

ÉTUDE DE CAS
Le Cambodge et ses femmes: quand les deux font chambre à part
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Note : l'étude de cas est complétée d'un tableau, présenté en annexe, qui a été préparé pour les besoins de la LICADHO

Dévasté par de multiples guerres civiles et les tristement célèbres exactions commises par le régime des Khmers Rouges, le Cambodge, petit pays d'Asie du Sud-est, tente, tant bien que mal, de se relever et de reconstruire son tissu économique, social et culturel. Si la volonté de se départir du titre de «pays en voie de développement» passe nécessairement par la réduction et l'élimination de l'extrême pauvreté, et donc, par une croissance économique, elle s'accompagne inévitablement d'autres mesures, notamment quant à la promotion et au respect des droits humains. En effet, il est aujourd'hui généralement admis que la croissance économique n'est qu'un facteur parmi d'autres dans le baromètre indicateur du développement d'un pays. Par conséquent, les donateurs accordent maintenant de plus en plus d'importance aux droits humains lors de l'octroi d'aide publique au développement. Le respect de ces droits est tantôt une condition liée à une aide, tantôt un outil diplomatique visant à promouvoir ces droits, mais reste trop souvent à l'état de simples vœux pieux.

Le Cambodge, un des pays les plus pauvres d'Asie, dépend en grande partie de l'aide au développement, qui représente 50% du budget du gouvernement. C'est dans ce contexte que cette étude vise à mettre en lumière la progression réelle des droits humains et de mesurer les engagements pris par les dirigeants de ce pays concernant l'atteinte des objectifs du millénaire, en prenant pour angle d'analyse la discrimination envers les femmes. Le 15 octobre 1992, le Cambodge ratifiait la Convention pour l'élimination de toute forme de discrimination à l'égard des femmes (ci-après la CEDEF). Quinze ans après son adhésion à ce traité de droits humain, nous avons voulu analyser la progression des droits qui y sont enchâssés en répertoriant les différentes mesures mises en place afin d'améliorer la situation des femmes dans ce pays d'Asie.

À l'occasion du dépôt par le gouvernement cambodgien de son rapport au Comité de la CEDEF, comité chargé, en vertu de l'article 18 de la convention, de surveiller son application au sein des États-membres, il était intéressant de dresser un bilan de la situation des femmes dans ce pays et d'évaluer l'effectivité des mesures mises en place au cours des quinze dernières années. Afin d'analyser l'ensemble des dispositions de la CEDEF, nous avons fait ressortir six thèmes que l'on y retrouve et qui constituaient les priorités indiquées par le gouvernement pour l'atteinte des objectifs du millénaire, soit :

- l'éducation
- la santé
- la participation à la vie publique et politique
- l'économie
- l'accès à la justice
- la violence envers les femmes

L'étude de cas ici présentée porte sur un de ces thèmes, soit la violence envers les femmes auquel nous avons identifié les trois principales formes que nous retrouvons au Cambodge, soit :

- le trafic,
- la violence domestique¹
- les violences d'ordre sexuel.

Pour chacune de ces formes de violence nous avons analysé :

- L'application actuelle de la CEDEF : en comparant les accomplissements soulignés dans le rapport du gouvernement cambodgien et ceux mentionnés dans le rapport des ONG.
- Les obstacles à l'application de la CEDEF : en comparant les obstacles soulevés dans le rapport du gouvernement et celui des ONG
- Les améliorations possibles : en comparant les engagements futurs du gouvernement avec les recommandations des ONG et du Comité responsable de l'application de la CEDEF.

Pour les fins de notre analyse, nous avons dressé un tableau comparatif qui se trouve en annexe, afin de pouvoir mieux illustrer les similitudes et les divergences entre le rapport du gouvernement cambodgien, celui des ONG et les recommandations du Comité de la CEDEF. Le texte qui suit constitue un résumé de ce qui ressort du tableau comparatif.

