n/a  | 83%  | 72%  | 79%  | See questions 4.24 and 4.26 of the CSO/TU Leader Survey. Domestic funding = 77%, Foreign funding = 81%.   |
| <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%   | See questions 4.25 and 4.27 of the CSO/TU Leader Survey.  |

|   |   |                                  |     |     |     |      |  |
|---|---|----------------------------------|-----|-----|-----|------|--|
| <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% | 60%  | 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% | 19%  | 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%  | 15%  | See question 4.21 of the CSO/TU Leader Survey. The small number of respondents to this question means great variance from year to year.  |
|   |   | Incident Reporting               | 0   | 0   | 0   | 0    | Incident Reporting did not record any incidents of freedom of association violations being resolved by an independent oversight body and/or courts of law.   |
| <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 | 0   | 2   | 8    | Media Monitoring recorded eight incidents of the RGC promoting freedom of association or related rights of a marginalized group.   |
|   | # of instances reported where RGC discriminates against marginalized groups                                     | Media Monitoring                 | 20  | 10  | 3   | 0    | Media Monitoring did not record any incidents of the RGC discriminating against a marginalized group.  |
|   |   | Incident Reporting               | n/a | 4   | 0   | 1    | Incident Reporting recorded one incident of the RGC discriminating against a marginalized group.   |
| <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   | 0   | 100% | The TUL amendments, adopted in Year Four, were released in the Royal Gazette, available in Khmer here: <a href="https://www.ocm.gov.kh/wp-content/uploads/2020/03/11-2020.pdf">https://www.ocm.gov.kh/wp-content/uploads/2020/03/11-2020.pdf</a> . |
| <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%   | 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  | 57  | 5    | Incident Reporting recorded five incidents of the RGC restricting the freedom of assembly.   |
|   | % of assemblies' subject to undue interference reported in the media  | Media Monitoring                 | n/a | 6%  | 9%  | 10%  | Media Monitoring recorded 18 assemblies subject to RGC interference out of the 179 assemblies that occurred.   |
| <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   | 6   | 0    | Media Monitoring did not record any incidents of assemblies being prohibited or having restrictions imposed due to a lack of prior authorization.  |
|   |   | Incident Reporting               | n/a | 2   | 10  | 0    | Incident Reporting did not record any incidents of assemblies being restricted or prohibited due to a lack of prior authorization.   |

|  |  |                    |     |    |    |     |   |
|--|--|--------------------|-----|----|----|-----|---|
|  | # of assemblies which are interfered with due to a lack of prior authorization   | Media Monitoring   | n/a | 6  | 16 | 0   | Media Monitoring did not record any incidents of assemblies being interfered with due to a lack of prior authorization.   |
|  |  | Incident Reporting | n/a | 9  | 5  | 0   | Incident Reporting did not record any incidents of assemblies being interfered with due to a lack of prior authorization.   |
| <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% | 3% | 2%  | Media Monitoring recorded four prohibited assemblies out of a total of 177 planned assemblies.  |
|  | % of prohibitions reported in the media with a clear justification provided  | Media Monitoring   | n/a | 2% | 2% | 25% | Media Monitoring recorded one prohibited assembly where a clear justification was provided for the prohibition, out of four total prohibited assemblies.                          |
|  | % of prohibitions reported in the media that were a measure of last resort, necessary and proportionate  | Media Monitoring   | n/a | 3% | 0% | 0%  | Media Monitoring recorded zero out of four prohibited assemblies where the prohibition was a measure of last resort, necessary and proportionate.                                 |
|  | # of incident reports of prohibitions of planned assemblies  | Incident Reporting | n/a | 10 | 10 | 1   | Incident Reporting recorded one prohibition of a planned assembly.  |
|  | # of incident reports of prohibitions without a clear justification provided   | Incident Reporting | n/a | 9  | 5  | 1   | Incident Reporting recorded one prohibition of a planned assembly without a clear justification provided.   |
|  | # of incident reports of prohibitions that were not a measure of last resort, necessary and proportionate  | Incident Reporting | n/a | 10 | 2  | 1   | Incident Reporting recorded one incident of a prohibited assembly that was not a measure of last resort, necessary and proportionate.   |
|  | # of assembly prohibitions which occur as a measure of last resort, where necessary and proportionate to the aim pursued                                   | Incident Reporting | n/a | 0  | 0  | 0   | Incident Reporting recorded no incidents of prohibited assemblies that were a measure of last resort, 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% | 0% | 22% | Media Monitoring recorded nine incidents of restrictions being imposed on an assembly; in two of these incidents legitimate reasons were given in good time for the restrictions. |
|  | # of demonstrations reported where traffic flow was cited as a reason for restricting an assembly  | Media Monitoring   | n/a | 4  | 8  | 1   | Media Monitoring recorded one incident where traffic flow was given as a reason for restricting an assembly.  |
|  |  | Incident Reporting | n/a | 1  | 8  | 0   | Incident Reporting did not record any incidents where traffic flow was cited as a reason for restricting an assembly.   |

|   |  |                    |     |    |    |    |  |
|---|--|--------------------|-----|----|----|----|--|
|   | # 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  | <i>Media Monitoring did not record any incidents where an assembly was restricted due to other demonstrations taking place at the same time.</i>                           |
|   |  | Incident Reporting | n/a | 0  | 0  | 0  | <i>Incident Reporting did not record any incidents where an assembly was restricted due to other demonstrations taking place at the same time.</i>                         |
|   | # of incidents reports where assemblies were restricted without timely and fulsome reasons being provided in writing                           | Incident Reporting | n/a | 10 | 8  | 0  | <i>Incident Reporting did not record any incidents where restrictions were imposed on an assembly and legitimate reasons were given in good time for the restrictions.</i> |
| <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 | 13 | 3  | <i>Media Monitoring recorded three incidents where an assembly was restricted to a space or time that would limit its impact.</i>  |
|   |  | Incident Reporting | n/a | 3  | 2  | 0  | <i>Incident Reporting recorded no incidents where a demonstration was restricted to a designated space or time that muted its impact.</i>                                  |
| <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 prior notification  | Media Monitoring   | n/a | 0% | 0% | 0% | <i>Media Monitoring recorded three spontaneous assemblies, none of which were interfered with due to a lack of prior authorization.</i>                                    |
|   | # of incidents reports of spontaneous assemblies that face restrictions or interference for lacking prior notification                         | Incident Reporting | n/a | 0  | 0  | 0  | <i>Incident Reporting recorded no spontaneous assemblies that faced restrictions or interference for lacking prior notification.</i>                                       |
| <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  | 2  | 1  | <i>Media Monitoring recorded one incident where assembly organizers faced criminal or administrative sanctions for failure to notify the authorities.</i>                  |
|   |  | Incident Reporting | n/a | 0  | 0  | 0  | <i>Incident Reporting recorded no incidents where assembly organizers faced criminal or administrative sanctions for failure to notify the authorities.</i>                |
| <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 | 11 | 5  | <i>Media Monitoring recorded five incidents where the RGC failed to protect peaceful assemblies.</i>   |
|   | # of incidents reports that identify third-party interference in an assembly   | Incident Reporting | n/a | 0  | 1  | 0  | <i>Incident Reporting did not record any incidents of third-party interference in an assembly.</i>   |
| <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  | <i>Incident Reporting did not record any incidents of assembly organizers being made financially responsible for the provision of public services.</i>                     |

|   |  |                      |     |     |     |     |   |
|---|--|----------------------|-----|-----|-----|-----|---|
| <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   | <i>Incident Reporting did not record any incidents of assembly organizers being made liable for the conduct of others.</i>  |
| <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 | 0   | 0   | 0   | <i>Media Monitoring recorded no incidents where there was redress for third-party interference in an assembly.</i>  |
|   | # of incident reports where there was third-party interference and there was no redress                      | Incident Reporting   | n/a | 0   | 0   | 0   | <i>Incident Reporting recorded no incidents where there was an assembly with third-party interference and no redress.</i>   |
| <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 | 7   | 0   | 2   | <i>Media Monitoring recorded two incidents where state use of force at an assembly was used proportionately and justifiably.</i>  |
|   | # of assemblies reported where the state actors use force is disproportionate and/or exercised unjustifiably | Media Monitoring     | n/a | 2   | 2   | 7   | <i>Media Monitoring recorded seven incidents where state use of force at an assembly was used disproportionately or unjustifiably.</i>  |
|   |  | Incident Reporting   | n/a | 0   | 0   | 0   | <i>Incident Reporting recorded no assemblies where state actors used force disproportionately and/or unjustifiably.</i>   |
| <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   | <i>Media Monitoring recorded no incidents of assembly monitors being interfered with.</i>   |
|   |  | Incident Reporting   | n/a | 2   | 13  | 1   | <i>Incident Reporting recorded one incident of an assembly where there was interference with assembly monitors.</i>   |
| <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%  | 3%  | <i>See question 5.1 of the CSO/TU Leader Survey.</i>  |
|   | # of incidents reported that identify a restriction on FoE   | Incident Reporting   | n/a | 36  | 63  | 50  | <i>Incident Reporting recorded 50 incidents of restrictions to freedom of expression.</i>   |
| <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% | 17% | <i>See question 5.4 of the CSO/TU Leader Survey. The data for this indicator is calculated as an average of the responses for the following individual mediums: Newspaper = 16%, Social media = 16%, TV = 15%, Radio = 19%.</i> |
|   | # of incidents reported that identify a restriction on the ability to impart information through any media   | Incident Reporting   | n/a | 8   | 5   | 16  | <i>Incident Reporting recorded 16 incidents where there was a restriction on the ability to impart information through any media.</i>   |
| <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  | 47  | 94  | <i>Media Monitoring recorded 94 incidents where individuals or entities were accused of crime(s) for exercising freedom of expression.</i>  |

|  |  |                    |     |    |    |    |   |
|--|--|--------------------|-----|----|----|----|---|
|  |  | Incident Reporting | n/a | 2  | 6  | 5  | <i>Incident Reporting recorded five incidents of individuals or entities being accused of a crime for exercising freedom of expression.</i> |
|  | # reports of individuals are summonsed by authorities for protected speech       | Media Monitoring   | n/a | 34 | 31 | 32 | <i>Media Monitoring recorded 32 incidents where individuals were summonsed for protected speech.</i>  |
|  |  | Incident Reporting | n/a | 1  | 4  | 4  | <i>Incident Reporting recorded four incidents of individual(s) summonsed by authorities for protected speech.</i>                           |
|  | # reports of individuals are questioned by authorities for protected speech      | Media Monitoring   | n/a | 44 | 44 | 38 | <i>Media Monitoring recorded 38 incidents where individuals were questioned for protected speech.</i>                                       |
|  |  | Incident Reporting | n/a | 3  | 7  | 9  | <i>Incident Reporting recorded nine incidents of individual(s) questioned by authorities for protected speech.</i>                          |
|  | # reports of individuals are detained for protected speech                       | Media Monitoring   | n/a | 37 | 30 | 52 | <i>Media Monitoring recorded 52 incidents where individuals were detained for protected speech.</i>   |
|  |  | Incident Reporting | n/a | 3  | 0  | 3  | <i>Incident Reporting recorded three incidents of individual(s) detained for protected speech.</i>  |
|  | # reports of individuals are charged with crime(s) for protected speech          | Media Monitoring   | n/a | 33 | 20 | 52 | <i>Media Monitoring recorded 52 incidents where individuals were charged for protected speech.</i>  |
|  |  | Incident Reporting | n/a | 2  | 0  | 1  | <i>Incident Reporting recorded one incident of individual(s) charged with crime for protected speech.</i>                                   |
|  | # reports of individuals are arrested for protected speech                       | Media Monitoring   | n/a | 34 | 27 | 59 | <i>Media Monitoring recorded 59 incidents where individuals were arrested for protected speech.</i>   |
|  |  | Incident Reporting | n/a | 2  | 1  | 2  | <i>Incident Reporting recorded two incidents of individual(s) arrested for protected speech.</i>  |
|  | # reports of individuals are convicted of crime(s) for protected speech          | Media Monitoring   | n/a | 13 | 7  | 7  | <i>Media Monitoring recorded seven incidents where individuals were convicted for protected speech.</i>                                     |
|  |  | Incident Reporting | n/a | 1  | 0  | 1  | <i>Incident Reporting recorded one incident of individual(s) convicted of a crime for protected speech.</i>                                 |
|  | # reports of individuals receiving administrative sanctions for protected speech | Media Monitoring   | n/a | 16 | 1  | 1  | <i>Media Monitoring recorded one incident where individuals faced administrative sanctions for protected speech.</i>                        |
|  |  | Incident Reporting | n/a | 0  | 0  | 0  | <i>Incident Reporting did not record any incidents of individual(s) receiving administrative sanctions for protected speech.</i>            |
| <b>2.36: Information is not arbitrarily censored</b> | # reports of websites being blocked in Cambodia arbitrarily                      | Media Monitoring   | n/a | 1  | 15 | 0  | <i>Media Monitoring did not record any incidents of websites being blocked arbitrarily.</i>   |
|  |  | Incident Reporting | n/a | 0  | 0  | 1  | <i>Incident Reporting recorded one incident of a website being blocked in Cambodia arbitrarily.</i>   |
|  | # reports of media outlets shut down, sanctioned or suspended arbitrarily        | Media Monitoring   | n/a | 8  | 4  | 0  | <i>Media Monitoring did not record any incidents of media outlets being shut down, sanctioned or suspended arbitrarily.</i>                 |
|  |  | Incident Reporting | n/a | 0  | 0  | 0  | <i>Incident Reporting did not record any incidents of media outlets being shut down, sanctioned or suspended arbitrarily.</i>               |
|  | # of reports of artistic works banned or restricted arbitrarily                  | Media Monitoring   | n/a | 5  | 5  | 3  | <i>Media Monitoring recorded three incidents of artistic works being banned or restricted arbitrarily.</i>                                  |
|  |  | Incident Reporting | n/a | 0  | 0  | 1  | <i>Incident Reporting recorded one incident of an artistic work being banned or restricted arbitrarily.</i>                                 |

