

# Fundamental Freedoms Monitoring Project

First Annual Report

April 2016 -  
March 2017



**មជ្ឈមណ្ឌលសិទ្ធិមនុស្សកម្ពុជា**  
Cambodian Center for Human Rights



Supported by:



# Fundamental Freedoms Monitoring Project

## Executive Summary

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The Fundamental Freedoms Monitoring Project (FFMP) examines the exercise of the freedom of association, freedom of expression and freedom of assembly in Cambodia. The rights to freedom of association, assembly and expression (fundamental freedoms or FoAA&E) are well recognized and clearly articulated in Cambodia's Constitution, as well as several international human rights treaties that Cambodia has ratified. The FFMP's aim is to provide an objective overview of the current state of these fundamental freedoms in Cambodia.

This report is the result of the first year of the FFMP, which took place from 01 April 2016 to 31 March 2017. The information contained in this report has been compiled using systematically gathered data from a variety of qualitative and quantitative methodologies. The FFMP is a joint initiative of the Cambodian Center for Human Rights (CCHR), Cambodian Human Rights and Development Association (ADHOC), and the American Center for International Labor Solidarity (ACILS), with technical assistance provided by the International Center for Not-For-Profit Law (ICNL). This first annual report presents data and trends relating to the exercise of fundamental freedoms in Cambodia.

The FFMP recorded the following during the first year of monitoring:

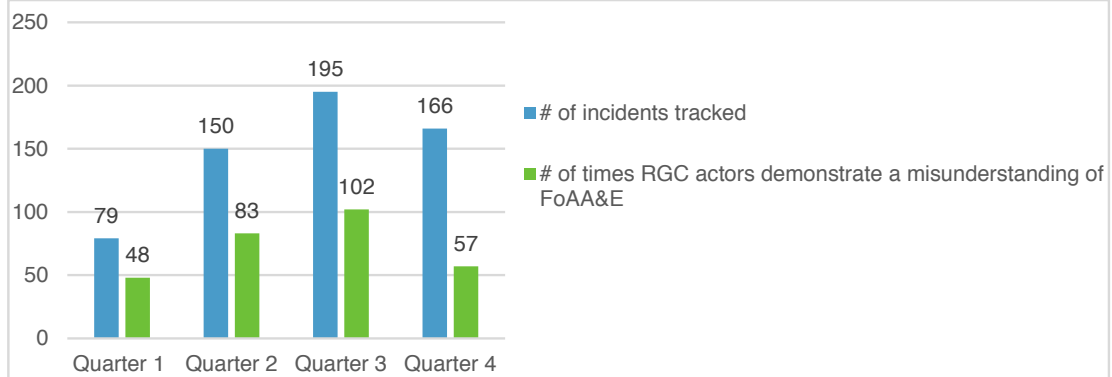
- Extra-legal restrictions on civil society and those critical of the RGC are prevalent. For example, RGC authorities demand to attend meetings, trainings and other routine activities of civil society, sometimes improperly citing the Law on Associations and Non-Governmental Organizations (LANGO) or the Law on Peaceful Assembly to justify such interferences.
- Provisions of the LANGO and Trade Union Law (TUL) were found to undermine fundamental freedoms. The Education Law and subsequent Circular were found to restrict the freedoms of expression and association in educational institutions. Adopted amendments to the Law on Political Parties (LPP) pose a threat to freedom of association by giving the Ministry of Interior new powers to dissolve political parties.
- The FFMP tracked a total of 391 unique restrictions or violations of fundamental freedoms. The number increased from 63 in the First Quarter, to 101 in the Second Quarter, to 120 in the Third Quarter, and dropped to 107 in the Fourth Quarter.<sup>1</sup>
- 24 cases of third-party restrictions of freedom of association were recorded; only one resulted in either the prosecution of the perpetrator or a meaningful investigation into the violation.
- The Monitoring Team received 60 Incident Reports detailing association meetings, trainings or celebratory gatherings (not including protests or demonstrations) being interrupted by the police, without a legal basis.
- Media Monitoring tracked 590 incidents where RGC actions or words addressed or affected fundamental freedoms; in 290 of these cases (49%), RGC authorities displayed a misunderstanding of the law (see Figure 1).

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<sup>1</sup> Media Monitoring tracked 284 unique restrictions or violations of fundamental freedoms. A total of 132 Incident Reports were received, containing 107 unique restrictions or violations (which were not also reported in the media).

## Fundamental Freedoms Monitoring Project

**FIGURE 1: RGC ACTORS' LEVEL OF UNDERSTANDING OF FOAA&E**



Source: FFMP Media Monitoring Database, April 2017

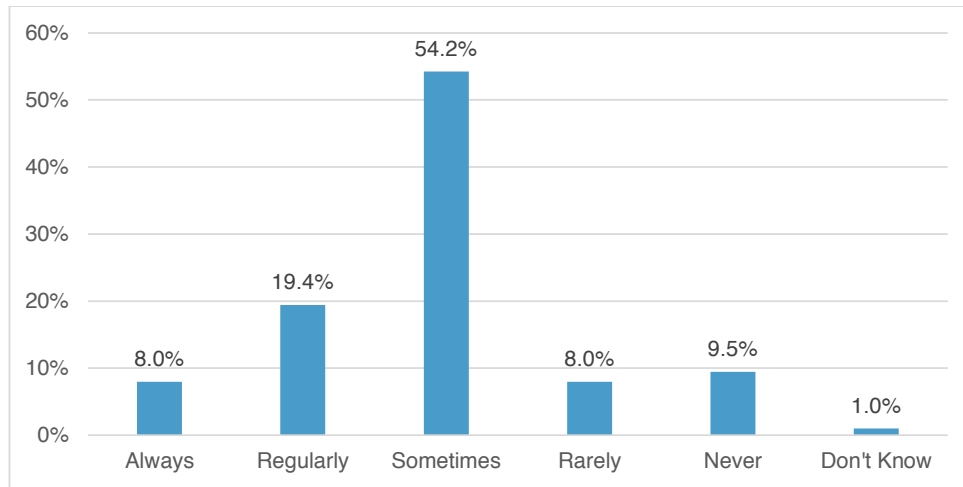
- Only 5% of Public Poll respondents reported feeling “Very Confident” that the RGC or judiciary would adequately remedy a human rights violation.
- 46% of Public Poll respondents stated that they would report human rights violations to NGOs.
- Only 11.5% of Cambodians polled reported feeling “Very Free” to exercise their fundamental freedoms or participate in political life.
- Only 16% of Public Poll respondents displayed a correct understanding of the freedom of association.
- Only 14.8% of civil society and trade union leaders felt “Very Free”, individually or through their organizations, to participate in CSO activities without fear of being targeted by the RGC.

Non-governmental organizations (NGOs) and community groups have found themselves subject to excessive monitoring by RGC actors. Meetings, workshops and training activities across Cambodia are regularly interrupted by police officers who insist on seeing proof of prior permission in order to allow activities to proceed. Often police sit through meetings, take note of participants and/or take photographs. Additionally, nine individuals were found to have fled the country due to fear of reprisals for exercising their fundamental freedoms.

The freedom of expression has been curtailed in various ways. While political analysts and the political opposition have been subject to litigation, usually in the form of defamation charges, ordinary protesters and activists have been silenced by being ordered not to wear certain colors, not to use loudspeakers and to remove banners on private property. Similarly, 82% of CSOs and TUs surveyed reported self-censoring (see Figure 2). Widespread self-censorship is an indication of significant restrictions to the freedom of expression and prevents associations from operating freely.

## Fundamental Freedoms Monitoring Project

**FIGURE 2: CSO/TU LEADERS WHO REPORT SELF-CENSORSHIP WHEN SPEAKING IN PUBLIC**



*Source: FFMP CSO/TU Survey, December 2016*

Positive findings include CSO and TU leaders facing few barriers to economic funding; 83.3% of those surveyed reported not having been denied the right to undertake income generating activities. Similarly, 63.1% of TU and CSO leaders report that the RGC recognizes them as legitimate and competent partners in development. However, the working relationship between these groups and the RGC can be improved; 50.5% of CSOs and TUs reported never having an opportunity to participate in important decision-making processes or the enactment of new legislation that affect fundamental freedoms, and 55% reported never working with the RGC. Relatedly, Media Monitoring found no financing opportunities for CSOs or TUs advertised by the RGC.



Contents

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**1. Introduction.....1**

1.1 The Fundamental Freedoms Monitoring Project ..... 1

**2. Key Milestone 1: Does the legal framework for fundamental freedoms meet international standards? .....3**

2.1 International human rights law is entrenched in the Cambodian legal framework .....3

2.2 Recent legislation conflicts with international human rights standards.....3

2.2.1 Recent legislation does not fully meet international standards for protecting the freedom of association .....4

2.2.2 The Cambodian legal framework unjustifiably restricts the freedom of expression 7

2.2.3 The Cambodian legal framework regarding freedom of assembly largely complies with international standards .....8

**3. Key Milestone 2: Is the legal framework for fundamental freedoms implemented and properly enforced? .....10**

3.1 Laws relating to fundamental freedoms are misapplied by government actors..... 11

3.2 The RGC demonstrated a misunderstanding of fundamental freedoms ..... 15

3.3 The exercise of fundamental freedoms has been curtailed and penalized ..... 17

3.3.1 Freedom of assembly has been arbitrarily suppressed, sometimes violently ..... 17

3.3.2 Human rights defenders have been targeted and unduly penalized ..... 19

3.4 Respect for the rights of marginalized groups is in need of improvement .....20

3.5 Civil society organizations and trade unions do not feel free to exercise their fundamental freedoms.....21

3.6 Third-party interference with fundamental freedoms is common but redress for third-party violations does not occur ..... 23

3.7 There is a lack of accountability for violations of fundamental freedoms .....24

**4. Key Milestone 3: Do Individuals Understand Freedom of Association and Related Rights, and Feel Free to Exercise Them? .....26**

4.1 The Cambodian public has a low understanding of fundamental freedoms, particularly freedom of association .....26

4.2 The Cambodian public feel only “somewhat free” to exercise fundamental freedoms.28

4.3 HRDs have been fleeing the country out of fear of reprisals for exercising their fundamental freedoms.....31

## Fundamental Freedoms Monitoring Project

<b>5. Key Milestone 4: Are civil society organizations and trade unions recognized by, and able to work in partnership with, the RGC? .....</b>	<b>33</b>
5.1 Most CSO leaders believe that their organization is recognized as legitimate by the RGC .....	33
5.2 RGC partnership with civil society organizations is more common than partnership with trade unions .....	33
5.3 There have been no financing opportunities for CSOs or trade unions advertised by the RGC .....	35
5.4 Civil society has limited opportunity to participate in government decision-making processes .....	35
<b>6. Conclusion .....</b>	<b>36</b>
<b>Annex 1 – Methodology and Data Collection .....</b>	<b>37</b>
<b>Annex 2 – FFMP Results Table .....</b>	<b>41</b>
<b>Annex 3 – MTT Public Poll June-July 2016 and Results .....</b>	<b>51</b>
<b>Annex 4 – CSO/TU Leader Survey December 2016 .....</b>	<b>58</b>

## Fundamental Freedoms Monitoring Project

### Acronyms

ACILS	American Center for International Labor Solidarity
ADHOC	Cambodian Human Rights and Development Association
CBO	Community-Based Organization
CCHR	Cambodian Center for Human Rights
CNRP	Cambodia National Rescue Party
CPP	Cambodian People's Party
CSO	Civil Society Organization
FFMP	Fundamental Freedoms Monitoring Project
FoAA&E	Freedoms of Association, Assembly and Expression
FoA	Freedom of Association
FoE	Freedom of Expression
HRD	Human Rights Defender
ICCPR	International Covenant on Civil and Political Rights
ICNL	International Center for Not-for-Profit Law
KM	Key Milestone
LANGO	Law on Associations and Non-Governmental Organizations
LEMNA	Law on Election of Members of the National Assembly
LPP	Law on Political Parties
Moi	Ministry of Interior
MTT	Monitoring Tracking Tool
NGO	Non-Governmental Organization
RGC	Royal Government of Cambodia
TU	Trade Union
TUL	Trade Union Law

## 1. Introduction

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### 1.1 The Fundamental Freedoms Monitoring Project

The Cambodian Center for Human Rights (CCHR), the American Center for International Labor Solidarity (ACILS) and the Cambodian Human Rights and Development Association (ADHOC), jointly referred to as “the Monitoring Team” began the Fundamental Freedoms Monitoring Project (FFMP) utilizing the Monitoring and Tracking Tool (MTT)<sup>2</sup> on 01 April 2016. This first year of monitoring comprised quarterly reporting periods as follows: 01 April 2016 – 30 June 2016 (First Quarter); 01 July – 30 September 2016 (Second Quarter); 01 October – 31 December 2016 (Third Quarter); and 01 January – 31 March 2017 (Fourth Quarter).

The FFMP is a long-term, multi-year project that examines and evaluates three fundamental freedoms – freedom of association,<sup>3</sup> freedom of expression and freedom of assembly (fundamental freedoms or FoAA&E)<sup>4</sup> – in the Kingdom of Cambodia (Cambodia).

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 approximately 70 individual elements that correspond to four “Key Milestones”, namely: (1) The legal framework for freedom of association meets international standards (KM1); (2) The legal framework for freedom of association is implemented and properly enforced (KM2); (3) Individuals understand freedom of association and related rights, and feel free to exercise them (KM3); and (4) CSOs and TUs are recognized and can work in partnership with the Royal Government of Cambodia (RGC) (KM4).

The Monitoring Team utilized five data collection methods to measure the extent to which these milestones have been achieved. These data collection methods include a Survey of CSO and TU

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<sup>2</sup> The MTT was designed to provide a clear and consistent mechanism for monitoring the legal and regulatory framework that governs civil society and civic participation in Cambodia. The MTT was developed by the International Center for Not-For Profit Law (ICNL) in partnership with ADHOC, ACILS and CCHR. The MTT is envisioned to be the centerpiece of a long-term monitoring project. It has been designed to promote a strong civil society and to enable the peaceful exercise of the freedoms of association, expression and assembly. The MTT was developed in November and December 2015, and was finalized with the assistance of a Monitoring and Evaluation Consultant in March 2016.

<sup>3</sup> This report adopts the definition of “association” used by the Special Rapporteur on the rights to freedom of peaceful assembly and of association. The Special Rapporteur defines “association” as referring to any groups of individuals or any legal entities brought together in order to collectively act, express, promote, pursue or defend a field of common interests. Associations include civil society organizations, clubs, cooperatives, non-governmental organizations, religious associations, political parties, trade unions, foundations and online associations. For more information, see: Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, UN Doc. A/HRC/20/27, 51H52 (21 May 2012).

<sup>4</sup> Fundamental freedoms or FoAA&E – for the purposes of this report – comprise the freedom of association, freedom of expression and freedom of assembly. Freedom of association is the right to join or leave groups of a person’s own choosing, and for the group to take collective action to pursue the interests of members. Freedom of expression is the right 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 or her choice. Freedom of assembly is the right to gather publicly or privately and collectively express, promote, pursue and defend common interests. This right includes the right to participate in peaceful assemblies, meetings, protests, strikes, sit-ins, demonstrations and other temporary gatherings for a specific purpose.

## Fundamental Freedoms Monitoring Project

leaders (CSO/TU Leaders' Survey);<sup>5</sup> a Public Poll;<sup>6</sup> an Incident Reporting mechanism;<sup>7</sup> Media Monitoring;<sup>8</sup> and a Desk Review of Relevant Laws (Desk Review).<sup>9</sup>

This annual report presents an analysis of key findings and trends related to the exercise of Fundamental freedoms from the first year of monitoring, 01 April 2017 – 31 March 2017.

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<sup>5</sup> The CSO/TU Leaders' Survey was designed by the Monitoring and Evaluation Consultant and ICNL Legal Advisor, with input from the Monitoring Team. It aims to capture the feelings and experiences of CSO/TU leaders in relation to their ability to exercise the fundamental freedoms, and will be conducted on an annual basis. The survey is completed online and through face-to-face interviews. Enumerators consist of CCHR, ADHOC and ACILS staff.

<sup>6</sup> The Public Poll was designed by the Monitoring and Evaluation Consultant and the ICNL Legal Advisor with input from the Monitoring Team, to gauge the general public's sentiment towards the fundamental freedoms. The Public Poll was conducted in Khmer, utilizing "convenience sampling," whereby members of the Monitoring Team visited public locations with high pedestrian traffic, such as marketplaces and pagodas. The Public Poll was conducted between 01 June 2016 and 08 July 2016 across 23 provinces and included 980 respondents. The Monitoring Team is exploring ways to conduct a more scientific poll in future years.

<sup>7</sup> Incident Reports are collected through the Incident Report Mechanism, a form developed to capture violations of freedom of association and related rights. Individuals or associations that believe their rights to freedom of association, assembly or expression have been violated can report the incident to the Monitoring Team, who are responsible for completing an Incident Report Form. The Form captures qualitative and quantitative data including information about the incident itself, the location, the people involved, the type of association and the type of violation.

<sup>8</sup> Media Monitoring is carried out daily by CCHR's Media Monitor. 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>9</sup> The Desk Review is composed of expert analysis of the content of Cambodian laws, policies, reports and other official documents to assess the degree to which legal guarantees and other conditions are in place to ensure freedom of association and related rights. The Desk Review is led by CCHR's Legal Consultant and Monitoring Officer, but includes input from the entire Monitoring Team. The Desk Review encompasses both qualitative analysis, of the degree to which Cambodian laws respect the fundamental freedoms, and quantitative analysis.

## 2. Key Milestone 1: Does the legal framework for fundamental freedoms meet international standards?

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Key Milestone 1 examines the extent to which Cambodia’s legal framework meets international human rights standards for fundamental freedoms.<sup>10</sup> The rationale behind this Key Milestone is that Cambodia’s legal framework must comply with international standards in order for fundamental freedoms to be effectively guaranteed to individuals under Cambodia’s jurisdiction.

### 2.1 International human rights law is entrenched in the Cambodian legal framework

The **Cambodian Constitution** contains strong guarantees for fundamental freedoms, including both explicit protections for fundamental freedoms and the separate incorporation of international human rights treaties into Cambodian law. Articles 41 and 42 guarantee fundamental freedoms for Cambodian citizens.<sup>11</sup> Article 31<sup>12</sup> guarantees respect for human rights as stipulated in the UN Charter, the Universal Declaration of Human Rights and other international covenants and conventions related to human rights which Cambodia has ratified, including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of all Forms of Discrimination Against Women, and the International Covenant on Economic, Social and Cultural Rights. The position of international human rights law within the Cambodian legal system was strengthened by the Constitutional Council’s decision of 10 July 2007, which authoritatively interpreted Article 31 as meaning that international treaties ratified by Cambodia are directly applicable in domestic law.<sup>13</sup>

Notably, the Constitution only protects the rights of Cambodian citizens. Article 31 of the Constitution, as well as the aforementioned articles relevant to fundamental freedoms, states that the protections apply to “every Khmer citizen.” These rights are not extended to non-citizens or others subject to Cambodia’s jurisdiction. Limiting the guarantees to non-nationals contradicts Article 2(1) of the ICCPR, which states that the rights guaranteed in it extend “to all individuals within its [the State’s] territory and subject to its jurisdiction.”

### 2.2 Recent legislation conflicts with international human rights standards

Despite the existence of the constitutional guarantees protecting fundamental freedoms, several Cambodian laws conflict with international standards in respect of freedom of association and related rights. Recent legislation increasingly deviates from international human rights standards.

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<sup>10</sup> The findings in Key Milestone 1 are primarily based on the Desk Review of Relevant Laws (Desk Review).

<sup>11</sup> Article 41, “Khmer citizens shall have the right to establish associations and political parties. These rights shall be determined by law; Khmer citizens may take part in mass organizations for mutual benefit to protect national achievements and social order;” Article 42, Cambodian Constitution, “Khmer citizens shall have freedom of expression, press, publication and assembly. No one shall exercise this right to infringe upon the rights of others, to affect the good traditions of the society, to violate public law and order and national security.”

<sup>12</sup> Article 31, Cambodian Constitution, “The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women’s and children’s rights.”

<sup>13</sup> Constitutional Council of the Kingdom of Cambodia, Decision No. 092/003/2007 (10 July 2007).



## Fundamental Freedoms Monitoring Project

### *2.2.1 Recent legislation does not fully meet international standards for protecting the freedom of association*

#### 2.2.1.1 Registration

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.

The **LANGO**, adopted in August 2015, contains several provisions that restrict freedom of association. First, the LANGO introduces a mandatory registration scheme – it is illegal for an association to undertake any activities without being registered – which does not comply with international law. Second, the LANGO gives the RGC broad authority to deny registration of non-governmental organizations (NGOs). Under Article 8(4) the Ministry of Interior (Mol) can refuse a domestic association's or NGO's registration if approval would affect the "stability" and "national unity" of Cambodia. In addition, the LANGO's definition of "association" and subsequent remarks by Mol officials has led to confusion over whether community-based organizations (CBOs)<sup>14</sup> need to register.<sup>15</sup> Registration is further complicated because the Mol has not, as of June 2017, issued Prakas<sup>16</sup> detailing the registration procedure, as required under Article 11 of the LANGO. Foreign organizations wishing to operate in Cambodia are also subject to a burdensome registration process that requires collection of difficult-to-obtain documents and RGC approval of planned activities.

The **TUL**, adopted on 4 May 2016, also contains burdensome **mandatory registration requirements**, which restrict the ability of unions to carry out their activities. Article 15 of the TUL provides that the procedures for application for registration will be defined by the Minister of Labor and Vocational Training in a Prakas. Prakas 249 on Registration of Worker Organizations Trade Unions and Employer Associations was issued on 27 June 2016 and sets out how a union applies for registration. It provides a list of seven reasons why a TU's registration application may be denied. Several of these are vague and could be used to arbitrarily deny registration, such as if the goal or objective of the union/association "will not protect or promote rights and benefits to the individual," or "the scope or subject of the trade union or employer association is unclear which can mislead the public." These grounds are both excessively broad and open to subjective interpretations by the official concerned, creating a risk that they will be applied inconsistently.

Prakas 249 also requires leaders of trade unions or employer associations to provide a thumb-printed declaration that they can read and write Khmer, and that they have never been convicted of a misdemeanor or felony, thereby excluding persons who are illiterate or have been previously convicted of any minor crime, such as, for example, obstructing a public road. This is particularly concerning in Cambodia, because union leaders and members of civil society have been subject to spurious criminal charges because of their activism. For these reasons, registration requirements under the TUL cannot be said to meet international best practices.

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<sup>14</sup> Community-based organizations are non-profit groups that work at the local level to improve life for community members. CBOs include both formal and informal groups, and are often small, providing various services towards the development of local communities.

<sup>15</sup> On 21 August 2015 CCHR sent a letter to the Ministry of Interior seeking clarification on whether the LANGO applies to CBOs and informal groups. The Ministry responded on 22 September 2015 to confirm that the LANGO does not apply to small community groups. For more information, see: [http://cchrcambodia.org/media/files/press\\_release/575\\_202crcfme\\_en.pdf](http://cchrcambodia.org/media/files/press_release/575_202crcfme_en.pdf).

<sup>16</sup> Ministerial Orders or Proclamations (Prakas) are executive regulations made at the ministerial level to give implementation instructions and clarify specific provisions within legislative documents. Their scope is limited to the focus and subject matter of the ministry that enacted them.

## Fundamental Freedoms Monitoring Project

### 2.2.1.2 Reporting requirements

The **reporting requirements** for CSOs and TUs under both the LANGO and the TUL are deemed onerous and not in compliance with international standards. Smaller organizations or informal groups are likely to be disproportionately affected because they have fewer resources to devote to complying with the numerous requirements. Both the LANGO and TUL require CSOs or TUs to submit frequent financial and activity reports to the Mol.

Article 25 of the LANGO requires domestic associations and NGOs to provide activity and financial reports on an annual basis, and to provide copies of all documents sent to foreign donors to the Mol. Copies of these documents must also be kept at the association's office for five years, a disproportionate requirement that may be abused to harass or penalize associations. Additionally, paragraph 25(2) appears to allow the Mol to request such reports at any time, creating a risk that the Mol will regularly request reports to harass associations and obstruct their work.

Article 17 of the TUL obligates a union or employer association to meet a variety of burdensome reporting requirements. These requirements include annual financial statements and activity reports, bank account details and updating of any of the information required for registration.

The CSO/TU Leaders' Survey revealed that 55.4% of those surveyed reported that they had not met the reporting requirements under the LANGO or the TUL; 13.7% reported that they did not know if they had or not. Only 17% reported being able to comply with the financial reporting obligations; 21.8% reported not knowing whether they met the financial reporting requirements.

Reporting requirements under the LANGO and TUL are burdensome and onerous, leading CSOs and TUs to fail to meet them. For this reason, they do not meet international standards, and restrict freedom of association.

### 2.2.1.3 Oversight of association activity

**Oversight** of CSO and TU activity provided for by the LANGO and the TUL is excessive and does not comply with international standards. The LANGO confers broad and intrusive powers of oversight upon the government that go beyond the permissible limitations allowed by international human rights law. Under Article 30(2) of the LANGO, a domestic association or NGO may be suspended, and ultimately deregistered, for failing to comply with its own statute.

**On a positive note**, recent legislation has not restricted the ability of CSOs/TUs to engage in economic activity. Results from the CSO/TU Leader Survey confirmed that CSOs and TUs can undertake income-generating activities. 83.3% of those surveyed reported not having been denied the right to undertake income generating activities; only 4.4% reported that they had been denied this right. All respondents who reported being denied the ability to engage in income-generating activities gave examples of how this right was denied – one union leader reported their members being denied the ability to have union membership fees deducted from their wages by their employer, despite this being provided for by Article 129 of the Labor Law.

Similarly, there are few restrictions to CSOs and TUs receiving funding from domestic and international sources, which complies with international standards. Survey results confirmed that the RGC adheres to this aspect of the legal framework. 81.4% of respondents reported facing no restrictions to receiving domestic funding; similarly, 84.7% of respondents stated that they faced no restrictions to accessing foreign funding. Civil society has been able to freely access funding, which is vital to undertake operations and carry out their objectives. The ability of CSOs to freely access funding, especially from domestic sources, reflects international best practices.

## Fundamental Freedoms Monitoring Project

The circular, “Instruction on preventing political activities or political propaganda at public and private academic institutions”<sup>17</sup> (**Education Circular**) imposes a sweeping prohibition on political activities in educational establishments and institutions. Article 34 states, “Political activities and/or propaganda for any political party in educational establishments and institutions shall be completely banned.” Article 34 conflicts with the constitutional and international human rights guarantees. Its broad language creates a risk that this prohibition could be arbitrarily enforced and used to restrict discussion or teaching of controversial topics. This is one example of a law negatively impacting fundamental freedoms even though the law itself seems unrelated to the exercise of fundamental freedoms.

### 2.2.1.4 Sanctions

**Sanctions** for CSOs, TUs and political parties under the LANGO, TUL and the amended LPP, respectively, are disproportionate and do not meet international standards.

Sanctions under the LANGO and the TUL are prescribed by law and publicly available – both elements are necessary to meet the international standards applicable to restrictions on freedom of association. However, the provisions for sanctions in both laws do not fulfill the other requirements; the sanctions are not proportionate, narrowly defined, transparent or easy to understand.

For instance, Article 31(3) of the LANGO penalizes domestic associations that fail to comply with Article 10, or Article 24, or para. 1 or para. 2 of Article 25. Temporary suspension and deletion of CSOs from the register due to non-compliance with reporting requirements carries the risk of abuse, and Article 30(2) provides for the suspension or deregistration of associations for actions contrary to their statute, which constitutes an unnecessary interference in the internal governance of associations. The TUL is similarly punitive; Chapter 15 sets out a range of sanctions and penalties that may be imposed on unions and/or employer associations. Of particular concern is Article 80, which prescribes fines of up to five million Riel for any person who conducts any union activity without being registered.

The 2007 Law on Education (**Education Law**) also provides severe sanctions for violations of its provisions. Article 52 states that if a legal entity violates Article 34, the fine will be between ten and 20 million Riel; this amount is doubled in the case of a repeat violation. The final sanction applies “in case of recidivous [sic] violation” committed by an educational establishment which is also a legal entity. In these circumstances, the educational license of the establishment will be suspended or permanently revoked, which cannot be said to be proportionate. In addition, the **Education Circular** provides that the penalty fines provided for in the Education Law for violations of Article 34 also apply to academic staff, adding a further restriction on individual freedom of expression.