Parmi les nombreux types de discrimination dont sont victimes les femmes, figure la violence faite aux femmes. En effet, comme le soulignait le Comité de la CEDEF lors de sa recommandation générale #19 :

« La violence fondée sur le sexe est une forme de discrimination qui empêche sérieusement les femmes de jouir des droits et libertés au même titre que les hommes (...) L'article premier de la Convention définit la discrimination à l'égard des femmes. Cette définition inclut la violence fondée sur le sexe, c'est-à-dire la violence exercée contre une femme parce qu'elle est une femme ou qui touche spécialement la femme. Elle englobe les actes qui infligent des tourments ou des souffrances d'ordre physique, mental ou sexuel, la menace de tels actes, la contrainte ou autres privations de liberté. La violence fondée sur le sexe peut violer des dispositions particulières de la Convention, même si ces dispositions ne mentionnent pas expressément la violence. »²

Des trois formes de violence étudiées, soit le trafic, la violence domestique et les violences d'ordre sexuel, le trafic a été, de loin, la problématique la plus documentée dans le rapport gouvernemental. Le fait que le trafic humain relève de la sphère

¹ Le terme violence domestique a été préféré à celui de violence conjugale car il reflète mieux la réalité familiale cambodgienne où les membres d'une famille vivant sous un même toit inclura généralement la famille élargie : oncle/tante, grand-parents, beaux-parents, enfants, etc. Ainsi, la violence dont sera victime la femme ne proviendra pas nécessairement du conjoint, mais peut s'étendre à d'autres membres de la cellule familiale élargie.

² CEDAW Recommandation générale no.19, 11^e session, 1992, disponible à : <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm-fr.htm#recom19>

publique, contrairement à la violence domestique ou celle d'ordre sexuel qui se produisent généralement dans des lieux privés, est probablement une des explications à la volonté affichée par le gouvernement de s'attaquer au problème. Si aucune donnée officielle n'existe sur le nombre de femmes trafiquées chaque année, il ressort des analyses des ONG oeuvrant sur le terrain que la principale finalité au trafic est l'industrie du sexe. Les autorités cambodgiennes estiment qu'il y a actuellement 300 bordels clandestins exploitant minimalement 20 000 femmes, majoritairement trafiquées. Ce commerce, en plus d'être une source d'insécurité, favorise le tourisme sexuel et la propagation de maladies transmises sexuellement, sujet tabou, mais véritable fléau dans ce pays. Malgré la reconnaissance de la problématique par les autorités et l'adoption de diverses mesures, notamment législatives, afin de contrer le problème, celles-ci se sont avérées inefficaces et peu appliquées. Par exemple, plusieurs accords bilatéraux ont été conclus afin de réduire le trafic transfrontalier des femmes. Or, bien qu'effectivement, plusieurs accords de coopération aient été conclus avec différents gouvernements, la réalité est que dans la mesure où le trafic s'effectue à l'intérieur même des frontières du Cambodge, il ne relève que de la compétence des autorités cambodgiennes, ce qui fait dire à plusieurs que ces accords ne visent qu'à donner l'impression que les autorités agissent dans ce domaine alors qu'en réalité, très peu a été fait pour contrer le problème du trafic interne, commerce fort lucratif pour plusieurs. La corruption qui gangrène ce pays n'est pas étrangère à l'inaction du gouvernement dont plusieurs membres sont directement impliqués dans cette industrie qui a généré, en 1999, 20 millions de dollars US,³ une somme considérable pour ce pays. Ainsi, les ONG ont condamné l'implication des autorités dans ce commerce tout comme les accords illicites et les pots de vin échangés entre les autorités policières et judiciaires d'une part et les trafiqueurs. Les recommandations du Comité de la CEDEF ont donc principalement porté sur la nécessité de ne pas punir les femmes victimes de trafic et à cette fin de modifier les lois sur l'immigration, et de s'assurer que les personnes impliquées dans le trafic et l'exploitation sexuelle des femmes seront poursuivies et punies selon la loi.

L'analyse du rapport du gouvernement concernant la violence domestique et celle d'ordre sexuel, toutes deux relevant de la sphère privée des individus, démontre à quel point les autorités sont réfractaires à intervenir dans ces domaines. En effet, bien qu'il ait quelque peu parlé de violence domestique, le rapport gouvernemental a été complètement silencieux sur la violence sexuelle. Ce silence se reflète par ailleurs dans la réalité par l'inaction du gouvernement relativement à cette problématique, notamment l'absence d'éducation populaire, la formation inadéquate des autorités policières et judiciaires pour traiter de ces problèmes et l'impunité généralisée qui décourage les victimes de porter plainte. La méfiance envers le système judiciaire qui a, jusqu'à maintenant, adopté une interprétation fort restrictive de la notion d'agression sexuelle et le fardeau de preuve incombant à la victime alléguée découragent les femmes de dénoncer les auteurs de ces crimes. Par ailleurs, le déshonneur et le rejet dont seront victimes ces femmes contribuent également à maintenir le silence entourant ces sévices.

