

**solidar**



# ECONOMIC & SOCIAL RIGHTS REPORT

# CAMBODIA



- 3** GOOD HEALTH AND WELL-BEING
- 4** QUALITY EDUCATION
- 8** DECENT WORK AND ECONOMIC GROWTH
- 16** PEACE, JUSTICE AND STRONG INSTITUTIONS
- 17** PARTNERSHIPS FOR THE GOALS

# SUMMARY

How can the European Union (EU) better contribute to building an enabling space for Civil Society Organizations (CSOs) in Cambodia? How can the EU support the progressive realization of Economic and Social Rights - that is to say Freedom of Association and the Right to Organise, Decent Work and the Right to Social Protection for all - in connection with the implementation of the 2030 Agenda for Sustainable Development?

The SOLIDAR Network is active on these themes in Cambodia through its member and partner organisations. During a process led by Solidar Suisse, our Network has held several meetings aimed at discussing the current situation of Economic and Social Rights in Cambodia, as well as define the modalities of a solid partnership between the EU.

This publication presents the main results of these exchanges and is structured around two priority axes:

1. Building an Enabling Space for Civil Society Organizations and Human Rights Defenders (SDGs 16 and 17)

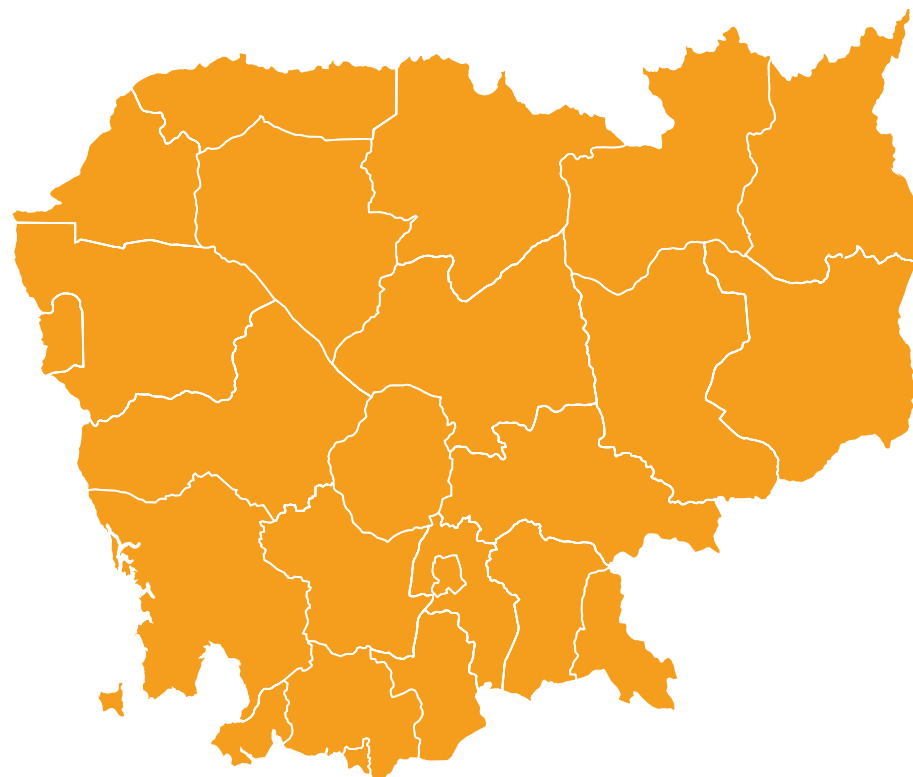


2. Promoting Decent Work and Social Protection for all (SDGs 3, 4, 8)



# OUTLINE

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# 1. ABOUT THE SOLIDAR SOCIAL AND ECONOMIC RIGHTS MONITOR

In 2015, all United Nations member states signed up to the 2030 Agenda for Sustainable Development: a global commitment to transform our current model of economic development into one based on respect for human rights and the environment. In 2017 - with the aim of promoting policy coherence for development - the new European Consensus on Development announced the alignment of the development activities of the EU and its member states with the 2030 Agenda.

According to SOLIDAR, the 2030 Agenda constitutes a powerful framework to:

1. Promote a model of sustainable development at the service of the greatest number and not of the few, making the full realization of human and environmental rights its main objective;
2. Ensure the progressive realization of economic and social rights, namely decent work, social protection and freedom of association.