The **Law on Political Parties** was amended in March 2017,<sup>18</sup> and includes several new provisions which are inconsistent with international standards of freedom of association. Article 18 requires that leaders of political parties must not have a conviction for a crime or misdemeanor carrying a non-suspended jail sentence. Requiring political leaders to meet this criterion places a substantive

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<sup>17</sup> Ministry of Education, Youth and Sport, ‘Instruction on Preventing political activities or political propaganda at public and private academic institutions’, Royal Government of Cambodia, No. 38, EYS. SNN (11 August 2015).

<sup>18</sup> The amendments were adopted by the National Assembly on 20 February 2017 and by the Senate on 28 February 2017. On 3 March the Constitutional Council ruled the amendments constitutional, and on 8 March 2017 the amendments were signed into law by the President of the Senate as acting head of state, in the absence of King Norodom Sihamoni who was out of the country. See Van Roeun, ‘Controversial Amendment Ruled Constitutional’, The Cambodia Daily, 3 March 2017. Available at: <https://www.cambodiadaily.com/news/controversial-political-party-law-amendment-ruled-constitutional-126129/>. Radio Free Asia, ‘Tough Political Party Bill Signed Into Law in Cambodia,’ 9 March 2017. Available at: <http://www.rfa.org/english/news/cambodia/tough-political-party-bill-signed-into-law-in-cambodia-03092017132626.html>.

## Fundamental Freedoms Monitoring Project

restriction on their right to freedom of association. This is particularly alarming because numerous political leaders in Cambodia have been subject to criminal charges in politically motivated cases.<sup>19</sup>

Article 6 of the LPP lists the infractions for which a political party may be **suspended** or **dissolved**, including “subverting the liberal multiparty democracy and the constitutional monarchy”, “affecting the security of the state” and “incitement that would lead to national disintegration” This language is vague and subjective, which increases the risk that it will be enforced arbitrarily and could threaten the existence of political parties. In addition, the law does not mention a time limit for suspension, making it possible for the MoI to suspend parties indefinitely, effectively handing the RGC the power to permanently suspend rival political parties.

### *2.2.2 The Cambodian legal framework unjustifiably restricts the freedom of expression*

The Cambodian legal framework fails to meet international standards of freedom of expression. Despite benefitting from constitutional protection, several laws undermine this right, particularly in relation to political speech that is critical of the RGC.

#### **Case Study 1**

In May 2016, LICADHO posted a webpage entitled “Cambodia’s Political Prisoners,” providing information on prisoners and detainees being held on allegedly politically motivated grounds. The Ministry of Justice demanded LICADHO remove the page or face sanctions for violating the “political neutrality” requirement contained in Article 24 of the LANGO. Although no action has been taken by the RGC yet, this confirms fears that the LANGO’s “political neutrality” clause would be used to target criticism of the RGC.

Article 24 of the LANGO requires all domestic NGOs, foreign NGOs, and foreign associations to “maintain their neutrality towards political parties in the Kingdom of Cambodia.” The term “neutrality” is not defined, and it is unclear what types of activity could be deemed to contravene the provision, leaving it open to misapplication or arbitrary enforcement. Article 34 of the **Education Law** also requires “political neutrality” from educational establishments, while Article 42, subjects “advertising and propagandizing of educational information” to authorization by the Ministry of Education Youth and Sport. These are significant restrictions to the freedom of expression.

The **Telecommunications Law**, promulgated in early 2016, places significant limitations on the freedom of expression. It provides the RGC with sweeping powers to monitor electronic communications and creates a series

of criminal offenses related to the use of telecommunications devices, violations of which are subject to imprisonment and significant fines.<sup>20</sup> Article 80 criminalizes any form of expression expressed by electronic means that creates “national insecurity.” Such a vaguely drafted provision cannot be considered proportionate, narrowly defined or transparent, and thus violates international standards for freedom of expression. Article 107 makes leaders of organizations vicariously liable for the professional acts of individual staff members. This provision further violates international standards for freedom of association.

<sup>19</sup> See: Meas Sokchea, ‘Opposition leader repudiates ‘political’ charges against him’, The Phnom Penh Post, 1 January 2010. Available at: <http://www.phnompenhpost.com/national/opposition-leader-repudiates-political-charges-against-him>; Phak Seangly and Shaun Turton, ‘Arrest warrant issued for Rainsy’, The Phnom Penh Post, 13 November 2015. Available at: <http://www.phnompenhpost.com/national/arrest-warrant-issued-rainsy>; Meas Sokchea and Shaun Turton, ‘New charge for Rainsy’, The Phnom Penh Post, 3 December 2015. Available at: <http://www.phnompenhpost.com/national/new-charge-rainsy>; Meas Sokchea, ‘CNRP decries court’s decision to try Sokha’, The Phnom Penh Post, 26 August 2016. Available at: <http://www.phnompenhpost.com/national/cnrp-decries-courts-decision-try-sokha>; Touch Sokha, ‘Two Sam Rainsy Party officials arrested’, The Phnom Penh Post, 17 February 2017. Available at: <http://www.phnompenhpost.com/national/two-sam-rainsy-party-officials-arrested>.

<sup>20</sup> See Licadho, ‘Cambodia’s Law on Telecommunications: A Legal Analysis’, March 2016. Available at: [http://www.licadho-cambodia.org/reports/files/214LICADHOTELECOMSLAWLEGALANALYSIS\\_MARCH2016ENG.pdf](http://www.licadho-cambodia.org/reports/files/214LICADHOTELECOMSLAWLEGALANALYSIS_MARCH2016ENG.pdf).

## Fundamental Freedoms Monitoring Project

The **Law on Election of Members of the National Assembly (LEMNA)**, adopted in March 2015, significantly restricts the freedom of expression, especially during the official campaign period. Articles 84 and 137 of the LEMNA require all domestic and international NGOs and associations to exercise “neutrality and impartiality” relating to the conduct of electoral affairs. This vaguely worded provision may significantly curtail the role of civil society as a public watchdog. Article 152 of the LEMNA states that “any person who, by all means, publicly insults a political party” shall be fined.<sup>21</sup>

The **Criminal Code of the Kingdom of Cambodia (Penal Code)** also contains disproportionate restrictions to the freedom of expression by criminalizing legitimate expression. Articles 305 and 307 contain the offenses of **defamation** and **insult**, respectively. Under both articles, the commission of an offense merely requires that the defamation or insult be “circulated in public or exposed to the sight of the public.” Therefore, individuals may be prosecuted for private conversations that may end up being later made public without the individual’s consent.

The criminalization of defamation is not consistent with international best practices. While defamation laws can be a permissible restriction on freedom of expression to protect the reputation of others, the UN Human Rights Committee has made clear that such laws must not in practice stifle freedom of expression. In General Comment 34 the Human Rights Committee further called on ICCPR States Parties to “consider the decriminalization of defamation”.

The crime of **incitement** is another provision of the Penal Code that fails to meet international standards. Articles 495, “Incitement to Commit a Crime,” and 496, “Incitement to Commit Discrimination”, do not require a crime to take place as a result of the incitement in question, and constitute unjustified restrictions of freedom of expression. The vague nature and overly broad scope of these offenses also fail to meet international standards.

### ***2.2.3 The Cambodian legal framework regarding freedom of assembly largely complies with international standards***

The **Law on Peaceful Assembly** governs assemblies, and it largely complies with international best practices. For example, in Article 5 it sets out a notification procedure, rather than a prior authorization regime, to hold an assembly. Assembly organizers are merely required to notify the authorities prior to assemblies, rather than request permission. Many activities, such as educational or religious events, are exempt from the notification requirement.

However, Article 2 of the Law on Peaceful Assembly guarantees the right to freedom of assembly, but mirrors the language of the Constitution – this right is only guaranteed to Cambodian citizens. Such a restriction does not comply with the ICCPR, which requires that the right to freedom of assembly be guaranteed to all persons subject to a State’s jurisdiction.

Laws governing the labor sector also restrict the freedom of assembly. The **TUL** unjustifiably restricts the right of workers to strike (Article 92). Article 65(f) states that it is unlawful for a union to “agitate for purely political purposes or for their personal ambitions or committing acts of violence at the

#### **Case Study 2**

Ny Chakrya, former head of ADHOC’s human rights section and current NEC deputy secretary-general, was convicted for defaming two Siem Reap court officials in September 2016 and sentenced to six months imprisonment as well as a large fine after he publicly condemned the conviction of two victims of land grabbing who were imprisoned on incitement charges. Chakrya made his comments at a press conference, where he highlighted the need for judicial independence. He was convicted of defamation, acts of slanderous denunciation and publication of commentaries to put pressure on the judiciary.

<sup>21</sup> In particular, Article 162 allows for entire parties to be penalized for offenses committed by individual members or representatives. Penalties include the disqualification of parties from the election.

## Fundamental Freedoms Monitoring Project

workplace and other places". This broad language could be used to declare legitimate union activities unlawful.

The Cambodian legal framework, based on the Desk Review, largely complies with international standards, particularly regarding peaceful assembly. However, recent legislation like the LANGO, TUL, Telecommunications Law and LEMNA contain provisions that restrict the enjoyment and exercise of fundamental freedoms. Onerous registration and reporting requirements, disproportionate sanctions and the requirement of political neutrality threaten the fundamental freedoms of individuals and associations alike. The vague language used in these laws increases the risk of arbitrary enforcement.

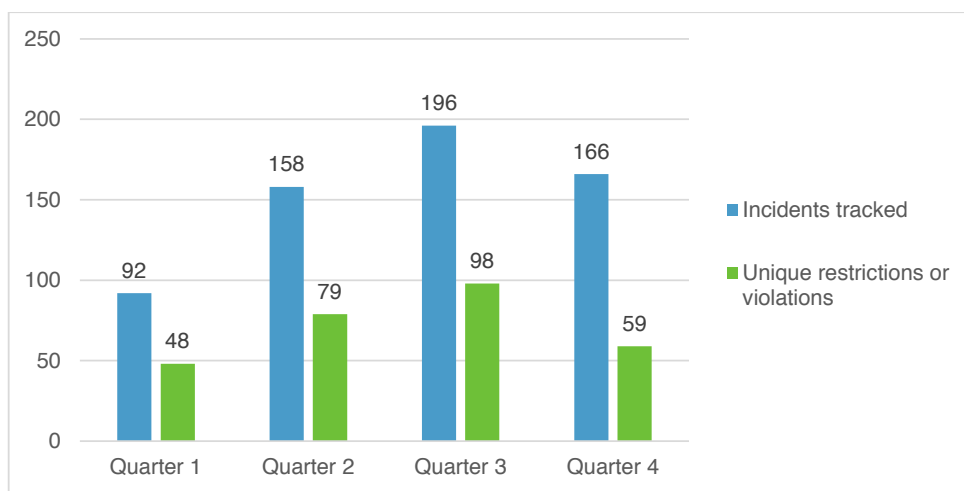


### 3. Key Milestone 2: Is the legal framework for fundamental freedoms implemented and properly enforced?

This Key Milestone examines whether the legal framework for freedom of association and related rights is implemented and enforced according to the letter of the law.<sup>22</sup> Laws should be applied consistently and implemented according to the letter of the law. The FFMP found a systematic misapplication of laws that affect fundamental freedoms.

Media Monitoring recorded 612 relevant incidents related to the exercise of fundamental freedoms, involving 284 unique restrictions or violations of fundamental freedoms (see Figure 3).

**FIGURE 3: INCIDENTS CAPTURED THROUGH MEDIA MONITORING**



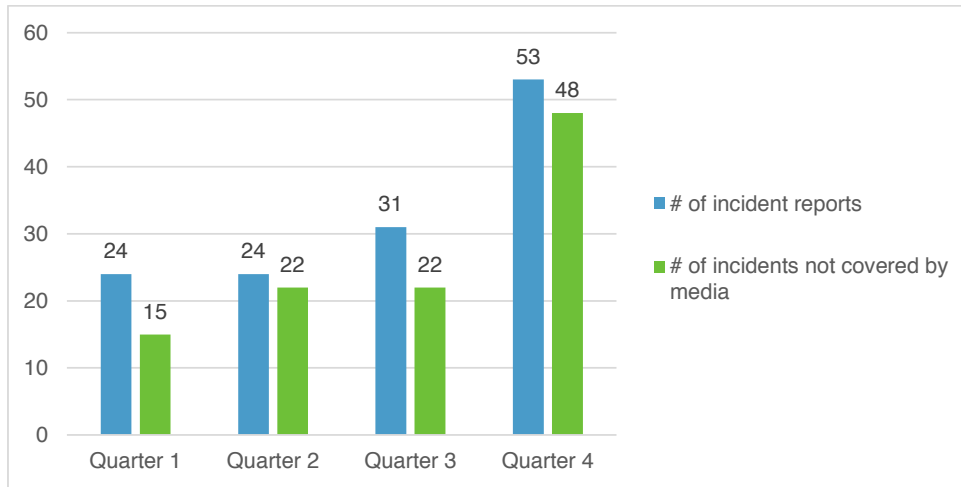
Source: FFMP Media Monitoring Database, April 2017

The Monitoring Team received 132 Incident Reports about 129 separate incidents (see Figure 4). The majority of incidents took place in Phnom Penh, with high numbers of incidents being reported in Siem Reap, Battambang and Banteay Meanchey provinces (see Figure 5). A total of 132 Incident Reports were received, containing 107 unique restrictions or violations (i.e. violations that were not reported in the media). A combination of Media Monitoring and Incident Reports produces a combined total of 391 unique restrictions/violations.

<sup>22</sup> The findings in Key Milestone 2 are based on Media Monitoring, Incident Reports and the CSO/TU Leaders' Survey.

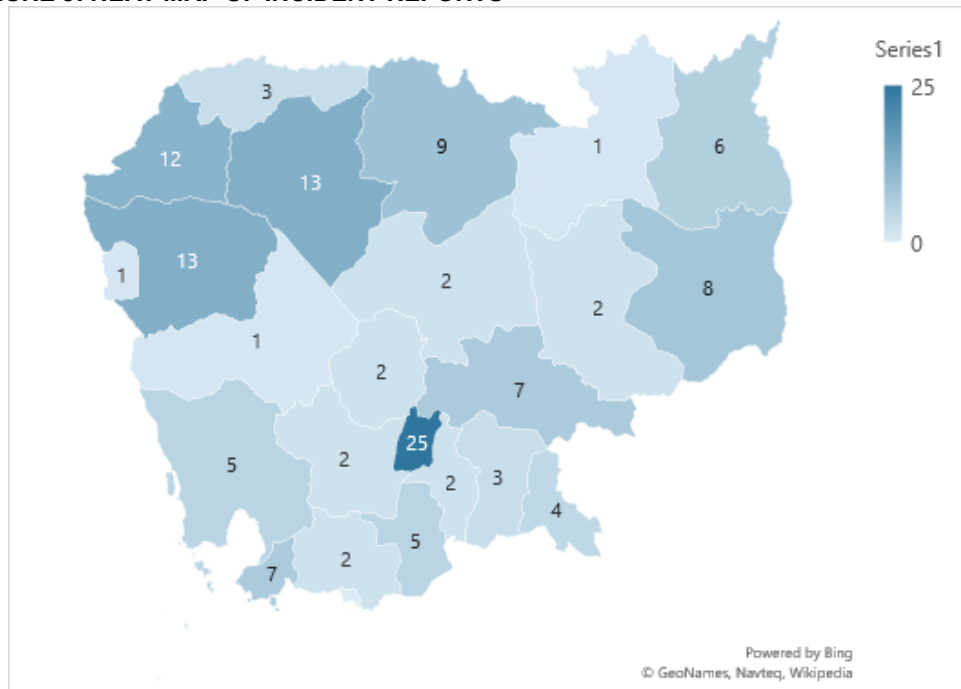
## Fundamental Freedoms Monitoring Project

**FIGURE 4: INCIDENTS RECORDED VIA INCIDENT REPORTS**



Source: FFMP Incident Reporting Database, April 2017

**FIGURE 5: HEAT MAP OF INCIDENT REPORTS**



Source: FFMP Incident Reporting Database, April 2017

### 3.1 Laws relating to fundamental freedoms are misapplied by government actors

The data collected demonstrates a systematic misapplication of laws affecting fundamental freedoms. The Monitoring Team examined the degree to which RGC institutions implement the domestic legal framework according to the letter of the law, and in a fair and consistent manner.

## Fundamental Freedoms Monitoring Project

Media Monitoring showed that RGC authorities improperly implemented the legal framework in respect of fundamental freedoms 61% of the time (359 instances out of 590 relevant incidents<sup>23</sup>).

The most frequently misapplied laws were the LANGO and Law on Peaceful Assembly. The most common LANGO-related misapplication was local authorities' consistent demands for associations to receive permission from authorities before conducting activities. Two representative examples are:

- In June 2016, police in Ratanakiri broke up a gathering of Christians who were meeting to discuss their faith and eat, explaining that the group should have sought permission from police before holding the meeting.<sup>24</sup>
- In May 2016, police in Prey Veng shut down gathering of 30 farmers in a private home for lack of notification.<sup>25</sup>

There were 60 Incident Reports that detailed authorities interrupting associations' meetings, trainings or celebratory gatherings (not including protests or demonstrations). Of these, 10 CSOs were prevented from continuing the activity on that day and time. On 23 occasions, organizers were asked to give evidence of permission or told they should have given advance notification. On 24 occasions police photographed the participants and/or materials, on 33 occasions police attended the activity, and on 11 occasions police recorded identifying details of the participants or noted attendance. Representative examples include:

- On 15 July 2016, an association focused on land rights violations attempted to hold a meeting in Svay Rieng province, but local authorities prohibited the meeting without explanation.<sup>26</sup>
- In August 2016, RGC authorities took photographs and demanded the names and other personal details of participants in focus group discussion being held by CCHR and ADHOC in Mondulakiri.<sup>27</sup>
- On 6-10 September, police documented and recorded all participants and activities at a training organized by a youth organization in Phnom Penh.<sup>28</sup>
- On 13 September 2016, police officers in Mondulakiri, reportedly on the orders of the commune police chief, demanded information about ADHOC's upcoming activities and trainings.<sup>29</sup>
- On 4 November 2016 at 7pm, police prohibited a meeting of an NGO in Koh Kong province, stating that nighttime meetings were not allowed.<sup>30</sup>

Many provincial authorities have held meetings with NGOs to inform them that they are obligated to provide regular activity reports (varying from daily to monthly) to provincial authorities. Authorities sometimes cited the LANGO for this requirement, despite the LANGO containing no such obligation.

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<sup>23</sup> This number of relevant incidents regarding the application of the legal framework is 590, rather than 612 (the total number of incidents tracked). In 21 incidents, it could not be determined whether the RGC had implemented the legal framework correctly or incorrectly because of insufficient facts and/or details.

<sup>24</sup> Phak Seangly, 'Police break up Christian meeting', The Phnom Penh Post, 3 June 2016. Available at: <http://www.phnompenhpost.com/national/police-break-christian-meeting>.

<sup>25</sup> Niem Chheng, 'Police put an end to gathering of farmers in Prey Veng', The Phnom Penh Post, 24 May 2016. Available at: <http://www.phnompenhpost.com/national/police-put-end-gathering-farmers-prey-veng>.

<sup>26</sup> Incident Report IRCC009.

<sup>27</sup> Incident Report IRCC002.

<sup>28</sup> Incident Report IRCC007.

<sup>29</sup> Incident Report IRAD007.

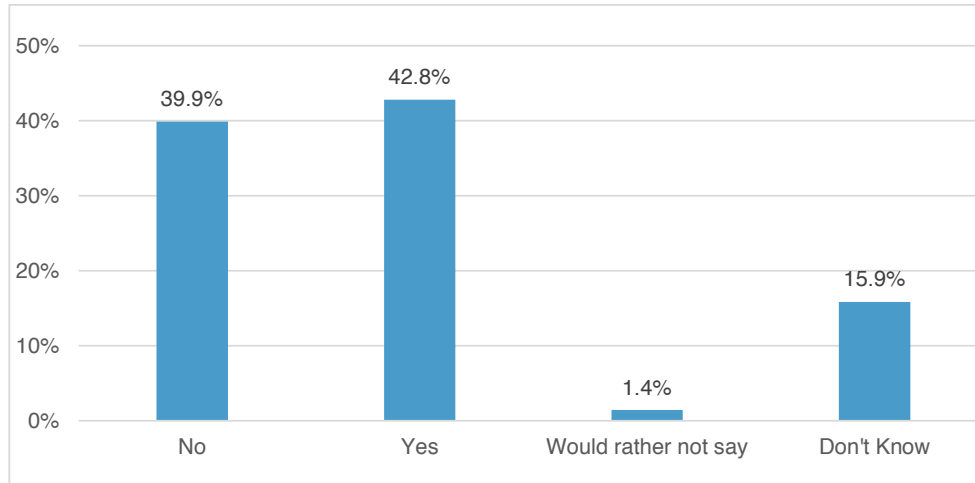
<sup>30</sup> Incident Report IRCC029.

## Fundamental Freedoms Monitoring Project

Such meetings were documented in Monduliri, Preah Sihanouk, Kampong Speu, Oddar Meanchey and Kampong Cham provinces.<sup>31</sup>

Additional data collected by the Monitoring Team confirms the prevalence of these interferences; Media Monitoring recorded 188 incidents of government oversight of associations violating international standards. A significant 42.8% of CSO/TU Leaders surveyed reported that the RGC had monitored their activities (see Figure 6).

**FIGURE 6: CSO/TU LEADERS WHO REPORT GOVERNMENT MONITORING OF ACTIVITIES  
DECEMBER 2015 – DECEMBER 2016**



Source: FFMP CSO/TU Survey, December 2016

Opposition political parties were subject to numerous misapplications of laws affecting fundamental freedoms. The right to freedom of association includes the right to form political parties, and these parties should not be subject to arbitrary or unlawful interference.

In addition to stripping Cambodia National Rescue Party (CNRP) lawmakers of their parliamentary immunity and subsequently charging them with allegedly spurious crimes,<sup>32</sup> the RGC has limited the ability of the main opposition party to function. The amendments to the LPP – discussed in Section 2, above – were almost immediately used by the RGC to target the CNRP. After Sam Rainsy stepped

<sup>31</sup> Incident Report IRCC013; Incident Report IRCC014; Incident Report IRCC015; Incident Report IRCC016; Phak Seangly, 'Weekly check-in rejected by NGOs in Oddar Meanchey,' The Phnom Penh Post, 27 July 2016. Available at: <http://www.phnompenhpost.com/national/weekly-check-rejected-ngos-oddar-meanchey>.

<sup>32</sup> See: Khy Sovuthy and Kuch Naren, 'Kem Sokha sentenced to five months; no arrest,' The Cambodia Daily, 10 September 2016. Available at: <https://www.cambodiadaily.com/news/kem-sokha-sentenced-five-months-no-arrest-117833/>; Niem Chheng and Erin Hadley, 'CNRP's Um Sam An leaves 'illegal' court hearing,' The Phnom Penh Post, 06 September 2016. Available at: <http://www.phnompenhpost.com/national/cnrps-um-sam-leaves-illegal-court-hearing>; Meas Sokchea, Mech Dara, Erin Handley and Shaun Turton, 'Kem Sokha in 'safe place' as police hunt for CNRP deputy leader,' The Phnom Penh Post, 27 May 2016. Available at: <http://www.phnompenhpost.com/national/kem-sokha-safe-place-police-hunt-cnrp-deputy-leader>; Niem Chheng, 'Opposition senator ousted, to face courts over PM's accusation,' The Phnom Penh Post, 2 September 2016. Available at: <http://www.phnompenhpost.com/national/opposition-senator-ousted-face-courts-over-pms-accusation>; Touch Sokha, 'Sok Hour revisited Rainsy, Facebook admins' case to be heard,' The Phnom Penh Post, 09 December 2016. Available at: <http://www.phnompenhpost.com/national/sok-hour-revisited-rainsy-facebook-admins-case-be-heard>; Lay Samean and Erin Handley, 'Rainsy, 2 others get five years,' The Phnom Penh Post, 28 December 2016. Available at: <http://www.phnompenhpost.com/national/rainsy-2-others-get-five-years>.

## Fundamental Freedoms Monitoring Project

down as president,<sup>33</sup> an extraordinary congress was called and the CNRP elected Kem Sokha as president. The RGC announced that it would not recognize the new president because the CNRP allegedly did not follow its statute.<sup>34</sup> Article 17 of the LPP states that the president of a political party must be chosen according to the statute of that party, and Article 26 stipulates that when an internal rule is changed the MoI must be informed of any change in writing. The application of Articles 17 and 26 of the LPP in this circumstance appears questionable, because the relevant changes of the CNRP's internal rules were submitted to the MoI following the congress.<sup>35</sup> The LPP does not require notification to be made before changes can be acted upon.<sup>36</sup> The issue was later resolved after the CNRP held another extraordinary congress and re-elected its leadership.

Regarding freedom of assembly, RGC actors consistently misapplied the Law on Peaceful Assembly by requiring assembly organizers to receive permission from authorities prior to holding assemblies, and by preventing assemblies from taking place if prior permission was not granted.<sup>37</sup> The Law on Peaceful Assembly states that individuals who wish to organize peaceful public assemblies must notify local authorities five days in advance — permission is not required. However, authorities have repeatedly insisted that a peaceful gathering may take place only after authorities permit it.

For example, in October 2016, Phnom Penh City Hall designated a planned march by victims of urban land grabbing illegal, citing a lack of prior permission and potential traffic disturbances. City Hall spokesman Met Measpheakdey warned protesters to take the protest to Freedom Park, an area in central Phnom Penh set aside for public demonstrations, or face legal consequences. He reportedly stated, "They requested permission for 1,000 people to join in a march, but even without that, we will still see traffic jams [...] It would affect traffic and public order."<sup>38</sup> The Law on Peaceful Assembly applies to activities such as demonstrations and protests taking place in public spaces.

RGC authorities, usually district police officers, often detain individuals who are exercising their fundamental freedoms, with their release being conditional on them signing a contract (with no basis in law) promising to refrain from engaging in the legitimate exercise of their rights in future. For example, in February 2017, more than 60 environmental youth activists gathered for a meeting on a boat in Phnom Penh to discuss environmental concerns in the Mekong region; authorities demanded to meet with the organizer and made him sign a contract promising not to put up

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<sup>33</sup> Shaun Turton, 'Sam Rainsy resigns from CNRP', The Phnom Penh Post, 11 February 2017. Available at: <http://www.phnompenhpost.com/national/sam-rainsy-resigns-cnrp>.

<sup>34</sup> Ben Sokhean and Ben Paviour, 'Government Comes Down Hard On CNRP Leadership', The Cambodia Daily, 30 March 2017. Available at: <https://www.cambodiadaily.com/news/government-comes-down-hard-on-cnrp-leadership-127258/>.

<sup>35</sup> Meas Sokchea, 'CNRP vexed as CPP continues to call Sokha's presidency illegitimate', The Phnom Penh Post, 30 March 2017. Available at: <http://www.phnompenhpost.com/national/cnrp-vexed-cpp-continues-call-sokhas-presidency-illegitimate>.

<sup>36</sup> Articles 17 and 19, Law on Political Parties. See OHCHR, 'A Human Rights Analysis of the Amended Law on Political Parties', 28 March 2017. Available at: <https://cambodia.ohchr.org/sites/default/files/Analysis%20on%20the%20Amended%20Law%20on%20Political%20Parties%2028%2003%202017%20FINAL%20no%20TC.pdf>.

<sup>37</sup> See Khy Sovuthy and Ben Sokhean, 'Six Arrested Over 'Black Monday' Protest in Phnom Penh', The Cambodia Daily, 9 May 2016. Available at: <https://www.cambodiadaily.com/news/six-arrested-over-black-monday-protest-in-phnom-penh-112352/>; Khy Sovuthy and Zsombor Peter, 'General Banh Tells Protesters to Get Permission or Go to Jail', The Cambodia Daily, 20 May 2016. Available at: <https://www.cambodiadaily.com/news/gen-banh-tells-protesters-to-get-permission-112843/>; George Wright, 'Government Says Permission Needed for Online 'Black Monday' Protests', The Cambodia Daily, 21 May 2016. Available at: <https://www.cambodiadaily.com/archives/government-says-permission-needed-for-online-black-monday-protests-112877/>; Ouch Sony, 'Police Break Up Non-Sunday Bible Study', The Cambodia Daily, 6 June 2016. Available at: <https://www.cambodiadaily.com/news/police-break-up-non-sunday-bible-study-113517/>; Bun Sengkong, 'Police accused of dispersing locals', The Phnom Penh Post, 3 November 2016. Available at: <http://www.phnompenhpost.com/national/police-accused-dispersing-locals>.