³ POULIN Richard, «Le système de prostitution au Cambodge, le témoignage de Somaly Mam » (2005) disponible à http://sisyphe.org/article.php3?id_article=2140

Bien que le gouvernement mentionne plusieurs initiatives prises afin de lutter contre la violence faite aux femmes, notamment en matière de trafic, l'absence de données quant au nombre de femmes victimes des différentes formes de violence rend impossible l'évaluation de l'impact de ces mesures. Par ailleurs, les ONG soulignent la présence d'obstacles fondamentaux en amont et en aval du problème, ce que reconnaît par ailleurs le gouvernement. En effet, les causes sous-jacentes à la violence faite aux femmes telles que la pauvreté, la discrimination, le manque d'éducation et les traditions locales ne font l'objet d'aucune mesure spécifique afin de réduire leur présence dans la société cambodgienne. Les ONG locales pointent particulièrement du doigt le *Chbab Srey* loi coutumière discriminatoire toujours enseignée à l'école et qui prescrit la subordination et l'obéissance de la femme à l'homme. Étrangement, malgré la reconnaissance par le gouvernement que les traditions pouvaient être un obstacle à l'élimination de la discrimination envers les femmes et la condamnation de la part des ONG de l'enseignement de ce code de conduite discriminatoire, la ministre des affaires féminines du Cambodge estime que ce code de conduite ne semblait pas être un obstacle pour parvenir à l'égalité des sexes.

Bref, l'élimination de la discrimination envers les femmes est loin d'être résolue dans ce pays. Des traditions fortement ancrées dans les mœurs de la population et le manque de volonté de la part du gouvernement pour promouvoir le statut de la femme contribuent à maintenir celles-ci dans des positions sociales et économiques défavorables qui constituent des obstacles à l'élimination de la discrimination dont elles sont victimes et à la reconnaissance et au respect de l'égalité entre les hommes et les femmes. Néanmoins, il sera intéressant d'observer les mesures qui seront adoptées au cours des prochaines années et de voir si le gouvernement respectera les engagements qu'il a émis dans son rapport et s'il s'inspirera des recommandations formulées par le Comité de la CEDEF afin d'éliminer la discrimination envers les femmes.

VIOLENCE AGAINST WOMEN: TRAFFICKING

ROYAL GOVERNMENT OF CAMBODIA (RGC) REPORT ON THE IMPLEMENTATION OF CEDAW (Oct. 2003)	NGOs JOINT COALITION SHADOW REPORT FOR CEDAW COMMITTEE (Jan.2006)	ACTION TAKEN / ACHIEVEMENTS (RGC)
GENERAL		
<ul style="list-style-type: none"> •Thousands of Cambodian women have been trafficked to foreign countries •Trafficking is the worst form of violence against women •Trafficking has health effects: psychological and physical harm, STD... •Trafficking is caused by poverty, domestic violence, gender discrimination, illiteracy, misery, joblessness, lack implementation of law, lack of information and education •Thai authorities sent some 400 Cambodian children back monthly 	<ul style="list-style-type: none"> •Impossible to establish the exact number of trafficked women •A growing number of women are being trafficked for sexual exploitation, forced domestic labor and factory work •Poverty and migration are fundamental factors facilitating the trafficking • Women living in border areas are particularly susceptible to trafficking • Percentage of those claiming they were duped by offers of improved employment has increased • During the migration process, women are often deceived into procuring work through a trafficker, Once recruited, women become completely reliant on the trafficker 	<ul style="list-style-type: none"> •National Plan has been adopted Against Trafficking and Sexual Exploitation of Children (2000-2004) •MOWVA¹ has signed a 3 years agreement to fight all forms of trafficking with the government of Finland (2000-2003) •Adoption of sub-regional cross-border agreements with Thailand and Vietnam •MOWVA and the British Embassy has been supporting a program for economic development within poor families, mainly women near the Cambodia-Thai borders • Legal training has been provided for the Royal Cambodian Armed Forces (RCAF), Military Police and Police throughout the country. • Training has been provided to 134 women police at the Ministry and at 13 Provincial/Municipal Police Commissaries to suppress the trafficking of women and children at land, water, air border checkpoints and to prevent violence against women • 2001: 210 Cambodian were repatriated from Vietnam and 76 from Indonesia. • 2001: 230 victims were integrated into the national community.
PROSTITUTION		
<ul style="list-style-type: none"> • Research indicates that 64.45% of prostitutes have been forced into the industry 52.9% of whom were misled by a promise of a good job, 11.04 % were sold by relatives and 0.58% were raped. •35% of prostitutes are under 18 years. •35.45% were forced into prostitution by poverty² 	<ul style="list-style-type: none"> • Research indicates that 64% of prostitutes have been forced into the industry, 53% were tricked by the prospect of a job, 11% were sold by family members and 0.5% were raped³ 	<ul style="list-style-type: none"> •Moi⁴ has conducted activities with police, judges and prosecutors aimed at implementing procedures, increase awareness and provide in-depth training on investigative techniques related to sexual exploitation •2000-2001: 436 Cambodian victims of the Sexual Exploitation and Human Trafficking were repatriated to Cambodia from