| 2.37: Surveillance of communications complies with the laws of Cambodia  | # reports of surveillance activities undertaken without judicial oversight (electronic, other)  | Media Monitoring   | n/a   | 8      | 3      | 6      | Media Monitoring recorded six incidents of a surveillance activity being undertaken without judicial oversight.   |
|--|---|--------------------|-------|--------|--------|--------|---|
|  |   | Incident Reporting | n/a   | 2      | 0      | 0      | Incident Reporting did not record any incidents of surveillance activities undertaken without judicial oversight. |
|  | # reports of private communications collected by Government being published   | Media Monitoring   | n/a   | 5      | 0      | 3      | Media Monitoring recorded three incidents of publication of a private communication collected by the RGC.         |
|  |   | Incident Reporting | n/a   | 0      | 0      | 0      | Incident Reporting did not record any incidents of private communications collected by the RGC being published.   |
| 2.38: Access to non-classified and non-sensitive information held by the Government is not restricted  | # 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      | 0      | 0      | No relevant information was recorded by the FFMP.   |
|  |   | Incident Reporting | n/a   | 0      | 0      | 0      | No relevant information was recorded by the FFMP.   |
| <b>Key Milestone 3: Individuals know and understand the freedoms of association, assembly and expression, and feel free to exercise them</b> |   |                    |       |        |        |        |   |
| Element  | Indicator/s   | Data Source        | Year1 | Year 2 | Year 3 | Year 4 | Notes   |
| 3.1: Individuals understand their rights to FoAA&E   | % of individuals who can correctly explain or define the right of FoAA&E  | Public Poll        | 41%   | 14%    | 11%    | 7%     | Average of the scores recorded for each freedom individually.   |
|  | Freedom of Association  |                    | 17%   | 12%    | 6%     | 4%     | See Question 4.1 of the Public Poll.  |
|  | Freedom of Expression   |                    | 56%   | 16%    | 13%    | 9%     | See Question 4.3 of the Public Poll.  |
|  | Freedom of Assembly   |                    | 49%   | 15%    | 13%    | 8%     | See Question 4.5 of the Public Poll.  |
| 3.2: Individuals understand the legal limitations of their rights  | % of individuals who can correctly identify the limitations to their rights   | Public Poll        | 51%   | 60%    | 53%    | 58%    | See Questions 4.9 to 4.17 of the Public Poll.   |
| 3.3: Individuals feel they can access redress systems for infringements to their rights  | % of individuals who can correctly identify mechanisms for redress  | Public Poll        | 14%   | 14%    | 47%    | 45%    | See question 5.8 of the Public Poll (the correct answers were: Court, Ministry or National Assembly, and police). |
|  | % of individuals who feel that they can access a redress mechanism if their rights are violated   | Public Poll        | n/a   | 4%     | 4%     | 2%     | See Question 5.9 of the Public Poll.  |
| 3.4: Individuals have confidence in redress systems for infringements to their rights  | % of individuals who report believing that redress systems are an effective remedy  | Public Poll        | 5%    | 2%     | 3%     | 3%     | See Question 5.10 of the Public Poll.   |
| 3.5: Individuals feel free to participate in political life  | Extent to which people feel free to participate in political life   | Public Poll        | 10%   | 8%     | 5%     | 4%     | See Question 5.7 of the Public Poll.  |
| <b>Freedom of Association</b>  |   |                    |       |        |        |        |   |
| 3.6: Individuals understand the laws pertaining to FoA   | % of individuals who can correctly explain or define their right to FoA under Cambodian law   | Public Poll        | 55%   | 12%    | 6%     | 4%     | See Question 4.1 of the Public Poll.  |

| <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%    | 11%    | See Question 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%     | 5%     | See Question 4.7 of the Public Poll.           |
| <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%    | 12%    | See Question 5.3 of the Public Poll.           |
| <b>3.10: Individuals feel free to strike</b>  | Extent to which people feel free to strike  | Public Poll          | 10%    | 5%     | 5%     | 6%     | See Question 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%     | 7%     | See Question 5.4 of the Public Poll.           |
| <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%     | 4%     | See Question 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 RGC</b>        |   |                      |        |        |        |        |  |
| Element   | Indicator/s   | Data Source          | Year 1 | Year 2 | Year 3 | Year 4 | 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%    | 46%    | See Question 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%    | 63%    | See Question 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%    | 34%    | See Question 6.3 of the CSO/TU Leader Survey.  |
| <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      | Media Monitoring found no such opportunities.  |
|   | % 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%     | 6%     | See Question 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      | Media Monitoring found no such opportunities.  |

|   |  |                          |     |     |     |     |   |
|---|--|--------------------------|-----|-----|-----|-----|---|
|   | % 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%  | 9%  | See Question 6.10 of the CSO/TU Leader Survey.  |
| <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   | Media Monitoring found no such opportunities.   |
|   | % 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% | 24% | See Question 6.7 of the CSO/TU Leader Survey.   |
| <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%  | 0%  | See Question 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, since no comprehensive review of relevant laws and RGC policies could be undertaken as a result of the lack of accessibility of the required material.  |
| <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 | 70  | 57  | 38  | See Question 6.4 of CSO/TU Leader Survey. The way respondents answered this question in the survey makes it difficult to calculate. A large number of the respondents answered "many" rather than giving a specific number or estimate. Which could not be quantified. This number therefore represents the number of CSO or TU leaders who reported taking part in a joint initiative - not the total number of initiatives. |

## Annex 3 – Public Poll 2020 Questions and Results

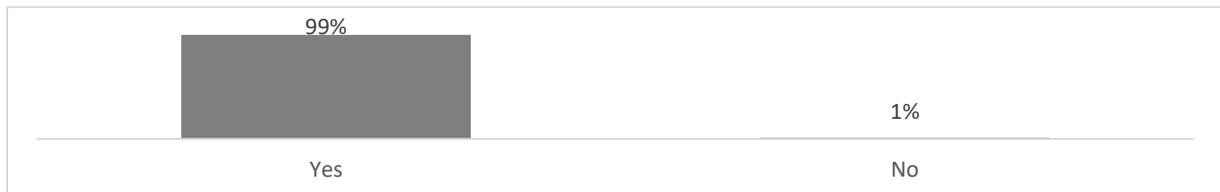
This Annex presents the questions and results of the Public Poll, which was conducted from 17 February - 19 March 2020 across 25 provinces, and surveyed 779 respondents. The FFMP Monitoring Team used “convenience sampling” to collect data, visiting locations with pedestrian traffic, such as marketplaces and pagodas, and questioning members of the public at random.

### Section 1: Administrative Details

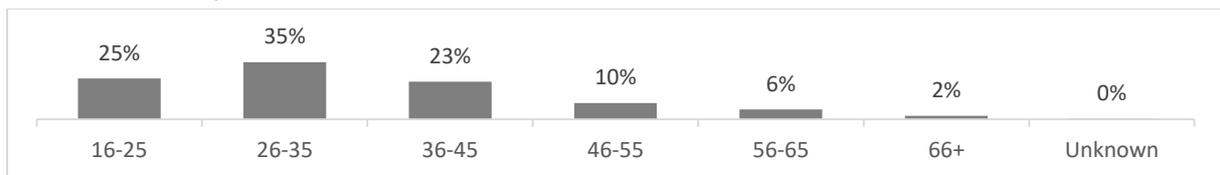
Section 1 did not contain any results. Rather, it was used by the FFMP Monitoring Team before initiating polling to record administrative details such as: date, location, interviewer, etc.

### Section 2: Consent

2.1: Do you agree to participate in this poll? (n=779)

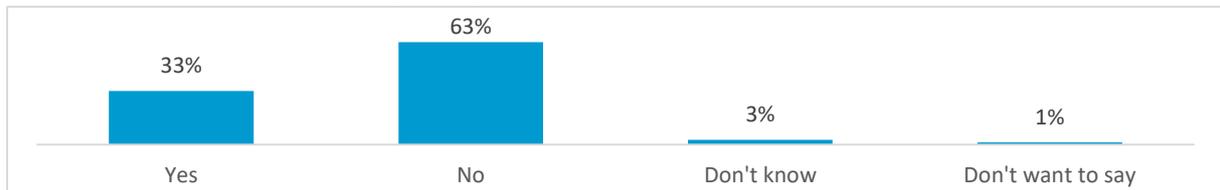


2.2: How old are you? (n=769)

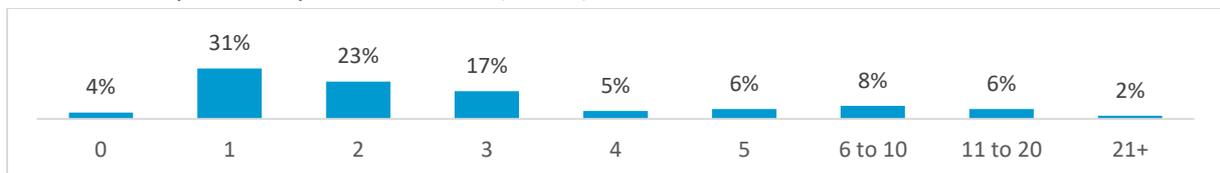


### Section 3: CSO Membership

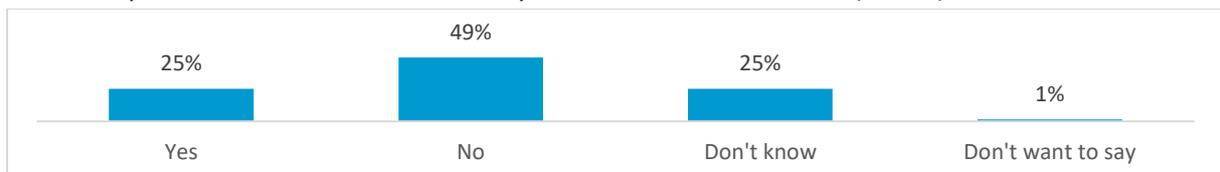
3.1: Are you involved in a CSO? (n=769)



3.2: How many CSO are you involved in? (n=252)



3.3: Have you ever been victimized due to your involvement in a CSO? (n=257)

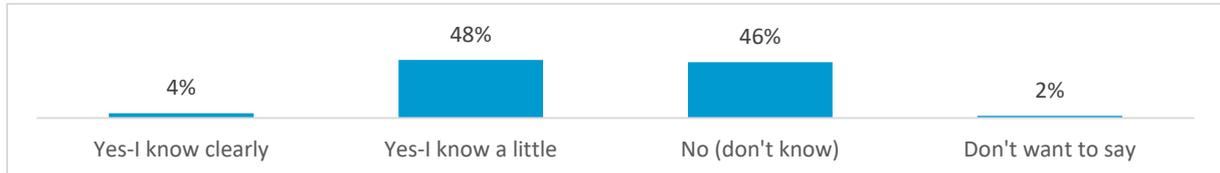


### Section 4: Understanding Fundamental Freedoms

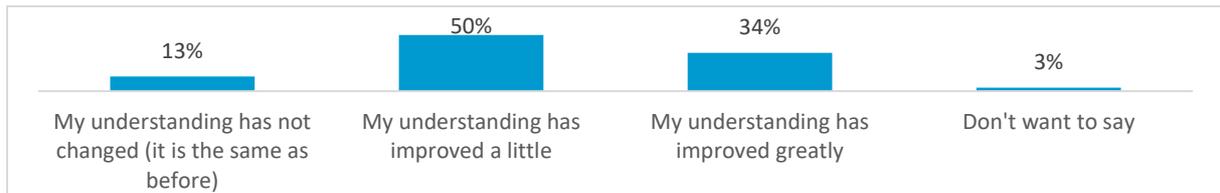
Public understanding of fundamental freedoms was measured by asking respondents to answer two questions: “Do you know what freedom of \_\_\_ means?” and, after the interviewer provided an explanation of the fundamental freedom in question, “Now that I have explained what the freedom

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.

