



**Cambodia's Fourth Cycle Universal Periodic Review**  
**Joint Submission on**  
**Anti-Corruption in Cambodia**  
**October 2023**

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**The submission jointly submitted by CSOs Working Group on Anti-corruption in Cambodia as following:**

1. Transparency International Cambodia (TI Cambodia)
2. Advocacy and Policy Institute (API)
3. Cambodia Institute for Democracy (CID)
4. Cambodian Center for Independent Media (CCIM)
5. Cambodian Journalist Alliance (CamboJa)
6. Youth Council of Cambodia (YCC)
7. NGO Forum on Cambodia (NGOF)

**About Us:**

Transparency International Cambodia (TI Cambodia) is a fully accredited National Chapter of Transparency International Secretariat based in Berlin, Germany. With more than 100 Chapters worldwide, we work together with all relevant stakeholders including the government, civil society organisations (CSOs), development partners (DPs), private sector, media, and individuals to promote integrity and reduce corruption. TI Cambodia’s overarching strategic priorities are Public Resource Governance, Rule of Law and Democratic Governance, and Business Integrity and Level Playing Field.

CSO Anti-Corruption Working Group (CSO-ACG) is an informal working group formed as a coalition to collectively promote accountability, transparency and fight against corruption in Cambodia. CSO-ACG comprises 10 non-governmental organization (NGO) members from local and international NGOs in Cambodia. The overarching purpose of the CSO-ACG is to jointly promote democratic governance, rule of law and Human Rights, in which transparency, integrity, social accountability, anti-corruption are at the heart of our joint strategy. Our joint efforts will lead to better legal and regulatory frameworks, improved law enforcement, increased public demands for accountability, and reduced corruption in Cambodia.

## **UPR Submission: Anti-corruption in Cambodia**

### **Review of Prior Recommendation**

1. In the third UPR Cycle, Cambodia supported the recommendation of Bhutan to “take further steps to fight corruption by strengthening accountability and institutional capacity” ([A/HRC/41/17/Add.1 - Para. 2, 3rd cycle, 110.129, Bhutan](#)).
2. This recommendation though accepted has generally been assessed not meaningfully implemented yet. This submission accordingly calls for recommending states to propose sound recommendations urging the Royal Government of Cambodia (the RGC) to put more efforts to fight against corruption and address anti-corruption structural reform in Cambodia.

### **How the submission developed**

3. The UPR Submission on Anti-Corruption in Cambodia is a crucial summary of the progress and challenges of anti-corruptions intervention in the country. It also aims to be a part of assessment on the implementation of the recommendation provided by state members to and accepted by the government in the previous review cycle. The submission focuses on several main critical issues barring corruption from solving. Priority recommendations are presented in the last part of the submission. Series of consultations with civil society organizations and relevant stakeholders took place for reviewing and collecting inputs. Furthermore, information and data in the submission are compiled from the key findings from completed research, surveys, analyses and consultations on corruption risks and assessments, which are carried out within 2019-2023 by TI Cambodia, TI Secretariat and relevant institutions.

### **Overview and update on anti-corruption in country:**

4. After decades of civil wars and political transitions, Cambodia’s governance system marks by weak rule of law, poor check and balance, and severely undermined by widespread corruption. TI Cambodia’s Corruption and Cambodia’s Governance System Assessment report has revealed that Cambodia has a very weak integrity system and there is significant gap in law enforcements. All thirteen governance pillars, that were assessed, had the scores below fifty out of one hundred (50/100), which clearly indicated that Cambodia’s governance system is too weak to uphold rule of law, ensure sustainable development and a good quality of life for the population at large<sup>1</sup>. Corruption in Cambodia continues to exist on the grand as well as petty scales. In the 2022 Corruption Perception Index (CPI), Cambodia ranked 150 among 180 countries assessed, with a score of 24 out of 100. In Southeast Asia, Cambodia was placed as the second most corrupt country in the region<sup>2</sup>. According to the World Bank’s Worldwide Governance Indicators 2022, which measure six key dimensions of governance, Cambodia still performs poorly on all fronts, with most areas having gotten worse over the last five years. The low scores in voice and accountability (12.56), political stability and absence of violence (41.04), government effectiveness (37.98), regulatory quality (29.81), the rule of law (17.79), and control of corruption (11.06) highlight the widespread and endemic forms of corruption that permeate every aspect of the Cambodian daily life. Law enforcement agencies are perceived as corrupt, lacking the independence, resources and capacity<sup>3</sup>. The RGC has ratified the United Nations Convention against Corruption, which is, adopted in the General Assembly resolution 58/4 of 31 October 2003. Cambodia ratified and became a state party to the United Nations Convention against Corruption (UNCAC) on 5 September 2007.