¹ Ministry of Women's and Veteran's Affairs

<ul style="list-style-type: none"> •Presently there are around 300 clandestine brothels with at least 20,000 prostitutes •Trafficking occurs mostly for the purpose of sexual exploitation and has increased in recent years •Growth of the market economy is one of the reason of the growth of prostitution •There is no accurate data available on trafficking and prostitution •Street children are victimized by being a sexual partner or allowing pornographic pictures of them 	<ul style="list-style-type: none"> • Women are trafficked in and out of Cambodia to work in the sex industry, but most are trafficked inside the country 	Thailand.
LEGISLATION		
	<ul style="list-style-type: none"> • Victims trafficked outside Cambodia and forced into prostitution face arrest, criminal charges, and health problems (STD...) 	<ul style="list-style-type: none"> • An Executive Legal Committee⁵ was set up to built the capacity of police, judges and prosecutors to investigate, suppress and punish the perpetrators •RGC issued directive⁶ to stop the business of bars, nightclubs, discotheques and karaoke facilitating trafficking • RGC has adopted the Law on Suppression of kidnapping, Trafficking and Exploitation of Human Person • National Assembly is currently reviewing the draft Law on Human Trafficking and Sexual Exploitation. The draft law will provide more powers to arrest and prosecute traffickers, and to protect the victims. •Royal School of Magistrate has been created to train judges and increase accountability in the enforcement of law • Seminars given to judges and prosecutors in cooperation with NGOs on the trafficking and exploitation of prostitution of women • Phnom Penh Municipal Authority has established a Joint Committee for the Implementation of the PGPSEWC.⁷ The Committee's objective is to find and prosecute traffickers.

² All Statistics from the Cambodian Women Crisis Center

³ Ibid.

⁴ Ministry of interior

⁵ This program was implemented by the Ministry of interior (MOI), COHCHR, IOM, UNICEF, REDD, BARN A and World Vision

⁶ No 01 BB

⁷ Policy Guidelines on the Prevention of Sexual Exploitation of Women and Children.

VIOLENCE AGAINST WOMEN: TRAFFICKING

OBSTACLES UNDERLINED BY RGC	OBSTACLES UNDERLINED BY NGOs JOINT COALITION
IMMIGRATION/MIGRATION	
<ul style="list-style-type: none"> • Law on Suppression of Kidnapping, Trafficking/sale and Exploitation of Human person (<i>Herein after: Law on Suppression of kidnapping</i>) is not harmonized with the law on immigration which makes it difficult to implement 	<ul style="list-style-type: none"> • Trafficked women and girls are dealt with as criminals who have violated immigrations laws • RGC has not drafted any legislation protecting victims from prosecution on illegal immigration charges • Cambodian women who are trafficked and convicted of illegal immigration are sent in detention centers and often don't have access to a translator or lawyer • Victims who had finished their sentence were kept in detention camps, since no authorities came to assist their return to Cambodia. They may be re-trafficked • Assistance to victims of trafficking are still insufficient • Lack of extensive reintegration and rehabilitation measures for victims.
LEGISLATION AND IMPLEMENTATION	
<ul style="list-style-type: none"> • Law enforcement is ineffective • Victims lack access to justice • Some judges use their discretionary power to punish the accused persons not in conformity with the law • Law on Suppression of Kidnapping have some gap giving chances to both, authority and offenders, to obtain profit individually from the cases. 	<ul style="list-style-type: none"> • Laws are not strenuously enforced and punishments are weak • Few traffickers have ever been prosecuted and convicted • There is no evaluation on the effectiveness of the measures taken to decrease trafficking of women
GOVERNMENT AND OFFICIALS ROLE	
<ul style="list-style-type: none"> • Law enforcement officials have not been appropriately enforcing the law and have extorted money from the client 	<ul style="list-style-type: none"> • Authorities accept bribes and some of them are even part-owners of brothels and prostitution enterprises • Cases are solved by unlawful settlement where the police earn a fee from it.