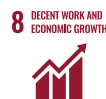
The Economic and Social Rights Monitoring Report (ESRM) is a tool developed by SOLIDAR members and partners within the framework of the EU-funded program “Organizing International Solidarity” (OIS).<sup>1</sup> It aims to collect the views and recommendations of civil society organizations (CSOs) on the contribution of national and European policies and programs to the achievement of the Sustainable Development Goal, and especially of:



**SDG 3: Good health and Wellbeing**



**SDG 4: Quality Education**



**SDG 8: Decent Work and economic growth**



**SDG 16: Peace, Justice and Strong Institutions**



**SDG 17: Partnership for the Goals**

Within this context, the Monitor pays special attention to EU and national contributions to the promotion of (1) an enabling environment for CSOs and Human Rights Defenders and (2) Decent Work and Social Protection for all.

The ESRM thus represents an opportunity for SOLIDAR members and partners to engage in a structured dialogue with the EU over the progressive realization of economic and social rights and the Agenda 3030, and to contribute to the EU Programming for the period 2021-2027.

<sup>1</sup> A presentation of the OIS programme is available at: <https://prezi.com/view/9zuxuivoqUSD3w1pGJSz>



Author: Tep Ho, Pixabay.com

## 2. CAMBODIA - COUNTRY BACKGROUND AND DEVELOPMENT STRATEGY

TABLE 1. CAMBODIA AT A GLANCE

Population <sup>2</sup>	16.486.542 million (2019)
Gross Domestic Product (GDP) <sup>3</sup>	€ 24 billion (2019)
Human Development Index (HDI) and ranking <sup>4</sup>	0.581 (146 <sup>th</sup> out of 189 countries)
Total public social protection expenditure including health (percentage of GDP) <sup>5</sup>	0.8% of GDP (2015)
Indicative total budget of the Cambodian NIP	€ 410 million
Sustainable Development Score (current) <sup>6</sup>	64.39 (106 <sup>th</sup> out of 193 countries)

<sup>2</sup> <https://data.worldbank.org/country/cambodia>

<sup>3</sup> [https://webgate.ec.europa.eu/isdb\\_results/factsheets/country/overview\\_cambodia\\_en.pdf](https://webgate.ec.europa.eu/isdb_results/factsheets/country/overview_cambodia_en.pdf)

<sup>4</sup> <http://hdr.undp.org/en/countries/profiles/KHM>

<sup>5</sup> This figure refers only to the central government sector. <https://www.social-protection.org/gimi/gess/ShowWiki.action?id=594#tabs-3>

<sup>6</sup> <https://dashboards.sdindex.org/profiles/KHM>

Over the last two decades, Cambodia has achieved outstanding socio-economic progress, registering one of the highest average growth rates in the world and achieving the status of middle-income country in 2015.<sup>7</sup> It has also been one of the best performing Millennium Development Goal (MDG) achievers in the world, ranking 2nd best among all the LDCs.<sup>8</sup> For instance, the country succeeded in halving its poverty rate, which in 2014 stood at 13.5% compared to 47.8% in 2007. However, the majority of Cambodians lifted out of indigence (4.5 million people) remain highly vulnerable to economic and other external shock, and are thus at risk of falling back into poverty. Health and education, especially quality, remain important challenges and development priorities,<sup>9</sup> and the same is true for the protection of human rights. In fact, in August 2020 the EU decided to partially and temporarily withdraw Cambodia's duty-free quota-free access to the EU market which had been granted to the country under the "Everything But Arms" (EBA) trade agreement, in view of serious and systematic concerns regarding human and labour rights in Cambodia.<sup>10</sup>

While during the early years of EU-Cambodia development cooperation EU efforts have focused mainly on helping to rebuild the country emerging from years of war, over time they have shifted to supporting Cambodia's socio-economic and political development based on its national development strategy and objectives.<sup>11</sup> Most recently, the European Development Partners have engaged in a Joint Programming process resulting in the adoption of the 2014-2018 European Development Cooperation Strategy for Cambodia, with a provisional funding of €1.4 billion. This document served as the basis for the elaboration of the EU Multi-Annual Indicative Programme (MIP)