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<sup>1</sup> <https://www.transparency.org/en/publications/cambodia-national-integrity-system-assessment-2014>

<sup>2</sup> <https://www.ticambodia.org/cpi2022/#:~:text=In%20general%2C%20Cambodia's%20CPI%20scores,combat%20corruption%20in%20the%20country>

<sup>3</sup> Corruption and Cambodia’s Governance System National Integrity System Assessment 2014

The Need for Reform: page 52-63: the judiciary was assessed to receive score on 16/100 indicating the country is weak with judiciary system.

5. The RGC has enacted the Anti-Corruption Law, and has developed three National Anti-Corruption Strategic Plans, along with other anti-corruption policies. The RGC has created anti-corruption related legislation following the adoption of the Anti-Corruption Law. ACU has adopted three main strategic pillars in its strategy, which focuses on education, prevention and law enforcement. On top of the ratification of UNCAC, the RGC also endorsed the Anti-Corruption Action Plan for Asia and the Pacific, and being a party to the South East Asia Parties against Corruption (SEA-PAC), which demonstrates its commitment to tackle corruption at the international level. In the newly adopted pentagon strategy of the new government, the anti-corruption is among the core priorities.<sup>4</sup>
6. In the 2022 Corruption Perception Index (CPI), Cambodia ranked 150 among 180 countries assessed, with a score of 24 out of 100. In general, Cambodia's CPI scores have steadily increased over the past five years, from 20 in 2018 to 24 in 2022. Even if this might be considered a positive improvement, the score is still quite low; indicating that much more work needs to be done to eradicate corruption in the country. This CPI result, however, shows that Cambodia continues to lag behind other countries in Asia and the rest of the world. In the ASEAN region and the Asia Pacific, Cambodia is ranked second lowest and third lowest, respectively.
7. The 2020 Global Corruption Barometer (GCB) – Asia, indicates that Cambodia remains highly corrupt. 33% of respondents acknowledged that corruption is the main development challenge Cambodia is facing. 37% of respondents reported they have paid bribes to obtain public services over the past 12 months. However, 67% of respondents think that anti-corruption agency is doing well in fighting against corruption, while only 18% of them think that the government is performing badly in tackling corruption.<sup>5</sup>
8. In the concluding observations on the third periodic report on the Implementation ICCPR of Cambodia by Human Right Committee of UN, measures adopted to combat corruption was noted. However, the independence of ACI, the lack of protecting mechanism for reporting person, and poor law enforcement are among the main concerns.<sup>6</sup>
9. As of December in 2022, the Anti-corruption Unit (ACU) reported that it had received at least 46 complaints, half of which were anonymous, and reviewed 16 asset declarations in response. None of the complaints led to enforcement action by relevant law enforcement agencies.<sup>7</sup>

### **The challenging issues of Anti-Corruption**

10. Enforcement of the Anti-Corruption (AC) Law and implementation of National Anti-Corruption Strategy remains insufficient. ACU's independence remains questionable and its law enforcement is still ineffective. Key articles and clauses within the AC Law need to be amended to ensure its best practices and its adherence to the UN's standard. Moreover, the absence of the Law on Access to Information<sup>8</sup> and the Whistle-Blower Protection Law<sup>9</sup> has further undermined the enforcement of the AC Law and other legal frameworks. According to the 2021 World Bank's Worldwide Governance Indicators, which measure six key dimensions of governance, Cambodia still performance poorly on a control of corruption scored 11.54/100<sup>10</sup>, highlighting the widespread and endemic forms of corruption that permeate every aspect of the Cambodian daily life. Around one third of people in Cambodia said that corruption had increased over the previous 12 months (35 per cent).<sup>11</sup>

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<sup>4</sup> Pentagon strategy of the seven mandate government: structure/core, Page 30

<sup>5</sup> Transparency International: Global Corruption Barometer Asia 2020

<sup>6</sup> UNHRC in march 2022: Concluding observations on the third periodic report of Cambodia