VIOLENCE AGAINST WOMEN: TRAFFICKING

RGC COMMITMENTS	NGOs JOINT COALITION RECOMMENDATIONS	UN CEDAW COMMITTEE RECOMMENDATIONS (Feb.2006)
LEGISLATION		
<ul style="list-style-type: none"> • RGC is working to enact new legislation and the mechanism to effectively enforce the law •RGC is committed to implement all human rights instrument 	<ul style="list-style-type: none"> • Enact and implement the draft Law on Human Trafficking and Sexual Exploitation. • Educate legal and judicial officials in implementing the current anti-trafficking laws. 	<ul style="list-style-type: none"> • Recommends that RGC strengthen bilateral, sub-regional and multilateral cooperation to combat trafficking • Include punishment for offences of discrimination against women in the new Criminal Code • Include sanction against offenders and protection measures for victims in the Law on Suppression of Kidnapping •Urges RGC to ensure that those who traffic and sexually exploit women are prosecuted and punished within the full extent of the law
MEASURES		
<ul style="list-style-type: none"> •Measure taken to suppress trafficking in women and children is one of the priority issues of RGC 	<ul style="list-style-type: none"> • Evaluate the effectiveness of RGC's measures to combat the trafficking of women. • Provide continuing and follow-up training for police and border officials. • Increase efforts to repatriate victims of trafficking and assist NGOs actively engaged in repatriation efforts. • Provide counselling services on rehabilitation and reintegration for victims of trafficking 	<ul style="list-style-type: none"> • Urges RGC to intensify it's effort to combat trafficking by addressing their root causes and to undertake comprehensive prevention measure, including gender-base sensitive poverty reduction strategies, awareness-raising campaigns and provision of alternative means of livelihood •Request that victims of trafficking not be prosecuted for illegal immigration •Urges RGC to implement rehabilitation and reintegration measures for victims •Calls RGC to focus on the causes of women's migration and to develop policies and measures to protect them against exploitation and abuse •Encourage RGC to make full use of Committee's general recommendation #19 to address violence against women
NEXT REPORT TO CEDAW COMMITTEE		
		<ul style="list-style-type: none"> •Request RGC to provide information and data on migrant women in it's next report •Request RGC to provide in its next report comprehensive information and data on trafficking and on the impact of the various measure undertaken. •Encourage RGC to ratify the International Convention on the Protection of the Rights of all Migrant Workers and members of their families

VIOLENCE AGAINST WOMEN: DOMESTIC VIOLENCE

ROYAL GOVERNMENT OF CAMBODIA (RGC) REPORT ON THE IMPLEMENTATION OF CEDAW (Oct. 2003)	NGOs JOINT COALITION SHADOW REPORT FOR CEDAW COMMITTEE (Jan. 2006)	ACTION TAKEN / ACHIEVEMENTS (RGC)
GENERAL		
<ul style="list-style-type: none"> • Domestic violence has serious effects on women • Cases of violence against women which causes danger or the loss of any benefit, the victim may file a complaint as it is considered a criminal offence. 	<ul style="list-style-type: none"> • Domestic violence is one of the major factors contributing to gender inequality in Cambodia • RGC's report to the CEDAW Committee contains limited information on violence against women and, in particular, on domestic violence • There are no accurate figures on victims of domestic violence • MOWVA⁸ surveyed 3,000 people in 13 provinces on attitudes relating to domestic violence. 80% said they knew a husband who used physical violence with his wife, and 25% said they had experienced domestic violence. • It's the responsibility of the RGC and not civil society to provide assistance, protection and education to domestic violence victims. 	<ul style="list-style-type: none"> • Ministry of health has conducted health care program designed to focus on mental health care for all and in particular for women victims of domestic violence • Creation of the MOWVA aimed at reducing and abolishing all forms of discrimination against women