<sup>38</sup> Ben Sokhean, 'Activists to Protest at Eviction Site Despite Ban', The Cambodia Daily, 10 October 2016. Available at: <https://www.cambodiadaily.com/news/activists-protest-eviction-site-despite-ban-119059/>.

## Fundamental Freedoms Monitoring Project

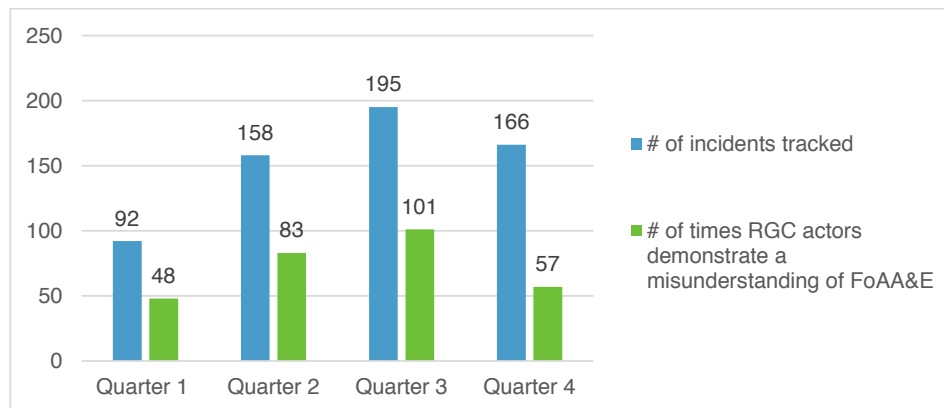
banners, use a loudspeaker, talk about politics or criticize the government during the meeting.<sup>39</sup> In another incident in June 2016, it was reported that Black Monday protesters had been arrested and released only after signing contracts at police stations, promising to refrain from protest activities in future.<sup>40</sup> This practice has no basis in domestic law.

The actions by authorities to either prevent or monitor the activity of CSOs show a misapplication of the legal framework in respect of fundamental freedoms. The LANGO does not require prior permission for regular NGO activities such as meetings, trainings or discussions,<sup>41</sup> and it does not allow for authorities to monitor regular CSO activities or their participants. Similarly, the Law on Peaceful Assembly does not require prior permission to hold a demonstration, and many CSO activities, like meetings, workshops, educational activities and religious ceremonies, are exempt from its notification requirement.<sup>42</sup> However, as noted above, RGC actors at the national, provincial and commune levels have misapplied the LANGO and Law on Peaceful Assembly thereby extra-legally disrupting and curtailing CSO activities.<sup>43</sup>

### 3.2 The RGC demonstrated a misunderstanding of fundamental freedoms

The RGC and its actors frequently demonstrated a misunderstanding of the laws relating to fundamental freedoms (see Figure 7).

**FIGURE 7: RGC ACTORS' LEVEL OF UNDERSTANDING OF FOAA&E**



Source: FFMP Media Monitoring Database, April 2017

<sup>39</sup> Yorng Chandara, 'Youth groups raise concerns regarding the MRC', RFA, 2 February 2017. Available at: <http://www.rfa.org/khmer/news/environment/Youth-raises-concern-about-Mekong-River-02122017083801.html>.

<sup>40</sup> Ben Sokhean and Khy Sovuthy, 'On Fifth 'Black Monday,' Seven Protesters Arrested', The Cambodia Daily, 6 June 2016. Available at: <https://www.cambodiadaily.com/news/on-fifth-black-monday-seven-protesters-arrested-113561>.

<sup>41</sup> See OHCHR, 'Freedom of peaceful assembly and association'. Available at: <http://cambodia.ohchr.org/en/civil-society-fund-freedoms/freedom-peaceful-assembly-association>.

<sup>42</sup> See: OHCHR, 'Implementation Guide to the Law on Peaceful Demonstration'. Available at: <http://cambodia.ohchr.org/en/civil-society-fund-freedoms/freedom-peaceful-assembly-association>.

<sup>43</sup> See: Phak Seangly, 'Weekly check-in rejected by NGOs in Oddar Meanchey', The Phnom Penh Post, 27 July 2016. Available at: <http://www.phnompenhpost.com/national/weekly-check-rejected-ngos-oddar-meanchey>; Kong Meta, 'Banned workshop carries on,' The Phnom Penh Post, 11 October 2016. Available at: <http://www.phnompenhpost.com/national/banned-workshop-carries>; Sek Odom, 'Government is watching you, official tells protesters,' The Cambodia Daily, 1 November 2016. Available at: <https://www.cambodiadaily.com/news/government-watching-official-tells-protesters-119990/>; Bun Sengkong, 'Police accused of dispersing locals,' The Phnom Penh Post, 3 November 2016. Available at: <http://www.phnompenhpost.com/national/police-accused-dispersing-locals>; Chea Kithya, 'Opposition officials in Takeo province accuse the government prevented from meeting with citizens,' RFA, 11 December 2016. Available at: <http://www.rfa.org/khmer/news/politics/takeo-authority-bans-cnrrp-gatering-12112016070802.html>.



## Fundamental Freedoms Monitoring Project

The RGC has consistently and arbitrarily characterized peaceful assemblies deemed to be critical of the government as part of a “color revolution.”<sup>44</sup> The RGC has used this “color revolution” allegation to justify widespread prohibitions of, and interfere with, assemblies - most prominently the Black Monday protests.<sup>45</sup> The Black Monday demonstrations, in which participants wear the color black, seek the release of imprisoned human rights defenders, a proper investigation into the death of Kem Ley, and justice for victims of land grabbing. The Black Monday movement temporarily moved off the streets due to multiple arrests and threats by RGC authorities, but returned in March 2017, only to be met with further arrests.<sup>46</sup>

The right to freedom of expression is often misunderstood.

- In August 2016, authorities in Ratanakiri’s Koh Nhek district told indigenous people that they would be arrested if they attempted to join a celebration marking the UN International Day of the World’s Indigenous People, leading to the cancellation of the event.<sup>47</sup>
- In January 2017, an activist for the League for Democracy Party was prevented from broadcasting political messages over a loudspeaker, being told his actions affect other political parties, and was asked to sign a contract promising not to repeat his activity.<sup>48</sup>
- On three occasions in February 2017, in Kampong Thom, Takeo and Stung Treng provinces, ADHOC staff were asked to provide evidence that they had permission to hang banners on ADHOC property, and were asked to remove the banners.<sup>49</sup>
- In March 2017, Black Monday protesters were arrested for wearing black and displaying placards; were released only after signing a document promising not to take part in future protests;<sup>50</sup> an opposition activist was threatened with legal action by the Cambodian People’s Party (CPP) spokesman over comments posted on Facebook;<sup>51</sup> and staff from a student association were prevented from hanging a banner by authorities, the reason given being that it affected public order.<sup>52</sup>

Senior RGC representatives and ministers have shown similar misunderstandings of fundamental freedoms. On one occasion, Interior Minister Sar Kheng stated that Ratanakiri Provincial Governor Thong Savon had broken the law – without specifying which law – when the governor falsely

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<sup>44</sup> Shaun Turton, ‘CPP calls out foreign NGOs for stirring ‘colour revolution’’, The Phnom Penh Post, 24 May 2017, “A colour revolution refers to mostly nonviolent citizen-led movements that have toppled regimes in former Soviet countries. As elections near, [Cambodian] government figures have increasingly adopted the term to paint the opposition, civil society and critics as a threat to the country’s stability”. Available at: <http://www.phnompenhpost.com/national/cpp-calls-out-foreign-ngos-stirring-colour-revolution>.

<sup>45</sup> Khuon Narim, ‘Interior Ministry Report Boasts of Crackdown on Political Protests’, The Cambodia Daily, 23 February 2017. Available at: <https://www.cambodiadaily.com/news/interior-ministry-report-boasts-of-crackdown-on-political-protests-125669/>.

<sup>46</sup> Sek Odom, ‘Black Monday Arrests Return Amid Fears of ‘Revolution’’, The Cambodia Daily, 27 March 2017. Available at: <https://www.cambodiadaily.com/morenews/black-monday-arrests-return-amid-fears-of-revolution-127141/>. See also, Sek Odom and George Wright, ‘Black Monday’s Year of Arrests, Protests and Growing Futility’, The Cambodia Daily, 1 May 2017. Available at: <https://www.cambodiadaily.com/news/black-mondays-year-of-arrests-protests-and-growing-futility-128930/>.

<sup>47</sup> Aun Pheap, ‘Alleged Threats Mar UN’s Indigenous Holiday’, The Cambodia Daily, 10 August 2016. Available at: <https://www.cambodiadaily.com/news/alleged-threats-mar-uns-indigenous-holiday-116482/>.

<sup>48</sup> Niem Chheng, ‘LDP activist detained for political messages’, The Phnom Penh Post, 12 January 2017. Available at: <http://www.phnompenhpost.com/national/l dp-activist-detained-political-messages>.

<sup>49</sup> Incident Reports IRAD004; IRAD008; IRAD015.

<sup>50</sup> Sek Odom, ‘Black Monday Arrests Return Amid Fears of ‘Revolution’’, The Cambodia Daily, 28 March 2017. Available at: <https://www.cambodiadaily.com/morenews/black-monday-arrests-return-amid-fears-of-revolution-127141/>.

<sup>51</sup> Touch Sokha and Shaun Turton, ‘Sok An slam draws legal threat’, The Phnom Penh Post, 20 March 2017. Available at: <http://www.phnompenhpost.com/national/sok-slam-draws-legal-threat>.

<sup>52</sup> Incident Report IRCC009.

## Fundamental Freedoms Monitoring Project

claimed to have met with Mr. Kheng as an excuse for missing a different meeting.<sup>53</sup> In another incident, the Ministry of Environment accused the United States National Aeronautics and Space Administration (NASA) of incitement by publishing data about deforestation in Cambodia.<sup>54</sup> In August 2016, the Ministry of Labor and Vocational Training warned two activists who led a workers' protest in July that if they wanted to take part in union-related demonstrations, they would have to register as a union.<sup>55</sup>

The Prime Minister has also demonstrated a misunderstanding of the international standards that sit atop Cambodia's legal framework. In January 2017, during a meeting with local journalists and government officials, he suggested that international standards do not apply to Cambodian politics, stating that they only applied to some sectors such as sports and food. "For political issues, do not talk about international standards."<sup>56</sup> In March 2017, Council of Ministers spokesman Phay Siphon claimed that international law is meant "as guidance... we have no obligation to do what it states. We are a sovereign nation."<sup>57</sup> These quotes conflict with Article 31 of the Cambodian Constitution, which incorporates international human rights treaties directly into Cambodian law.

These examples show that the RGC and its actors frequently demonstrate a misunderstanding of laws affecting fundamental freedoms. These misunderstandings occur at nearly every level of the RGC – from village-level police to the Council of Ministers.

### 3.3 The exercise of fundamental freedoms has been curtailed and penalized

#### 3.3.1 Freedom of assembly has been arbitrarily suppressed, sometimes violently

Data collected by the Monitoring Team is as follows:

- Beginning on 9 May 2016, authorities enforced an arbitrary ban on all Black Monday gatherings – which included the banning of all color coordinated gatherings – leading to 35 arrests of 21 different people (some individuals were arrested multiple times).<sup>58</sup>

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<sup>53</sup> Sen David and Yesenia Amaro, 'Minister chides 'lying' governor', The Phnom Penh Post, 3 January 2017. Available at: <http://www.phnompenhpost.com/national/minister-chides-lying-governor>.

<sup>54</sup> Aun Pheap, 'Government Accuses NASA of Incitement Over Deforestation Data', The Cambodia Daily, 16 January 2017. Available at: <https://www.cambodiadaily.com/morenews/govt-accuses-nasa-of-incitement-over-deforestation-data-123471/>.

<sup>55</sup> Sen David, 'Activists chided after leading worker protest', The Phnom Penh Post, 1 August 2016. Available at: <http://www.phnompenhpost.com/national/activists-chided-after-leading-worker-protest>.

<sup>56</sup> Kuch Naren and Colin Meyn, 'Hun Sen, as Journalism Professor, Wines and Dines the Media', The Cambodia Daily, 16 January 2017. Available at: <https://www.cambodiadaily.com/morenews/hun-sen-as-journalism-professor-wines-and-dines-the-media-123481/>.

<sup>57</sup> Leonie Kijewski, 'Courts, laws concern for UN', The Phnom Penh Post, 9 March 2017. Available at: <http://www.phnompenhpost.com/national/courts-laws-concern-un>.

<sup>58</sup> See: Chhay Channyda, Mech Dara and Ananth Baliga, 'NGO officials, activists arrested in 'Black Monday' protest crackdown', The Phnom Penh Post, 9 May 2016. Available at: <http://www.phnompenhpost.com/national/ngo-officials-activists-arrested-black-monday-protest-crackdown>; Lay Samean, 'Five arrested in second round of 'Black Monday' protests', The Phnom Penh Post, 17 May 2016. Available at: <http://www.phnompenhpost.com/national/five-arrested-second-round-black-monday-protests>; Khouth Sophak Chakrya and Ananth Baliga, 'Seven briefly held on latest 'Black Monday'', The Phnom Penh Post, 7 June 2016. Available at: <http://www.phnompenhpost.com/national/seven-briefly-held-latest-black-monday>; Lay Samean, 'No bail for jailed Adhoc, NEC officials', The Phnom Penh Post, 14 June 2016. Available at: <http://www.phnompenhpost.com/national/no-bail-jailed-adhoc-nec-officials>; Lay Samean, 'Usual suspects taken in for 'Black Monday'', The Phnom Penh Post, 21 June 2016. Available at: <http://www.phnompenhpost.com/national/usual-suspects-taken-black-monday>; Khouth Sophak Chakrya, 'Black Monday activist arrested as CNRP gives campaign nod', The Phnom Penh Post, 9 August 2016. Available at: <http://www.phnompenhpost.com/national/black-monday-activist-arrested-cnrp-gives-campaign-nod>; Sek Odom, 'Two Rounds of Arrests Mark 'Black Monday'', The Cambodia Daily, 16 August 2016. Available at: <https://www.cambodiadaily.com/news/two-rounds-arrests-mark-black-monday-116737/>; Ananth Baliga and Lay Samean, 'Activists charged, foreigner deported over Black Monday protests', The Phnom Penh Post,

## Fundamental Freedoms Monitoring Project

- On 4 April 2016, police violently suppressed a protest against the TUL by labor activists outside the National Assembly.<sup>59</sup>
- In July 2016, authorities in Kampong Cham stopped a procession in memory of Dr. Kem Ley, took photographs of participants and confiscated a tuk tuk.<sup>60</sup>
- In December 2016, Prime Minister Hun Sen announced that Freedom Park, a square intended to provide a space for peaceful protest, would be moved to the outskirts of the city, making it more difficult for demonstrators to reach it.<sup>61</sup>
- In December 2016, International Human Rights Day (IHRD) celebrations held across Cambodia were met with multiple unjustified restrictions of the freedoms of assembly and association:
  - Phnom Penh authorities refused to grant permission to a coalition of NGOs to hold the main IHRD event, a march, warning that if it went ahead it would take unspecified “measures” against demonstrators.<sup>62</sup>
  - A youth association submitted two letters to Phnom Penh City Hall and spoke with two City Hall deputy chiefs seeking permission to celebrate IHRD in a park in central Phnom Penh, but permission was not granted. The association went ahead with the celebration as planned, but was stopped by security forces and ordered to go to Freedom Park to join the main demonstration.<sup>63</sup>
  - On 9 December 2016, an association focused on land rights violations celebrated IHRD in Kampot Province with a group of over 70 people. Around 40 district police officers, led by the district administration official, intervened to stop the event. After unsuccessful negotiations, the group stayed to eat together but was unable to go ahead with planned speeches, and police monitored the rest of the event.<sup>64</sup>

### Case Study 3

In March 2017, four young activists from the Khmer Student Intelligent League Association (KSILA) were arrested for screening an Al Jazeera documentary about the death of Dr. Kem Ley. The screening was held in KSILA’s office on private property, but police shut down the screening and arrested the students. The RGC described the group as an “illegal organization” and suggested that it needed permission to carry out such activities even though the RGC acknowledged that the video was not banned, “They [the authorities] did not ban the video—they banned the activists from it.” The owner of the residence was also questioned by police, with commune chief Soy Sophal warning that she may have to take responsibility for the tenants’ actions.

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18 August 2016. Available at: <http://www.phnompenhpost.com/national/activists-charged-foreigner-deported-over-black-monday-protests>; Sek Odom, ‘Black Monday Arrests Return Amid Fears of ‘Revolution’’, The Cambodia Daily, 28 March 2017. Available at: <https://www.cambodiadaily.com/morenews/black-monday-arrests-return-amid-fears-of-revolution-127141/>.

<sup>59</sup> Kuch Naren and Khuon Narim, ‘Violence as Assembly Passes Trade Union Law’, The Cambodia Daily, 5 April 2016. Available at: <https://www.cambodiadaily.com/featured/violence-as-assembly-passes-trade-union-law-110857/>.

<sup>60</sup> RFA, ‘Citizens frustrated when photos of Ley confiscated’, 12 July 2016. Available at: <http://www.rfa.org/khmer/news/human-rights/Residents-in-KampongCham-disappointed-that-authorities-revoked-photo-Kem-Ley-07122016093139.html>.

<sup>61</sup> Khuon Narim and Janelle Retka, ‘Freedom Park May Move North of City, Hun Sen Says’, The Cambodia Daily, 7 December 2016. Available at: <https://www.cambodiadaily.com/news/freedom-park-may-move-north-city-hun-sen-says-121616/>.

<sup>62</sup> Khuon Narim, ‘Human Rights Day goes off without a hitch or a march’, The Cambodia Daily, 12 December 2016. Available at: <https://www.cambodiadaily.com/news/human-rights-day-goes-off-without-hitch-march-121839/>.

<sup>63</sup> Incident Report IRCC028.

<sup>64</sup> Incident Report IRCC034.

## Fundamental Freedoms Monitoring Project

- In another incident, after a display of military equipment at a military “sports day” in January 2017, Eng Hy, a military police officer, said that armored personnel carriers equipped with tear-gas cannons by Cambodia’s National Military Police would be used to crack down on protesters.<sup>65</sup>
- On 23 February 2017, district security guards violently cracked down on peaceful protesters – including police chasing a protester into a shopping mall and beating him — during the trial of Tep Vanny.<sup>66</sup>

### 3.3.2 Human rights defenders have been targeted and unduly penalized

RGC actors have singled out and persecuted human rights defenders (HRDs) through threats, judicial harassment and physical violence. The extra-legal actions, judicial intimidation and other forms of

harassment likely have a chilling effect on CSOs and other individuals in the exercise of their fundamental freedoms.

Prime Minister Hun Sen warned that those who disturb national security by exercising their fundamental freedoms should “prepare the coffin,” a comment which Council of Ministers spokesman Phay Siphon reiterated: “Tell all your friends, if you support the color revolution, prepare your own coffin.”<sup>67</sup>

- ADHOC staff members Lim Mony, Ny Sokha, Nay Vanda and Yi Soksan, as well as former ADHOC staffer and current Deputy Secretary General of the National Election Committee (NEC), Ny Chakrya (sometimes referred to as “The ADHOC Five”) have, at the time of writing, been held in pre-trial detention for more than one year,

#### Case Study 4

Boeung Kak lake activist Tep Vanny, a leader of the Black Monday protests, has been subjected to numerous legal actions related to her activism during the past year. She was arrested alongside fellow activist Bov Sophea and Spanish researcher Marga Bujosa Segado on 15 August 2016. Ms. Vanny and Ms. Sophea were tried on 22 August, and found guilty of “insult” despite having been charged with incitement.

Ms. Vanny was never released from prison; as soon as her sentence ended, she was immediately sent to pretrial detention for a five-year old case that had not been pursued by prosecutors. In this case, Ms. Vanny and fellow activists Bo Chhorvy, Heng Mom and Kong Chantha were charged with insulting and obstructing public officials stemming from a protest in 2011. All four were convicted on 19 September 2016 and sentenced to six-months imprisonment, though all except Ms. Vanny were released, pending appeal.

Ms. Vanny was convicted again on 23 February 2017 for incitement to violence related to a protest outside Prime Minister Hun Sen’s residence in 2013.

despite the UN Working Group on Arbitrary Detention declaring the detention “arbitrary” and in contravention of articles 9, 10, 14, 22 and 26 of the ICCPR.<sup>68</sup>

<sup>65</sup> Mech Dara and Shaun Turton, ‘Military police machines’, The Phnom Penh Post, 12 January 2017. Available at: <http://www.phnompenhpost.com/national/military-police-machines>.

<sup>66</sup> Ben Sokhean, Sek Odom and George Wright, ‘Guards Chase Down, Beat Activist; Authorities Deny Violence’, The Cambodia Daily, 24 February 2017. Available at: <https://www.cambodiadaily.com/morenews/guards-chase-down-beat-activist-authorities-deny-violence-125743/>.

<sup>67</sup> Touch Sokha and Leonie Kijewski, ‘PM files lawsuit against analyst’, The Phnom Penh Post, 14 February 2017. Available at: <http://www.phnompenhpost.com/national/pm-files-lawsuit-against-analyst>.

<sup>68</sup> UN Working Group on Arbitrary Detention, *Opinion No. 45/2016 concerning Ny Sokha, Nay Vanda, Yi Soksan, Lim Mony and Ny Chakrya (Cambodia)*, UN Doc. # A/HRC/WGAD/2016/45, para.54 (January 2017). Available at: [http://www.ohchr.org/\\_layouts/15/WopiFrame.aspx?sourcedoc=/Documents/Issues/Detention/Opinions/Session77/A-HRC-WGAD-2016-45\\_en.pdf&action=default&DefaultItemOpen=1](http://www.ohchr.org/_layouts/15/WopiFrame.aspx?sourcedoc=/Documents/Issues/Detention/Opinions/Session77/A-HRC-WGAD-2016-45_en.pdf&action=default&DefaultItemOpen=1).

## Fundamental Freedoms Monitoring Project

- The Anti-Corruption Unit threatened ADHOC President, Mr. Thun Saray, with arrest if he continued to oppose the criminal charges against the ADHOC Five.<sup>69</sup>
- Political analyst Kim Sok was arrested and charged with incitement and defamation after the Prime Minister filed two complaints against him for two sets of comments he made to Radio Free Asia, allegedly suggesting the ruling party may have been to blame for the murder of Dr. Kem Ley.<sup>70</sup>

These prosecutions and threats target prominent HRDs, especially those who publicly criticize the RGC and its policies. Such threats and prosecutions have a chilling effect on fundamental freedoms and are not in compliance with either domestic law or international human rights law.

### 3.4 Respect for the rights of marginalized groups is in need of improvement

The Monitoring Team tracked initiatives by the RGC aimed at respecting and promoting freedom of association and related rights for marginalized groups, as well as instances in which RGC institutions discriminated against marginalized groups.<sup>71</sup>

The Monitoring Team found two actions taken by the RGC to promote the freedom of association or related rights of marginalized groups. First, **Ethnic Phnong** villagers in Mondulkiri ended a five-year dispute with authorities by agreeing to a plan to develop the Phnom Dos Kromom mountain area, a sacred site for the Phnong people. The agreement includes a provision that local authorities will develop a special museum designed to celebrate the Phnong culture.<sup>72</sup> Second, 100 Jarai people from Ratanakiri province successfully registered with the Mol as an official ethnic minority.<sup>73</sup>

Media Monitoring recorded 18 instances of the rights of marginalized groups being affected by RGC actors. Below are some examples:

- A group of **indigenous Kuoy** people in Preah Vihear was banned from protesting the inauguration of a new sugar mill, which they claim misappropriated their land.<sup>74</sup> In another case, involving the same community, police prevented the community from holding a traditional ceremony.<sup>75</sup>
- On 21 August, police in Bakeo district, Ratanakiri, interrupted regular Sunday worship by **indigenous Jarai Christians** and demanded that the community make weekly reports to the district police.<sup>76</sup>

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<sup>69</sup> Ananth Baliga and Touch Sokha, 'Fear of arrest drove Adhoc chief abroad', The Phnom Penh Post, 27 October 2016. Available at: <http://www.phnompenhpost.com/national/fear-arrest-drove-adhoc-chief-abroad>.

<sup>70</sup> Moniroth Morm, 'Cambodian Political Analyst Arrested For Defaming Prime Minister', RFA, 17 February 2017. Available at: <http://www.rfa.org/english/news/cambodia/cambodian-political-analyst-arrested-for-defaming-prime-minister-02172017154433.html>.

<sup>71</sup> Marginalized groups are defined as women, indigenous people, LGBTIQ, disabled, ethnic minorities, refugees and stateless persons.

<sup>72</sup> Sen David, 'Mountain plan passes final hurdle', The Phnom Penh Post, 10 December 2016. Available at: <http://www.phnompenhpost.com/national/mountain-plan-passes-final-hurdle>.

<sup>73</sup> Ratha Visal, 'Indigenous Jarai declared a valid community', RFA, 19 March 2017. Available at: <http://www.rfa.org/khmer/news/land/jarai-ethnic-group-03192017054108.html>.

<sup>74</sup> Phak Seangly, 'Protests planned for Preah Vihear sugar plant's opening', The Phnom Penh Post, 19 April 2016. Available at: <http://www.phnompenhpost.com/national/protests-planned-preah-vihear-sugar-plants-opening>.

<sup>75</sup> Bo Savy, 'Police forbid citizens from commemorating spirit land', VOD Hot News, 18 April 2016. Available at: <http://vodhotnews.com/2016/04/police-forbid-citizens-spirits-commemorate-land/>.

<sup>76</sup> Incident Report IRCC003.

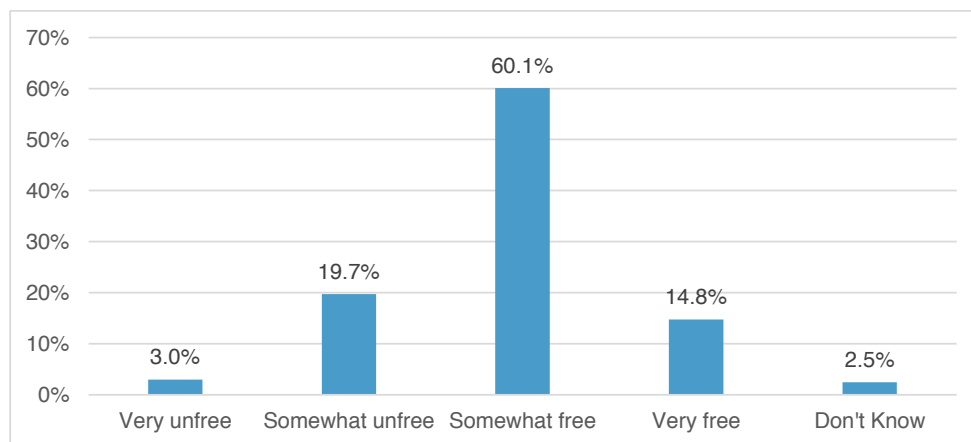
## Fundamental Freedoms Monitoring Project

- In December 2016, eight members of the lesbian, gay, bisexual, transgender, intersex and queer (**LGBTIQ**) community were confronted by police officers while waiting for a taxi in Siem Reap province, and were then taken to the police station. The group were detained overnight and were warned by police not to ask why they had been detained. After one day in custody, police ordered them to pay \$30, sign contracts promising to refrain from criminal activity, and be photographed in order to be released.<sup>77</sup>
- Authorities in Phnom Penh’s Sen Sok district on 17 October 2016 confiscated a group of **disabled** musicians’ instruments and ordered them to move off the sidewalk.<sup>78</sup>
- 200 ethnic **Bunong** villagers from Monduliri’s Koh Nhek district protested on 27 January 2017 after the deputy district governor and an armed escort seized timber from their homes, demanding a bribe for its return. At the protest, authorities fired a gunshot into the air as a “warning.”<sup>79</sup>

### 3.5 Civil society organizations and trade unions do not feel free to exercise their fundamental freedoms

The Monitoring Team assessed the extent to which association representatives, individually or through their organizations, feel able to exercise fundamental freedoms through the CSO/TU Leaders' Survey. In terms of freedom of association, only 14.8% of participants felt “Very Free” to participate in CSO activities without fear of being targeted by the RGC (see Figure 8).