<sup>7</sup> U.S. Department of State: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/cambodia/>

<sup>8</sup> <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/cambodia-government-needs-to-pass-access-to-information-law>

<sup>9</sup> <https://www.phnompenhpost.com/national-politics/whistleblower-law-nearly-done-acu>

<sup>10</sup> World Bank: World Wide Governance Indicator 2021 <https://info.worldbank.org/governance/wgi>

<sup>11</sup> People's experiences of corruption: implication for Business in Southeast Asia: page 7

11. The most critical obstacles to addressing corruption are poor check and balance, weak integrity system and an absence of a set of comprehensive legal instruments to promote accountability, and combat corruptions. They include following sections:

**Function and independence of the Anti-Corruption Unit (ACU)**

12. The Law on Anti-Corruption (2010) established Cambodia’s Anti-Corruption Institution (ACI). The ACI comprises of the Anti-Corruption Unit (ACU) and the National Council Against Corruption (NCAC). Despite having been in existence for only ten years, the ACI has several foundations in place to make it an effective mechanism against corruption. In particular, the legal framework provides for independence of the institution’s budget, enabling it to have autonomy over its accounting and auditing procedures. In addition, the ACU has been particularly active in undertaking educational activities such as disseminating information about the Law on Anti-Corruption across the country. The ACI has capacities to investigate corruption cases and has undertaken a limited number since 2010. Whilst recognising these positive factors, the ACI requires considerable development in a number of areas. The closeness of the ACI to the Prime Minister and ruling party curtails the ability of the ACI to function independently. Moreover, opaque decision-making processes and selective release of information to the public result in limited checks and balances on the ACI<sup>12</sup>. In practice, while the ACU has tackled issues including ghost workers – inexistent government employees that were on the payroll – it has rarely investigated a high-level member of the ruling party, despite widespread allegations of corruption at senior levels of government.<sup>13</sup> Another case was widely reported in February, the prime minister fired a senior prison official amid allegations that the official demanded \$71,000 in bribes for positions within the Ministry of Interior. An anti-corruption NGO called for the ACU to investigate the case. As of December, there were no reports that the case was investigated.<sup>14</sup>
13. The Anti-Corruption Oversight remains weak and the Parliament’s Commission 10 on Anti-Corruption is mainly dominated by the ruling party. The ACU is not accountable to the parliament and the public, and its independence is not ensured. Instead of both positions being filled through an open competitive recruitment process, the leadership of the ACU including the Chairperson and Vice-Chairperson shall be appointed by a royal degree at the request of the Prime Minister, said the provision of the Anti-Corruption Law.
14. The success of anti-corruption efforts largely depends on the will and commitment of the Prime Minister. Given that the membership of the NCAC is largely dominated by senior ruling party members and those from institutions firmly controlled by the ruling party, the trigger of anti-corruption efforts is firmly in the hand of the ruling elites. This has compromised the independence of these institutions over the years. Observers describe the ACU as essentially being a public relations unit for the government that has been politically captured, lacking the power and independence to tackle high-level corruption, and being used as a political tool to eliminate rivals including those within the ruling party.
15. There is no evidence to suggest that the ACU maintains transparent formalised consultation processes or takes into consideration any input provided by the public / civil society or other stakeholders. Key anti-corruption documents are not widely accessible to the public.
16. The judiciary is publicly perceived as one of the most corrupt public institutions in Cambodia even if the independence of the judiciary is guaranteed by the constitution and statute. Judges and prosecutors are mandated to abide by their respective Code of Ethics and the law establishes disciplinary measures for judges and prosecutors who show “contempt to honour, good morals and dignity.” Both judges and prosecutors are required to declare their assets,

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<sup>12</sup> [https://images.transparencycdn.org/images/2014\\_NISCambodia\\_EN.pdf](https://images.transparencycdn.org/images/2014_NISCambodia_EN.pdf), page 135

<sup>13</sup> U.S. Department of State: <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/cambodia/>

<sup>14</sup> U.S. Department of State: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/cambodia/>

however, in practice; the judiciary is widely seen as lacking independence, incompetent, and closely connected to the ruling party. About 11% of respondents in the GCB believe that most people who are working for juridical and magistrate institutions are corrupt.<sup>15</sup> Accountability of members of the judiciary for violations of the ethics code is almost non-existent; disciplinary measures for judges and prosecutors are rarely enforced. Judicial officials often hold positions in the ruling party alongside their roles in the judiciary, which clearly indicate the conflict of interest.