7 <https://www.worldbank.org/en/country/cambodia/overview>

8 <https://eeas.europa.eu/sites/eeas/files/mip-cambodia-2014-2020-en.pdf>

9 <https://www.worldbank.org/en/country/cambodia/overview>

10 [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_20\\_1469](https://ec.europa.eu/commission/presscorner/detail/en/IP_20_1469)

11 *ibidem*



Author: LOK Chanmakara, Pixabay.com

2014-2020,<sup>12</sup> guiding EU-Cambodia development cooperation during this period. The MIP, with an indicative budget of €410 million, aims to support Cambodia in achieving the strategic objectives set in its national socio-economic policy agenda for the 2013-2018 period, and it identifies 3 EU focal sectors for development cooperation, and their related objectives:<sup>13</sup>

COOPERATION SECTOR	SPECIFIC OBJECTIVES	BUDGET (€410 million total)
<b>Agriculture/Natural resource management (Fisheries &amp; Forestry)</b>	<ul style="list-style-type: none"> <li>Enhance the development, sustainable management, and climate resilience of Agricultural planning and practices and Natural Resources based systems to the benefit of all stakeholders and economic actors.</li> </ul>	€144 million
<b>Education/Skills</b>	<ul style="list-style-type: none"> <li>Provide technical and financial support to:               <ul style="list-style-type: none"> <li>improve equitable access for all to education services;</li> <li>enhance quality and relevance of learning;</li> <li>ensure effective leadership and management of education staff at all levels.</li> </ul> </li> </ul>	€140 million
<b>Governance and Administration</b>	<ul style="list-style-type: none"> <li>Improve the governance of public funds in terms of planning, budgeting, execution, reporting and auditing in order to increase efficiency, transparency and accountability and improve the delivery of public services;</li> <li>Support Sub-National Administrations (SNAs) to promote the welfare (voice, rights, livelihoods) of citizens, improve equality between citizens and communities, especially women and vulnerable groups, and ensure fairness in access to services;</li> <li>Completion of the proceedings of the three on-going cases against those accused of being most responsible for the crimes and violations committed during the Khmer Rouge regime ensuring international standards of justice in conducting fair trials.</li> </ul>	€120 million

<sup>12</sup> <https://eeas.europa.eu/sites/eeas/files/mip-cambodia-2014-2020-en.pdf>

<sup>13</sup> <https://eeas.europa.eu/sites/eeas/files/mip-cambodia-2014-2020-en.pdf>



In addition, three cross-cutting issues were also identified in the MIP which would be taken into account within interventions in all focal sectors, namely Gender Equality and the Empowerment of Women - for which a joint Gender Action Plan 2016-2020 was especially developed by the European Development Partners - Environment and Nutrition. **Moreover, as part of the strategy to improve public Governance and Administration, the EU also committed to ensuring an enabling environment for CSOs in Cambodia, drafting a European Roadmap for Cooperation with Civil society in Cambodia for the 2014-2018 period.**<sup>14</sup>

In late 2018, the Cambodian government published its Rectangular Strategy Phase IV (RS IV, 2019-2023),<sup>15</sup> followed by its implementation program (National Strategic Development Plan 2019-2023). It presents the country's 2050 vision, including the goals of Growth, Employment, Equity and Efficiency already present in the previous national development strategy, but dedicating a particular focus to the latter, and identifying 4 new priority areas for action, namely (1) Human Resource Development, (2) Economic Diversifications, (3) Promotion of private Sector Development and Employment, and (4) Inclusive and Sustainable Development.

Since late 2018, the European group also started the preparation of the next joint European Strategy for Development Cooperation in Cambodia for the period 2020-2024.