**FIGURE 8: CSO/TU LEADERS GENERALLY FEEL FREE TO EXERCISE FOAA&E**



Source: FFMP CSO/TU Survey, December 2016

Regarding freedom of expression, only 7.9% of said they felt “Very Free” to exercise the freedom of expression (see Figure 9).

<sup>77</sup> Incident Report IRCC021.

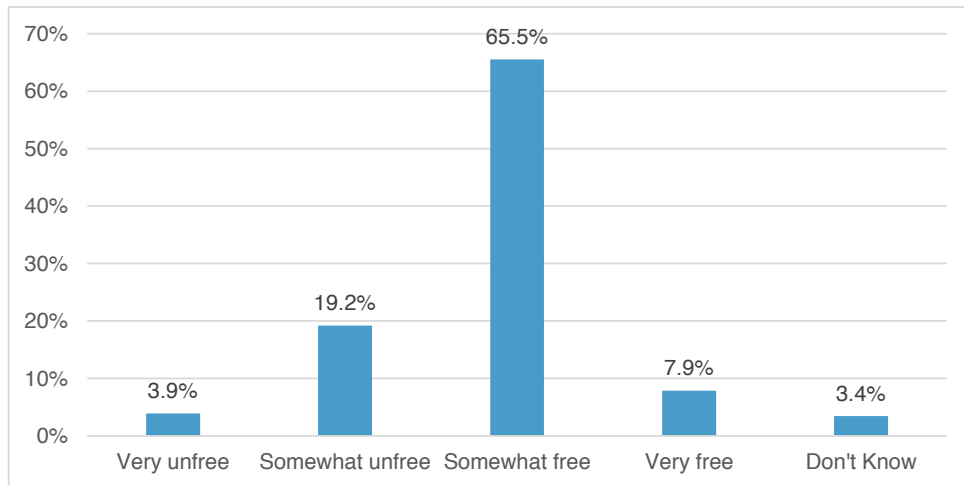
<sup>78</sup> Hun Sereyvath, ‘Disability said sen sok security deduction of their singing instruments’, VOD Hot News, 17 October 2016. Available at: <http://vodhotnews.com/17/10/2016/disability-said-sen-sok-security-deduction-their-singing-instrument/>; Yeang Socheameta, ‘Khmer Krom disappointed in Takeo provincial authorities do not allow Khmer Krom Human Rights Day Celebration,’ RFA, 9 December 2016. Available at: <http://www.rfa.org/khmer/news/human-rights/rights-takeo-12092016001508.html>.

<sup>79</sup> Phak Seangly, ‘Villagers accuse official of logging shakedown’, The Phnom Penh Post, 30 January 2017. Available at: <http://www.phnompenhpost.com/national/villagers-accuse-official-logging-shakedown>.



## Fundamental Freedoms Monitoring Project

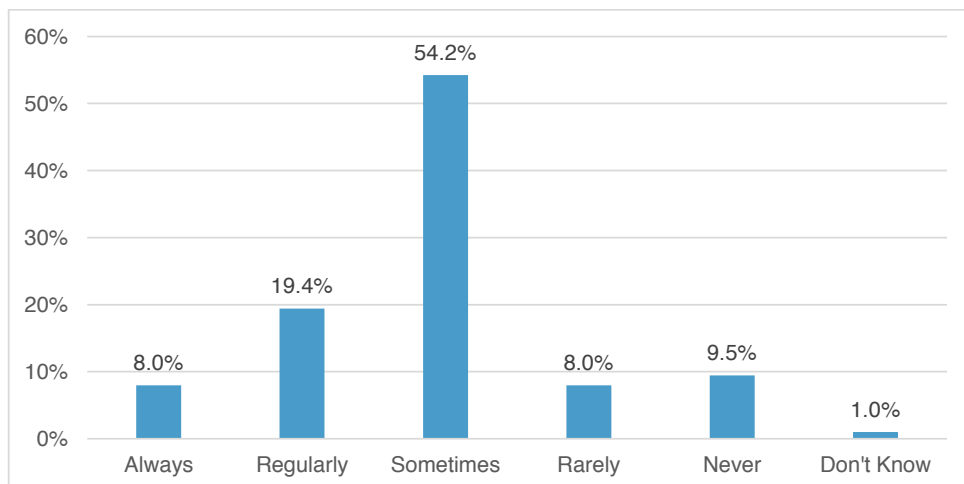
**FIGURE 9: CSO/TU LEADERS WHO REPORT FEELING ABLE TO EXERCISE FREEDOM OF EXPRESSION**



Source: FFMP CSO/TU Survey, December 2016

When asked, “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?”, in response 8% said “Always”, 19.4% “Regularly”, 54.2% “Sometimes”, 8.0% “Rarely”, and 9.5% “Never”. These results suggest that self-censorship is widespread among association leaders in Cambodia (see Figure 10).

**FIGURE 10: CSO/TU LEADERS WHO REPORT SELF-CENSORSHIP WHEN SPEAKING IN PUBLIC**

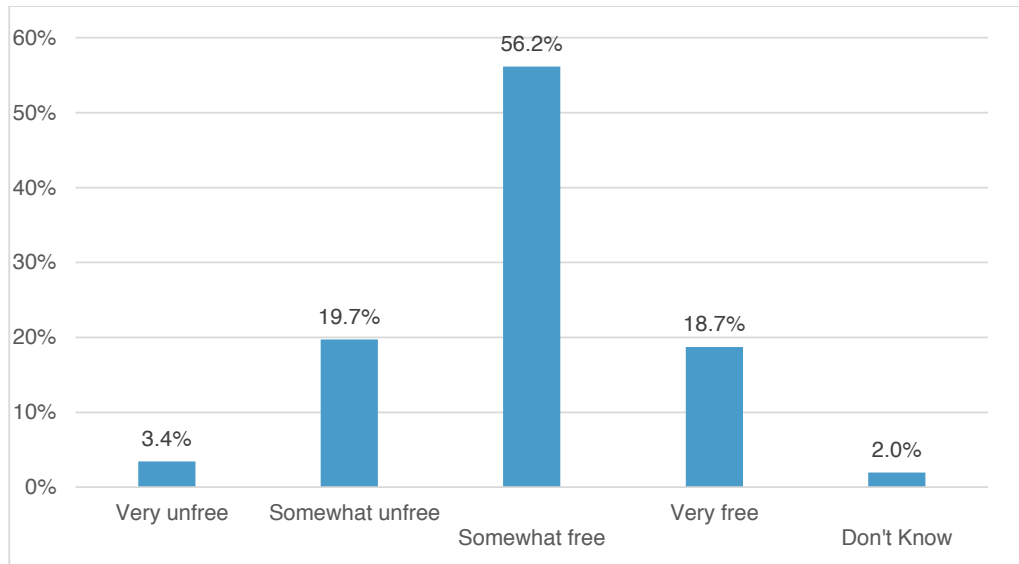


Source: FFMP CSO/TU Survey, December 2016

Regarding freedom of assembly, 18.7% of participants reported that they felt “Very Free” to peacefully assemble, 56.2% “Somewhat Free”, 19.7% “Somewhat Unfree”, and 3.4% “Very Unfree” (see Figure 11).

## Fundamental Freedoms Monitoring Project

**FIGURE 11: CSO/TU LEADERS LARGELY FEEL FREE TO ASSEMBLE**

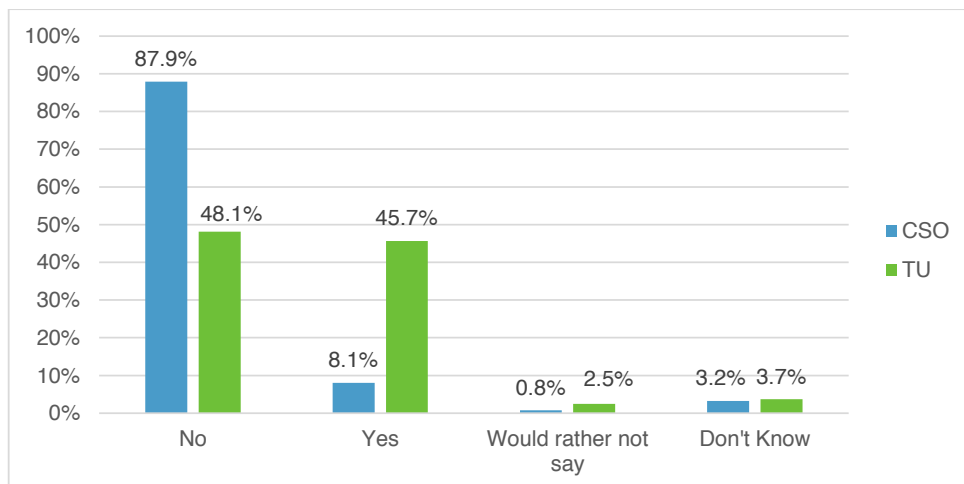


Source: FFMP CSO/TU Survey, December 2016

### 3.6 Third-party interference with fundamental freedoms is common but redress for third-party violations does not occur

Almost one quarter (22.9%) of respondents in the CSO/TU Leaders' Survey reported that a third-party had interfered with their activities. TU leaders reported more interference from third-parties than CSOs; 45.7% compared to 8.1%. TU leaders reported that such interference comes from other associations/unions 51.4% of the time and private companies 35.1% of the time (see Figure 12).

**FIGURE 12: TRADE UNIONS REPORT HIGHER LEVELS OF INTERFERENCE THAN OTHER CIVIL SOCIETY GROUPS**



Source: FFMP CSO/TU Survey, December 2016

Due to fear of reprisals from the RGC, some third parties are reluctant to be seen as associating with CSOs. The Monitoring Team recorded four instances of hosts or landlords preventing lawful and legitimate CSO activities. Although landlords and hosts are free to allow others to use their premises

## Fundamental Freedoms Monitoring Project

as they see fit, the examples below suggest that these hosts were responding to demands of the RGC, which is a worrying trend:

- On 18 October 2016, a workers' association organized a meeting in a restaurant, which was cancelled by the restaurant the day before the meeting citing threats from Poipet authorities as the reason for the cancellation.<sup>80</sup>
- In January 2017, two universities in different provinces rejected a CCHR request to conduct a Fair Trial Rights orientation with students because the RGC warned the universities not to hold activities relating topics deemed sensitive by the RGC.<sup>81, 82</sup>
- In February 2017, staff from a workers' association were not able to hold a meeting in a restaurant in Banteay Meanchey province because the restaurant owner had been warned by the police not to allow any such meetings.<sup>83</sup>

The most prominent example of a third-party violation of fundamental freedoms was the murder of political analyst Dr. Kem Ley on 10 July 2016. Although the motives for the murder remain unclear, the circumstances led many observers, including four UN Special Rapporteurs to express "deep concerns in view of his [Kem Ley's] standing as a critic of the government".<sup>84</sup> The investigation into Kem Ley's death and the subsequent murder trial were met with widespread condemnation.<sup>85</sup> In late December 2016, the Phnom Penh Municipal Court closed its investigation into the murder, and the killer was convicted of murder and sentenced to life in prison in March 2017.<sup>86</sup>

Although the investigation into Dr. Kem Ley's murder and the subsequent trial were marred by shortcomings and questions regarding their legitimacy, this incident is the only recorded case of redress for third-party violations of fundamental freedoms. Other cases of third-party interference with fundamental freedoms, like private security guards beating peaceful demonstrators (see Section 3.3.1), were not resolved.

### 3.7 There is a lack of accountability for violations of fundamental freedoms

The Monitoring Team tracked accountability for violations of fundamental freedoms committed by the RGC. Since the legal process often takes a long time, accountability is interpreted as occurring when appropriate steps towards accountability, including investigating alleged violations, are taken.

The Monitoring Team recorded only two instances of authorities being held accountable for violating the freedom of association and related rights. In May 2016, the Mol's serious crimes department began investigating a complaint filed in 2013 by members of the Boeung Kak community.<sup>87</sup> No reason was given for why the Mol began investigating the case after nearly three years, and there has been no further information about the progress of the investigation. In the other case, two members of Prime Minister Hun Sen's bodyguard unit, who were convicted of beating two CNRP

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<sup>80</sup> Incident Report IRSC006.

<sup>81</sup> Incident Report IRCC003.

<sup>82</sup> Incident Report IRCC004.

<sup>83</sup> Incident Report IRSC001.

<sup>84</sup> OHCHR, 'UN rights experts condemn killing of Cambodian political analyst and activist Kem Ley', UN OHCHR, 13 July 2016. Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20264&LangID=E>.

<sup>85</sup> Ouch Sony and George Wright, 'Kem Ley Killer Gets Life; Investigation Still Open', The Cambodia Daily, 24 March 2017. Available at: <https://www.cambodiadaily.com/news/kem-ley-killer-gets-life-investigation-still-open-127017/>.

<sup>86</sup> Niem Chheng and Shaun Turton, 'Breaking: Kem Ley killer gets life in prison', The Phnom Penh Post, 23 March 2017. Available at: <http://www.phnompenhpost.com/national/breaking-kem-ley-killer-gets-life-prison>.

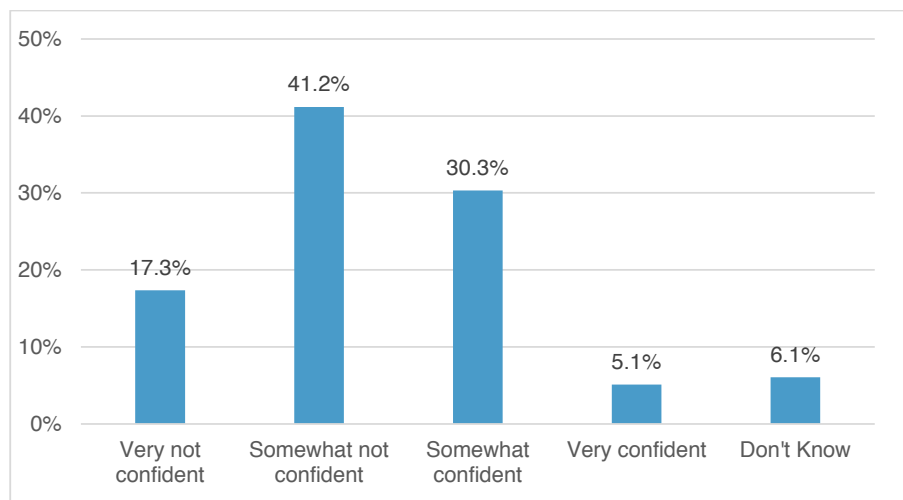
<sup>87</sup> Lay Samean, 'Victims summonsed three years after Wat Phnom crackdown', The Phnom Penh Post, 24 May 2016. Available at: <http://www.phnompenhpost.com/national/victims-summonsed-three-years-after-wat-phnom-crackdown>

## Fundamental Freedoms Monitoring Project

lawmakers in 2015, served just one year of their four-year prison sentences, and received promotions upon release.<sup>88</sup>

The Public Poll revealed that there is a very low level of confidence in systems of redress. Only 14% of individuals correctly identified mechanisms for redress (limited to “Court” or “Police”). Only 5.1% of respondents felt “Very Confident” that the RGC or judicial system would provide adequate redress, while 41.2% felt “Somewhat Unconfident” (see Figure 13). Significantly, when asked where one goes to complain if a human rights violation is suffered, the most common response (46%) was “an NGO.”

**FIGURE 13: THE PUBLIC’S LEVELS OF CONFIDENCE IN REDRESS SYSTEMS**



Source: FFMP Public Poll, October 2016

<sup>88</sup> Neang Ieng and Sel San, 'Cambodian Prime Minister Promotes Body Guards Who Beat Lawmakers', RFA, 28 December 2016. Available at: <http://www.rfa.org/english/news/cambodia/cambodian-prime-minister-promotes-body-12282016133914.html>.

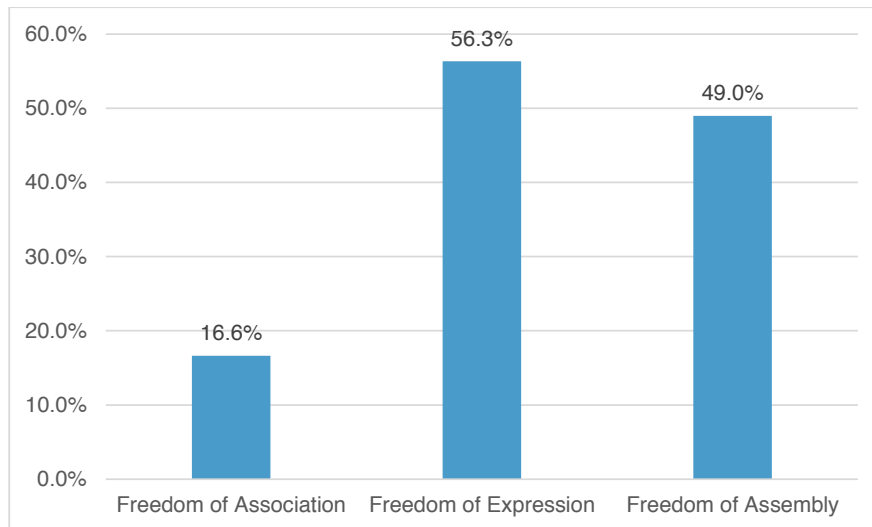
## 4. Key Milestone 3: Do Individuals Understand Freedom of Association and Related Rights, and Feel Free to Exercise Them?

Key Milestone 3 asks whether individual Cambodians are aware of their rights to freedom of association, expression and assembly, and whether they feel free to exercise those rights.<sup>89</sup> Individuals must know the extent of their rights to be able to fully exercise and enjoy them.

### 4.1 The Cambodian public has a low understanding of fundamental freedoms, particularly freedom of association

The Public Poll revealed that Cambodians generally have a low level of understanding of all three fundamental freedoms.<sup>90</sup> The freedom of association was least understood, with only **16.6%** of respondents correctly identifying the right. The freedom of expression was best understood, with **56.3%** of respondents correctly defining the right, while **49.0%** of respondents correctly identified freedom of assembly (see Figure 14).

**FIGURE 14: PROPORTIONS OF INDIVIDUALS POLLED WHO CORRECTLY IDENTIFY FUNDAMENTAL FREEDOMS**



Source: FFMP Public Poll, October 2016

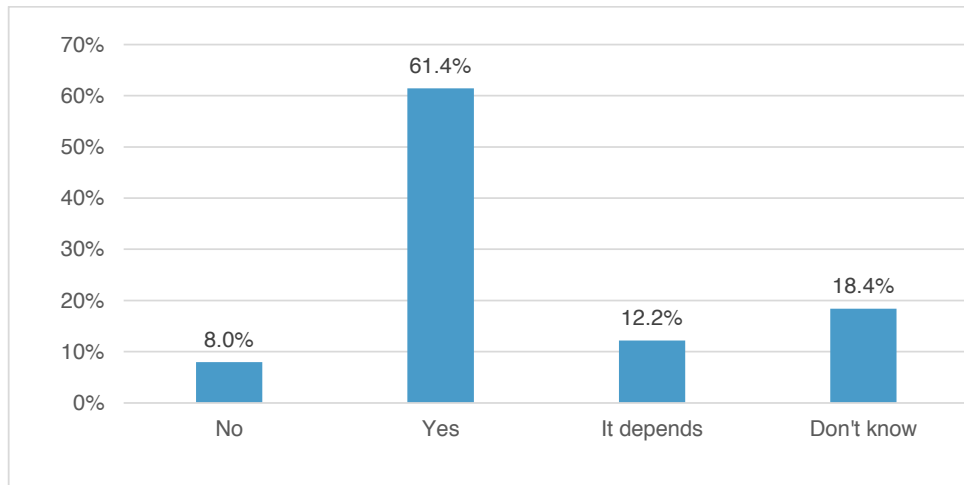
The Public Poll also measured the percentage of individuals who understand the laws pertaining to the freedom of association. To make this assessment, two questions were asked, each relating to the LANGO. The first question was: “If you wanted to form an association, would you have to register it with the authorities?” The responses were as follows: “Yes” (61.4%); “It Depends” (12.2%); “No” (8%); and “Don’t Know” (18.4%) (see Figure 15). For this question, the correct answer was “Yes”, meaning that 61% of respondents understood this element of the law related to freedom of association.

<sup>89</sup> The findings in Key Milestone 3 are primarily based on the Public Poll (see ref. p. 7).

<sup>90</sup> This was measured by asking separate open-ended questions in the following format: “What does freedom of expression/association/assembly mean to you?” Every response was then analyzed by lawyers of the Monitoring Team, and marked as either correct or incorrect. There was a significant variance between levels of understanding for each of the three freedoms.

## Fundamental Freedoms Monitoring Project

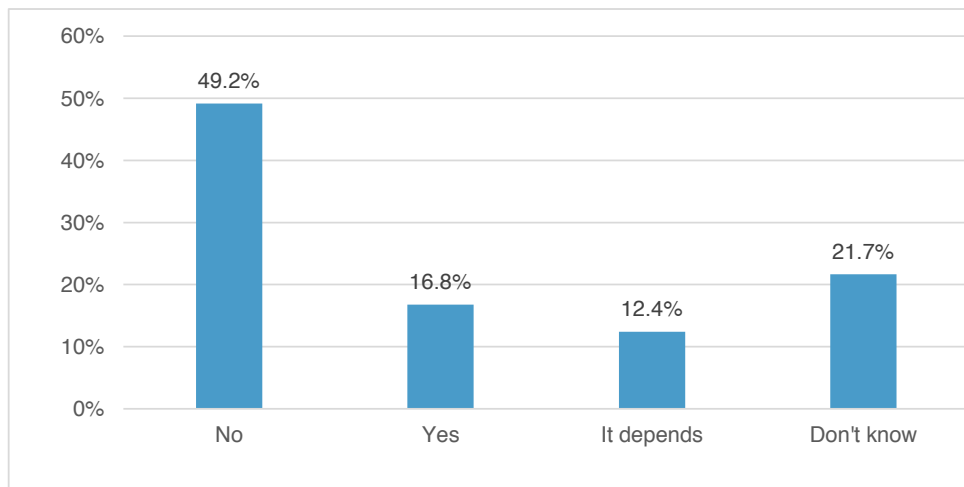
**FIGURE 15: IF YOU WANTED TO FORM AN ASSOCIATION, WOULD YOU HAVE TO REGISTER IT WITH THE AUTHORITIES?**



Source: FFMP Public Poll, October 2016

Second, respondents were asked: “If an association is not registered with the authorities, is it legal for it to operate?” The responses were as follows: “Yes” (16.8%); “It Depends” (12.4%); “No” (49.2%); and “Don’t Know” (21.7%) (see Figure 16). Here, the correct answer was “No”, meaning that 49% of respondents correctly understood this part of the law. The overall level of understanding of freedom of association was 55%.

**FIGURE 16: IF AN ASSOCIATION IS NOT REGISTERED WITH THE AUTHORITIES, IS IT LEGAL FOR IT TO OPERATE?**



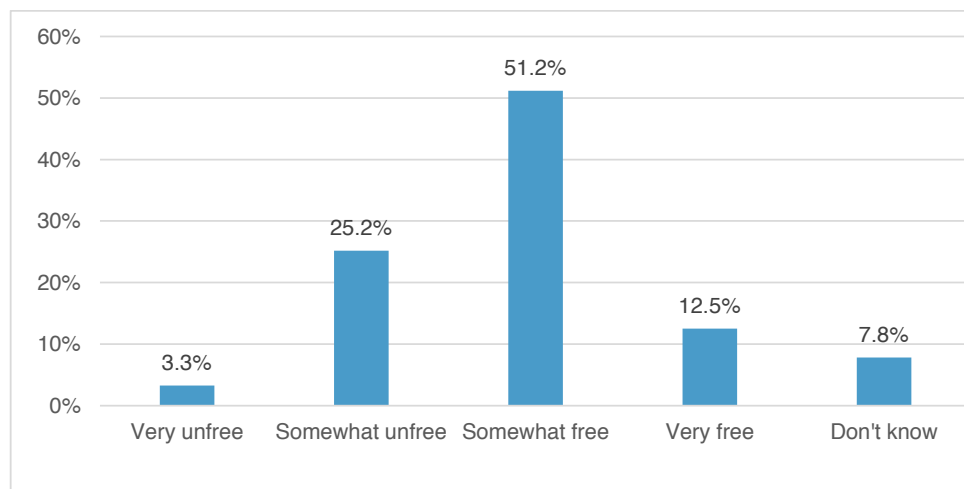
Source: FFMP Public Poll, October 2016

## 4.2 The Cambodian public feel only “somewhat free” to exercise fundamental freedoms

The Public Poll measured the degree to which people feel free to exercise fundamental freedoms by asking a series of questions which began with “How free do you feel to...” Respondents were given five options in response: “Very Free”; “Somewhat Free”; “Somewhat Unfree”; “Very Unfree”; and “Don’t Know”.

The majority of individuals felt only “Somewhat Free” (51.2%) to peacefully assemble, indicating that there are certain legal, social or cultural barriers that prevent the full enjoyment of this right (see Figure 17).

**FIGURE 17: PROPORTION OF INDIVIDUALS WHO REPORT FEELING FREE TO PEACEFULLY ASSEMBLE**

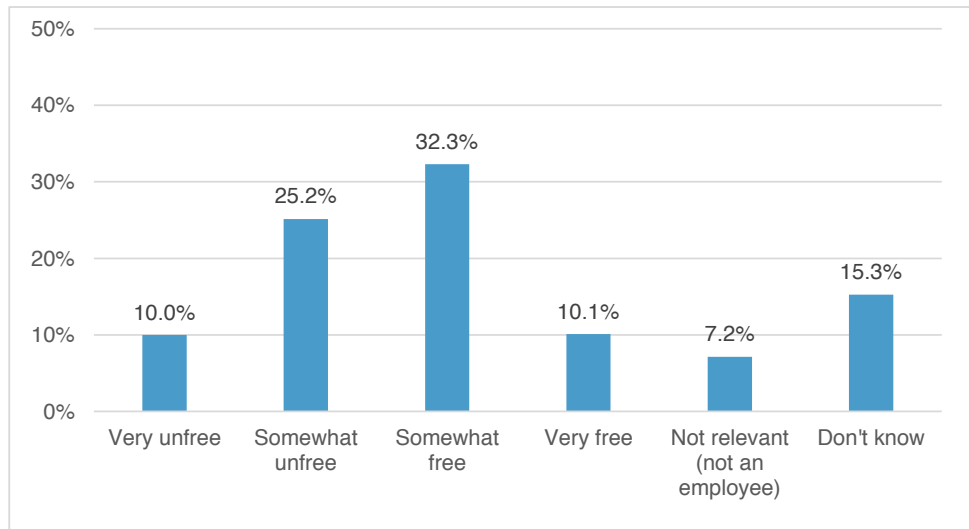


Source: FFMP Public Poll, October 2016

Most individuals (32.3%) felt only “Somewhat Free” to strike and/or demonstrate against their employer, suggesting that workers do not feel they can act upon their grievances without fear of retaliation (see Figure 18).

## Fundamental Freedoms Monitoring Project

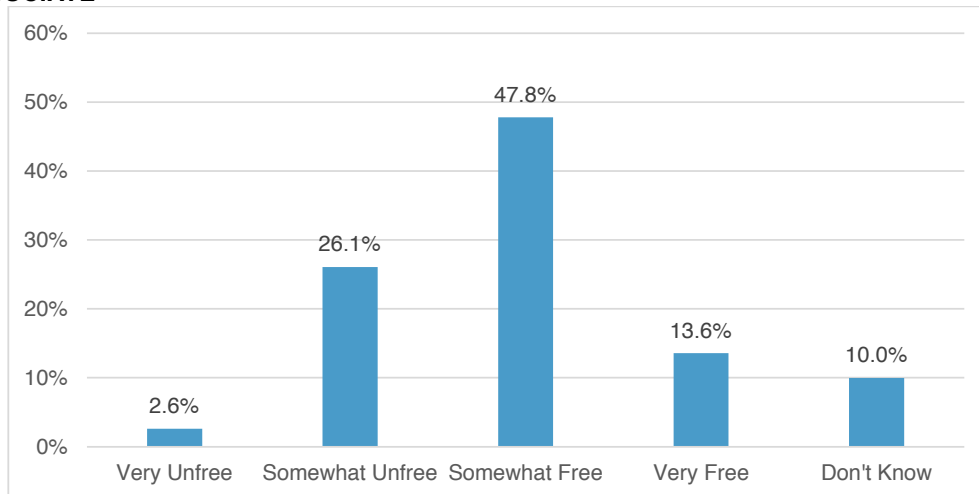
**FIGURE 18: PROPORTION OF INDIVIDUALS WHO REPORT FEELING FREE TO STRIKE AND DEMONSTRATE**



Source: FFMP Public Poll, October 2016

Just under half (47.8%) of participants felt “Somewhat Free” to join a group with other people for a shared peaceful purpose, suggesting that individuals do not feel very free to form associations (see Figure 19).