### **Protection mechanism for whistle-blower or reporting person**

17. Cambodia lacks a comprehensive whistle-blower law. The RGC has identified the weaknesses in the Law on Anti-Corruption as it stands. Since November 2014, the ACU and the National Assembly's Commission 10 expressed a joint commitment that a whistle-blower protection law would soon be drafted to ensure the safety of individuals seeking to expose corruption. However, a draft Law on has been pending for several years.
18. People themselves are able to play significant role in fighting corruption. GCB survey revealed that 68% of respondents believe that ordinary people can make a difference in the fight against corruption<sup>16</sup> while a limited reporting mechanism and whistle-blower protection is stipulated in the Anti-Corruption Law. There is no available evidence to suggest that whistle-blowers are adequately protected in practice in Cambodia. Protected disclosures and persons afforded protection are not clearly defined in the Anti-Corruption Law. There are no specified measures in place to include physical protection as well as protection from workplace or other retaliation. A provision in the Anti-Corruption Law that criminalises malicious or false reports on possible corruption cases and threatens up to six months of imprisonment and significant fines deters and endangers whistle-blowers. Furthermore, there are no reporting obligations in place for civil servants and public officials who have knowledge of a corruption offence.

### **Asset Declaration**

19. Chapter 4 of the Anti-Corruption Law covers Cambodia's asset and liabilities declaration<sup>17</sup>. All Senate, National Assembly, National Council Against Corruption, ACU, and other appointed public officials with specified mandates must submit declarations every other January per Article 17 of the law. Additionally, public officials must register their assets and liabilities every two years while in office. By January 2023, ACU received 21,640 asset declarations. Cambodia has almost 99.9% compliance with the asset declaration system, which has a very high compliance rate.<sup>18</sup> The most recent National Anti-Corruption Strategic Plan (2020–2025) provided more support by highlighting the compliance success rate for asset disclosures for 2015–2020: it is to carry out the declaration of assets and liabilities successfully and responsibly. The declaration of assets and liabilities as prescribed by law is nearly 100%, including the two-year regime declaration, new appointment, resignation/end of the mandate, termination, and retirement.<sup>19</sup>
20. The asset declarations of public officials are maintained in the strictest of confidence, and no provision in the Anti-Corruption Law permits the publication of summary statements, particularly for politicians, making it difficult for the public to verify this statistic. Moreover, there are no requirements for family members of public officials to declare their assets and liabilities. The Anti-Corruption Law does not mention the verification process of asset

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<sup>15</sup> Transparency International: Global Corruption Barometer (GCB) Asia 2020

<sup>16</sup> Ibid

<sup>17</sup> Cambodian Anti-Corruption Law, 2010: <https://cdc.gov.kh/wp-content/uploads/2022/05/ANTI-CORRUPTION-LAW-FULL-TEXT-.pdf>, accessed on September 15, 2023.

<sup>18</sup> Interview with H.E Yonn Sinat, Vice-President of Cambodia's Anti-Corruption Unit (ACU) and UNCAF Implementation Review Coordinator, via Zoom, 09.06.2021 cited in Transparency International Cambodia. (2021). Civil Society Report on the Implementation of Chapter II (Prevention) & Chapter V (Asset Recovery) of the UNITED NATIONS CONVENTION AGAINST CORRUPTION. Phnom Penh, p.33.

<sup>19</sup> Cambodia Anti-Corruption Institution, 2020: Anti-Corruption Strategy and Policy National Strategic Plan Phase III (2020-2025) cited in Transparency International Cambodia. (2021). *Ibid.*, p.33.

declaration since only the ACU Chairperson can decide whether to open a sealed disclosure. It is not required for bank savings to be declared on asset declaration forms.