In light of the context reviewed so far and of the new development objectives defined by Cambodia, and based on the consultations carried out by SOLIDAR's members and partners in the field, this report highlights the following themes to be addressed by the EU in

its next Programming priorities (2021-2027) and within the context of its work towards the achievement of the Sustainable Development Goals in Cambodia:

- Building an Enabling Space for Civil Society Organizations (CSOs) and Human Rights Defenders (HRDs)
- Promoting Decent Work and ensuring Social Protection for all



<sup>14</sup> <https://europa.eu/capacity4dev/joint-programming-tracker/cambodia>

<sup>15</sup> <http://cnv.org.kh/wp-content/uploads/2012/10/Rectangular-Strategy-Phase-IV-of-the-Royal-Government-of-Cambodia-of-the-Sixth-Legislature-of-the-National-Assembly-2018-2023.pdf>

### 3. BUILDING AN ENABLING SPACE FOR CIVIL SOCIETY ORGANISATIONS (CSOs) AND HUMAN RIGHTS DEFENDERS (HRDs)



16 PEACE, JUSTICE AND STRONG INSTITUTIONS



17 PARTNERSHIPS FOR THE GOALS



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An ‘enabling space for CSOs’ is the set of conditions that allows civil society and individuals to organize, participate and communicate freely and without discrimination, and in so doing, influence the political and social structures around them (CIVICUS).<sup>16</sup> The rights essential to civic space - freedom of association, freedom of peaceful assembly and freedom of expression - must be respected both in the context of the values, norms and attitudes of society, as well as in the legal framework, regulatory environment, access to finance and meaningful participation in decision-making of states and other relevant entities.

The 2012 EU Communication entitled ‘The Roots of Democracy and Sustainable Development: Europe’s Engagement with Civil Society in External Relations’<sup>17</sup> confirmed the EU’s desire to establish a stronger and more strategic dialogue with civil society organizations and to involve EU delegations in determining the path for CSOs’ participation in policy-making processes.

Moreover, Human Rights Defenders (HRDs) as individuals must also be able to accomplish their mission safely and with integrity. Repression, censorship, threats or defamation against HRDs, whether they come from states or private actors, must be

<sup>16</sup> <https://monitor.civicus.org/FAQs/>

<sup>17</sup> [https://eeas.europa.eu/delegations/burundi/5969/roots-democracy-and-sustainable-development-eu-ropes-engagement-civil-society-external-relations\\_en](https://eeas.europa.eu/delegations/burundi/5969/roots-democracy-and-sustainable-development-eu-ropes-engagement-civil-society-external-relations_en)

abolished.<sup>18</sup> Support for HRDs is thus also an integral part of the European Union's external human rights policy. In situations where the state cannot guarantee the protection of HRDs, or when the state is the oppressor, the international community must intervene through powerful mechanisms of protection for HRDs.

The existence of an environment conducive to CSOs and HRDs is, finally, also a necessary condition for the achievement of the Agenda 2030 for Sustainable Development and its 17 Sustainable Development Goals (SDGs), namely Goal 16 - 'Promote the advent of peaceful and inclusive societies for the purposes of sustainable development' - and 17 - 'Partnerships for the achievement of the goals.'

### 3.1 Building a favourable environment for CSOs and Human Rights Defenders (HRDs) in Cambodia: an overview of the existing provisions

To ensure an enabling space for civil society, an essential precondition is to have a legal framework for CSOs' action. A favorable legal framework is only in place if the fundamental freedoms of association, expression and assembly are respected and encouraged. Laws and regulations concerning CSOs should also be framed in a way that ensures that CSOs are not subject to discretionary judgments, or overwhelmed by excessive administrative demands that hamper their activity. Finally, it is crucial that there are national, regional and international mechanisms to support and protect HRDs.

<sup>18</sup> The Declaration on Human Rights Defenders adopted by the General Assembly in its resolution A/RES/53/144 recognizes the "valuable work of individuals, groups and associations in contributing to the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals", without discriminating between paid or voluntary work, or between professional and non-professional activity. Available at: <https://undocs.org/en/A/RES/53/144>



Author: Sasin Tipchai, Pixabay.com



Cambodia is party to most international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention against Torture (CAT) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Chapter III of the 1993 Constitution enshrines and protects human rights and guarantees freedom of expression, press and assembly, although some laws fall short of international standards.

<sup>19</sup>The country also has a governmental Cambodian Human Rights Committee (CHRC), although the **SOLIDAR Network on the ground reports that this committee is not active and seems to represent Cambodia in international missions only, rather than tackling internal human rights issues. In this respect, the Committee should become more interventionist in the country.**

Since 1993, the mandate for an independent United Nations human rights expert focusing on Cambodia has also been in place, and the Office of the UN High Commissioner for Human Rights (OHCHR) maintains a country office, periodically releasing reports with recommendations to the government. In addition, different national and international human rights NGOs operate in the country, such as the Cambodian Centre for Human Rights (CCHR), Human Rights Watch and Amnesty International.