**FIGURE 19: PROPORTION OF INDIVIDUALS WHO REPORT FEELING FREE TO PEACEFULLY ASSOCIATE**



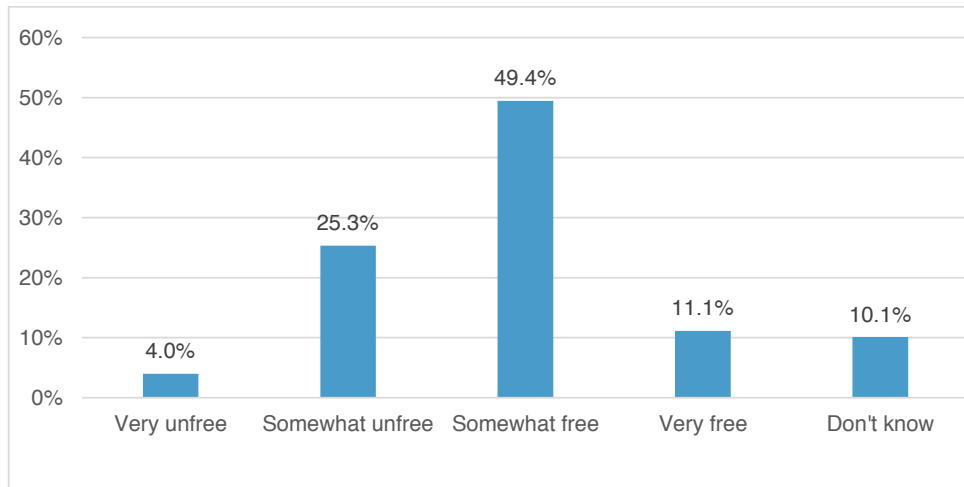
Source: FFMP Public Poll, October 2016

Regarding the freedom of expression, most individuals (49.4%) reported feeling only “Somewhat Free” to safely report information to a newspaper, television, social media and/or radio (see Figure 20). This indicates that individuals feel they cannot air their opinions in a public forum.



## Fundamental Freedoms Monitoring Project

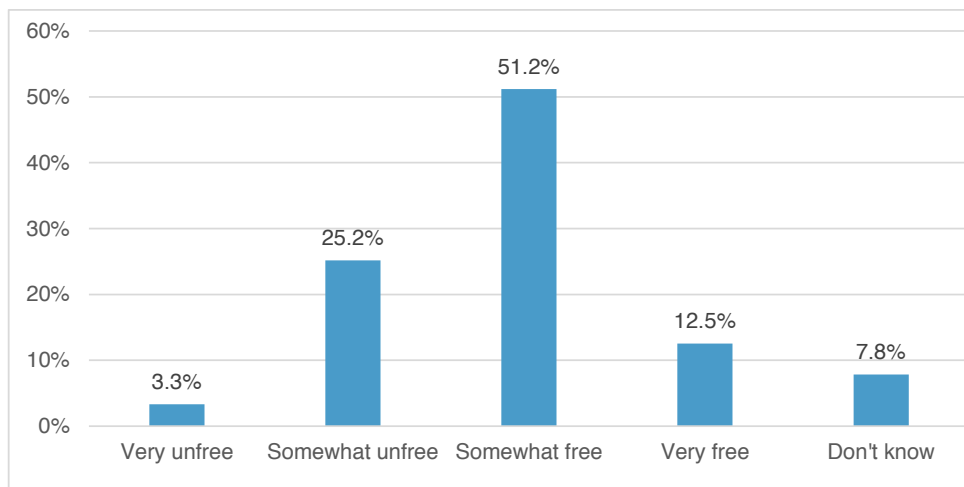
**FIGURE 20: PROPORTION OF INDIVIDUALS WHO REPORT FEELING FREE TO IMPART INFORMATION TO THE MEDIA**



Source: FFMP Public Poll, October 2016

The majority of individuals (51.2%) reported that they felt only “Somewhat Free” to speak openly about all subjects in public (see Figure 21).

**FIGURE 21: PROPORTION OF INDIVIDUALS WHO REPORT FEELING FREE TO EXPRESS THEMSELVES**

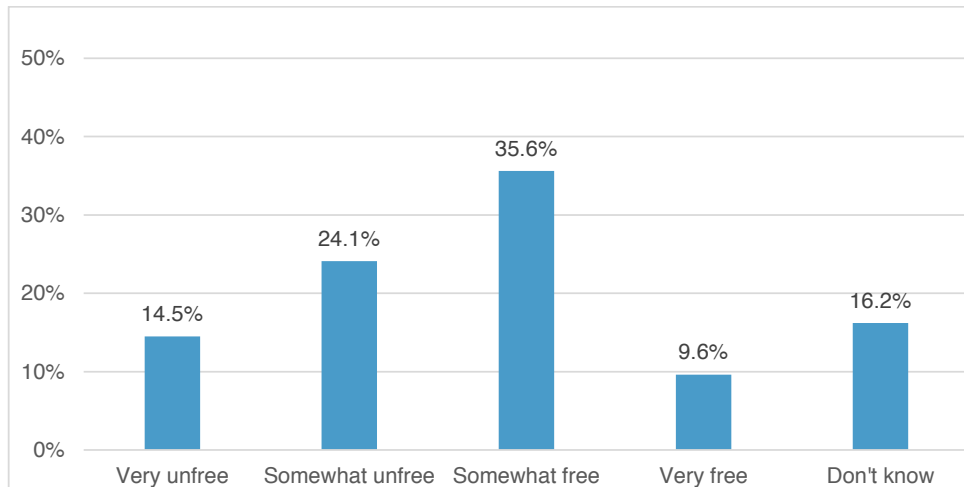


Source: FFMP Public Poll, October 2016

Most individuals (35.6%) felt only “Somewhat Free” to participate in political life, suggesting that respondents did not feel that they could translate their grievances into political action (see Figure 22).

## Fundamental Freedoms Monitoring Project

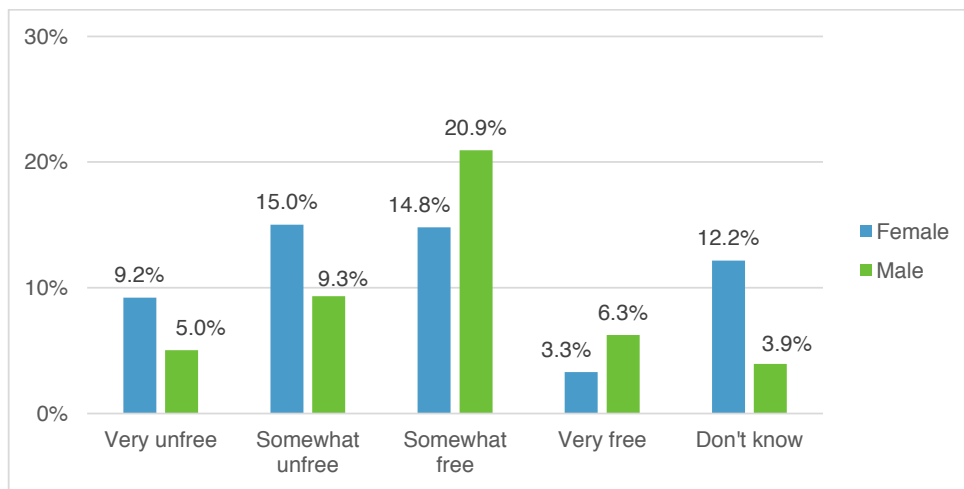
**FIGURE 22: PROPORTION OF INDIVIDUALS WHO FEEL FREE TO PARTICIPATE IN POLITICAL LIFE**



Source: FFMP Public Poll, October 2016

A gender-based analysis of each of the responses to the Public Poll was conducted to understand if there were any gender disparities. In general, female respondents felt slightly less free than male respondents, with the question regarding political freedom more pronounced (see Figure 23).

**FIGURE 23: GENDER-BASED ANALYSIS OF PROPORTION OF INDIVIDUALS WHO FEEL FREE TO PARTICIPATE IN POLITICAL LIFE**



Source: FFMP Public Poll, October 2016

### **4.3 HRDs have been fleeing the country out of fear of reprisals for exercising their fundamental freedoms**

The Monitoring Team recorded a trend of human rights defenders fleeing Cambodia out of fear of retribution by authorities. Perhaps due to the misapplication of laws relating to fundamental freedoms and crackdowns against those who exercise their rights, many activists apparently feel the need to flee the country in order to guarantee their safety and liberty. Some examples include:

## Fundamental Freedoms Monitoring Project

- Youth activist, Oun Vansak, fled to Thailand after receiving a summons to court for questioning over a charge of “incitement to discriminate” for posting comments critical of the RGC to a page he managed on Facebook.<sup>91</sup>
- Bou Rachana, wife of the late Dr. Kem Ley, fled to Thailand fearing that her family would be targeted.<sup>92</sup>
- Three environmental activists from the NGO Mother Nature fled to Thailand in January 2017, fearing re-imprisonment after already serving ten months in prison for leading anti-sand dredging protests; they feared that prosecutors would seek to reinstate their suspended sentences in retaliation for their continued activism.<sup>93</sup>
- In July 2016, twin brothers Chum Hour and Chum Hout fled to Thailand because they were fearful of reprisals after they met with Dr. Kem Ley shortly before his assassination.<sup>94</sup>
- Thun Saray, the president of ADHOC, fled to Canada after four members of his staff were detained.<sup>95</sup>

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<sup>91</sup> Lay Samean and Cristina Maza, ‘Fearing arrest, CNRP activist flees’, The Phnom Penh Post, 20 February 2017. Available at: <http://www.phnompenhpost.com/national/fearing-arrest-cnrp-activist-flees>.

<sup>92</sup> Sarada Taing, ‘Kem Ley’s Widow Says Cambodian Authorities Keep Her Family in The Dark’, RFA, 9 September 2016. Available at: <http://www.rfa.org/english/news/cambodia/kem-leys-widow-says-cambodian-09092016143547.html>.

<sup>93</sup> Ben Sokhean, ‘Mother Nature Activist Returns After Fleeing’, The Cambodia Daily, 29 March 2017. Available at: <https://www.cambodiadaily.com/news/mother-nature-activist-returns-after-fleeing-127192/>.

<sup>94</sup> Kuch Naren and Zsombor Peter, ‘Twins Get Temporary Asylum in Thailand’, The Cambodia Daily, 29 July 2016. Available at: <https://www.cambodiadaily.com/archives/twins-get-temporary-asylum-in-thailand-116029/>.

<sup>95</sup> Ben Sokhean, ‘From Canada, Adhoc President Finally Urges Gov’t to Release Staff’, The Cambodia Daily, 16 March 2017. Available at: <https://www.cambodiadaily.com/news/from-canada-adhoc-president-finally-urges-govt-to-release-staff-126622/>.

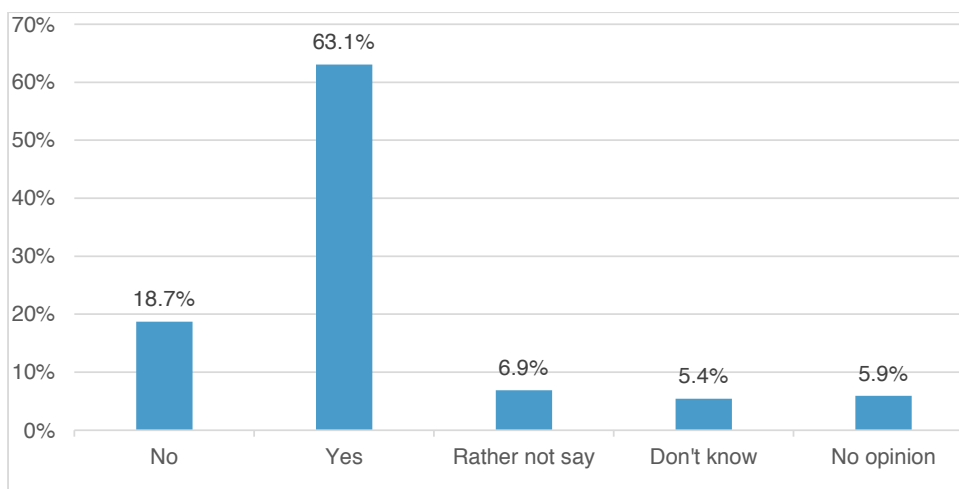
## 5. Key Milestone 4: Are civil society organizations and trade unions recognized by, and able to work in partnership with, the RGC?

The purpose of this Key Milestone is to determine the extent to which CSOs and TUs feel able to work with the RGC as partners in the development of Cambodia.<sup>96</sup> CSOs and TUs are key partners in a country's development; they should be integral to policy design and as a resource to government decision-makers. The FFMP encourages increased RGC collaboration with CSOs and TUs.

### 5.1 Most CSO leaders believe that their organization is recognized as legitimate by the RGC

The CSO/TU Leaders' Survey revealed that most CSO and TU Leaders (63.1%) believe that the RGC recognizes their association as a legitimate development partner (see Figure 24). It should be noted that the percentage of TU leaders answering "No" to this question (21.5%) was higher than the percentage of CSO leaders (9%).

**FIGURE 24: PROPORTION OF CSO/TU LEADERS WHO BELIEVE THEY ARE RECOGNIZED AS LEGITIMATE DEVELOPMENT PARTNERS BY THE GOVERNMENT**



Source: FFMP CSO/TU Survey, December 2016

### 5.2 RGC partnership with civil society organizations is more common than partnership with trade unions

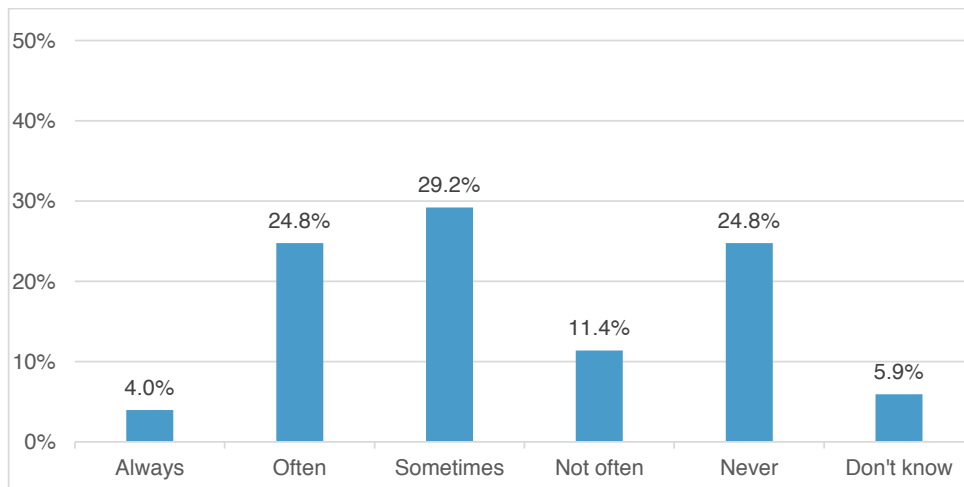
The CSO/TU Leaders' Survey measured the extent to which RGC institutions are open to partnerships with CSOs and TUs. Most respondents (29.2%) reported that they "Sometimes" partner with RGC authorities to achieve a common goal (see Figure 25), indicating that CSOs and TUs have a working relationship with the RGC.

<sup>96</sup> The findings in Key Milestone 4 are primarily based on the CSO/TU Leaders' Survey, which was carried out in the Third Quarter, and Media Monitoring (see ref. p. 21).

**Case Study 7**

One positive example of a consultation process between the RGC and CSOs is the drafting of the Access to Information Law. As part of a three-year drafting process, which is funded in part by the Swedish International Development Cooperation Agency (Sida) and UNESCO, the RGC launched a website where individuals can comment on and make suggestions to the draft law. This kind of democratic and accessible feedback method gives Cambodian citizens and civil society a voice in decision-making processes, which is commendable and should be replicated in the future.

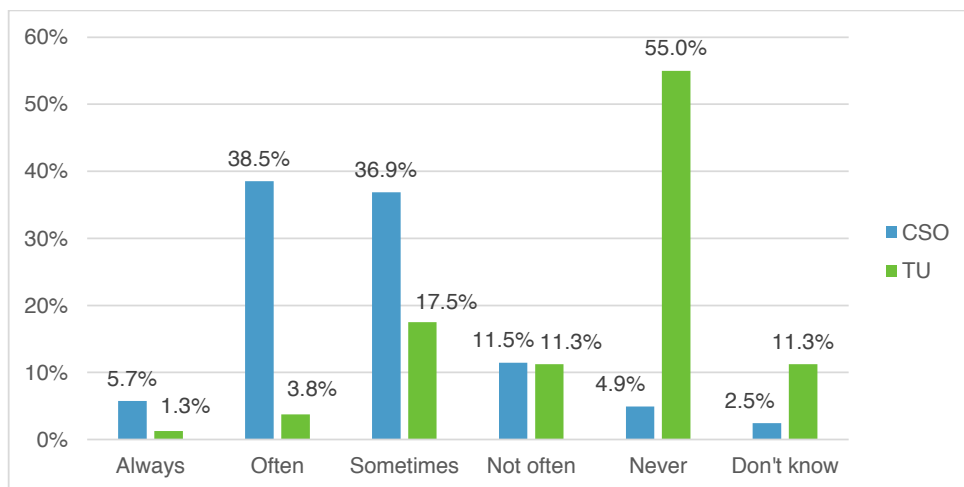
**FIGURE 25: CSO/TU LEADERS WHO REPORT PARTNERING WITH GOVERNMENT AUTHORITIES IN THE LAST 12 MONTHS**



Source: FFMP CSO/TU Survey, December 2016

The experience for CSO and TUs varies considerably, as can be seen when the answers to this question are disaggregated by CSO and TU (see Figure 26), with 55% of TU leaders reporting that they never work with the RGC, while 38.5% “Often” and 36.9% “Sometimes” partner with the RGC.

**FIGURE 26: EXPERIENCE PARTNERING WITH THE GOVERNMENT VARIES CONSIDERABLY BETWEEN TRADE UNIONS AND OTHER CIVIL SOCIETY GROUPS**



## Fundamental Freedoms Monitoring Project

Source: FFMP CSO/TU Survey, December 2016

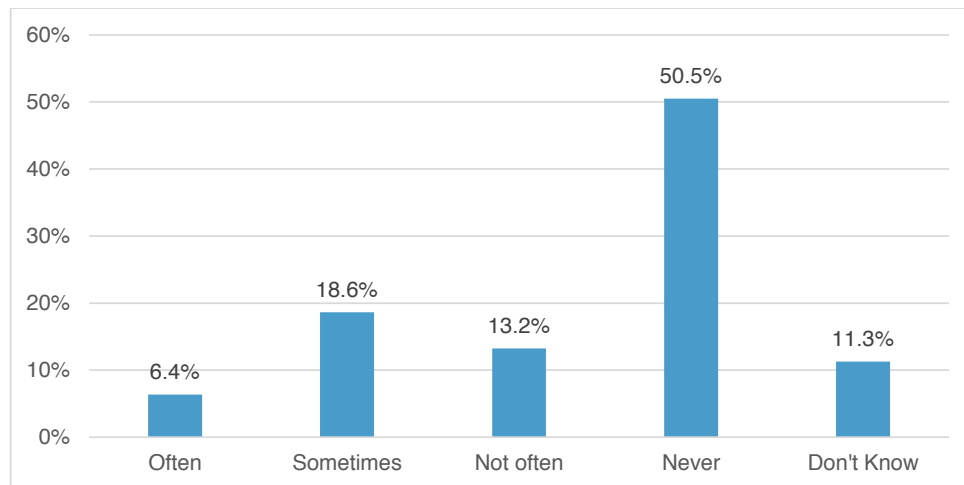
### 5.3 There have been no financing opportunities for CSOs or trade unions advertised by the RGC

The Media Monitoring Team recorded no financing opportunities for CSOs or TUs advertised by the RGC. It is important to note that funding opportunities by the RGC may not be published. This report, hopefully, highlights the need for such opportunities to be published.

### 5.4 Civil society has limited opportunity to participate in government decision-making processes

The FFMP recorded two instances of civil society being given an opportunity to participate in RGC decision-making processes – legislative consultations for the TUL and draft Minimum Wage Law.<sup>97</sup> Despite these two instances, CSO and TU leaders report having little opportunity to participate in government decision-making processes (see Figure 27).

**FIGURE 27: CSO/TUS THAT REPORT BEING ACTIVE PARTICIPANTS IN DECISION AND LAW MAKING PROCESSES**



Source: FFMP CSO/TU Survey, December 2016

<sup>97</sup> Some have questioned how meaningful these consultations were, see, e.g., Charles Rollet, 'GMAC no fan of union law revisions', The Phnom Penh Post, 5 August 2015. Available at: <http://www.phnompenhpost.com/national/gmac-no-fan-union-law-revisions>; Ananth Baliga, Sen David and Daniel de Carteret, 'Workers in the dark on controversial draft union law', The Phnom Penh Post, 1 April 2016. Available at: <http://www.phnompenhpost.com/national/workers-dark-controversial-draft-union-law>; Bun Sengkong and Jack Davies, 'New expanded minimum wage law raises concerns', The Phnom Penh Post, 29 November 2016. Available at: <http://www.phnompenhpost.com/national/new-expanded-minimum-wage-law-raises-concerns>; Ben Sokhean, 'Unions Anxious of Draft Wage Law Ahead of Government Meeting', The Cambodia Daily, 16 December 2016. Available at: <https://www.cambodiadaily.com/news/unions-anxious-draft-wage-law-ahead-government-meeting-122067/>; Ananth Baliga, 'New wage law flawed: study', The Phnom Penh Post, 23 March 2017. Available at: <http://www.phnompenhpost.com/national/new-wage-law-flawed-study>.

### 6. Conclusion

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Cambodia has, laudably, ratified a range of international human rights treaties – indeed, Cambodia has been a leader in the ASEAN region in this respect – and has enshrined the freedoms of association, expression and peaceful assembly in its Constitution. Despite the human rights guarantees contained in Cambodia’s legal framework, recently passed legislation, accompanied by the misapplication of laws, has impeded the exercise of the freedoms of association, expression and assembly.

The FFMP makes at least three significant contributions to discussions on Cambodia’s legal framework for civil society and civic freedom.

**First**, the FFMP clarifies what issues and challenges civil society organizations are currently facing in Cambodia. The data captured in the first year of the FFMP shows a narrowing of space for the exercise of fundamental freedoms in Cambodia. The legal framework for civil society contains gaps and ambiguities that can restrict CSO activities. Routine CSO activities, like holding meetings and workshops, are regularly monitored and sometimes interfered with by RGC actors; consequently, CSOs and TUs sometimes plan their activities based on potential reactions from the RGC. While the level of understanding of fundamental freedoms among the Cambodian public is generally quite low, CSOs do play a central role in Cambodia.

**Second**, the FFMP provides an evidentiary baseline against which future progress (or regress) can be objectively measured. The results of future monitoring will therefore help civil society, the RGC, donors and the international community to identify and understand trends that emerge in years to come. The FFMP utilizes five different collection methods: a CSO/TU Leaders’ Survey; a Public Poll; an Incident Reporting mechanism; Media Monitoring; and a Desk Review of Relevant Laws. These tools were designed in conjunction with the FFMP’s Monitoring and Tracking Tool to produce reliable data from a range of different sources.

**Third**, because of the data collected and the baseline provided, the FFMP will empower civil society and the RGC to more clearly define meaningful solutions to improve the legal environment. It is hoped that the findings presented in this report will serve to support the RGC in their efforts to meet their constitutional and international legal obligations in respect of fundamental freedoms. Moreover, there may be opportunities for collaborative approaches with the RGC and CSOs working together; for example, to educate regulatory officials on both international norms and Cambodian legal requirements; or to raise awareness among the general public about their fundamental freedoms. Further, donors will be better able to design supportive assistance in ways that allocate resources effectively based on identifiable needs. Making this more concrete, the FFMP allows CSOs, donors and other key stakeholders to focus on challenges faced by specific sectors and groups of individuals, based on geographic location.

In sum, the FFMP can enable all interested stakeholders to engage in better-informed, more constructive discussions and to design meaningful strategies to improve the legal environment for civil society and civic freedom and the relationship between civil society and government – for the benefit of all Cambodians.

### Annex 1 – Methodology and Data Collection

*This Annex presents the methodology and data collection tools used to collect and analyze data for the Fundamental Freedoms Monitoring Project.*

#### Section 1: Methodology

The Monitoring Team began the FFMP utilizing the Monitoring and Tracking Tool (MTT). The purpose of the MTT is to provide a clear and consistent mechanism for monitoring the legal and regulatory framework that governs civil society and civic participation in Cambodia, with a focus on the Law on Associations and Non-Governmental Organizations (LANGO) and other legislation affecting freedom of association, freedom of assembly and freedom of expression (fundamental freedoms or FoAA&E). The MTT is envisioned to be the centerpiece of a long-term monitoring project, and was designed to systematically show how laws, the RGC and Cambodian citizens understand and exercise fundamental freedoms.

The MTT was developed in November and December 2015, and was finalized with the assistance of a Monitoring and Evaluation (M&E) Consultant in March 2016. The first year of monitoring took place from 1 April 2016 – 31 March 2017. Results from monitoring were collated and reviewed on a quarterly basis: the First Quarter, 01 April 2016 – 30 June 2016; the Second Quarter, 01 July – 30 September 2016; the Third Quarter, 01 October – 31 December 2016; and the Fourth Quarter, 01 January – 31 March 2017.

The MTT is comprised of approximately 70 individual indicators that correspond to four Key Milestones:

- The legal framework for freedom of association meets international standards;
- The legal framework for freedom of association is implemented and properly enforced;
- Individuals understand freedom of association and related rights, and feel free to exercise them; and
- Civil Society Organizations (CSO) and Trade Unions (TUs) are recognized and can work in partnership with the RGC.

Each Key Milestone relates to, and builds upon, the other Key Milestones. Key Milestone 1 represents the first step in the continuum and seeks to assess the degree to which Cambodian law is grounded in international best practice, and thus determine whether basic freedoms are guaranteed in the Cambodian legal framework. Key Milestone 2 is the second step in the continuum and focuses on the implementation and enforcement of the legal framework. If Cambodian law meets international standards and is implemented and enforced properly, it should follow that fundamental freedoms are actualized and safeguarded for the Cambodian people. Even if the legal framework does not fully meet international standards, proper implementation and enforcement of some laws affecting fundamental freedoms will ensure that some of these basic rights are guaranteed. Key Milestone 3 is the third step in the continuum and seeks to assess the general public's understanding of their fundamental freedoms under Cambodian law and their ability to exercise them. Without a proper understanding and the ability to exercise their rights, it is unlikely that people will use the legal avenues open to them to challenge infringements on their rights. Thus, this milestone also speaks to the strength of civil society in Cambodia to act on their rights under the law. Finally, Key Milestone 4 seeks to understand the extent to which CSOs/TUs can work together with the RGC to achieve common outcomes. It presupposes a strong legal framework, strong



## Fundamental Freedoms Monitoring Project

independent civil society and culture of partnership. Taken together, attainment of each element would represent the ideal state for fundamental freedoms in Cambodia.

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

### Section 2: Data Collection Methods

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

#### 1. Media Monitoring

Media monitoring focuses on news coverage of fundamental freedoms, and is used in two ways. First, it is used to collect data for indicators that seek to measure changes in the ‘enabling environment’, including changes in the RGC’s implementation or interpretation of laws affecting fundamental freedoms. Second, it is a data source for the number and types of incidents where fundamental freedoms are violated or restricted. Media Monitoring and the Incident Reporting Mechanism are used to document the number of incidents related to fundamental freedoms.

Media Monitoring is undertaken daily by CCHR’s Media Monitoring Team. Major national Cambodian newspapers and several other media sources, are reviewed to identify relevant stories. Media sources include: the Phnom Penh Post (Khmer & English), the Cambodia Daily (Khmer & English), Khmer Times, Radio Free Asia, Radio France International, Dap News, Voice of Democracy, Voice of America, VAYO, Kohsantepheap, Reaksmei Kampuchea, Thmey Thmey, Kampuchea Thmey, Freshnews, Deum Tnot News, Women’s Media Center, Preinokor, Khmer Sthapana News and Norkorwat News Daily.