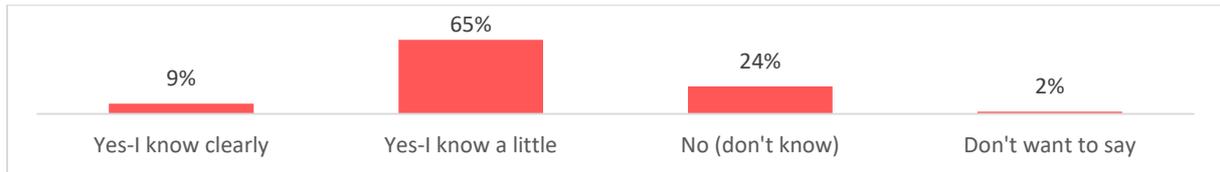
4.1: Do you know what freedom of association means? (n=769)



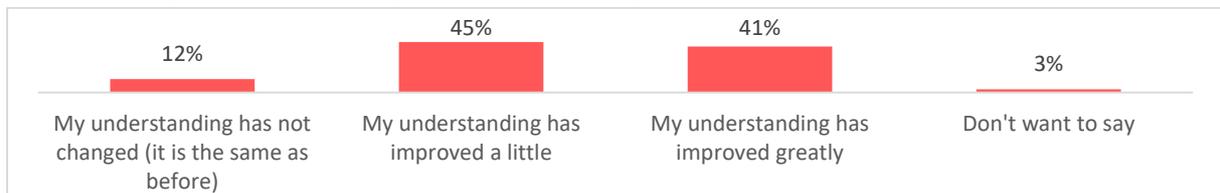
4.2: How has your understanding of this freedom improved? (n=769)



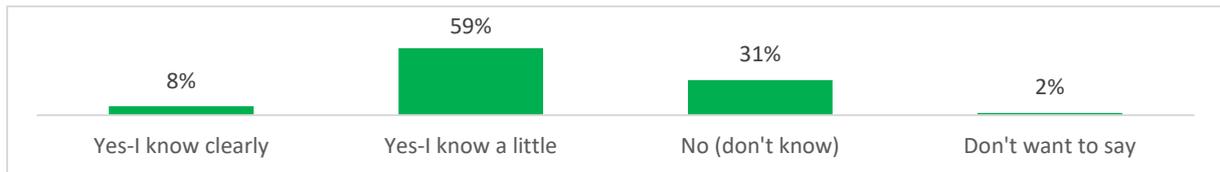
4.3: Do you know what freedom of expression means? (n=769)



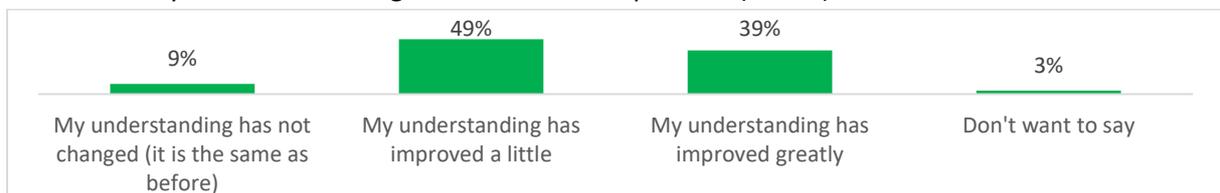
4.4: How has your understanding of this freedom improved? (n=769)



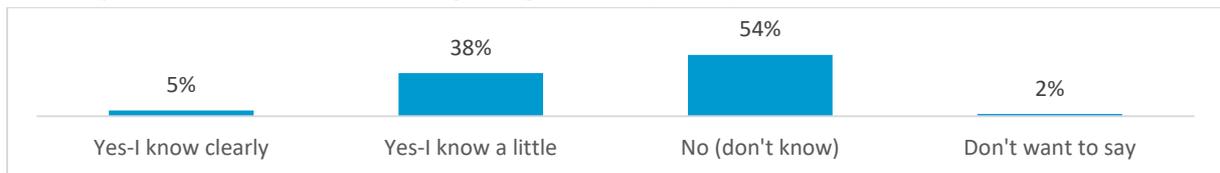
4.5: Do you know what freedom of assembly means? (n=769)



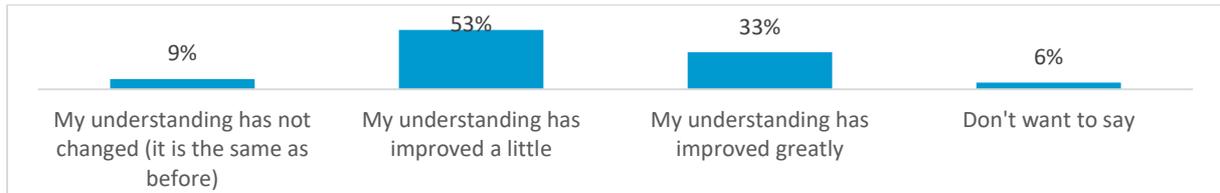
4.6: How has your understanding of this freedom improved? (n=769)



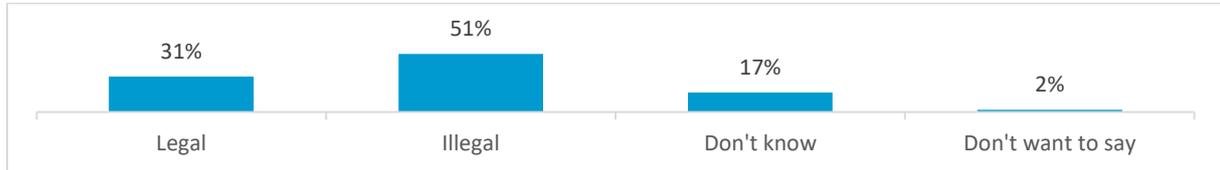
4.7: Do you know what collective bargaining means? (n=769)



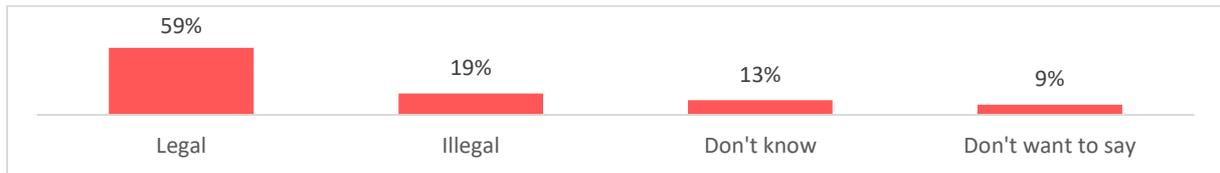
4.8: How has your understanding of collective bargaining improved? (n=769)



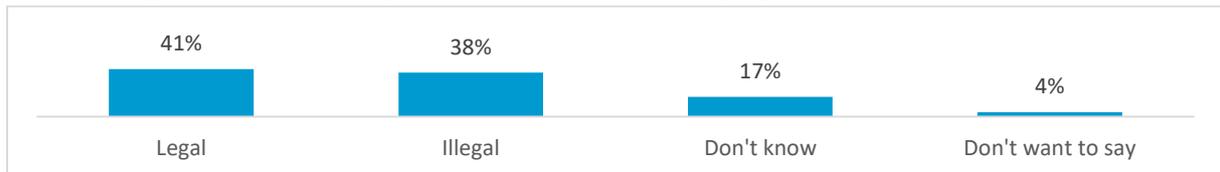
4.9: Is it legal to run an unapproved savings group? (n=769)



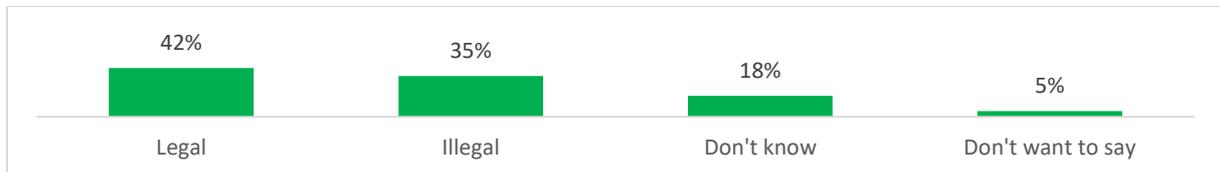
4.10: Is it legal to discuss politics with people? (n=769)



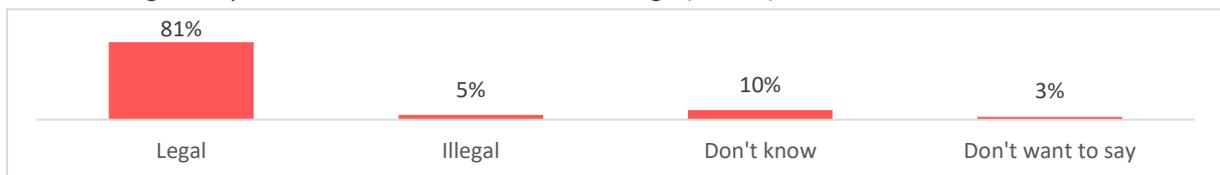
4.11: Is it legal for a CSO to carry out activities without notifying the authorities? (n=769)



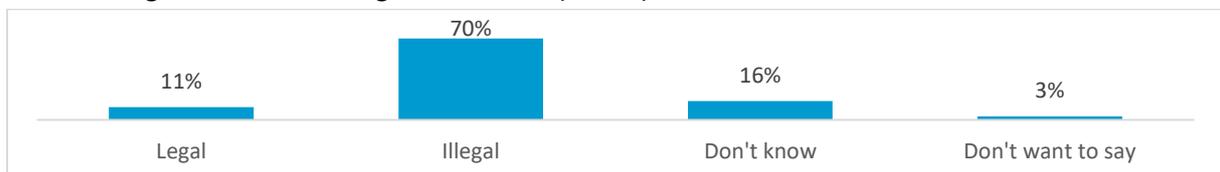
4.12: Is it legal to protest peacefully? (n=769)



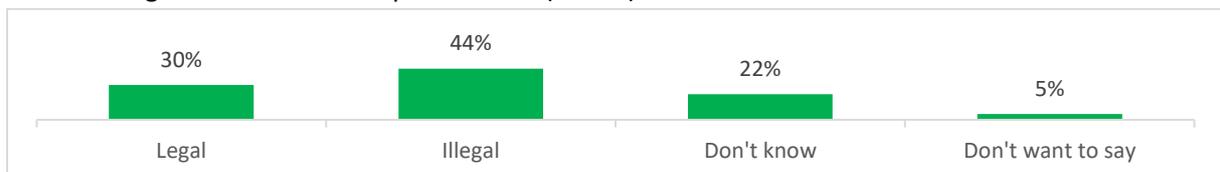
4.13: Is it legal to speak at a commune council meeting? (n=769)