Despite the presence of international and national human rights guarantees, **violation of human rights and civil and political freedoms continue to constitute a major issue in Cambodia.** The country has been facing attacks on its democracy for the past few years, and especially since 2017, when the government started attacking and shutting down independent media, persecuting

<sup>19</sup> <https://crd.org/wp-content/uploads/2018/03/Human-Rights-in-Cambodia.pdf>

<sup>20</sup> <https://www.amnesty.org/en/countries/asia-and-the-pacific/cambodia/report-cambodia/>

<sup>21</sup> <https://www.hrw.org/news/2020/07/09/cambodia-4-years-no-effective-investigation-kem-leys-unlawful-killing>

<sup>22</sup> <https://www.frontlinedefenders.org/en/case/five-adhoc-members-detained>



civil society organizations and the political opposition. In 2017, the Supreme Court dissolved the main opposition party - the Cambodia National Rescue Party (CNRP) - and its leader Kem Sokha was arrested after being charged with “conspiracy with a foreign power”.<sup>20</sup> The country has been under one-party rule since then.

Many Human Rights Defenders have been facing threats, were killed or arrested. A landmark case was that of Kem Ley, a prominent political commentator and human rights defender who was shot and killed in 2016.<sup>21</sup> During that same year, five activists of the Cambodian Human Rights and Development Association (ADHOC) were arrested and held in pre-trial detention for 14 months for supporting Kem Sokha, before being released on bail in June 2017 and then found guilty of “bribery of a witness” and sentenced with a 5 years suspended prison sentence.<sup>22</sup> Also, in 2019 the youth activist Kong Raiya was arrested at his home along with his six-month-old child, his wife, and two siblings, after he had advertised the sale of commemorative t-shirts bearing the image of the murdered government critic Kem Ley on Facebook. His family members were released the next day after signing written promises to “respect the law”, while he was released after five months. He had also been previously sentenced to 18 months and arrested in 2016 for a post



on Facebook calling for a revolution.<sup>23</sup> More recently, in August 2020, the President of the Cambodian Alliance of Trade Unions (CATU), Rong Chhum, was also arrested under the accusation of spreading fake news, due to him having spoken to the media about the loss of livelihood and land for farmers after he made a field visit to the Cambodia-Vietnamese border.<sup>24</sup>

Furthermore, in recent years Cambodia has either drafted new laws or amended existing legislation, including articles of the Constitution, with the aim to intimidate the political opposition, workers, and unions, as well as curtail freedom of expression.<sup>25</sup> In a report released in 2020 as part of the Fundamental Freedoms Monitoring Project (FFMP), in fact, it was noted that Cambodia's government "appears to utilize laws, not to protect fundamental freedoms, but rather to curtail civic space and restrict the exercise of fundamental freedoms." The adoption of the Law on Association and NGOs (LANGO) in 2015, for example, has widely been considered as a direct attack on civil society freedoms, as "it contains unnecessary restrictions on the right to freedom of association, excessive penalties, and grants authorities indiscriminate and arbitrary powers over registration and

de-registration of civil society groups and NGOs"; moreover, "the LANGO legalizes the control and censorship of activities undertaken by domestic and international associations and NGOs."<sup>26</sup> As reported by the SOLIDAR Network in the country, the LANGO also requires NGOs to submit yearly narrative and financial reports to the Ministry of Interior and the Ministry of Economic and Finance, together with bank account statements, a procedure that makes it very burdensome for NGOs, especially small sized ones, to comply with LANGO's legal requirements.

In September 2017, the Ministry of Interior used the LANGO to suspend one of the largest local land rights NGOs, Equitable Cambodia. The Ministry alleged that Equitable Cambodia had violated the reporting requirements stipulated in the LANGO. Equitable Cambodia was only able to resume operations in February 2018, after being left in a limbo for months. The NGO staff have continuously faced intimidation, and the Executive Director, as well as two other employees, were convicted of defamation by the Phnom Penh Municipal Court in August 2016, despite the prosecutor's admission that there was insufficient evidence to back