⁸ Ministry of Women's and Veteran's Affairs

VIOLENCE AGAINST WOMEN: DOMESTIC VIOLENCE

OBSTACLES UNDERLINED BY RGC	OBSTACLES UNDERLINED BY NGOs JOINT COALITION
TRADITION AND CULTURE	
	<ul style="list-style-type: none"> • As a consequence of the Cambodian tradition and moral code (Chbab Sray) together with its dominant male hierarchy, women suffering from domestic violence won't talk about it or seek help, believing that problems within the marriage should stay private • Underreporting of domestic violence because women face shame and dishonor in seeking outside help • Men are viewed as the final decision makers in their households • Cambodian women's inherent cultural inferiority makes it especially difficult for them to reach out for assistance
LEGISLATION	
<ul style="list-style-type: none"> • Draft Law on the Prevention of Domestic Violence and the Protection of the Victims is not yet adopted by the National Assembly.⁹ 	<ul style="list-style-type: none"> • The new Law on domestic violence is not implemented and It will take time to assess the benefits of the passing of that law • The existing laws are more than sufficient to prevent and provide protection to domestic violence victims. But the strength of these laws is undermined by the lack of implementation.
GOVERNEMENT AND OFFICIALS ROLE	
	<ul style="list-style-type: none"> • Officials are reluctant to interfere with 'domestic' problems • Officials are corrupted and accept bribes rendering current legislation ineffective • There is a lack of trust in the legal and judicial authorities • The RGC has not made substantial efforts to educate and train police, lawyers, judges and the general public to raise awareness • It is unclear whether the government is serious about combating domestic violence, considering that the report to CEDAW was silent on the topic • The efforts by the RGC have been insufficient in assisting and protecting victims of domestic violence. • The RGC has not managed to educate all levels of the community on the problem of domestic violence

⁹ Since the deposition of the report in 2003, this law has been passed

VIOLENCE AGAINST WOMEN: DOMESTIC VIOLENCE

RGC COMMITMENTS	NGOs JOINT COALITION RECOMMENDATIONS	UN CEDAW COMMITTEE RECOMMENDATIONS (Feb. 2006)
LEGISLATION		
<ul style="list-style-type: none"> • Project for the drafting and adoption of the Law on the Prevention of Domestic Violence and the Protection of the Victims.¹⁰ • Systematic review of existing laws with gender bias 	<ul style="list-style-type: none"> • Increase the number of trained female law enforcement officers and legal officials dealing with domestic violence victims 	<ul style="list-style-type: none"> • Urges RGC to place high priority on implementing a comprehensive approach to address all form of violence against women, including the effective enforcement and monitoring of legislation on domestic violence • Recommends that legal aid be made available to victims in urban and rural areas • Recommends RGC to increase the number of female judges and law enforcement officials as a means to encourage domestic violence reporting
MEASURES		
<ul style="list-style-type: none"> • Supporting campaigns for dissemination of information about women’s legal rights 	<ul style="list-style-type: none"> • Conduct a nationwide educational and awareness campaign on the new Law on Domestic Violence, with particular emphasis to males and those living in rural areas • Provide training to police, lawyers and the judiciary aimed at recognizing and combating domestic violence • Conduct educational campaigns, particularly in rural areas, to counter traditional thinking that women are inferior to men and to inform them of their rights within a domestic context • Provide counselling services, shelters and vocational training for domestic violence victims. 	<ul style="list-style-type: none"> • Urges RGC to raise public awareness through media and education programs that violence against women, including domestic violence is an infringement of women’s human rights and is unacceptable • Calls upon RGC to train the judiciary, law enforcement officials, legal professionals, social workers and health providers on the new law on Prevention of Domestic Violence, and to fully sensitize them to all forms of violence against women so as to ensure that the perpetrators of violence are effectively prosecuted and punished with the required seriousness and speed • Recommends that required medical certificates be provided free of charge • Calls on RGC to establish support measures for victims of domestic violence, including shelters and legal, medical and psychological support • Encourage RGC to make full use of Committee’s general recommendation #19 to address violence against women