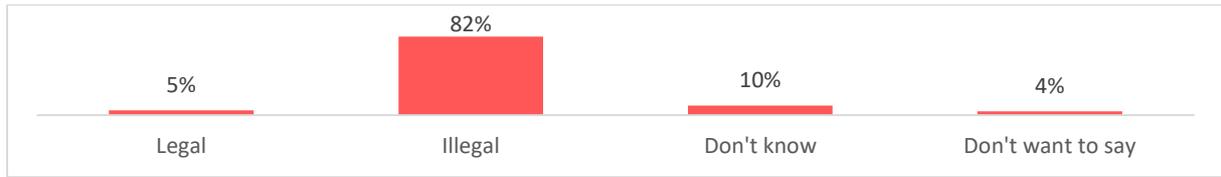
4.14: Is it legal to form an unregistered NGO? (n=769)



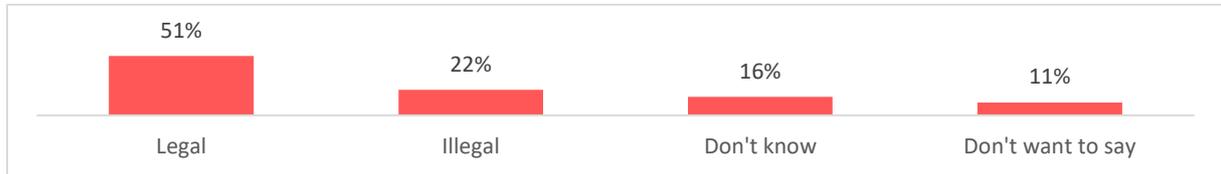
4.15: Is it legal to strike without permission? (n=769)



4.16: Is it legal to insult a public figure? (n=769)

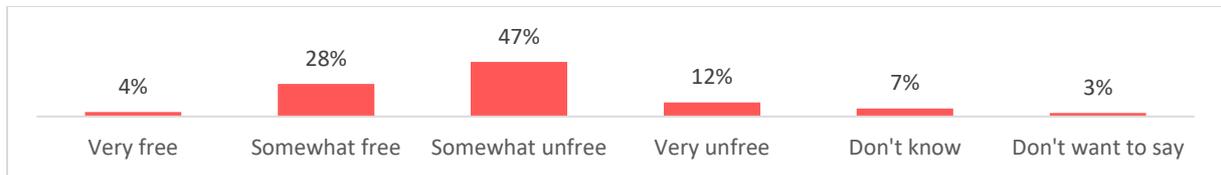


4.17: Is it legal to criticize RGC policies? (n=769)

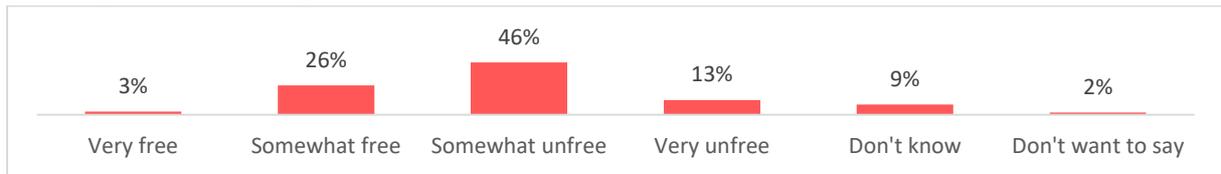


**Section 5: Exercising Fundamental Freedoms**

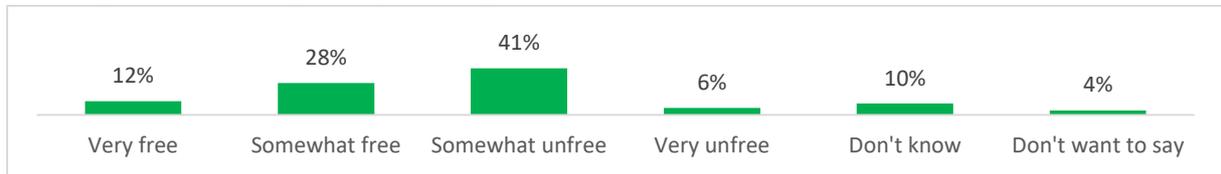
5.1: Do you feel free to speak in public? (n=769)



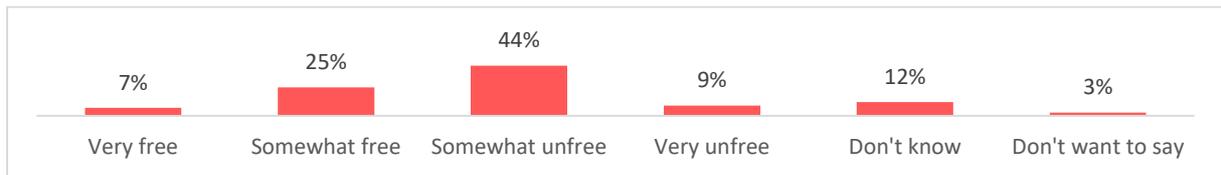
5.2: Do you feel free to speak on social media? (n=769)



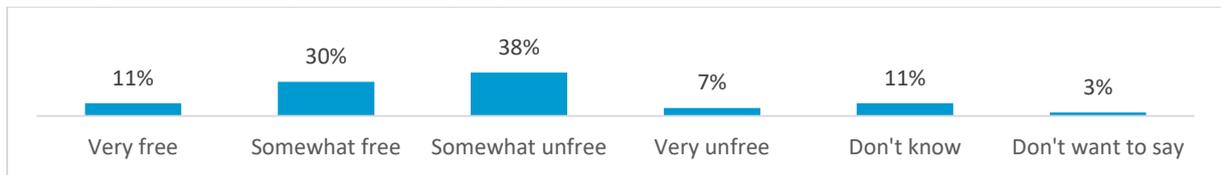
5.3: Do you feel free to gather peacefully? (n=769)



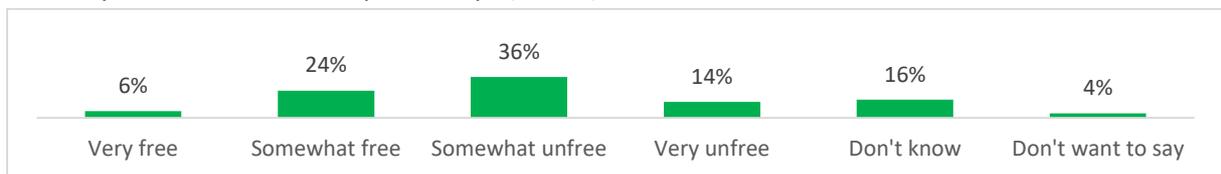
5.4: Do you feel free to speak to the media? (n=769)



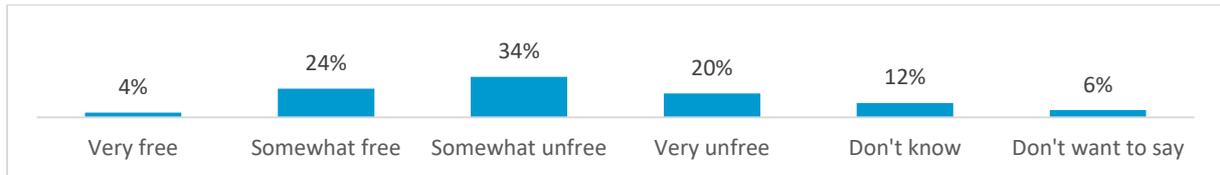
5.5: Do you feel free to join a lawful group? (n=769)



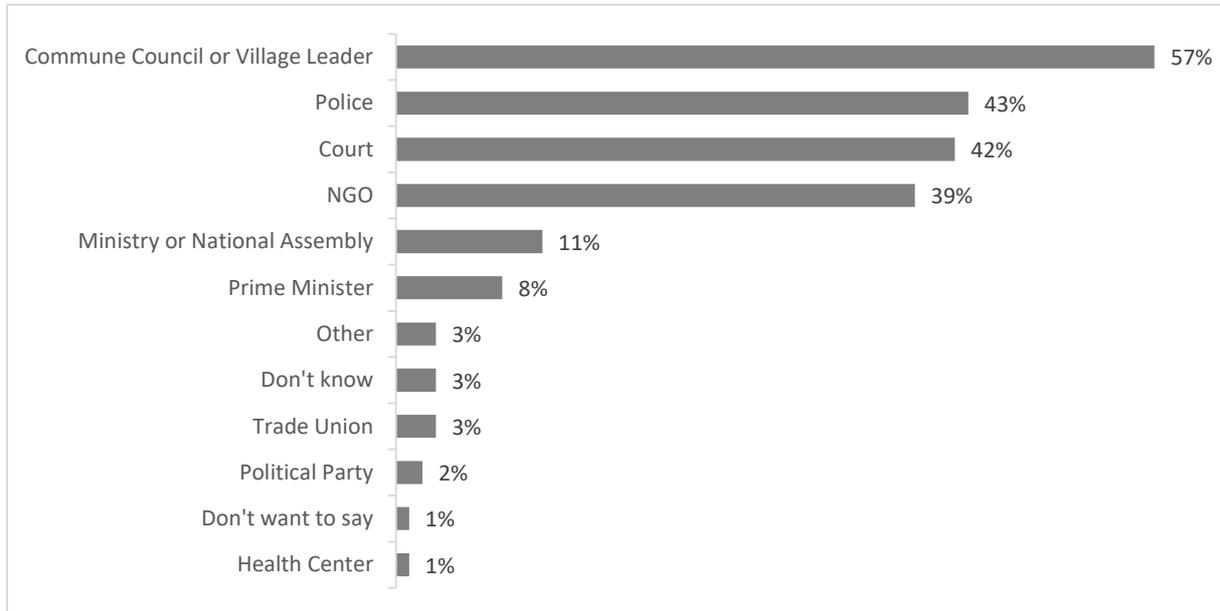
5.6: Do you feel free to strike peacefully? (n=769)



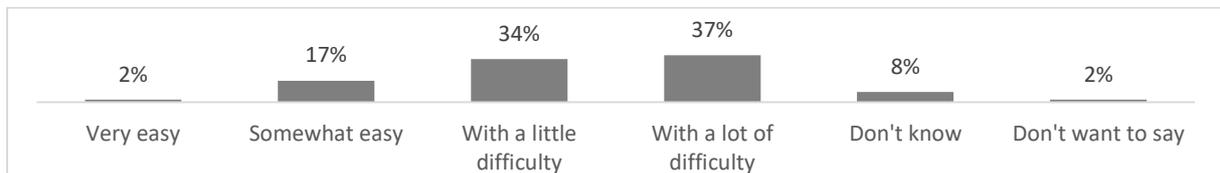
5.7: Do you feel free to participate in political life? (n=769)



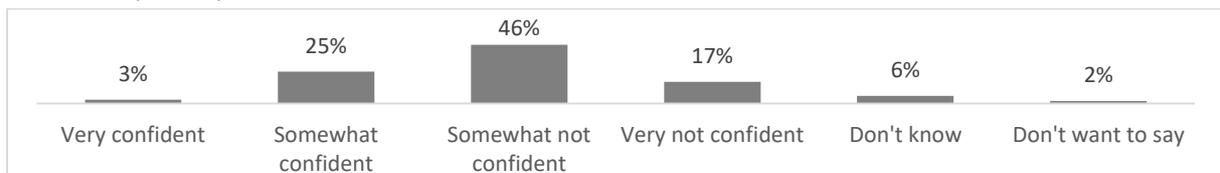
5.8: Where can you complain about a human rights violation? (n=1633 – multiple answers allowed)



5.9: Can you complain to the government or courts about a human rights violation? (n=769)

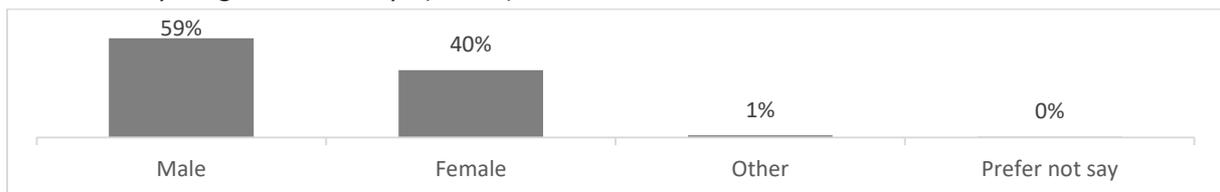


5.10: Are you confident that the government or courts would provide redress for a human rights violation? (n=769)