<sup>23</sup> <https://www.amnesty.org/download/Documents/ASA2312912019ENGLISH.pdf>; <https://www.voacambodia.com/a/youth-activist-kong-raiya-released-on-bail-kept-under-court-supervision/5188068.html>

<sup>24</sup> <https://uniglobalunion.org/news/global-union-federations-demand-release-rong-chhun-and-other-trade-unionists-cambodia>

<sup>25</sup> <https://www.hrw.org/news/2018/02/14/cambodia-legislating-new-tools-repression>

<sup>26</sup> <https://www.fidh.org/en/region/asia/cambodia/cambodia-adoption-of-law-on-associations-and-ngos-a-severe-attack-on>

the accusations. The conviction was later overturned by the Court of Appeals in January 2018.<sup>27</sup>

As per the FFMP report, furthermore, in the past year at least five planned assemblies were prohibited by the Cambodian Government. These included an International Human Rights Day celebration, gatherings for the third anniversary of the murder of Kem Ley, and an assembly calling for the retention of the European Union's 'Everything but Arms (EBA)' trade agreement.<sup>28</sup> Recently, in August 2020, trade unions and student movement activists came together in peaceful protest to demand the release of CATU President Rong Chhun. Several activists were arrested and the police violently dispersed protesters and forced them away from the building where Rong Chhun's hearing was taking place.<sup>29</sup>

### 3.2 Capacity Building Opportunities for Cambodian CSOs

The right of CSOs to seek out and secure all types of resources is a necessary condition for the full exercise of freedom of association. This primarily involves access to funding, public and private, from national or international sources, in a way that ensures the sustainability of the organization; moreover, it requires the existence of tax legislation adapted to the constraints of CSOs and access to adequate training for CSO staff. Combined, these elements allow CSOs to fully fulfill their role as independent agents of progress.

On taxation, the SOLIDAR Network in Cambodia reports that few legal updates to tax regulation provisions for CSOs have been carried out in the country in recent years, including an update on the definition of NGOs, the creation of the Tax Revenue Control and Evaluation Committee, and a 2018 new regulation (or 'Prakas') establishing that NGOs must register within 15 days with the tax administration before commencing their activities. The 2018 regulation also clarifies that any income for religious, charity, scientific or educational purposes, as well as donations from individuals and entities, is exempted from tax, provided that no part of that income is used for private benefits. In order to be granted tax exemption, NGOs are required to submit a request to the General Directorate of Taxation. The Prakas also makes it obligatory for NGOs to withhold tax on salary, and holds them responsible for other taxes and duties. Also, it requires NGOs to submit their monthly and annual tax declarations for their business activities.

These requirements are very onerous for NGOs. The monthly reports, for example, are usually 30 to 40 pages long, hence they require a lot



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<sup>27</sup> <https://cchrcambodia.org/admin/media/report/report/english/Fourth%20Annual%20Report%20of%20the%20Cambodia%20Fundamental%20Freedoms%20Monitor%202019-.pdf>

<sup>28</sup> <https://cambodianess.com/article/protests-calling-for-rong-chhuns-release-continue-despite-intimidation>

<sup>29</sup> <https://cambodianess.com/article/protests-calling-for-rong-chhuns-release-continue-despite-intimidation>

of resources and capacity from the organisations' side to complete them. In addition, our Network reports that Cambodian NGO Law does not guarantee CSOs the right to own land or buildings. This means that CSOs are forced to legally assign the ownership of their properties to one or more members of their staff, and that for the purpose of tax registration they then need to request the staff in question to issue letters confirming that they, as owners, have given authorisation to the CSOs to use their properties. This practice clearly represents a further legal and bureaucratic burden for CSOs.

In terms of funding, our Network reports that there are no national or local public funding mechanisms in place for CSOs, and that the only funding available comes from external donors, especially foreign government development agencies, the United Nations and international NGOs. Some funding is made available by external donors through intermediary bodies like the Cambodian government departments. This was the case, for example, with the Fund for Women Survivors of Gender-Based Violence, which was managed by the Ministry of Women's Affairs and was financed, up to 2013, by Germany, Australia and Spain.<sup>30</sup>

According to the European Roadmap for Engagement with Civil Society in Cambodia 2014-2018,<sup>31</sup> - which establishes a sets of priorities for EU action in this realm, including (1) promoting a human-rights and gender equality based approach in European development cooperation and strengthening an enabling environment for CSO in Cambodia; (2) effectively supporting local civil society efforts to enhance their internal governance, transparency and accountability; and (3) structuring European dialogue with civil society and mainstreaming civil society issues in European development cooperation - the European Development partners