## **Money Laundering**

21. Cambodia has made efforts to tackle money laundering and illicit flows of dirty money in recent years. The nation has tightened its anti-money laundering (AML) and counter-terrorism financing (CTF) framework. It has established numerous laws, such as the 2021 Law on Investment, 2020 Anti-Money Laundering, and Combating the Financing of Terrorism Law and regulations to address this issue. The Royal Government of Cambodia updated the 2013–2017 National Anti-Money Laundering Strategies to issue the National Strategy for Anti-Money Laundering and Financing of Terrorism (2019-2023) (the "National Strategy")<sup>20</sup>, insisting on strategic objectives, prioritized action points, and exact timelines relating to AML efforts in Cambodia<sup>21</sup>.
22. Cambodia is a high-risk country for money laundering according to the BASEL AML INDEX with an overall score of 7.36 out of 10<sup>22</sup>, although Cambodia was removed from the FATF's grey list in 2022. This means that Cambodia is no longer subject to increased monitoring by the FATF. The government's ability to combat money laundering is hampered by corruption within some law enforcement agencies, low capacity, and a weak and deeply politicised court. Loose oversight of non-financial sectors in Cambodia, most notably the gambling and real estate industry, also further compounds this issue.<sup>23</sup> It is easier for money launderers to exploit loopholes and carry out illicit activities. It hinders their ability to investigate and prosecute money-laundering cases, leading to a low conviction rate. The real estate industry, the Chinese-owned/operated casinos, and the banking sector have been identified as high-risk factors for money laundering in Cambodia.<sup>24</sup>

## **Public Finance Management**

### **Public Finance System Law**

23. The Royal Government of Cambodia has been implementing a Public Financial Management Reform Programme since 2004. The reform programme gives priority to strengthening the collection and management of revenues, strengthening financial management and improving the implementation of the budget. In 2023, Cambodia has adopted a new law on Public Finance System. Generally, it is more comprehensive if compared to the previous one. It is likely to capture all relevant aspects of the international standards and best practices of the public finance system. Nevertheless, the law provides excessive power to the executive branch, Ministry of Economy and Finance (MEF), to control and oversee almost all aspects of public financial management. There is a significant lack of emphasis on the roles and functions of in the meantime the country's oversight function is limited. The 2021 Open Budget Survey

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<sup>20</sup> National Strategy for Combating Money Laundering and Financing of Terrorism (2019-2023): [https://data.opendevelopmentmekong.net/dataset/aed37083-97a4-40a6-b482-6186f3689fad/resource/ef39deaa-1352-451e-9846-080e4f20178f/download/national\\_strategy\\_for\\_combating\\_money\\_laundering\\_2019-2023-eng.pdf](https://data.opendevelopmentmekong.net/dataset/aed37083-97a4-40a6-b482-6186f3689fad/resource/ef39deaa-1352-451e-9846-080e4f20178f/download/national_strategy_for_combating_money_laundering_2019-2023-eng.pdf), accessed on September 15, 2023

<sup>21</sup> Transparency International Cambodia. (2021). Civil Society Report on the Implementation of Chapter II (Prevention) & Chapter V (Asset Recovery) of the UNITED NATIONS CONVENTION AGAINST CORRUPTION. Phnom Penh.

<sup>22</sup> BASEL AML INDEX, 2022, ASSESSING MONEY LAUNDERING RISKS AROUND THE WORLD: <https://index.baselgovernance.org/ranking>, accessed on September 15, 2023.

<sup>23</sup> U.S. Department of State, 2018, Bureau of International Narcotics and Law Enforcement Affairs International Narcotics Control Strategy Report Volume II Money Laundering: <https://bz.usembassy.gov/wp-content/uploads/sites/279/INCSR-Vol-2.pdf>, accessed on 02.07.2021.

<sup>24</sup> Manghout Ki. (2023, March 19). Chinese Investors Returning: Cambodia Should Learn the Lesson of Money Laundering Risks: <https://cambodianess.com/article/chinese-investors-returning-cambodia-should-learn-the-lesson-of-money-laundering-risks#:~:text=Insufficient%20supervision%20and%20regulations%20are,their%20enforcement%20frequently%20requires%20improvement>, accessed on September 15, 2023.

(OBS) score indicates that Cambodia received only 41/100 on the oversight of public budget. The OBS examines the role that legislatures and supreme audit institutions play in the budget process and the extent to which they provide oversight. The result also said that the legislature branches and supreme audit institution in Cambodia, together, provide limited oversight during the budget process.