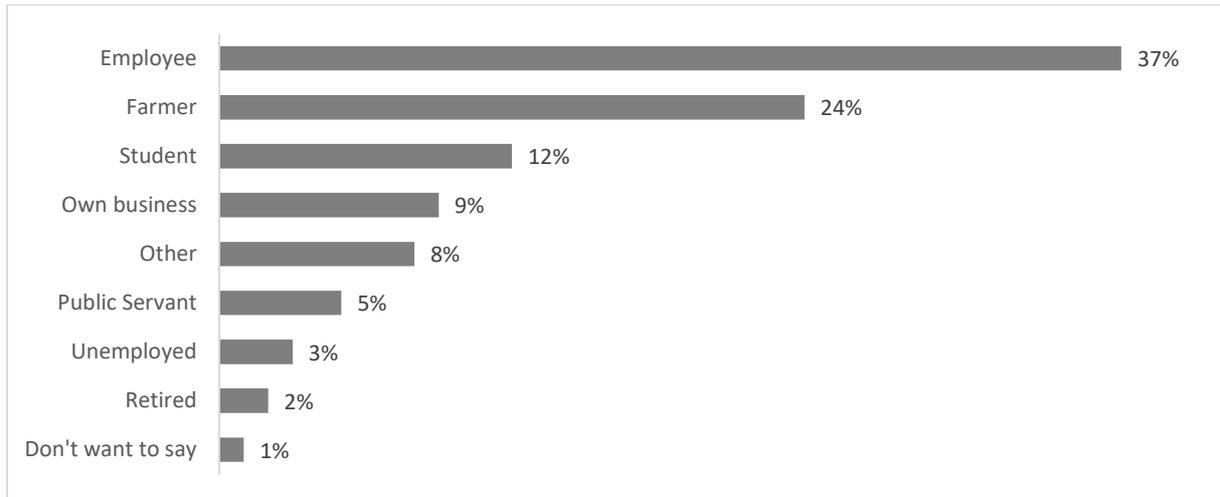


**Section 6. Demographic Information**

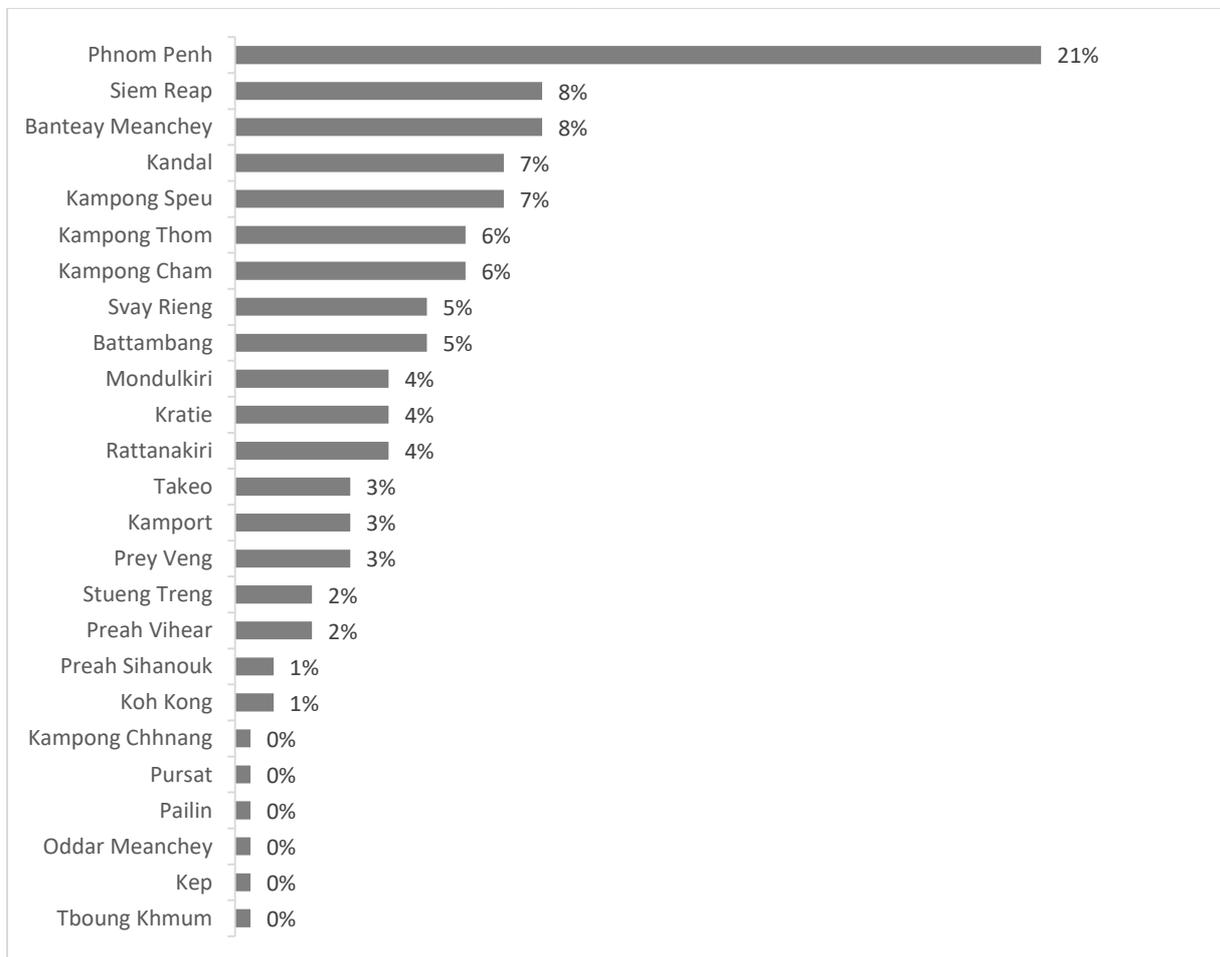
6.1: What is your gender identity? (n=769)



6.2: What is your primary occupation? (n=769)



6.3: What is your province of residence? (n=769)



## 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 142 CSO and TU leaders. The 142 individuals surveyed consisted of, 81 CSO leaders (63 domestic/Cambodian CSOs and 18 international NGOs) and 57 TU leaders. Four respondents did not identify whether they lead a CSO or TU. The organizations originate from 25 provinces. The survey was carried out between 18 November 2019 – 8 January 2020, via online submission and face-to-face interviews.

### Section 1: Administrative Details

Section 1 did not contain any results. Rather, it was used by the FFMP Monitoring Team to record administrative details such as: date, location, etc.

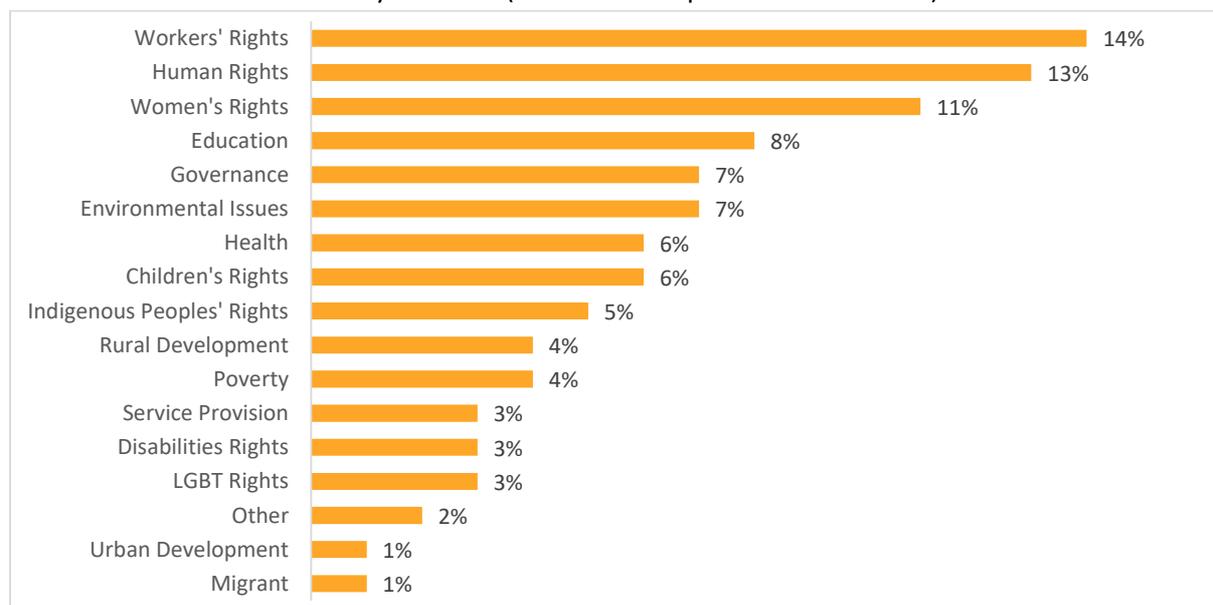
### Section 2: Consent

2.1: Do you consent to participate in this survey? (n=142)



### Section 3: CSO Profile

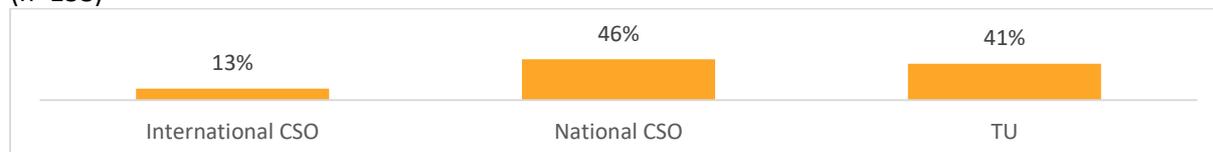
3.1: What is the main focus of your CSO? (n= 480 – multiple answers allowed)



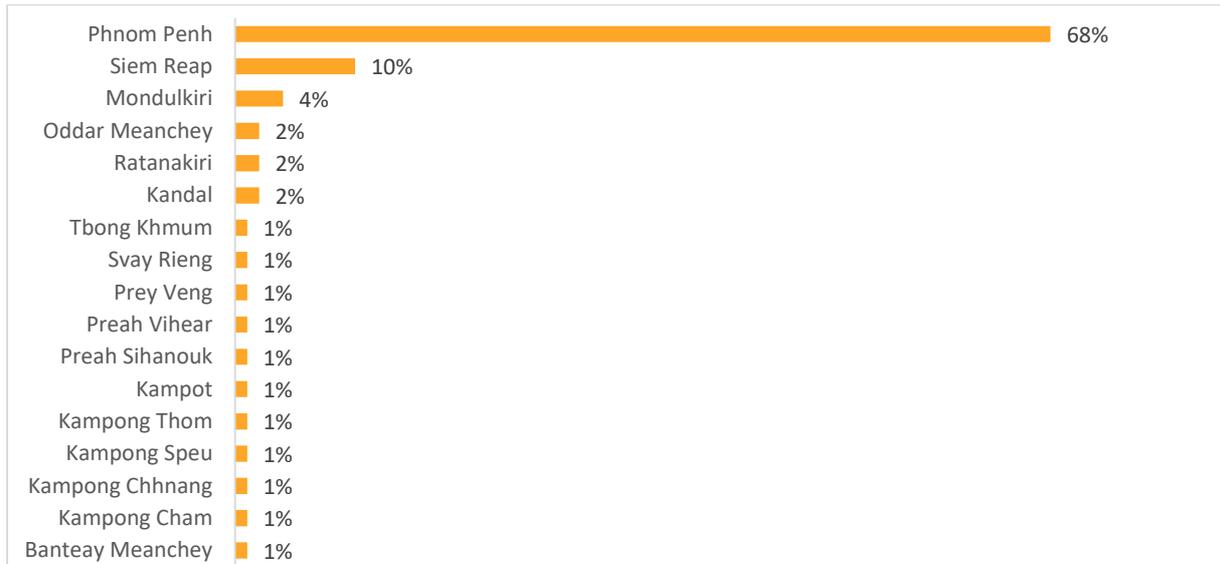
3.2: Please describe in one sentence the main purpose or mission of your CSO:

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

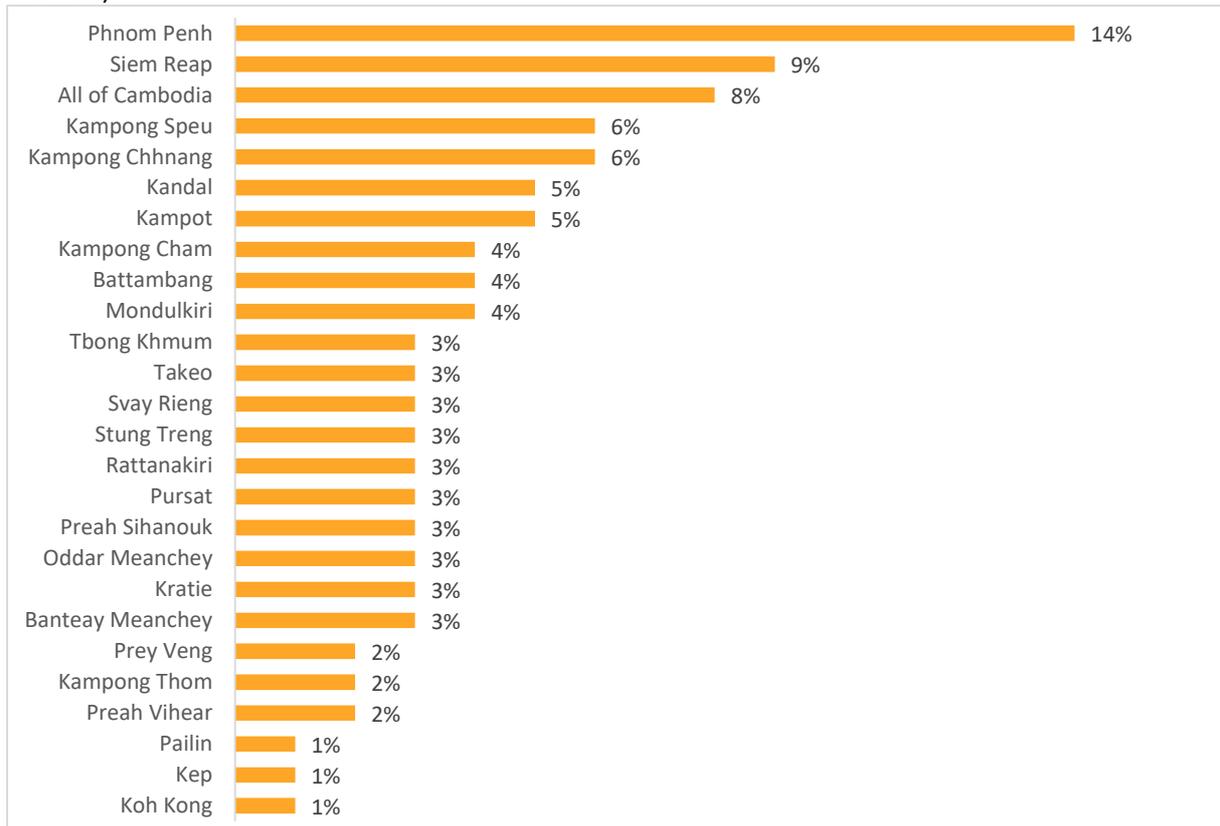
3.3: Is your organization a TU or a CSO? If it is a CSO, is it an international or national organization? (n=138)



### 3.4: Where is your CSO's Cambodian head office? (n=134)

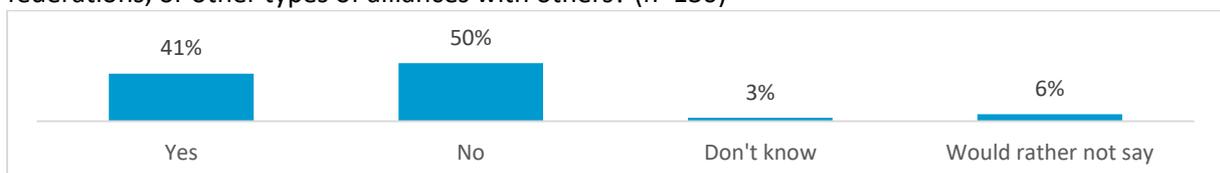


### 3.5: In which province(s) of Cambodia does your CSO carry out its work? (n=396 – multiple answers allowed)

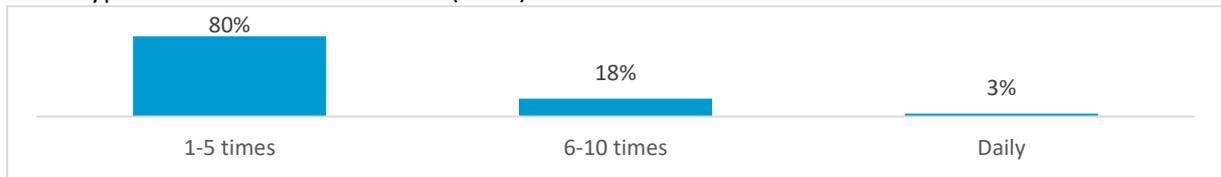


## Section 4: Operations of the CSO

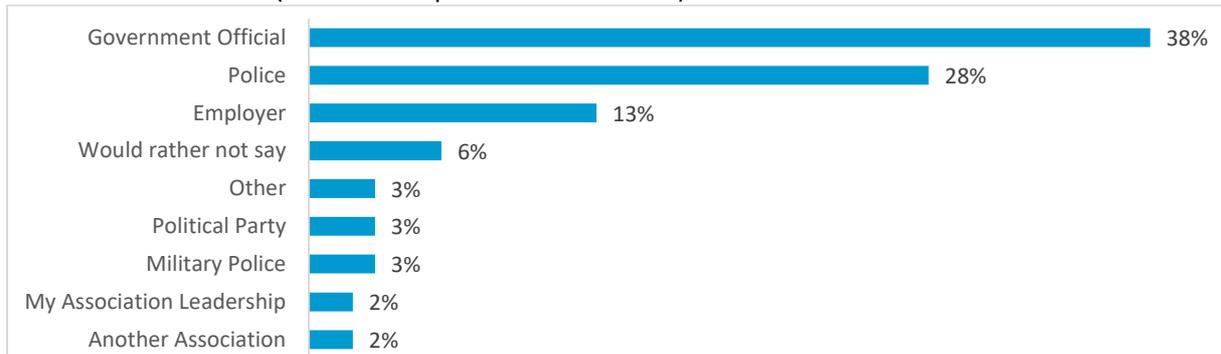
### 4.1: In the last year, has your CSO faced restrictions or threats in forming networks, coalitions, federations, or other types of alliances with others? (n=130)



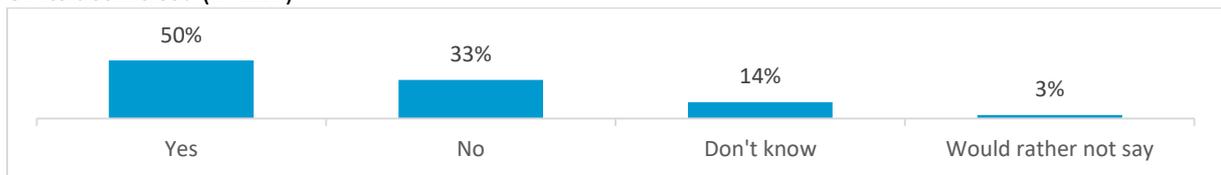
4.2: How many times has your CSO been restricted in forming networks, coalitions, federations, or other types of alliances with others? (n=40)



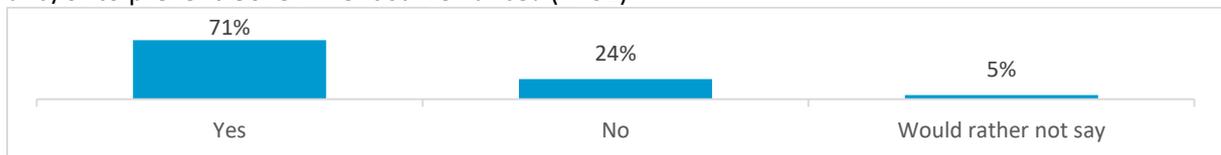
4.3: Who restricted your CSO from forming networks, coalitions, federations, or other types of alliances with others? (n=89 – multiple answers allowed)



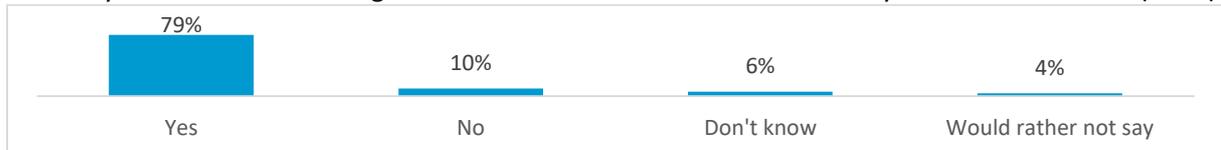
4.4: In the last year, has a Government official ever undertaken monitoring or surveillance of your CSO or its activities? (n=127)



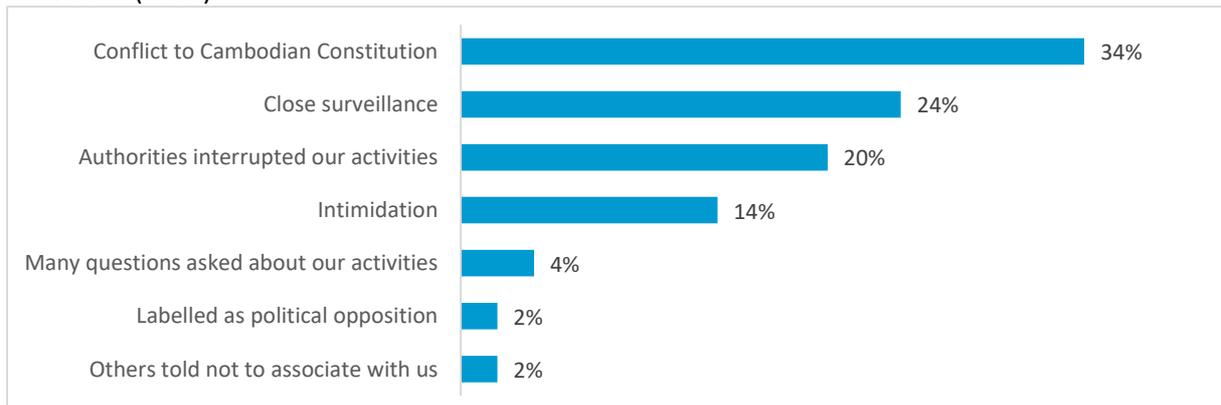
4.4.1: In the last year, has your organization done anything to increase your organization's security and/or to prevent Government surveillance? (n=62)



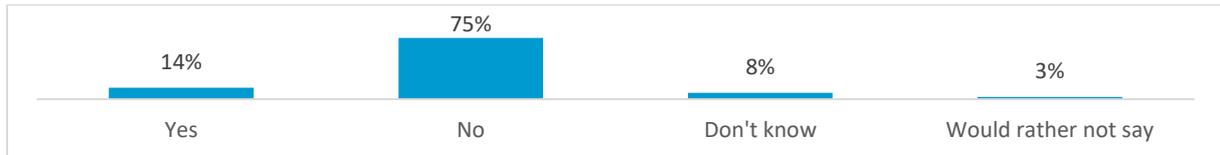
4.5: Did you feel this monitoring was ever excessive or did it interfere with your CSO's activities? (n=68)



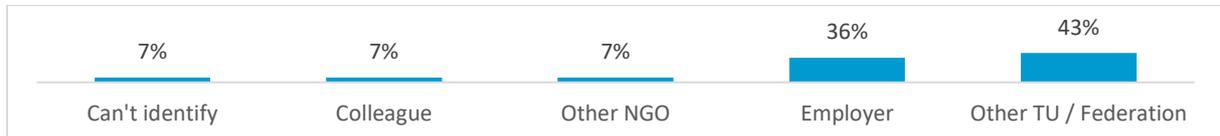
4.6: Why did you feel that this oversight was excessive or how did it interfere with your CSO's activities? (n=50)



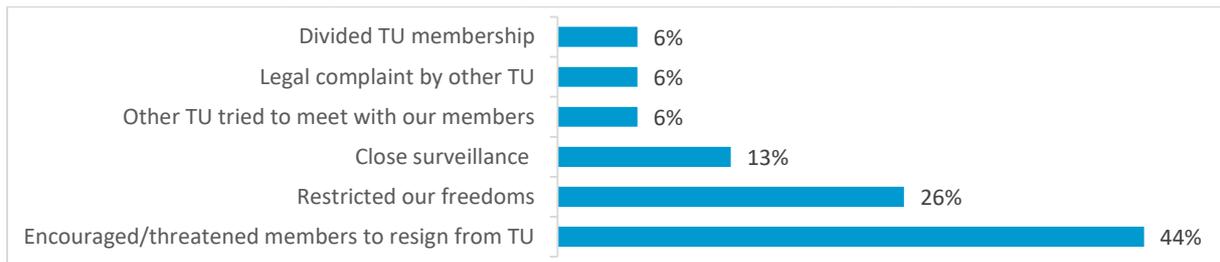
4.7: In the last year, has your CSO or its activities ever been interfered with by a third-party? (n=128)