Once relevant articles are identified, CCHR’s Monitoring Officers review those articles and then enter key information articulated in the media reports into a Media Monitoring Database. The Media Monitoring Database was developed by the Monitoring Team, M&E Consultant and ICNL Legal Advisor, and it classifies articles across several categories that correspond to individual indicators and elements contained in the MTT. The Monitoring Database is systematically reviewed each quarter.

#### 2. The Incident Reporting Mechanism

To capture incidents of violations of fundamental freedoms, the Monitoring Team designed an Incident Report Form. Individuals or associations that believe their rights to freedom of association, assembly or expression have been violated report these incidents to the Monitoring Team. When the Monitoring Team receives a complaint, or hears about a violation and follow-up with the alleged victim(s), it completes an Incident Report Form for each incident.

The Incident Report Form captures qualitative and quantitative data including information about the incident itself, the location, the people involved, the type of association and the type of violation.

## Fundamental Freedoms Monitoring Project

The Incident Report Form was designed by the Monitoring Team, M&E Consultant and ICNL Legal Advisor. The Incident Report Form was translated into Khmer and tested by the Translation Committee, made up of Khmer-fluent staff members of the Monitoring Team, prior to finalization and implementation. The Monitoring Team trained its staff on when to use the Incident Report Form and how to complete it.

Once an Incident Report Form is completed, CCHR, which acts as a focal point for the Incident Reporting mechanism, enters the report into an Incident Reporting database. On a quarterly basis, the Monitoring Team performs data quality checks prior to undertaking an analysis of the data captured in the database.

Case studies have been selected from among the Incident Reporting database and developed to highlight important cases or emerging trends.

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

A CSO/TU Leaders' Survey was designed to be undertaken on an annual basis to capture the feelings and experiences of CSO/TU leaders about their ability to exercise fundamental freedoms and other related issues.

A representative sample of CSO/TU leaders was included in the survey, using a randomized sampling technique based on the records from major NGO coalitions and union confederations. The survey was completed online and through face-to-face interviews.

The CSO/TU Leaders' Survey was designed by the Monitoring Team, M&E Consultant and ICNL Legal Advisor. The survey instrument was translated into Khmer and tested by 'Translation Committee,' made up of Khmer-fluent staff members of the Monitoring Team, prior to testing, finalization and implementation.

The CSO/TU Leaders' Survey was carried out from: 21 November 2016 – 20 December 2016. The results of the survey were entered into a database, verified, translated and cleaned, prior to being systematically analyzed for trends based on the different characteristics of the CSO or TU who participated in the survey and the MTT indicators.

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

A Public Poll was conducted to gauge the general public's sentiment towards the exercise of fundamental freedoms. It is intended that the Public Poll will be repeated on an annual basis to gauge shifts in sentiments.

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

The poll was designed by the Monitoring Team, M&E Consultant and ICNL Legal Advisor. The polling instrument was translated into Khmer and tested by the Translation Committee prior to testing, finalization and implementation. The Monitoring Team trained its staff on how to use the polling instrument.

The Public Poll was conducted between 01 June 2016 and 08 July 2016 across 23 provinces and included 980 respondents. The results of the poll were entered into a database by Monitoring Team staff, before being reviewed, translated and cleaned. The data was then systematically analyzed for trends based on the different characteristics of the respondents, emerging themes and the MTT indicators.

## Fundamental Freedoms Monitoring Project

The Monitoring Team is exploring ways to conduct a more scientific poll in future years.

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

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.

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

The Desk Review is led by CCHR's Legal Consultant and Monitoring Officer, with input from the Monitoring Team. The Desk Review is an ongoing exercise throughout the FFMP. Desk Review reports are generated quarterly to update analyses of laws and regulations that have been amended, as well as to include analyses of new or recently reviewed laws and regulations.

## Fundamental Freedoms Monitoring Project

### Annex 2 – FFMP Results Table

The table below provides a summary of the data gathered by the Monitoring Team over ‘Year 1’ of monitoring (01 April 2016 – 31 March 2017). For Indicators that relied on a desk review as the source of data, a rating out of five was assigned in keeping with an assessment of the relevant documents (1=lowest rating possible, 3=average rating, 5=highest rating possible). For Indicators that relied on data sourced from the CSO/TU Leader Survey and Public Poll, a number generated from an analysis of the responses. For Indicators that relied on Media Monitoring and Incident Reports as a data source, data was tallied and analyzed on a quarterly basis. Where possible, the annual result has been included for each indicator and has been color coded according to the following key.

**Key:**

Highest Possible Rating
Average Rating
Lowest Possible Rating
Unable to Rate

Key Milestone 1: The legal framework for Freedom of Association meets international standards								
Element	Indicator	Q1	Q2	Q3	Q4	Year	Data Source	Notes
<b>1.1: FoA and related rights and freedoms are guaranteed under domestic law</b>	Degree to which Cambodian laws or policies respect FoA	3				3	Desk Review	<i>The Cambodian Constitution, along with directly applicable international human rights treaties, provide strong guarantees for the freedom of association, freedom of expression and freedom of assembly. The aforementioned legal instruments are at the top of the Cambodian hierarchy of laws. However, the guarantees of these rights only apply to Cambodian citizens, not others living in Cambodia. The Law on Public Demonstrations largely reflects international best practices. The LANGO &amp; TUL provide some guarantees for the freedom of association, but also contain several provisions that restrict fundamental freedoms. Similar restrictions are found in certain provisions of the LEMNA and the Law on Management and Use of Agricultural Land. The freedom of expression is significantly curtailed in a number of laws, including the Penal Code and Telecommunications Law.</i>
<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, clearly prescribed and consistently applied					n/a	Registration Process Case Study	<i>The Registration Process Evaluation tool was not implemented in Year One of monitoring, primarily due to delays in the launch of the registration processes under both the LANGO and TUL.</i>
<b>1.3: The number of associations that can exist for</b>	Degree to which laws or policies limit associations	5				5	Desk Review	<i>There is no limit on the number of associations that may exist for similar purposes in the</i>

## Fundamental Freedoms Monitoring Project

similar purposes is not legally limited	from being established for similar purposes							LANGO or other laws.
	# of association registration applications that are denied because of multiplicity	0	0	0	0	0	Denied Applications	The monitoring team found no instances of denials due to multiplicity during the reporting period.
<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	3				3	Desk Review	The TUL imposes minimum membership numbers for federations, coalitions, and employers' coalitions. The LANGO enables associations to register new associations or coalitions.
	# of reported instances where the RGC restricts the forming networks, coalitions, federations, or other types of unions	0	0	0	0	0	Media Monitoring	The monitoring team found no 'actual' instances of RGC officials restricting the formation of networks, coalitions, federations or other types of unions during the reporting period.
<b>1.5: Registration for associations is voluntary</b>	Degree to which laws or policies permit the voluntary registration of associations	1				1	Desk Review	The LANGO, TUL 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.
<b>1.6: RGC oversight of associations is in compliance with international standards</b>	Degree to which laws or policies for the oversight of associations that are in keeping with international standards	2				2	Desk Review	International best practices dictate a minimalist approach to regulation/oversight, with very close scrutiny of attempts to interfere with the choices that associations and their members make about the organization and its affairs. The LANGO requires associations to give advance notification of certain activities that take place outside the 'home' province, and demands that INGOs closely cooperate with the RGC. The TUL specifies the content of unions' statutes, the amount of members' dues, and leaders' term limits. The Law on Telecommunications enables the RGC to spy on associations with no judicial oversight.
	# of reported cases of RGC oversight violating international standards [media monitoring]	37	50	67	34	188	Media Monitoring	
	# of reported cases of RGC oversight violating international			75		75	CSO/TU Survey	See Question 4.5 of the CSO/TU Leader Survey

## Fundamental Freedoms Monitoring Project

	standards [CSO / TU Leaders Survey]							
<b>1.7: Protection for associations from third parties are in place</b>	Degree to which laws or policies protect associations from third party interference	3				<b>3</b>	Desk Review	<i>The constitutional guarantee of FoA applies, but the LANGO has 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. All associations are protected from defamation by the Criminal Code.</i>
	# of reported cases of third party interference [media monitoring]	4	11	6	3	<b>24</b>	Media Monitoring	
	# of reported cases of third party interference [CSO / TU Leaders' Survey]			49		<b>49</b>	CSO/TU Survey	<i>See Question 4.7 of the CSO/TU Leader Survey</i>
<b>1.8: Association reporting requirements to the RGC are in compliance with international best practices</b>	Degree to which reporting requirements are in compliance with international best practices	2				<b>2</b>	Desk Review	<i>The reporting requirements of both the TUL and LANGO are deemed to be onerous and thus not in compliance with international best practices.</i>
	% of associations reporting being able to complete reports in accordance with requirements			28.4%		<b>28.4%</b>	CSO/TU Survey	<i>See Question 4.10 of the CSO/TU Leader Survey</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	2				<b>2</b>	Desk Review	<i>While the TUL and LANGO prescribe specific sanctions for activities deemed "unlawful," many sanctions are not narrowly defined, easy to understand, proportionate or transparent. The LANGO provides a wide range of sanctions, including dissolution and deregistration, for vague, ill-defined and difficult to understand actions, such as not being "political neutral". The TUL contains ill-defined, vague actions that can result in sanctions, including a ban on organizing for "political purposes" or for "personal ambitions". The Penal Code enumerates many ill-defined and disproportionate sanctions that are applicable to</i>

## Fundamental Freedoms Monitoring Project

								<p><i>associations and leaders of associations for "incitement to commit a crime", "insult", "criticism of a judicial order" and defamation, amongst others.. Article 42 of the Penal Code says a legal entity can be held criminally liable for offences of its staff. The Telecommunications Law also contains sanctions for disproportionate, broad and ill-defined actions. The Counter-Terrorism Law contains several sanctions for associations, including dissolution and closure of premises; this law could be misinterpreted for punitive use against CSOs.</i></p>
	# of reported sanctions that are prescribed by law, proportionate, publicly available, narrowly defined, transparent and/or easy to understand			0		0	CSO/TU Survey	See Question 4.16 of the CSO/TU Leader Survey
<b>1.10: Procedural safeguards are in place for associations facing sanctions</b>	Degree to which safeguards are in place for associations facing sanctions	2				2	Desk Review	<p><i>There are limited safeguards in the LANGO, such as escalating penalties and a right of appeal in cases of deregistration, but overall safeguards are inadequate. The TUL contains no right of appeal to a court of law for administrative sanctions, although Prakas 251 of the Ministry of Labor and Vocational Training (MLVT) has created a limited right of administrative appeal to the MLVT when a warning letter is received or a fine imposed. For penalties contained in the Penal Code, there is a right of appeal.</i></p>
	# of associations facing sanctions who report safeguards being followed					0	Incident Reports	No CSOs reported facing sanctions to the Monitoring Team.
<b>1.11: The right to voluntary dissolution is protected by law</b>	Degree to which voluntary dissolution is protected by law	4				4	Desk Review	<p><i>The LANGO contains an express right of voluntary dissolution under Article 26 for associations and NGOs, but vague language in Article 26(2) could potentially hinder this process.</i></p>
	# of reported involuntary dissolutions of associations	0	0	0	0	0	Media Monitoring	The Monitoring Team found no instances of voluntary or involuntary dissolution during the reporting period.
<b>1.12: Dissolution is only possible after other legal avenues are exhausted and clear and</b>	Degree to which dissolution processes are in place	1				1	Desk Review	<p><i>Dissolution of associations is possible under the Penal Code, Counter-Terrorism Law, LANGO and TUL. In each case, dissolution can be imposed as a purely punitive measure, not as</i></p>

## Fundamental Freedoms Monitoring Project

imminent danger from the association is present						0		a proportionate, last-resort response to a danger presented by the continued operation of the association.
	# of reported dissolutions of associations that do not exhaust legal avenues or result from clear and eminent danger	0	0	0	0	0	Media Monitoring	The Monitoring Team found no such instances during the reporting period.
<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	5				5	Desk Review	Cambodian NGOs can engage in economic activities. While the LANGO does not explicitly protect this right, it does not specifically prohibit it either. No other law reviewed by the Monitoring Team affects this right. A number of NGOs are known to engage in economic activities.
	% of reported cases of associations being denied the right to engage in economic activities			4.4%		4.4%	CSO/TU Survey	See Question 4.20 of the CSO/TU Leader Survey
<b>1.14: Access to foreign funding is permitted under the law</b>	Degree to which laws permit associations to access foreign funding	4				4	Desk Review	There are no legal prohibitions on associations receiving foreign funding. However, Article 27 of the LANGO places additional, stringent reporting requirements on NGOs that seek and/or receive foreign funds.
	% of reported cases of associations being denied the right to access foreign funding			0.5%		0.5%	CSO/TU Survey	See Question 4.24 of the CSO/TU Leader Survey
<b>1.15: Associations do not face unreasonable restrictions on receiving funding from private sources (domestic)</b>	Degree to which laws or policies permit associations to receive funding from private sources without unreasonable restrictions	4				4	Desk Review	There are no legal prohibitions on receiving funding from private domestic sources. However, under the LANGO, reporting requirements are applicable on receipt of funding.
<b>1.16: Financial reporting obligations are not onerous</b>	Degree to which financial reporting requirements are in compliance with international best practices	2				2	Desk Review	Both the LANGO and TUL contain onerous financial reporting requirements in contravention of international best practices, especially regarding the receipt of donor funds. The LANGO's audit requirements may also prove to be impossible to fulfil in practice. The Anti-Corruption Law, 1997 Tax Law (revised in 2003, with a Prakas on Tax on Profit issued in 2004) also contain reporting provisions.
	% of associations reporting being able to complete			16.5%		16.5%	CSO/TU Survey	See Question 4.12 of the CSO/TU Leader Survey



## Fundamental Freedoms Monitoring Project

	financial reports in accordance with requirements							
<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	3				3	Desk Review	<i>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, and the Constitution empowers citizens to challenge any violations of their constitutional rights. However, judicial review procedures are not clearly defined, making these guarantees much less effective.</i>
	# of FoA violations being resolved through redress systems			n/a		n/a	Media Monitoring	<i>The Monitoring Team did not identify any cases of FoA violations being resolved through redress systems.</i>
<b>Key Milestone 2: The legal framework for Freedom of Association is implemented and properly enforced</b>								
Element	Indicator	Q1	Q2	Q3	Q4	Year	Data Source	Notes
<b>2.1: RGC institutions understand the rights and obligations related to FoA, FoE and the freedom of assembly</b>	Degree to which RGC authorities demonstrate an understanding of FoA, FoE and the freedom of assembly	34%	42%	47%	66%	49.0%	Media Monitoring Incident Reports	
<b>2.2: Associations operate without undue RGC interference</b>	% of associations who report RGC interference in the last year			42.3%		42.3%	CSO/TU Survey	<i>See Question 4.4 of the CSO/TU Leader Survey</i>
<b>2.3: Sanctions for associations are being implemented in accordance to Cambodian law</b>	% of sanctions that follow the processes prescribed in Cambodian law			0.0%		0.0%	CSO/TU Survey	<i>See Question 4.16 of the CSO/TU Leader Survey</i>
<b>2.4: Associations do not face complicated procedures to access private funding (domestic)</b>	% of association leaders reporting that associations are being restricted in receiving funding from private sources			0.5%		0.5%	CSO/TU Survey	<i>See Question 4.22 of the CSO/TU Leader Survey</i>
<b>2.5: Association representatives, individually or through their organizations are able to exercise FoE</b>	% of association leaders who report being able to exercise FoE			7.9%		7.9%	CSO/TU Survey	<i>See Question 5.1 of the CSO/TU Leader Survey</i>
<b>2.6: Association representatives, individually or through their organization, are able to exercise the freedom of peaceful assembly</b>	% of association leaders who report being able to exercise the freedom of peaceful assembly			18.7%		18.7%	CSO/TU Survey	<i>See Question 5.2 of the CSO/TU Leader Survey</i>
<b>2.7: Association representatives, individually and</b>	% of association leaders who report being able			8.0%		8.0%	CSO/TU Survey	<i>See Question 5.3 of the CSO/TU Leader Survey</i>

## Fundamental Freedoms Monitoring Project

through their organizations, are able to safely impart information through any media	to safely impart information through any media							
<b>2.8: RGC institutions respect the rights, obligations and exercise of FoA</b>	Degree to which RGC institutions respect the rights, obligations and exercise of FoA	37	51	72	42	<b>202</b>	Media Monitoring	
	# of incidents reported where RGC institutions are violating FoA	19	20	29	46	<b>114</b>	Incident Reports	
<b>2.9: RGC institutions implement the legal framework according to the letter of the law, in a fair and consistent manner</b>	Degree to which RGC institutions implement the legal framework according to the letter of the law, in a fair and consistent manner	47	30	115	111	<b>303</b>	Media Monitoring	
<b>2.10: Associations are protected from third party interference</b>	% of association leaders who report third party interference			22.9%		<b>22.9%</b>	CSO/TU Survey	<i>See Question 4.8 of the CSO/TU Leader Survey</i>
<b>2.11: Individuals are not targeted due to their involvement with associations</b>	% of association leaders who report victimization due to their involvement in their association			3.0%		<b>3.0%</b>	CSO/TU Survey	<i>See Question 5.5 of the CSO/TU Leader Survey</i>
<b>2.12: RGC institutions take action to that respect and promote FoA and related rights of marginalized groups</b>	# of initiatives implemented by the RGC aimed at respecting and promoting FoA related rights for marginalized groups	0	0	1	1	<b>2</b>	Media Monitoring	
	# of instances of RGC institutions discriminate against marginalized groups	3	8	4	5	<b>20</b>	Media Monitoring	
<b>2.13: 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 FoA related violations that are reported in and resolved by an independent oversight body and/or courts of law	3	1	0	1	<b>5</b>	Media Monitoring	
<b>Key Milestone 3: Individuals understand Freedom of Association and related rights, and feel free to exercise them</b>								
Element	Indicator	Q1	Q2	Q3	Q4	Year	Data Source	Notes
<b>3.1: Individuals understand their rights to FoA, FoE and freedom of assembly</b>	% of individuals who can correctly identify the right of FoA, FoE and freedom of assembly		40.6%			<b>40.6%</b>	Public Poll	<i>See Questions 4.1-4.3 of the Public Poll (averaged score)</i>

## Fundamental Freedoms Monitoring Project

<b>3.2: Individuals understand their right to collectively bargain</b>	% of individuals who can correctly identify the right to collective bargaining		4.2%			<b>4.2%</b>	Public Poll	<i>See Question 4.4 of the Public Poll</i>
<b>3.3: 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					<b>N/A</b>	Desk Review	<i>While the text of primary laws is readily available, the Monitoring Team experienced difficulties in identifying, locating and accessing regulations during the Reporting Period.</i>
<b>3.4: Individuals understand the laws pertaining to FoA</b>	% of individuals who can correctly identify their right to FoA under Cambodian law		55.3%			<b>55.3%</b>	Public Poll	<i>See Question 4.13 of the Public Poll</i>
<b>3.5: Individuals feel free to assemble peacefully</b>	% of individuals who report feeling free to peacefully assemble		13.0%			<b>13.0%</b>	Public Poll	<i>See Question 4.6 of the Public Poll</i>
<b>3.6: Individuals feel free to associate (for any lawful purpose) peacefully</b>	% of individuals who report feeling free to associate for any lawful purpose peacefully		13.6%			<b>13.6%</b>	Public Poll	<i>See Question 4.8 of the Public Poll</i>
<b>3.7: Individuals feel free to impart information to the media</b>	% of individuals who report feeling free to impart information to the media		11.1%			<b>11.1%</b>	Public Poll	<i>See Question 4.7 of the Public Poll</i>
<b>3.8: Individuals feel free to strike and demonstrate</b>	% of individuals who report feeling free to strike and demonstrate		10.1%			<b>10.1%</b>	Public Poll	<i>See Question 4.9 of the Public Poll</i>
<b>3.9: Individuals feel free to express themselves</b>	% of individuals who report being able to speak openly about all subjects in public		12.5%			<b>12.5%</b>	Public Poll	<i>See Question 4.5 of the Public Poll</i>
<b>3.10: Individuals understand the legal limitations of their rights</b>	% of individuals who can correctly identify the limitations to their rights		50.8%			<b>50.8%</b>	Public Poll	<i>See Questions 4.13-4.15 of the Public Poll (averaged score)</i>
<b>3.11: Individuals feel free to participate in political life</b>	% of individuals who report feeling free to participate in political life		9.6%			<b>9.6%</b>	Public Poll	<i>See Question 4.10 of the Public Poll</i>
<b>3.12: Individuals feel they can access redress for infringements to their rights</b>	% of individuals who can correctly identify mechanisms for redress and feel that they can access these if their rights are violated		14.0%			<b>14.0%</b>	Public Poll	<i>See Question 4.11 of the Public Poll</i>
<b>3.13: Individuals have confidence in redress systems for infringements</b>	% of individuals who report believing that redress systems		5.0%			<b>5.0%</b>	Public Poll	<i>See Question 4.12 of the Public Poll</i>

## Fundamental Freedoms Monitoring Project

to their rights	are an effective remedy							
<b>Key Milestone 4: Civil Society Organizations and Trade Unions are recognized and can work in partnership with the RGC</b>								
Element	Indicator	Q1	Q2	Q3	Q4	Year	Data Source	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 legitimate development partners			63.1%		63.1%	CSO/TU Survey	See Question 6.1 of the CSO/TU Leader Survey
	% of CSO and TU leaders who report being recognized as competent development partners			62.1%		62.1%	CSO/TU Survey	See Question 6.2 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			69.3%		69.3%	CSO/TU Survey	See Question 6.3 of the CSO/TU Leader Survey
	# of MoUs signed between RGC Agencies and CSOs/TUs in the last year aimed at improving services					n/a	Desk Review	The Monitoring Team was unable to access MoUs between the Government and CSOs.
<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					0	Media Monitoring	Media monitoring found no such opportunities during the reporting period.
<b>4.4: Public financing opportunities for CSOs and TUs are explicit, open and transparent</b>	# of financing opportunities issued by RGC Agencies that are explicit, open and transparent					0	Media Monitoring	Media monitoring found no such opportunities during the reporting period.
<b>4.5: Opportunities for participation and membership on RGC panels/boards for CSOs and TUs are explicit, open and transparent</b>	# of opportunities for CSO and TU participation					0	Media Monitoring	Media monitoring found no such opportunities during the reporting period.
	% of opportunities in which the call is explicit and the selection is transparent and open			6.0%		6.0%	CSO/TU Survey	See Question 6.6 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			38.2%		38.2%	CSO/TU Survey	See Question 6.8 of the CSO/TU Leader Survey

## Fundamental Freedoms Monitoring Project

<b>4.7: A legislative and practical structure for CSOs and TUs to work as partners with the RGC is implemented</b>	Degree to which a legislative and practical structure for CSOs and TUs to work as partners with the RGC is implemented					n/a	Desk Review	<i>Data not available as Royal Gazette not yet comprehensively reviewed.</i>
<b>4.8: Platforms for the sharing and dissemination of public information are in place and utilized</b>	Degree to which platforms for the sharing and dissemination of public information are in place					n/a	Desk Review	<i>No such platforms were identified.</i>
<b>4.9: 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			68.3%		68.3%	CSO/TU Survey	<i>See Question 6.4 of the CSO/TU Leader Survey</i>
<b>4.10: RGC policies are in place that encourage inclusiveness (especially of traditionally under-represented or marginalized groups)</b>	Degree to which RGC policies are in place that encourage inclusiveness					n/a	Desk Review	<i>The large volume of documents that needed to be reviewed, made it difficult to measure progress against this indicator.</i>
	% of CSOs/TUs that represent traditionally under-represented or marginalized groups who report being encouraged to work with the RGC					n/a	CSO/TU Survey	<i>This indicator proved too difficult to capture, with limited CSO/TU leaders from organizations representing traditionally under-represented or marginalized groups being reached by the CSO/TU Leader Survey.</i>

## Annex 3 – MTT Public Poll June-July 2016 and Results

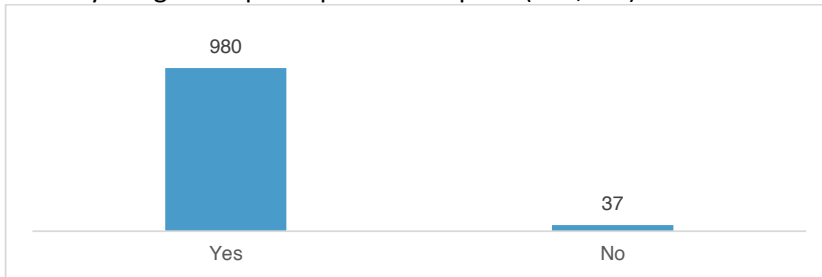
This Annex presents the questions and results of the Public Poll. The Public Poll was conducted between 1 June 2016 and 8 July 2016, across 23 provinces and included 980 respondents. The Public Poll was conducted utilizing “convenience sampling,” whereby members of the Monitoring Team visited public locations with high pedestrian traffic, such as marketplaces and pagodas.

### Section 1: Administration Details

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

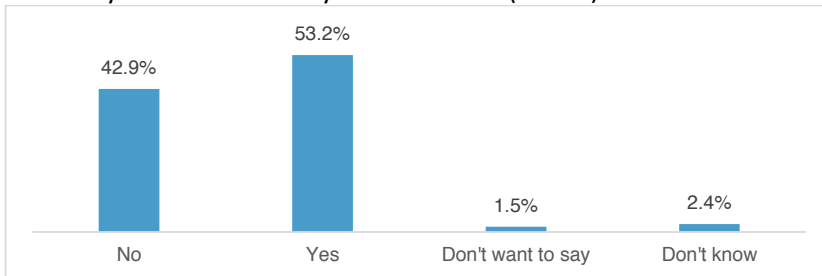
### Section 2: Consent

2.1 Do you agree to participate in this poll? (n=1,017)



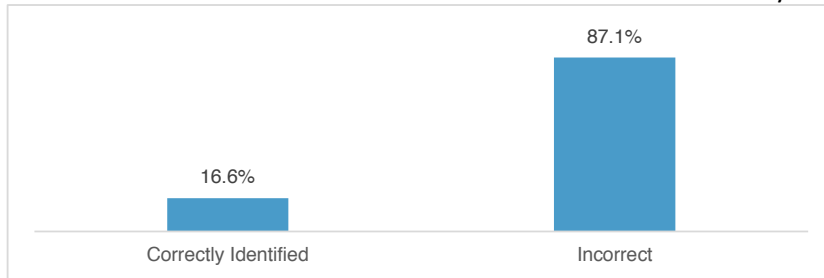
### Section 3: Association Membership

3.1: Are you involved in any Associations? (n=978)

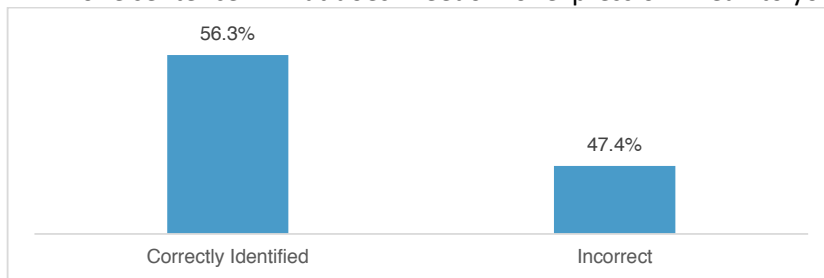


## Section 4: Ability to Exercise Freedoms

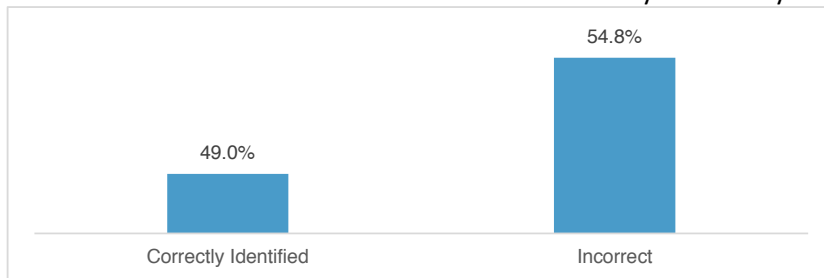
4.1 In one sentence - What does 'freedom to associate' mean to you? (n=980)<sup>98</sup>



4.2 In one sentence - What does 'freedom of expression' mean to you? (n=980)



4.3 In one sentence - What does 'freedom of assembly' mean to you? (n=980)



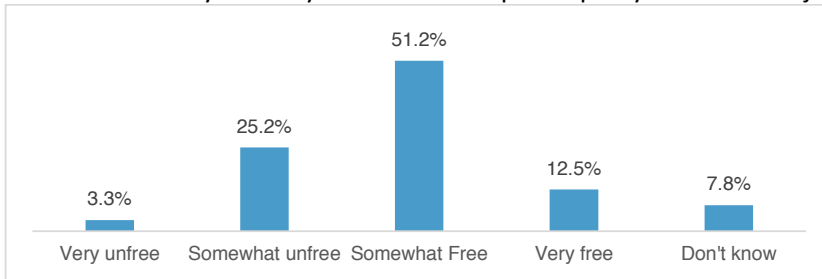
4.4 In one sentence – What does the right to 'collectively bargain' mean to you? (n=980)



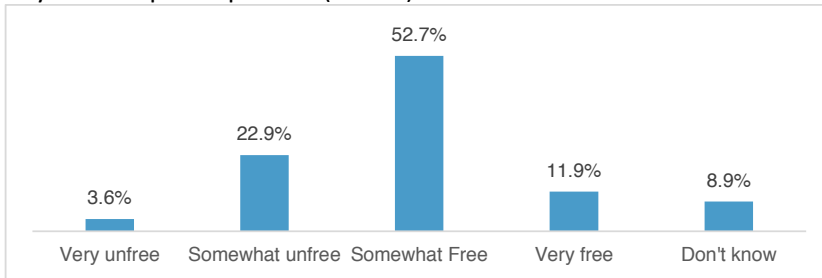
<sup>98</sup> Answers gathered in response to Questions 4.1 – 4.4 were evaluated by CCHR's legal team and categorized as either 'correct' or 'incorrect'. Correct definitions of each right were based on the Desk Review of Laws. In respect of each response, the CCHR legal team took account of linguistic, educational and cultural factors, and as such, accepted a wide variety of formulations, provided the core meaning was deemed to accurately describe the right in question.