24. Regarding to limitation for functioning of the oversight roles, a key finding from World Bank report concluded that the 2011 Public Expenditure Review estimated that 0.4% of GDP (or US\$ 50 million a year, equivalent to one third of the government health budget) could be saved by more efficient purchasing of pharmaceuticals, equipment and medical supplies.<sup>25</sup> The finding suggested that the Ministry of Health pays on average six times the international reference price for essential drugs.
25. The principles of transparency and public consultation, in addition, appear to be virtually absent in the public finance system law. According to 2022 OBS result, Cambodia received the score of 33 out 100 for budget transparency. Though gaining more scores if compared with the previous years, Cambodia's score means Cambodia remains weak in term of transparency, accountability, oversight and public participation.
26. Public access to information on how the government raises and spends public resources is still limited and not very comprehensive. The government has not published sufficient information in a timely manner to allow the public to scrutinise the conduct of fiscal policy and the state of the public finance and to provide inputs before the draft Annual Budget Law is approved by the Council of Ministers and submitted to the National Assembly and the Senate for further approval. There is no mechanism for collecting feedback from the public on the implementation of the budget law. The article 51 of the public finance system law just adopted in 2023 states that the public disclosure of the draft annual budget law is only available seven days after the bill is submitted to the National Assembly. The bill is officially expected to be submitted to the national assembly by late October and to the senate by the mid November of the fiscal year.
27. The law thereof lacks provisions that clearly emphasises meaningful public consultations with relevant stakeholders including civil society organisations, private sector, youth and the public in the process of budget formulation at the ministerial and public institutional levels as well as at the national and sub-national levels. The formal opportunities offered to the public for meaningful participation in the different stages of the budget process is not possible. The OBS report indicated that score for transparency of Cambodia dramatically dropped from 06 in 2029 to 00 in 2021.

### **Public procurement**

28. The Law on Public Procurement provides a foundational framework for State contracting. The sector is still prone to corruption and malpractice, especially involving large-scale projects, contracts and licenses. Public procurement principles are principles that serve as the foundation for the conduct of public procurement. A new law on public procurement that is just enacted in 2023 sets out the rules, procedures, procedures and structures for managing and implementing all public procurement. The purpose of the law is to ensure that procurement for construction, repair, leasing and hiring of consultants is accountable and transparent, Integrity, competitiveness, fairness, efficiency, efficiency, sustainability, quality, economy and timeliness, as well as ensuring a unified public procurement system. The content of the law is not fully complied with the principle of transparency, integrity, accountability, inclusiveness and best practices in accordance to 'Recommendation of the Council for Public Procurement' proposed by the Organization for Economic Co-operation and Development ("OECD"). There is an absence of oversight regarding to the publicity of the negotiated procedure and the single-source procurement. Non-confidential information in relation to the entire public procurement

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<sup>25</sup> World Bank: "The Kingdom of Cambodia, Health System Review" 2011

process, including but not limited to, the invitation for bids, the identity of the bidders, the successful bidder and the details of the contract awarded is not fully available for the public.

### **Access to information legislation**

29. Cambodia has no access to information legislation to guarantee public access to information held by Cambodian government bodies and to ensure transparency within the public administration. Furthermore, severe restrictions on freedom of expression, media freedom and public participations in Cambodia undermine civic and political space, which was guaranteed in the Constitution, and create fears amongst the public to publicly debate and engage in promoting integrity and fighting against corruption.
30. Cambodia has been developing an access to information law for many years. In 2007, a Draft Policy Paper on Freedom of Information was released. In 2015, a technical working group was formed to create a draft law and a series of public consultations were held prior to the release of the first draft in February 2018. The latest version, containing additional revisions dated from April 2020. The government originally promised to pass an access to information law by 2016. This date was then moved to 2020. In January 2023, the former Prime Minister Hun Sen said the Access to Information Law would be adopted after the 2023 elections, perhaps by 2024 and 2025.
31. To ensure compliances with international standards, the existing draft law still needs revising in a number of other areas. The restriction on how many requests is submitted and answered does not need to be made. The demand for identification information of requesters could lead to discrimination or lead to the public authorities' denying information without a proper ground. Requesters have the right to submit several requests throughout that time. It would be preferable to include a clause that limits fees to the cost of reproducing and sending information for the accessibility.
32. A substantial weakness in the draft Law is the lack of an independent oversight system. Upon denial of a request, the requester can make an internal appeal within the public authority who denied the request or appeal to the courts. However, seeking redress at the courts is an expensive remedy and outside the reach of most requesters. For reasons for which public authorities can refuse to disclose information, it is unclear whether the access to information requirements of the draft Law override secrecy provisions in other Laws. The draft law contains several criminal sanctions on public officials' mishandling confidential information.