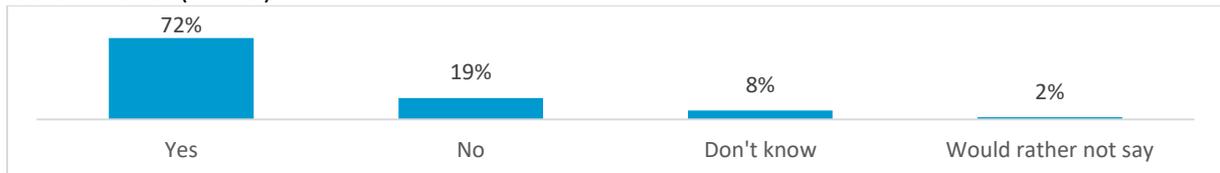
4.8: What type of third-party interfered with your CSO or its activities? (n=14)



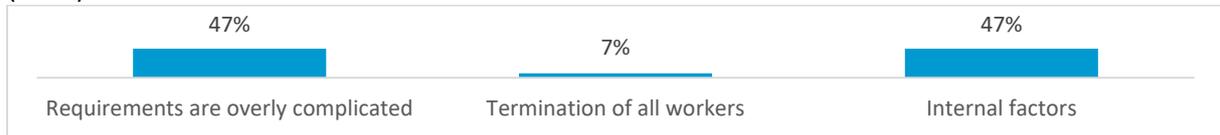
4.9: How did the third-party interfere with your CSO or its activities? (n=16)



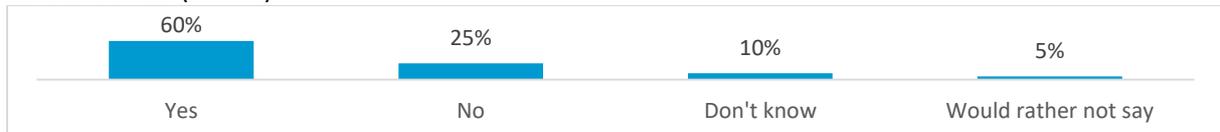
4.10: In the last year, has your CSO been able to meet the non-financial reporting requirements of the Government? (n=129)



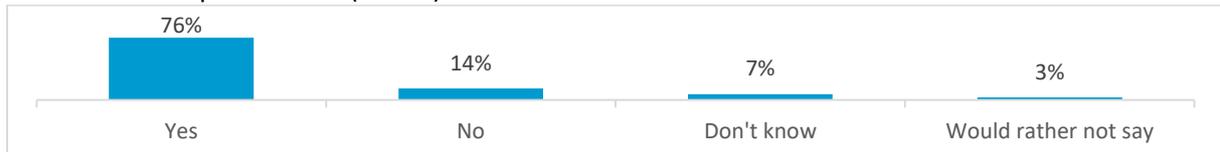
4.11: Why was your CSO unable to meet the Government's non-financial reporting requirements? (n=15)



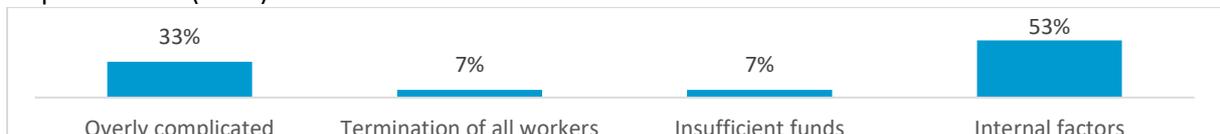
4.12: Did you feel that the non-financial reporting requirements of the Government were excessive or burdensome? (n=124)



4.13: In the last year, has your CSO been able to complete financial reports in accordance with Government requirements? (n=127)



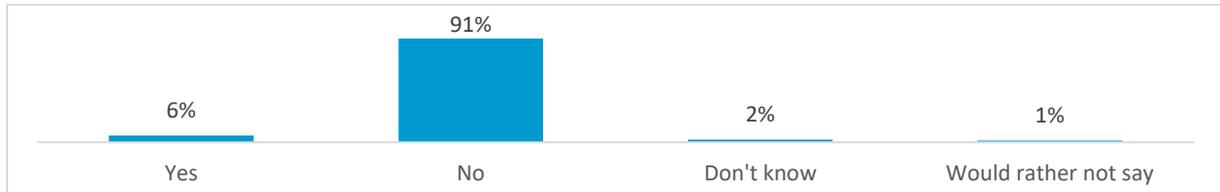
4.14: Why was your CSO unable to complete financial reports in accordance with Government requirements? (n=15)



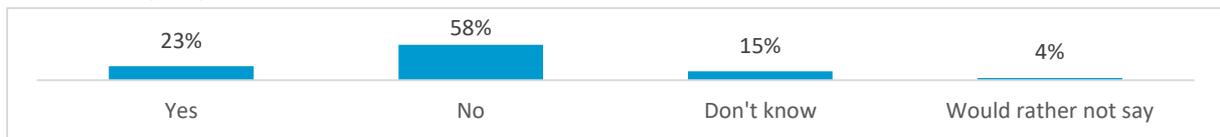
4.15: Did you feel that the financial reporting requirements of the Government were excessive or burdensome? (n=127)



4.16: In the last year, has your CSO been sanctioned by the Government? (n=123)



4.17: Were you provided with a reason for the sanction(s)? (n=26)



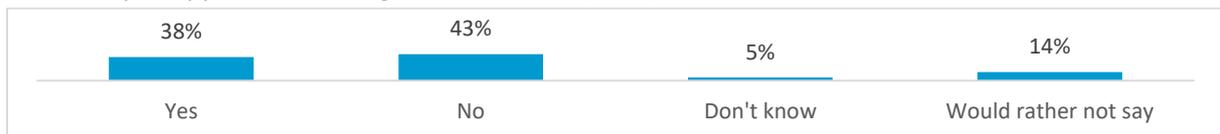
4.18: Please describe if these sanctions met the following standards: (n=25)



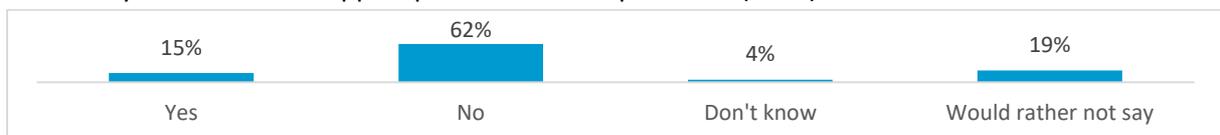
4.19: Before the sanctions were issued, did you have the opportunity to appeal or challenge the sanction? (n=22)



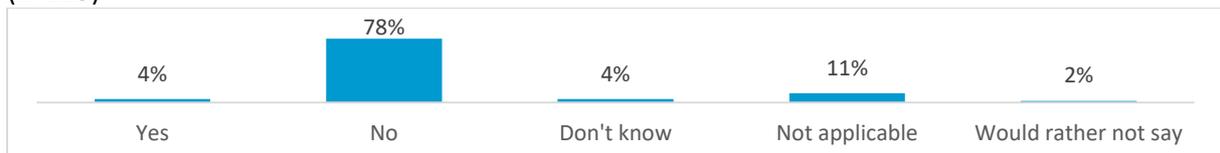
4.20: Did you appeal or challenge the sanction? (n=21)



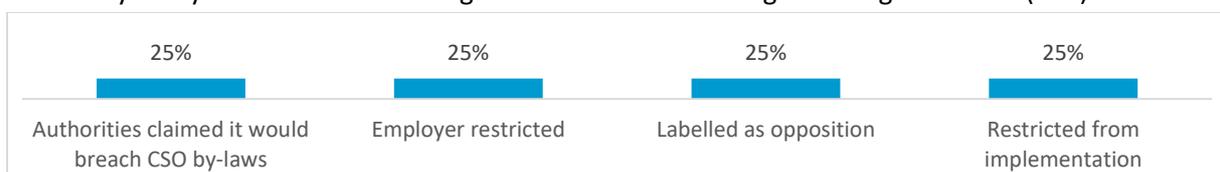
4.21: Did you feel that the appeal process was independent? (n=26)



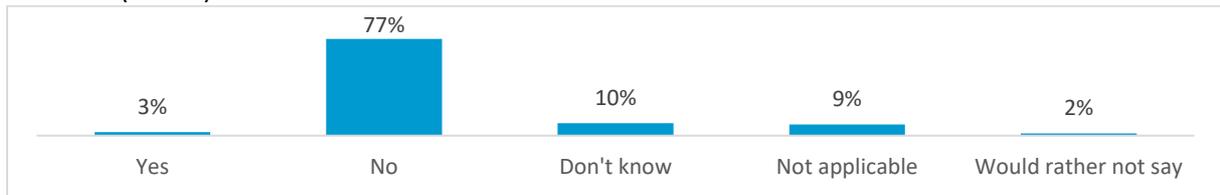
4.22: In the last year, has your CSO been denied the right to undertake income generating activities? (n=125)



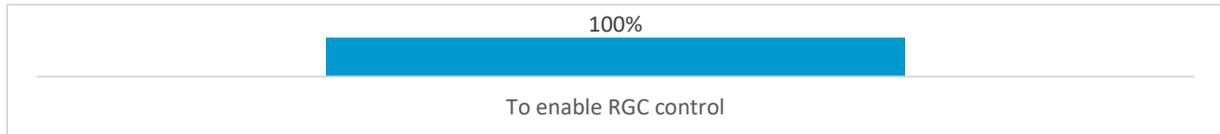
4.23: Why was your CSO denied the right to undertake income generating activities? (n=4)



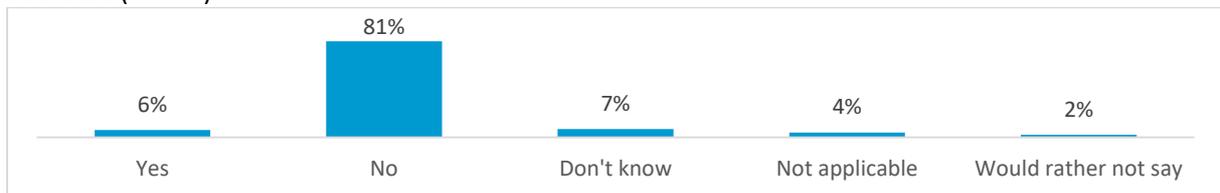
4.24: In the last year, has your CSO faced Government restrictions in receiving funding from domestic sources? (n=124)



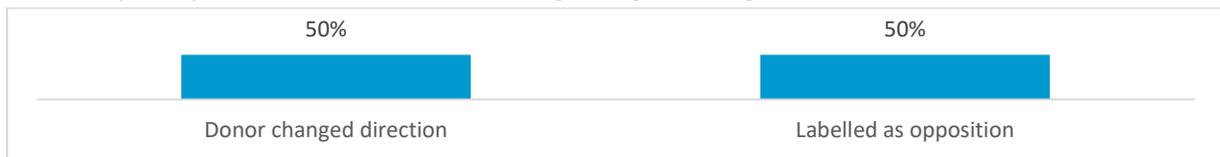
4.25: Why was your CSO restricted in receiving funding from domestic sources? (n=1)



4.26: In the last year, has your CSO faced Government restrictions in receiving funding from foreign sources? (n=124)

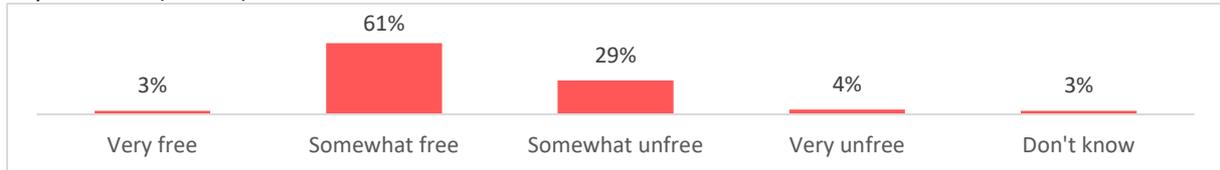


4.27: Why was your CSO restricted in receiving foreign funding? (n=2)