¹⁰ Since the deposition of the report in 2003, this law has been passed

VIOLENCE AGAINST WOMEN: RAPE

ROYAL GOVERNMENT OF CAMBODIA (RGC) REPORT ON THE IMPLEMENTATION OF CEDAW (Oct. 2003)	NGOs JOINT COALITION SHADOW REPORT FOR CEDAW COMMITTEE (Jan. 2006)	ACTION TAKEN / ACHIEVEMENTS
MEASURES		
<ul style="list-style-type: none"> • women's client of rape can file a complaint as rape is considered a criminal offence 	<ul style="list-style-type: none"> • There are no clear statistics on the number of women raped every year in Cambodia • in recent years, the <i>reporting</i> of various rape crimes has significantly increased • Rape is not mentioned within the RGC's report to the CEDAW Committee. • RGC report fails to acknowledge rape as a serious crime affecting Cambodian women. • There is no specific RGC policy on rape in Cambodia. 	

VIOLENCE AGAINST WOMEN: RAPE

OBSTACLES UNDERLINED BY RGC	OBSTACLES UNDERLINED BY NGOs JOINT COALITION
TRADITION AND CULTURE	
	<ul style="list-style-type: none"> • Victims fear retaliation from the perpetrator (especially when he is in a position of authority). • Social and cultural myths prevent victims from reporting rape crimes • Shame related to the loss of virginity lead the victim to refuse to report the rape • Men are perceived to have more value in Cambodian society than women • There is strong support for prison terms for rapists, but less when the perpetrators are boyfriends. • Rape of sex workers is not widely recognized • A culture of impunity currently exists towards perpetrators of rape crimes
LEGISLATION	
	<ul style="list-style-type: none"> • Misinterpretation of the law when a test of penetration and loss of virginity is used to determine whether rape has occurred. • Judges have stated that rape has not occurred if ‘touching was on the outside’ or ‘rape was not deep and virginity has not been lost’ • Judges have no reason to use these tests to determine whether or not a victim was raped • The rape provisions are very clear in saying that anyone who attempts to rape will also be guilty of rape • Lack of physical and medical evidence may lead judges to consider that consent was given during a sexual act • The courts regard medical certificates as the primary method of establishing the lack of consent of the victim • If there is no physical evidence of rape and no medical certificate proving so, then judges may declare that consent was given • Incorrect forensic evidence may be presented • Distrust of the justice system (owing to corruption). • Many rapists may believe that they are above the law and that if they are caught their only punishment will be to pay money • The most serious obstacle to the prosecution of rapists is the unlawful practice of compensation payments
GOVERNMENT AND OFFICIALS ROLE	
	<ul style="list-style-type: none"> • Impunity and unlawful settlement are more likely to occur when the perpetrator is wealthy or holds a position of authority, such as a police, military or government employee • Police may force victims to settle with their perpetrators so that they may receive a fee for assisting with compensation • Costs of pursuing prosecution (hidden fees demanded by corrupt officials)

VIOLENCE AGAINST WOMEN: RAPE

RGC RECOMMENDATIONS & COMMITMENTS	NGOs JOINT COALITION RECOMMENDATIONS	UN CEDAW COMMITTEE RECOMMENDATIONS (Feb. 2006)
LEGISLATION		
	<ul style="list-style-type: none"> • Educate legal and judicial officials on the correct interpretation of legislation. • Prosecute those officials who misinterpret and abuse the law, including those who participate in or facilitate the brokering of compensation settlements. • Enact rape legislation that clarifies the definition of ‘consent’ as well as elements of the crime (for example, any penetration or attempted penetration is considered rape). 	
MEASURES		
	<ul style="list-style-type: none"> • Embark on a sustained advocacy campaign to educate Cambodians (focusing on women) on the subject of rape, rights of rape victims, rape laws and the criminal process. • Provide counselling and rehabilitative shelters for victims of rape crimes. 	<ul style="list-style-type: none"> • The Committee is concern about the high cost of medical certificates that are required in cases of rape and sexual assault • Encourage RGC to make full use of Committee’s general recommendation #19 to address violence against women