### **Political Corruption and Political Financing**

33. The use of budget, materials, equipment and means of transportation that belong to the state to carry out campaign activities for any political party or candidate, and the use of means of transportation belonging to the state to bring voters to the polling stations is prohibited.<sup>26</sup> Though banned by the law, the use of state assets to support political party campaigns is also prevalent. The ruling party has consistently used government properties, vehicles and employees in electoral campaigns. There have been a number of instances in which public buildings and premises were used for pre-election campaigns of the ruling party. At the lowest tie of administration, the ruling party's offices and state offices are often in the same compound with staff moving between the two and make it difficult to distinguish the political party from state institutions.
34. There are provisions for direct public funding of political parties. There are no explicit provisions stipulating how political parties should use the public funding. To contest in the election, a political party is required deposit amount of 15 million Riel. The party shall reimburse the deposit amount if only receiving at least three per cent of the total of valid ballots of the whole country or which gain one seat in parliament.<sup>27</sup>

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<sup>26</sup> Law on the Election of Members of the National Assembly: article 80

<sup>27</sup> Law on the Election of Members of the National Assembly: article 27



35. There is neither legal definition of what constitutes a donation or a contribution, as well as limits on contributions to political parties and candidates nor explicit ban on anonymous donations to political parties. At the same time that donations by legal entities including companies with government contracts to political parties and candidates are inadequately regulated, there is no requirement for the disclosure of beneficial ownership.
36. In spite of Ministry of Economy and Finance’s examining the annual financial statements that political parties are required to submit, there is no established mechanism for the public to provide oversight over political financing in Cambodia, including by monitoring the funding sources and costs of political campaigns, the use of public funds and resources. The examining of the MEF raises significant issues regarding the independency of the process. The Political Parties Law provides no explicit sanctions for the violation of established rules applicable to political financing.
37. In practice, it gives the ruling party much advantage given that it is a well-established party and it has developed very strong ties with business elites who have also benefited from the government through state rents over the past decades. The ties between politics and business are deeply rooted, and the boundaries between the two realms are very blurry.

#### **Transparency and Level Playing Field in Private Sector**

38. There is a lack of significant business information through the registration with the Ministry of Commerce in Cambodia. They includes the full name, date of birth, nationality, address of the registered office and the principal place of business.<sup>28</sup> Additionally, a description of business operations not only is required but also should be made available for the public.
39. There is no register of beneficial ownership in Cambodia. Though related to beneficial ownership, the understanding of and value placed on collecting beneficial ownership information for registered Cambodian companies remains low. No information on the ownership structure of a business or how the business is controlled is required when registering a new business in Cambodia.<sup>29</sup> Similarly, there is no regulation in place that would require companies to collect, store and report information on their beneficial owners, i.e., the individuals ultimately controlling the legal entity.
40. There is no law requiring larger companies to undertake an independent assessment of internal audit structures. With regard to the transparency of company finances in Cambodia, companies’ internal auditing structures depend on their size. All legally registered domestic companies are required by law to document every financial transaction. However, most domestic companies are not large enough to finance an internal audit structure and over 50% of SMEs do not have an official audit committee. For larger companies, financial statements are typically externally audited every year, but there is no law requiring an independent assessment of internal audit structures. Companies that are large enough to submit to external auditing often do disclose their audit reports.
41. Corruption and bureaucratic burdens remain the main barriers of doing business in Cambodia. One of the most common forms of corruption is “Facilitation Payments”. Facilitation payments are a small bribe paid to access a routine government service that companies and citizens at large have a legal right to access without additional payments<sup>30</sup>. Despite more efforts have been made by the General Department of Taxation (GDT) in recent years to improve their transparency and service delivery, requests for informal payments continue to contravene tariff regulations and a high level of bureaucracy can impede private sector productivity and business integrity. While the Ministry of Commerce (MoC) and the GDT are working to encourage companies to register and be tax compliant, many companies are reluctant to do so, which

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<sup>28</sup> 228 Transparency International Cambodia, 2017, Business Integrity Country Agenda (BICA) Assessment Report: [http://ticambodia.org/library/wp-content/files\\_mf/1513916340BICARreport.pdf](http://ticambodia.org/library/wp-content/files_mf/1513916340BICARreport.pdf), accessed on 11.03.2021.