<sup>30</sup> [http://www.eeas.europa.eu/archives/delegations/cambodia/documents/publications/2015/2014\\_2018\\_eu\\_roamap\\_en.pdf](http://www.eeas.europa.eu/archives/delegations/cambodia/documents/publications/2015/2014_2018_eu_roamap_en.pdf)  
<sup>31</sup> *Ibidem*



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contributed a cumulative amount of €30 million to CSOs development in Cambodia in 2014. In 2016, €8.2 million in funding was also allocated by the EU to 11 NGOs operating in Cambodia, for projects of the length of 3 years.<sup>32</sup> **The SOLIDAR Network on the ground, however, reports that the process to access this funding remains complex and above the capacities of small CSOs. For this reason, the Network calls for a simplification of the requirements and procedure to obtain grants from the EU.**

Finally, training opportunities have also been reported as not being adequate in Cambodia. Our Network notes that many external donors and international NGOs rarely allow CSOs to budget for capacity building or for the development of strategic plans and auditing reports, rather requiring CSOs to present all these documents at the time they submit their grant application. This results to be, once again, prohibitive for small and medium NGOs, that do not have the capacity or resources to produce these documents without support, and thus find it difficult to apply for funding.

### 3.3 Promoting an enabling environment and a strong civil society in Cambodia: SOLIDAR Network's recommendations

Meaningful citizen participation in decision-making, whether it be domestic, international or in EU programming, is an essential component of democracy. The involvement of civil society is necessary to ensure that development cooperation promotes the implementation of the 2030 Agenda and that no one is left behind. Meaningful participation in political decision-making can only be achieved through the establishment of a mechanism for systematic dialogue between the government, stakeholders and CSOs, as well as through the existence of follow-up activity requiring the authorities to report back to citizens.

<sup>32</sup> <https://reliefweb.int/report/cambodia/eu-supports-civil-society-organisation-82-million-euros-fill-development-gap>



The SOLIDAR Network in Cambodia reports that, although the government put some effort in recent years in involving NGOs and CSOs in policy development, the consultation process is still far from being optimal. Especially, our Network highlights that the capacity of CSOs to contribute to policy analysis, assessment and evaluation is still very limited, and thus it is difficult for them to provide inputs to the government on policy proposals and amendments.

Given the multiplicity of CSOs, moreover, there is no doubt that it is not easy for the EU and European Union Delegations (EUD) to ensure a truly inclusive and participatory political consultation process. The SOLIDAR Network reports of good steps being made in this direction in Cambodia: for example, numerous meetings have been organised by the EUD regarding the ongoing human rights crisis in the country. To these meetings were invited government and private sector representatives, the media, political parties as well as CSOs, and the latter, including members of our Network, had the opportunity to express their concerns and suggestions regarding topics such as the protection of HRDs, human trafficking, and freedom of expression.



SOLIDAR is committed to supporting the European Union and the EUDs reach a wider audience and develop a more horizontal approach in working with CSOs (for example, by agreeing to define criteria and methods for working together so as to ensure a truly inclusive and participatory consultation process), as well as identify areas of interest for collaboration between the EU and its partner countries, based on the expertise and insight of our network's field-based organisations.

Based on the elements reviewed so far in regard to Cambodia's provisions on the protection and promotion of an enabling environment for HRDs and CSOs and citizens' participation to public decision making, and in view of the Von der Leyen's Commission geopolitical priorities<sup>33</sup> - especially its commitment to supporting civil society around the world by guaranteeing its involvement in decision-making processes, as well as its commitment to safeguarding fundamental rights - SOLIDAR recommends the EU to dedicate special efforts to the following issues within the context of its development cooperation work in Cambodia:

- Increasing the amount of EU funding aimed at Cambodian CSOs, simplifying the process of accession to these funds and including strong capacity building components to their programme;
- Advising and supporting the government in the process of carrying out reforms to the existing legal provisions for CSOs' operations in Cambodia, including easing the bureaucratic burden and simplifying taxation processes of CSOs, so as to guarantee an enabling environment for their work;
- Continuing to put pressure on the government to comply with international human rights standards and guarantee human rights in the country, including through prolonging the suspension of the EU-Cambodia EBA trade agreement.