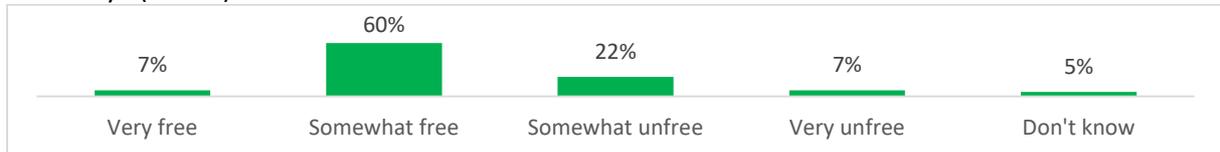


## Section 5: Ability to Exercise Freedoms

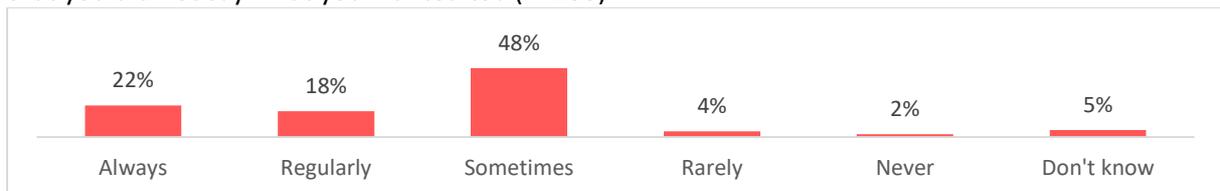
5.1: In the last year, how freely have you and your CSO been able to exercise the freedom of expression? (n=130)



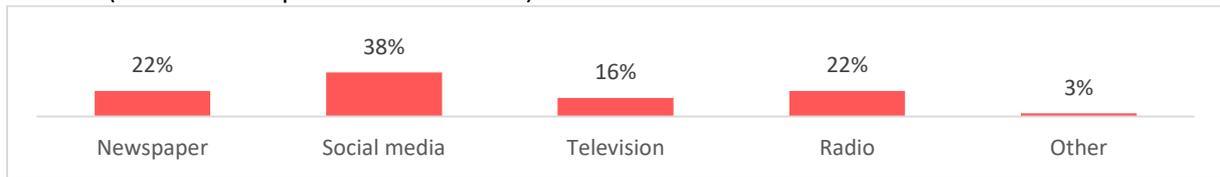
5.2: In the last year, how freely have you and your CSO been able to exercise the freedom to peaceful assembly? (n=130)



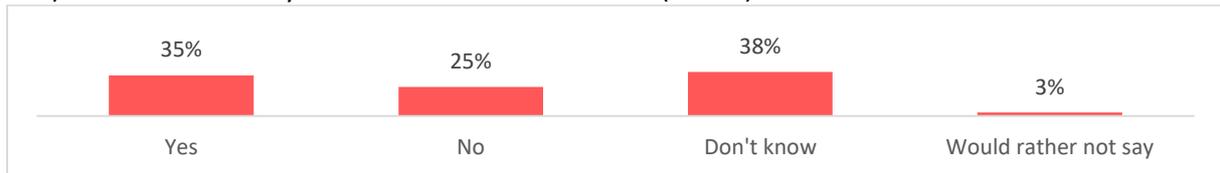
5.3: In the last year, how often have you been worried when expressing yourself publicly to the point that you did not say what you wanted to? (n=130)



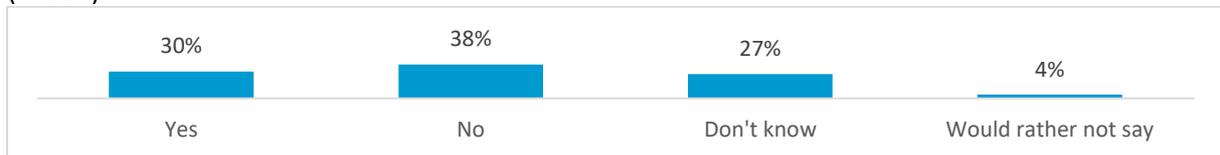
5.4: In the last year, have you or your CSO ever felt unsafe to share information through the following means? (n=247 – multiple answers allowed)



5.5: In the last year, did you feel that your CSO's communication (via email, telephone, social media, etc.) were monitored by the Government authorities? (n=130)

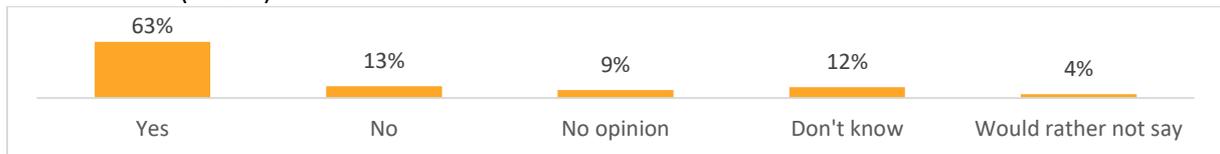


5.6: In the past year, have you been targeted by the Government due to involvement in your CSO? (n=128)

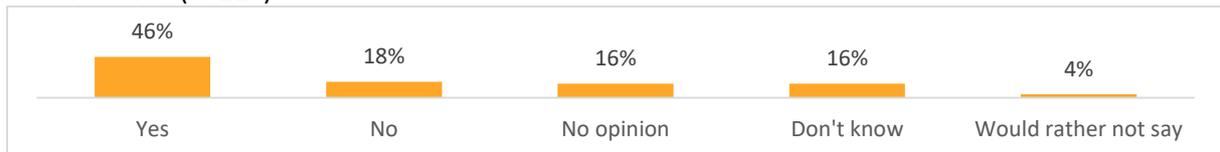


## Section 6: CSO and TU Partnership with the Government

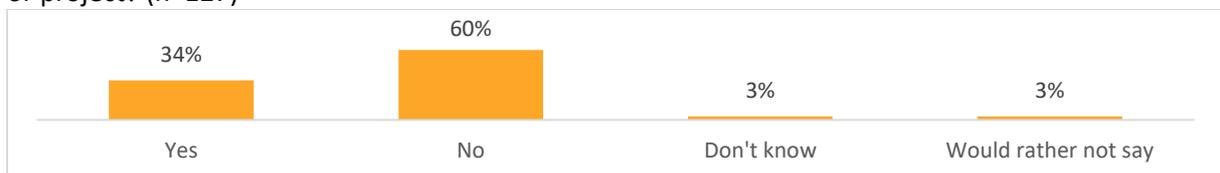
6.1: Do you believe that your CSO is recognized as a legitimate development partner by the Government? (n=129)



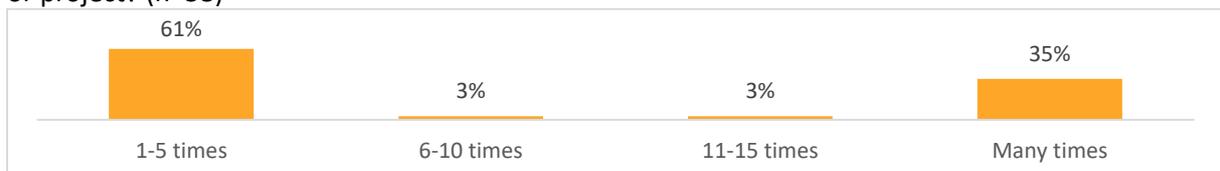
6.2: Do you believe that your CSO is recognized as a competent development partner by the Government? (n=129)



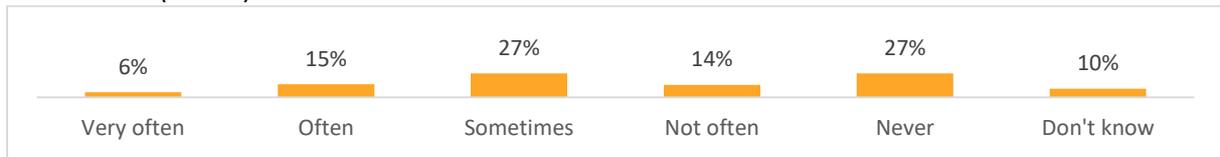
6.3: In the last year, has your CSO partnered with Government authorities for an official collaboration or project? (n=127)



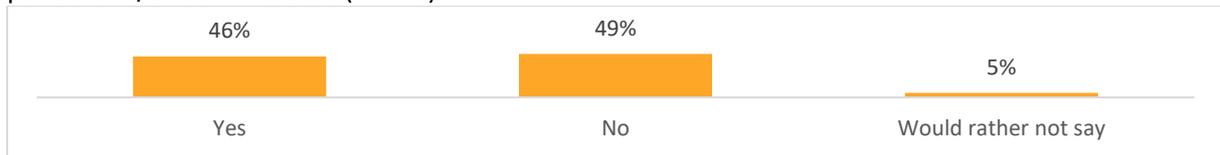
6.4: How many times has your CSO partnered with Government authorities for an official collaboration or project? (n=38)



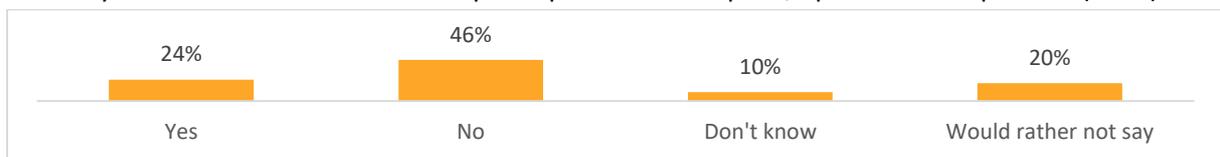
6.5: In the last year, how often has your CSO informally partnered or collaborated with Government authorities? (n=125)



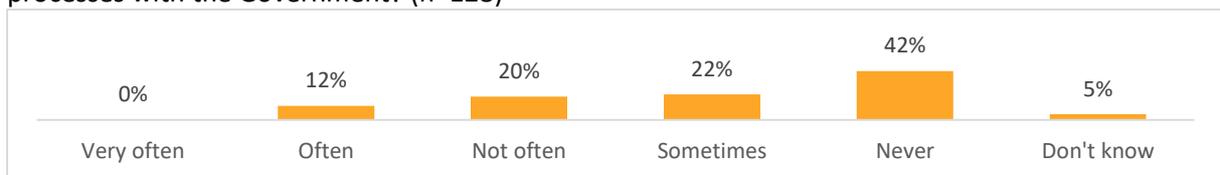
6.6: In the last year, were you aware of any opportunities to participate in Government consultations, panels and/or committees? (n=126)



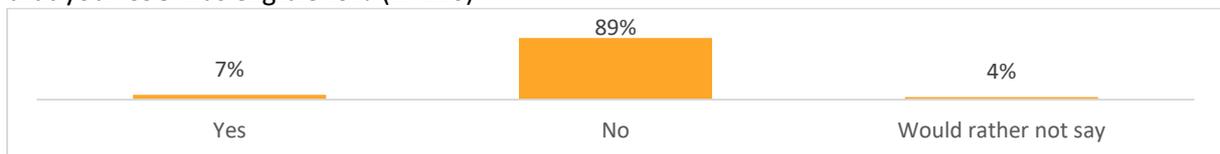
6.7: Do you believe that these calls for participation were explicit, open and transparent? (n=82)



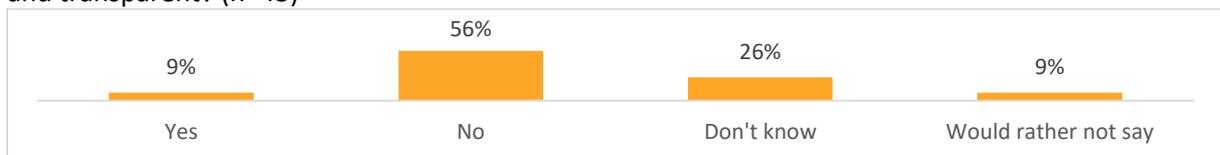
6.8: In the last year, how often has your CSO been an active participant in decision and law making processes with the Government? (n=128)



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=126)



6.10: Do you believe that these Government financing or funding opportunities were explicit, open and transparent? (n=43)



6.11: Was your CSO able to access Government financing for capacity building? (n=47)