<sup>29</sup> 229 Ibid.

<sup>30</sup> Transparency International Cambodia: Businesses brief: page 2

causes compliant companies to be unfairly disadvantaged compared with unregistered businesses.<sup>31</sup>

**Recommendations:**

42. To address the issues mentioned above, several recommendations should be implemented by the Royal Government of Cambodia for the next period review as following:
1. Strengthen the independence and accountability of the Anti-Corruption Unit by amending article 13 of the Anti-Corruption Law to ensure that the Chairperson of the ACU presents its annual activity and financial reports to the parliament, and that the reports are made publicly available in the following fiscal year; by adopting a measure to ensure that the chairperson and vice-chairperson of the ACU are appointed by an open and competitive recruitment process, involving the input of civil society.
  2. Accelerate inclusive anti-corruption efforts by establishing a transparent formalized public consultation process for the development of national anti-corruption policies and practices, and report to the public about such consultations and any public input considered.
  3. Advance integrity in the judiciary by intensifying the completeness of judicial accountability and independence and by publishing and implementing a clear and transparent mechanism for the recruitment and appointment of judicial officials. Appointment criteria should be clear and well publicised; and by taking the measures against any ethics violations within the judiciary. The three judicial reform laws namely as the Law on the Organisation and Functioning of the Courts, the Law on the Status of Judges and Prosecutors, and the Law on the Organisation and Functioning of the Supreme Council of Magistracy, should be reviewed in consultation with relevant stakeholders, especially civil society.
  4. Establish the whistle-blower regime with provisions to provide for adequate protection for whistle-blowers, in line with international best practice, and anonymous reporting of corruption through clearly defined channels; revising existing sanctions that may deter whistle-blowers, by amending the article 41 of Anti-corruption law to remove the possibility imprisonment for the complainant of corruption-related crime.
  5. Improve the asset declaration regime by not only omitting the clause "highly confidential" in article 20 of the anti-corruption law but publishing at least a summary of asset declarations submitted by public officials, especially for those with high discretionary powers, i.e., politicians, and by revising the article 17 to include the requirement that the assets of the spouse of officials making declaration are also disclosed. And improve the regime by developing the process for the verification of asset declarations, with information on this process shall be developed and also made it being publicly accessible, as well as a set of proportionate and deterrent sanctions to ensure compliance.
  6. Strengthen anti-money laundering effort by continuing to strengthen the operational independence and capacity of the Cambodian Financial Intelligence Unit, and by enhancing the dissemination of financial intelligence to law enforcement authorities in line with high-risk crime.
  7. Advance the effectiveness of public finance management by strengthening oversight roles in the process of public finance management and by promoting transparency in public procurement with disclosing the names of all private entities for public procurement processes; by requiring that procurement decisions and information on all stages of the procurement process be made public in easily accessible formats, including through web portals; by enhancing state oversight and public monitoring on the services or products delivered by the contractors.
  8. Promote public access to information by adopting the law on access to information by 2024 and implementing legislation, policies and practices to allow members of the public to

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<sup>31</sup> Transparency International Cambodia: Business Integrity Country Agenda (BICA) Assessment Report: page 21

obtain information on the organisation, functioning and decision-making process of public administration in Cambodia; enacting and implement effective access to information legislation that aligns with international best practice such as Article 19's "Principles on Freedom of Information Legislation". And the oversight body shall be established in the form of independent information commission to safeguard implementation of the law. .

9. Improve transparency and effective oversight of political financing by disclosing the financial reports of political parties to the public; adopt regulations on campaign spending by political parties and establishing and impose sanctions for violating political financing laws e.g. the use of state resources to finance political activity.
10. Improve transparency in a private sector by developing a centralised Beneficial Ownership Register with a requirement that adequate and structured data on the ultimate owners of all legal entities in Cambodia be compiled and publicised on a free, searchable online database and by ensuring free online public access to the company registry, including information on the directors and direct owners of companies; and requiring private entities to report their shareholders and beneficial owners when submitting a proposal for tender during public procurement processes. By continuing to increase an online and one-window public services to reduce bureaucratic burdens and costs associated with doing business in Cambodia, particularly for SMEs, and coordination, responsiveness and accountability from relevant Ministries.