## Fundamental Freedoms Monitoring Project

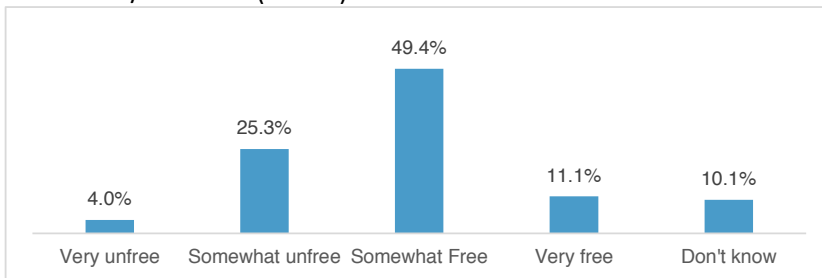
4.5 How free do you feel you are able to speak openly about all subjects in public? (n=973)



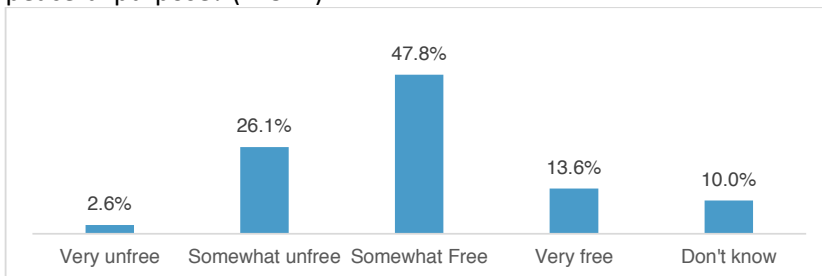
4.6 How free do you feel you are able to meet with others for a peaceful purpose to discuss any issue in public places? (n=966)



4.7 How free do you feel to safely report information to a newspaper, television, social media and/or radio? (n=951)



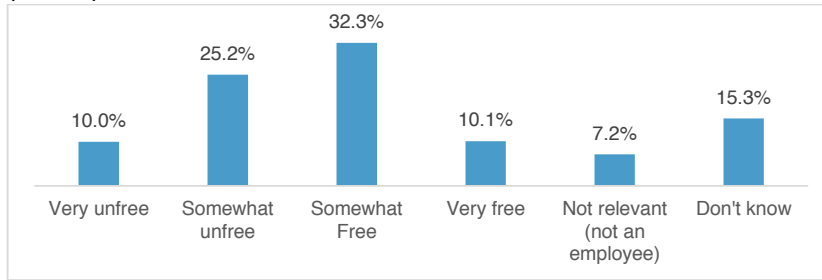
4.8 How free do you feel you are able to join a group with other people for a shared peaceful purpose? (n=944)



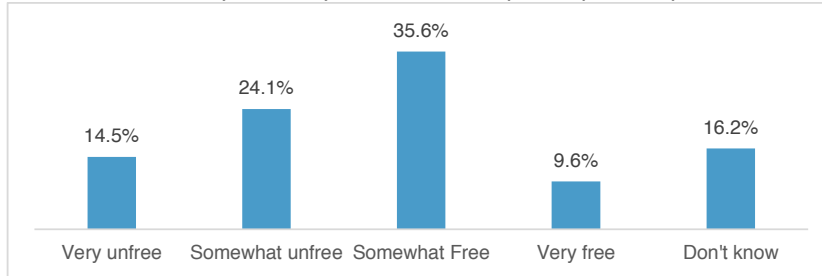


## Fundamental Freedoms Monitoring Project

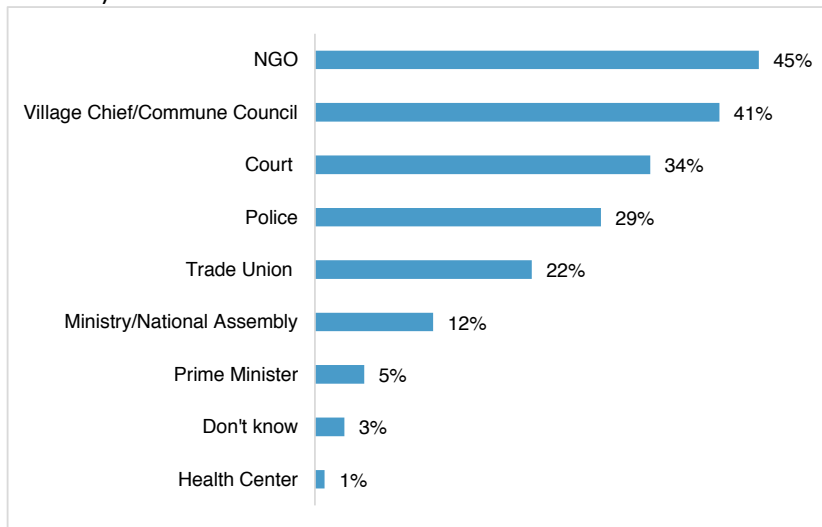
4.9 How free do you feel you are able to strike and/or demonstrate against your employer? (n=950)



4.10 How free do you feel you are able to participate in political life? (n=938)

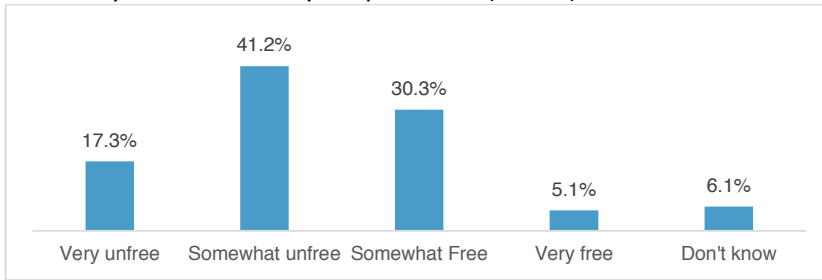


4.11 If your human rights are violated, where can go to complain? (multiple answers allowed)

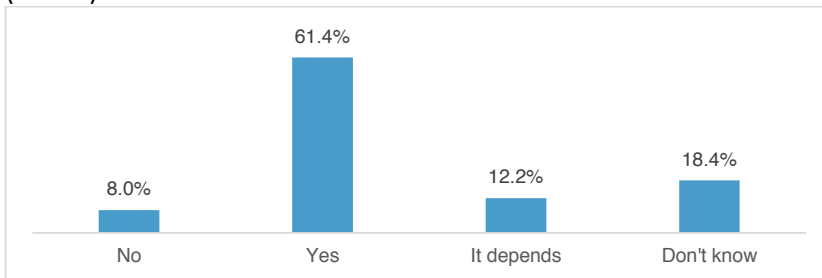


## Fundamental Freedoms Monitoring Project

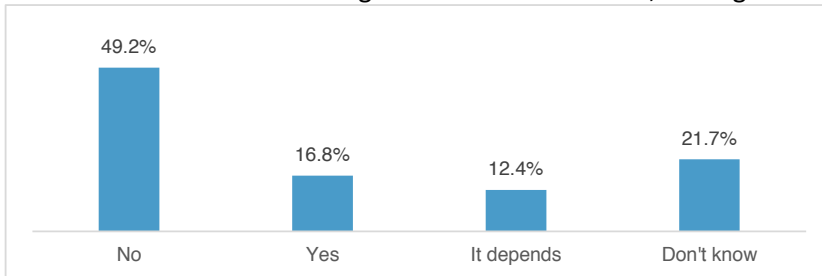
4.12 If you report a human rights violation, how confident are you that the Government or Judicial system will solve your problem? (n=957)



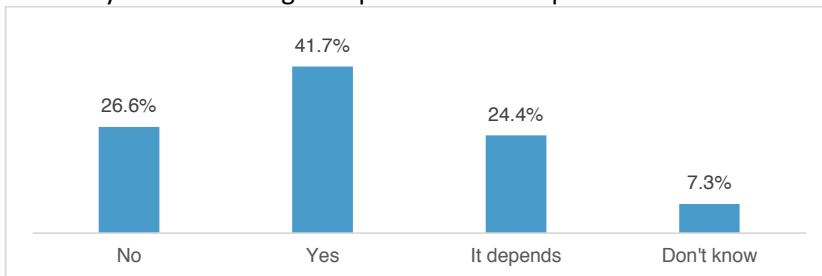
4.13 If you wanted to form an association would you have to register it with the authorities? (n=952)



4.14 If an association is not registered with authorities, is it legal for it to operate? (n=942)

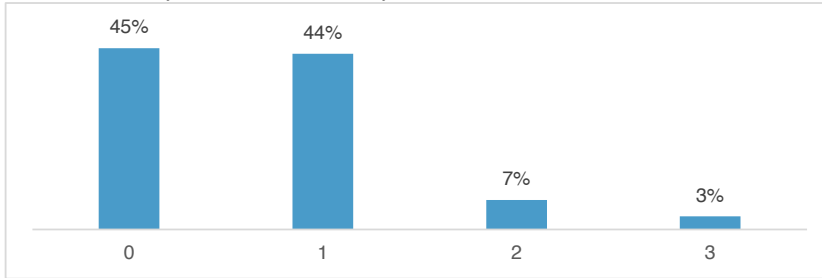


4.15 Do you have the right to protest without permission from the authorities? (n=945)

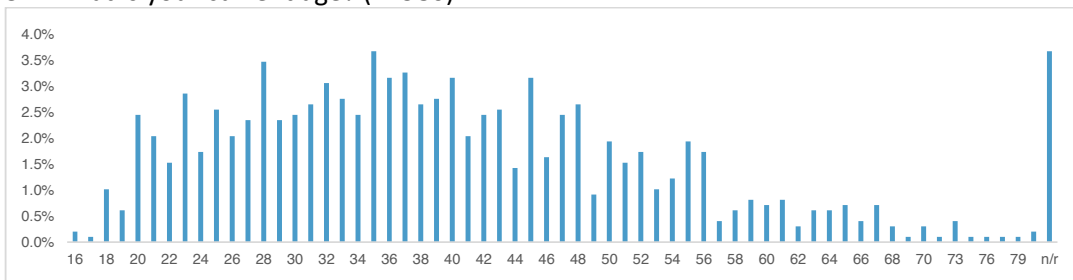


## Section 5: Demographic Information

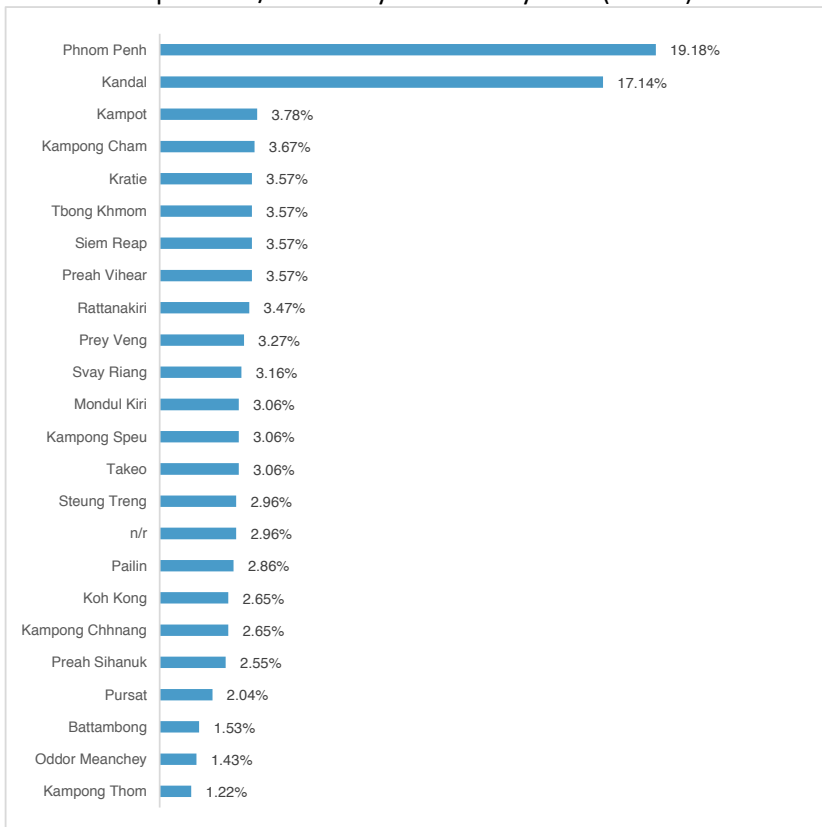
### 5.1 How many associations are you involved with? (n=859)



### 5.2 What is your current age? (n=980)



### 5.3 In which province/town do you currently live? (n=980)

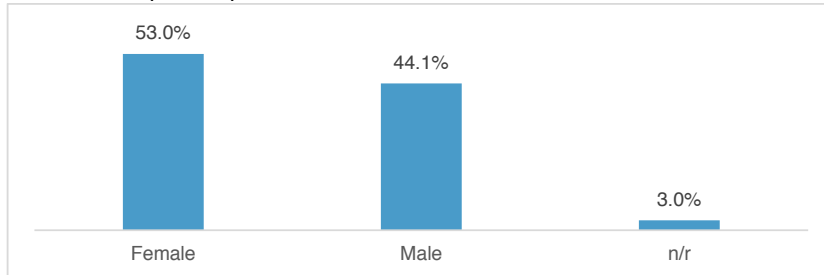


## Fundamental Freedoms Monitoring Project

### 5.4 Occupation

*Data for this question was collected using an open-ended question. Consequently, there was a diverse range of answers that could not be easily categorized. That said, many respondents said that they were either a worker or a farmer.*

### 5.5 Gender (n=980)



## Annex 4 – CSO/TU Leader Survey December 2016

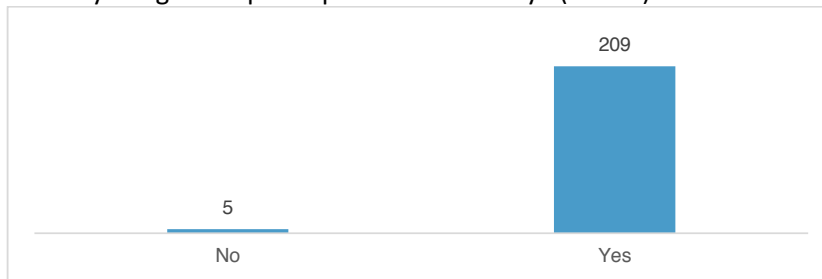
*This Annex presents the questions and results of the CSO/TU Leader Survey. The survey captured the opinions of 209 CSO and TU leaders from 189 domestic and 20 international organizations across 25 provinces. It was carried out between 21 November 2016 and 20 December 2016, via online submission and face-to-face interviews.*

### Section 1: Administration Details

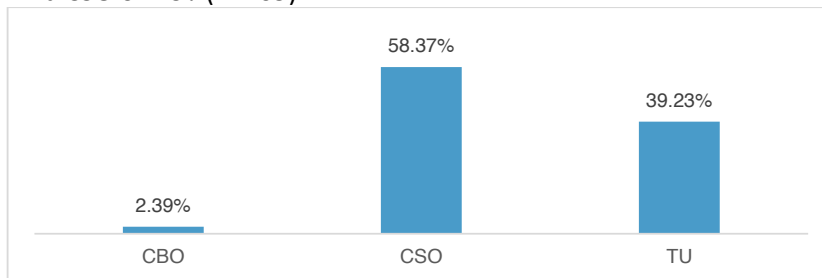
*Section 1 did not contain any results. Rather, it was used by the Monitoring Team before initiating polling to record administrative details like: date, location, interviewer, etc.*

### Section 2: Consent

#### 2.1 Do you agree to participate in this survey? (n=214)



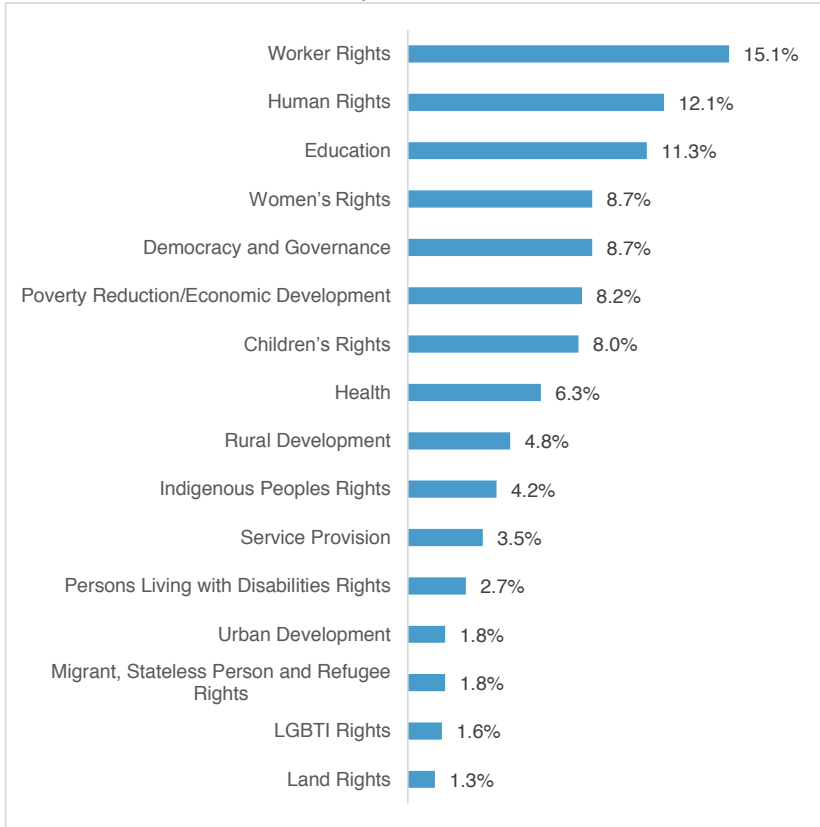
#### 2.1a CSO or TU? (n=209)



# Fundamental Freedoms Monitoring Project

## Section 3: CSO Profile

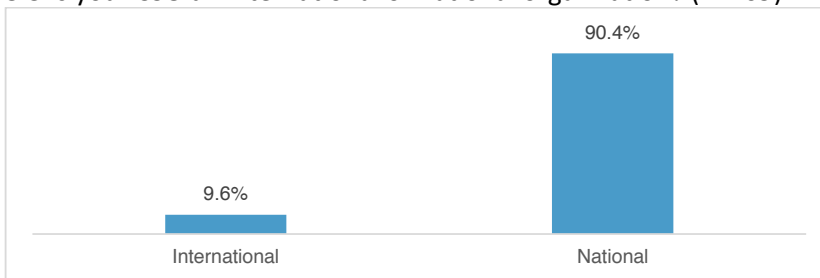
### 3.1 What is the main focus of your CSO's work? (n=207)



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

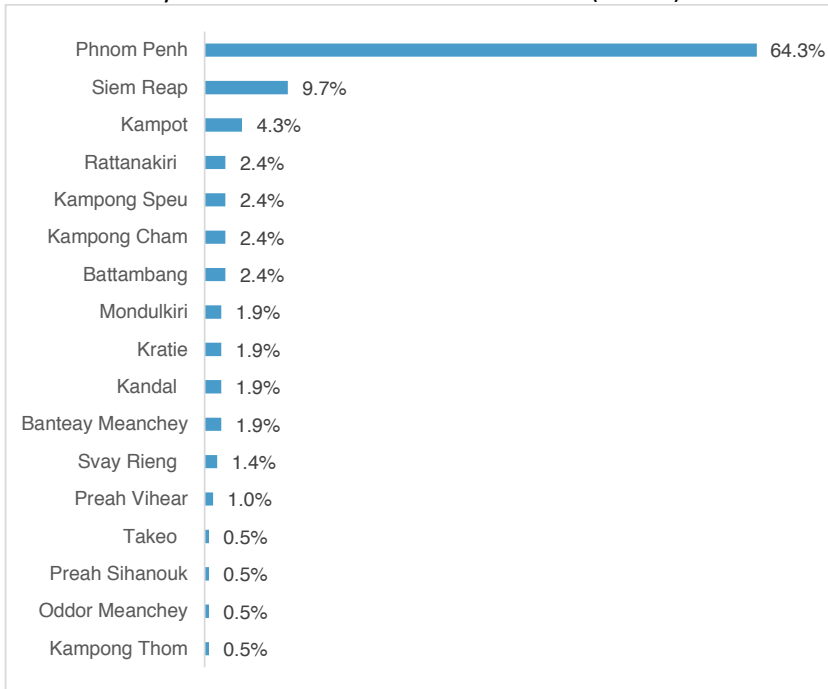
*Data for this question was captured to triangulate the data from question 3.1. Answers to this were open ended and not summarized for the purposes of reporting.*

### 3.3 Is your CSO an international or national organization? (n=209)

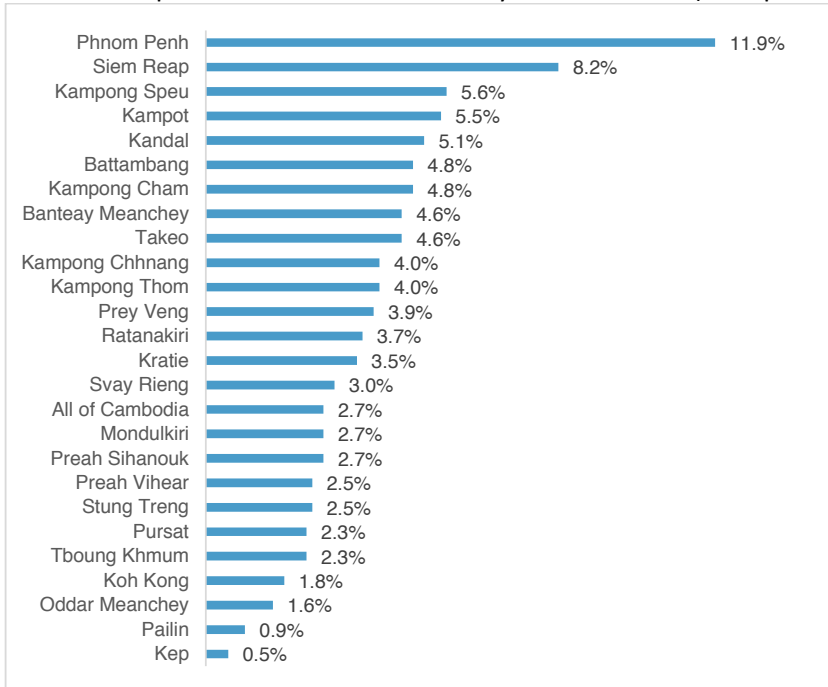


## Fundamental Freedoms Monitoring Project

### 3.4 Where is your CSO's Cambodian head office? (n=207)

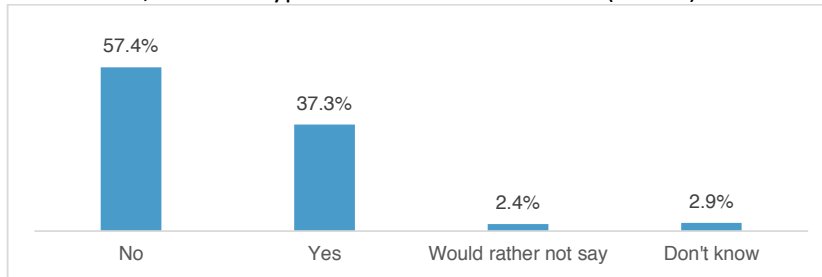


### 3.5 In which provinces of Cambodia does your CSO work? (multiple answers were allowed)

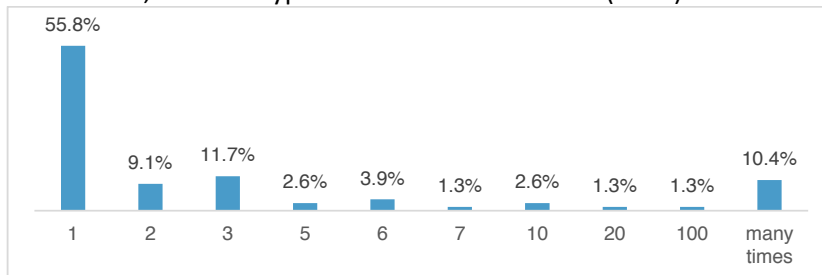


## Section 4: Operations of the CSO

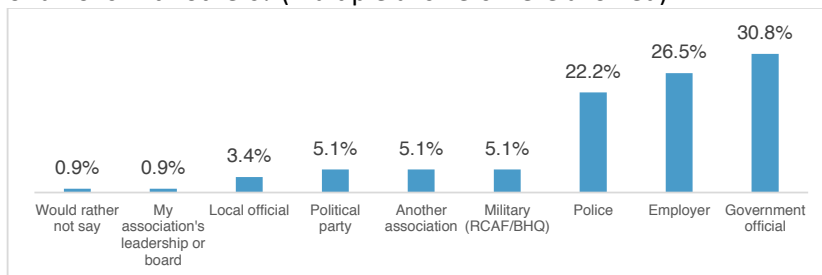
4.1 In the last year, has your CSO faced restrictions in forming networks, coalitions, federations, or other types of unions with others? (n=209)



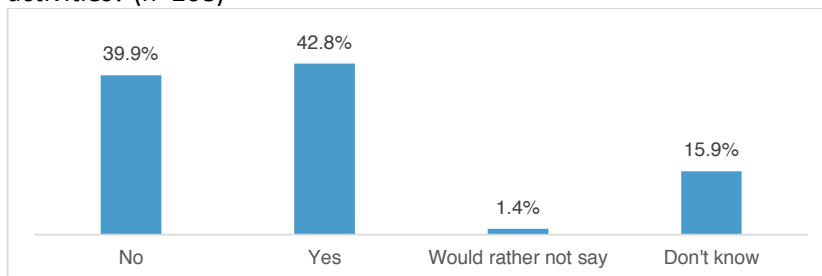
4.2 How many times has your CSO been restricted in forming networks, coalitions, federations, or other types of unions with others? (n=77)



4.3 Who restricted your CSO from forming networks, coalitions, federations, or other types of unions with others? (multiple answers were allowed)



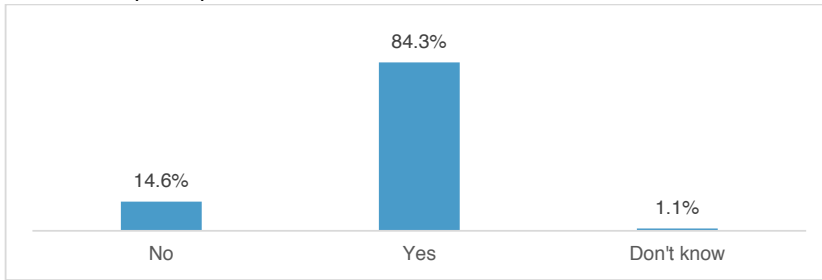
4.4 In the last year, has a Government official ever undertaken monitoring of your CSO or its activities? (n=208)



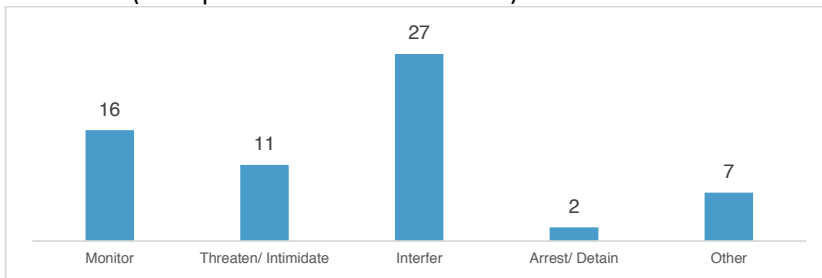


## Fundamental Freedoms Monitoring Project

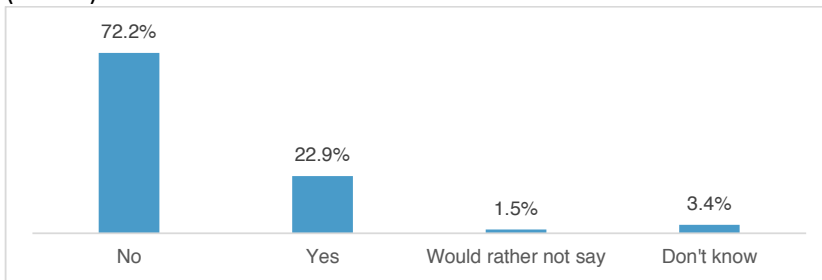
4.5 Did this monitoring ever violate international standards or interfere with your CSOs activities? (n=89)



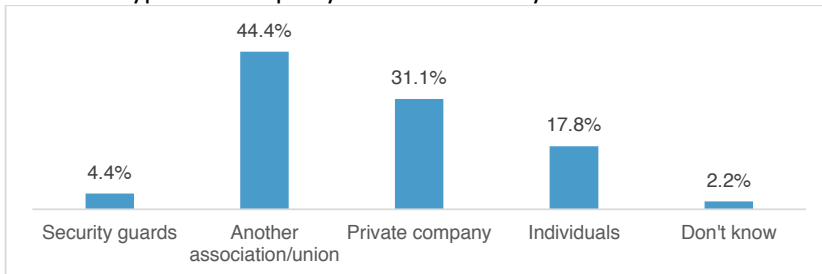
4.6 How did this oversight violate international standards or interfere with your CSOs activities? (multiple answers were allowed)



4.7 In the last year, has your CSO or its activities ever been interfered with by a third party? (n=205)

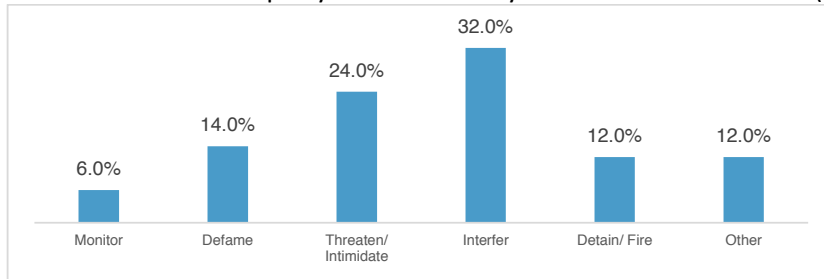


4.8 What type of third party interfered with your CSO or its activities? (n=45)

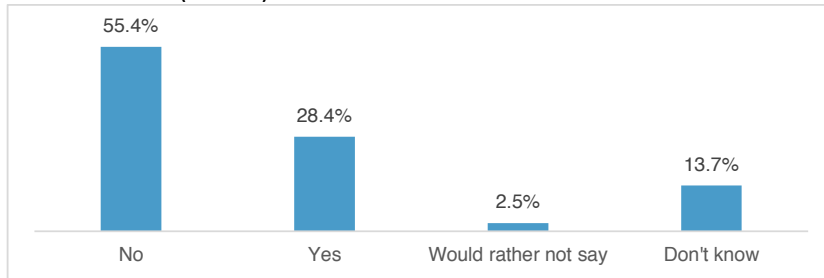


## Fundamental Freedoms Monitoring Project

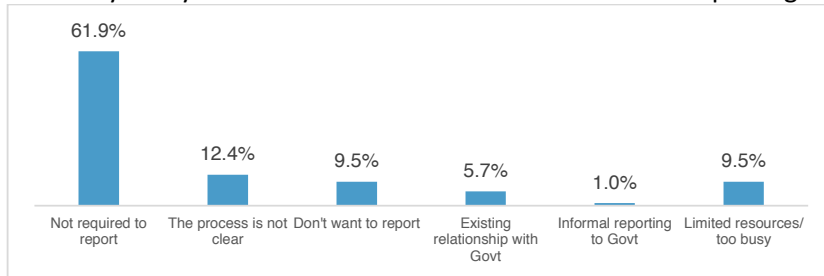
4.9 How did the third party interfere with your CSO or its activities? (n=50)



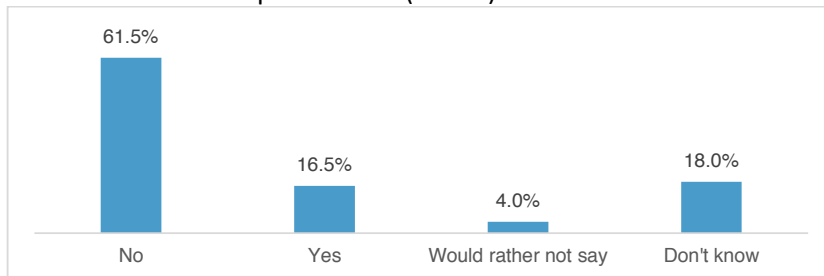
4.10 In the last year, has your CSO been able to meet the reporting requirements of the Government? (n=204)



4.11 Why was your CSO unable to meet the Government reporting requirements? (n=105)

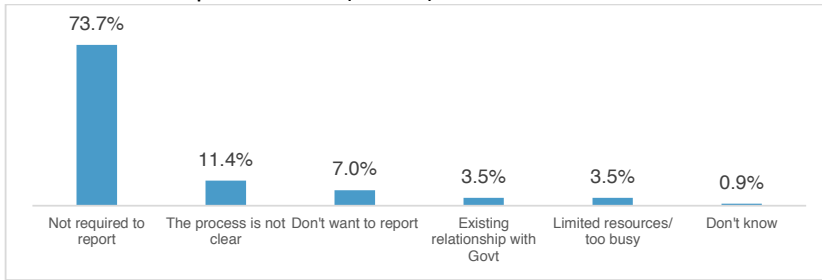


4.12 In the last year, has your CSO been able to complete financial reports in accordance with Government requirements? (n=200)

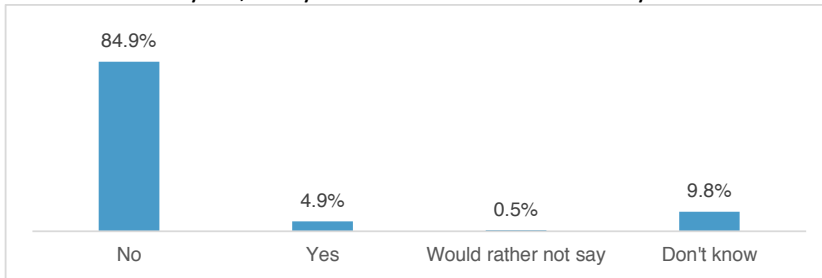


## Fundamental Freedoms Monitoring Project

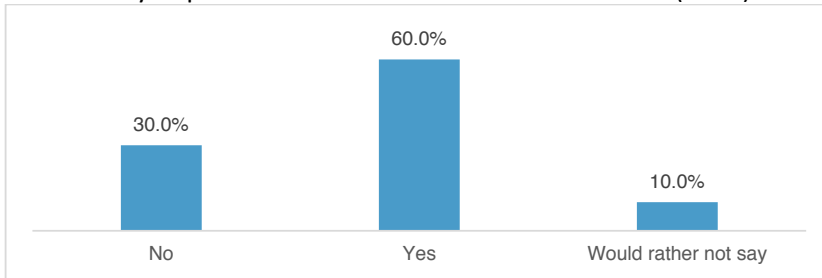
4.13 Why was your CSO unable to complete financial reports in accordance with Government requirements? (n=114)



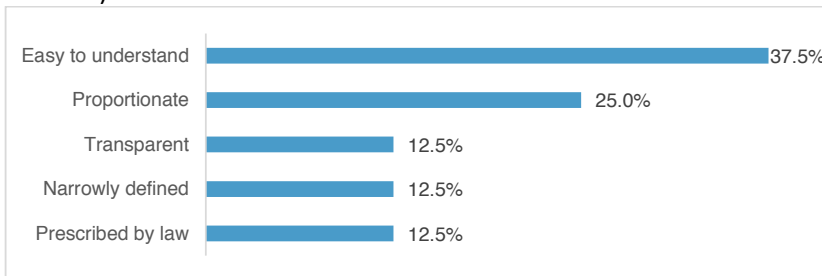
4.14 In the last year, has your CSO been sanctioned by the Government? (n=205)



4.15 Were you provided with a reason for the sanction? (n=10)

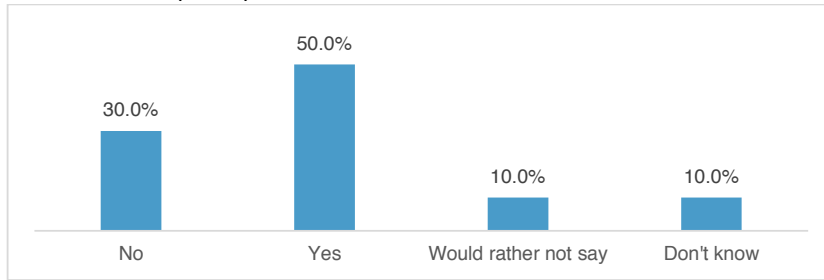


4.16 Please describe if these sanctions met the following standards (multiple answers were allowed):

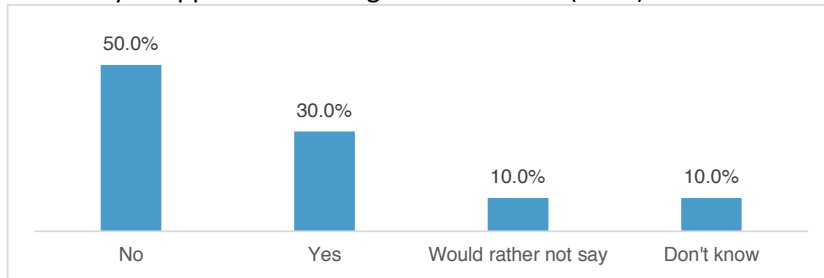


## Fundamental Freedoms Monitoring Project

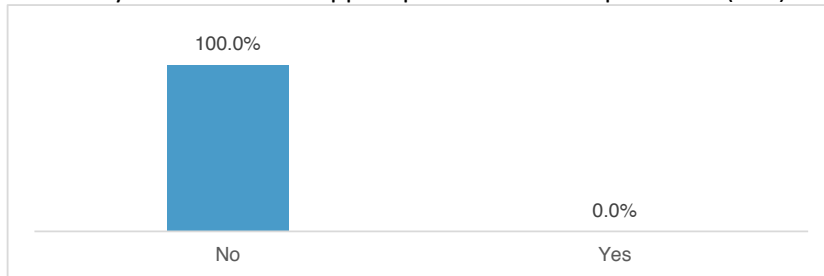
4.17 Before the sanctions were issued, did you have the opportunity to appeal or challenge the sanction? (n=10)



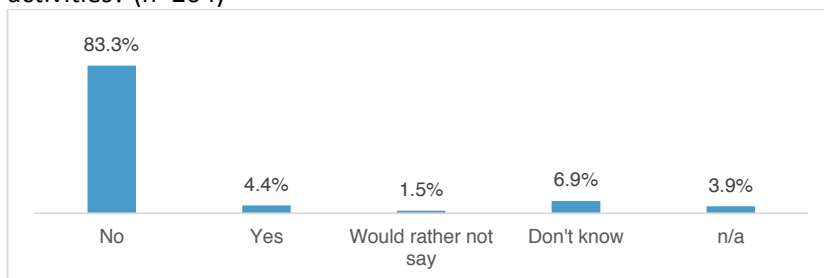
4.18 Did you appeal or challenge the sanction? (n=10)



4.19 Did you feel that the appeal process was independent? (n=3)



4.20 In the last year, has your CSO been denied the right to undertake income generation activities? (n=204)

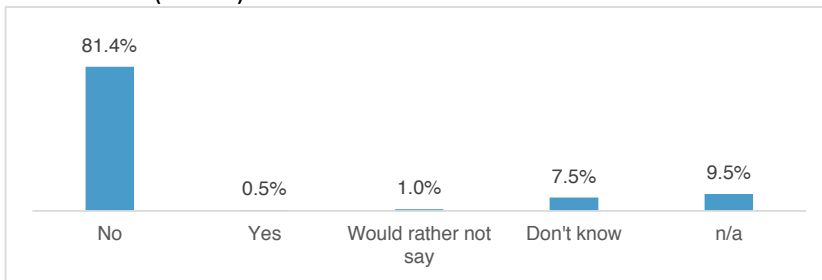


4.21 Why was your CSO denied the right to undertake income generation activities?

*Answers to this question were open ended. The vast majority of respondents did not give an answer.*

## Fundamental Freedoms Monitoring Project

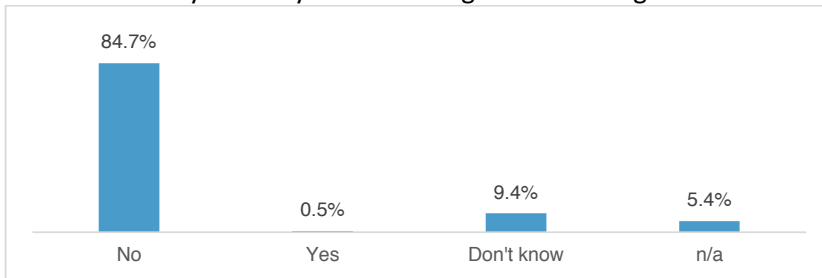
4.22 In the last year has your CSO been restricted in receiving funding from local businesses? (n=199)



4.23 Why was your CSO restricted in receiving funding from local businesses?

*Answers to this question were open ended. The vast majority of respondents did not give an answer.*

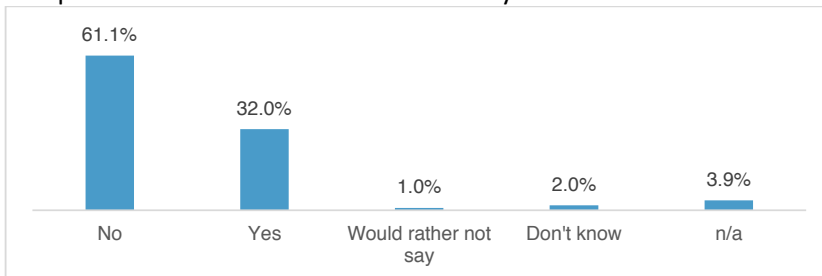
4.24 In the last year has your CSO being denied the right to access foreign funding? (n=202)



4.25 Why was your CSO denied the right to access foreign funding?

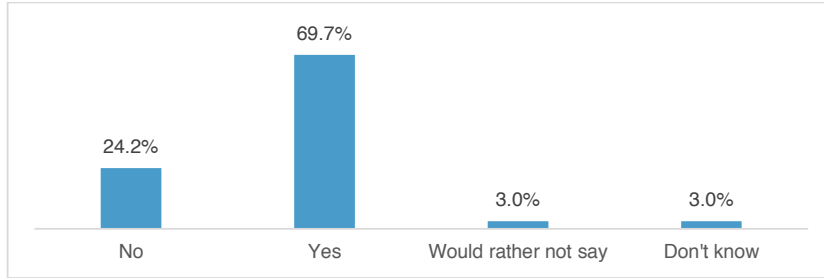
*Answers to this question were open ended. No respondents gave an answer.*

4.26 In the last year, has your CSO sought redress through the courts or another independent mechanism for violations of your freedom to association? (n=203)

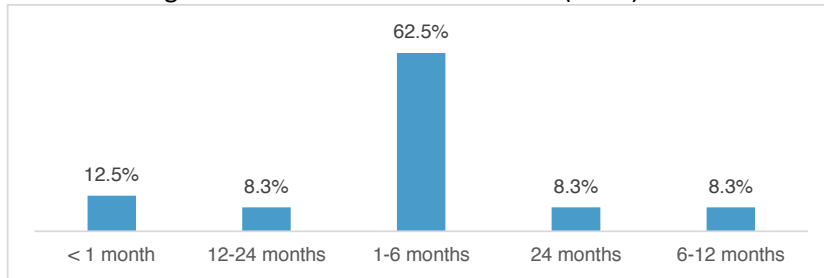


## Fundamental Freedoms Monitoring Project

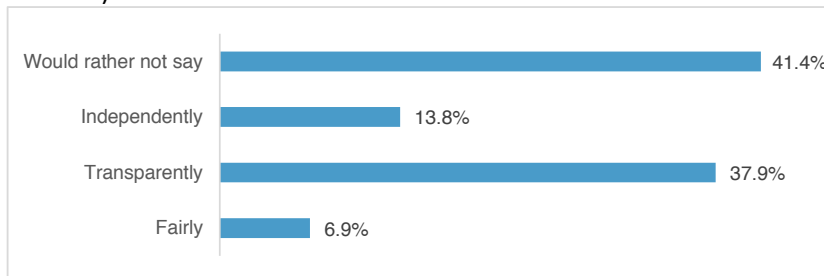
4.27 Was the violation for which you sought redress resolved? (n=66)



4.28 How long did it take for redress to occur? (n=24)

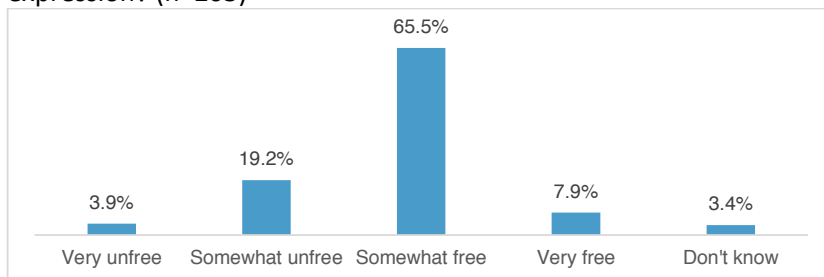


4.29 How was the violation for which you sought redress resolved? (multiple answers were allowed)



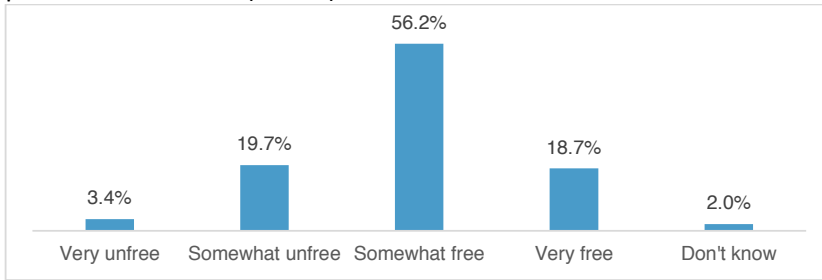
## Section 5: Ability to Exercise Freedoms

5.1 In the last year, how freely have you and your CSO been able to exercise the freedom of expression? (n=203)

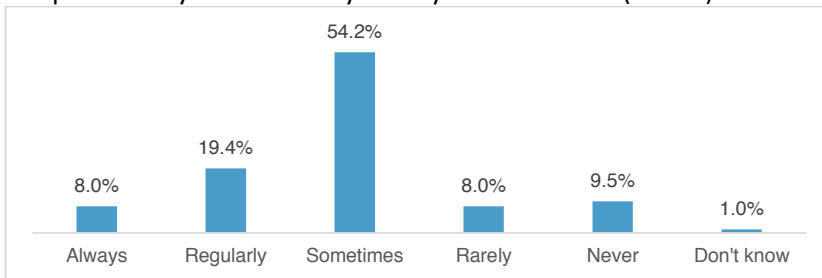


## Fundamental Freedoms Monitoring Project

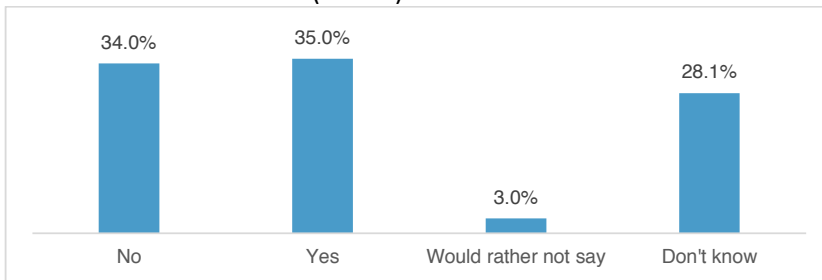
5.2 In the last year how freely have you and your CSO been able to exercise the freedom to peaceful assemble? (n=203)



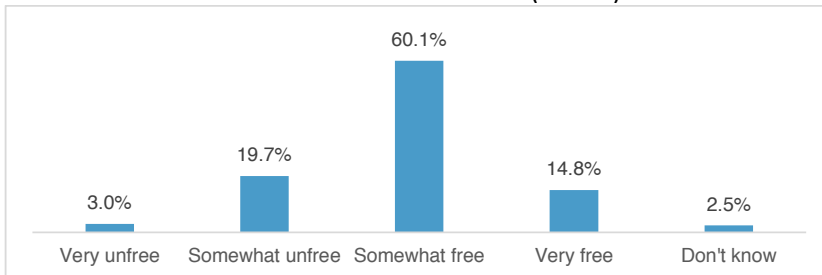
5.3 In the last year how often have you been worried when expressing yourself publicly to the point that you did not say what you wanted to? (n=201)



5.4 In the last year did you feel that your CSOs communication were monitored by Government authorities? (n=203)

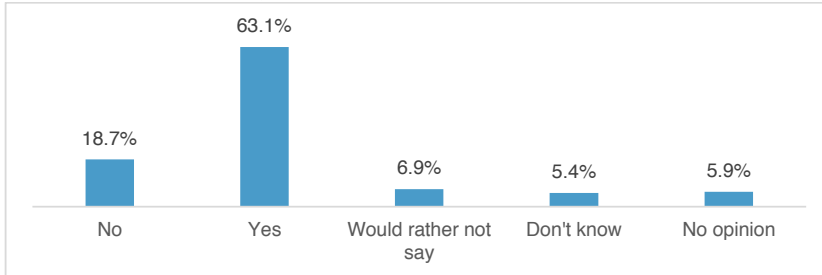


5.5 In the past year, how free have you been able to participate in CSO activities without fear of victimization from the Government? (n=203)

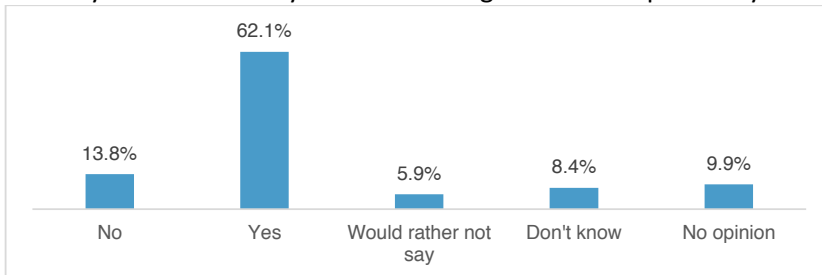


## Part 6: CSOs and Trade Unions Partnerships with the Government

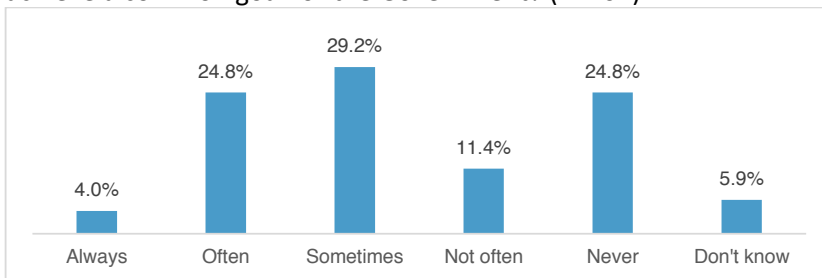
6.1 Do you believe that your CSO is recognized as a legitimate development partner by the Government? (n=203)



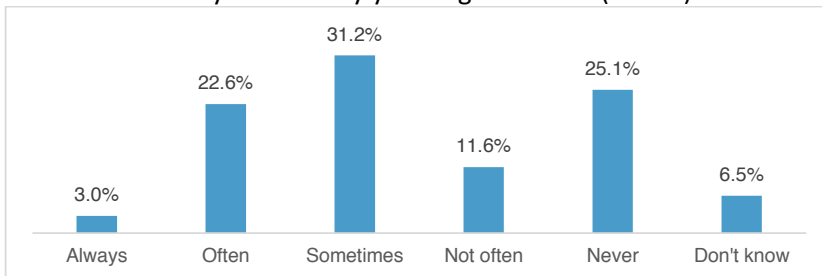
6.2 Do you believe that your CSO is recognized as competent by the Government? (n=203)



6.3 In the last year, how often has your CSO partnered with Government Authorities to achieve a common goal for the Government? (n=202)



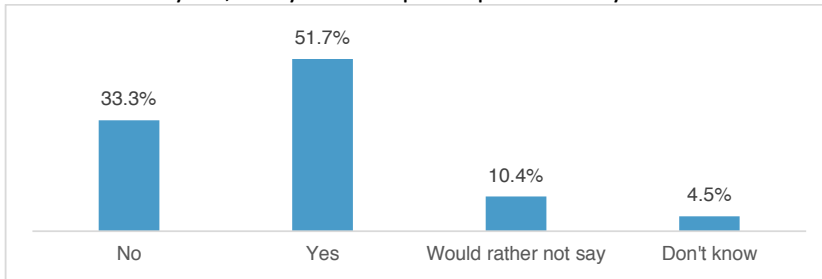
6.4 In the last year, how often has your CSO partnered with Government Authorities to achieve an activity initiated by your organization? (n=199)



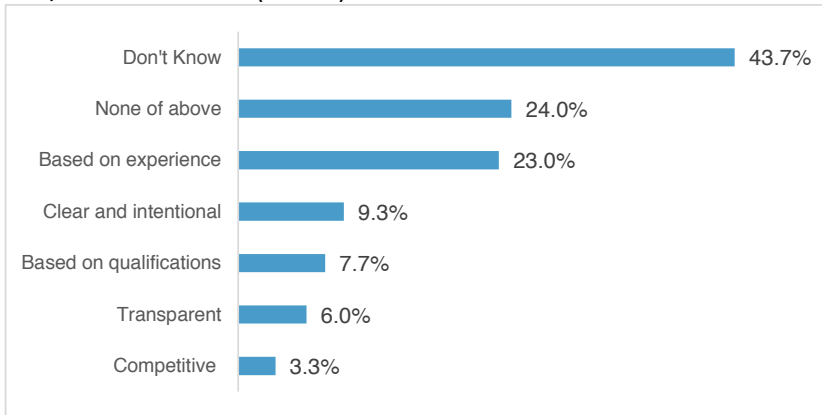


## Fundamental Freedoms Monitoring Project

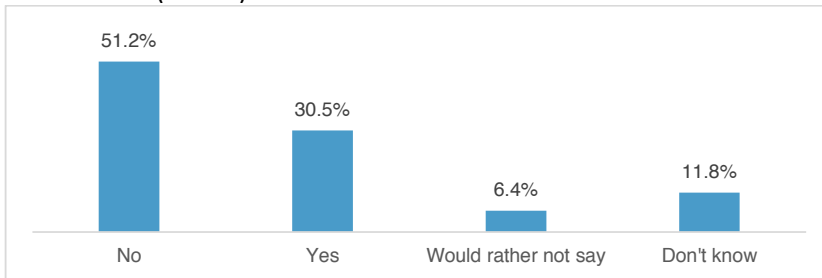
6.5 In the last year, has your CSO participated in any Government Consultations? (n=201)



6.6 Were the calls and selection for participation in Government consultations, panels and/or committees? (n=183)



6.7 In the last year, has your CSO participated as a member on a Government Panel or committee? (n=203)



6.8 In the last year, how often has your CSO had the opportunity to be active participants in decision and law making process with the Government? (n=204)