<sup>33</sup> <https://europa.eu/capacity4dev/policy-forum-development/wiki/virtual-regional-meetings-july>



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# 4. PROMOTING DECENT WORK AND SOCIAL PROTECTION FOR ALL



According to the definition of the International Labor Organization (ILO), Decent Work consists of the combination of four elements: the free choice of work, rights at work, social protection and social dialogue. Decent Work is an integral part of Goal 8 of the 2030 Agenda for Sustainable Development.

As for the right to social protection, this is a necessary precondition not only for the achievement of Decent Work but also for development more generally. Indeed, social protection is an essential tool to reduce and prevent poverty, social inequality, exclusion and insecurity, to promote equality of opportunity, as well as to support the transition from informal to formal employment. By adopting Recommendation No. 202 on social protection floors (2012),<sup>34</sup> the member states of the ILO have committed to guaranteeing every human being's access to:

- The security of an income throughout life, in the form of various social transfers (in cash or in kind);
- The availability, affordability and quality of a set of essential services, including health care and education.

By virtue of their membership in the Organization, all ILO members also have an obligation to respect, promote and fulfill the following fundamental rights:

- freedom of association and the effective recognition of the right to collective bargaining (Conventions Nos. 87 and 98);
- the elimination of all forms of forced or compulsory labor (Conventions Nos. 29 and 105);
- the effective abolition of child labor (Conventions Nos. 138 and 182);
- the elimination of discrimination in respect to employment and occupation (Conventions Nos. 100 and 111).

All these commitments have been upheld by the UN SDGs agenda, and namely by SDG 3 'Ensure healthy lives and promote well-being for all at all ages', SDG 4 'Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all' and SDG 8 'Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all'.

<sup>34</sup> [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_165750.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_165750.pdf)

In Cambodia, the right to social security is enshrined in the Constitution. The Labour Law (1997), the Insurance Law (2000) and the Law on Social Security Schemes for Persons Defined by the Provisions of the Labour Law (2002) established the legislative foundation for the rights of workers in Cambodia, including access to social security. Due to high levels of informality, social insurance coverage remains however limited, leaving many extremely vulnerable to lifecycle shocks and economic downturns. Nonetheless, some improvement has been achieved in recent years. In 2017, a Social Protection Policy Framework (SPPF) was published by the government, covering the period 2016-2025. This lays the foundation for an integrated social protection system, including social assistance, social insurance and social health protection, and its main goal is that of harmonising and strengthening existing schemes.<sup>35</sup> Moreover, in November 2019, the Law on Social Security Scheme was promulgated, mandating the National Social Security Fund (NSSF) - initially established in 2007 - to cover four schemes, namely pension, healthcare, occupational risk, and unemployment. The schemes apply to persons in the public sector and those defined by the provisions of the Labour Law, including personnel working in the aviation and maritime industries, as well as domestic workers and self-employed individuals. **As of 2019, more than 1.7 million workers were registered under the occupational risk and healthcare schemes.**<sup>36</sup>

## 4.1 Rights at work

Cambodia's workforce faces systemically high levels of informality and vulnerability. Nearly 70% of the working population is active in the informal economy,<sup>37</sup> the majority being women, and works mostly in the agricultural, forestry, fishing and micro and small enterprises sectors.<sup>38</sup>

<sup>35</sup> [https://www.oecd.org/countries/cambodia/SPSR\\_Cambodia\\_ebook.pdf](https://www.oecd.org/countries/cambodia/SPSR_Cambodia_ebook.pdf)

<sup>36</sup> <https://www.phnompenhpost.com/national/sam-heng-social-security-must-widen-include-more-workers>

<sup>37</sup> [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_672734.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_672734.pdf)

<sup>38</sup> [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_710183.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_710183.pdf)



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The garment and footwear industry remains Cambodia's largest exporting industry, contributing to 20% of the total GDP, and is the largest formal employment provider, employing mostly women. As reported by the ILO, "one important factor in the growth of the garment sector has been access to the European market under the European Union **'Everything but Arms' (EBA) agreement, accounting for 46% of Cambodia's total garment exports in 2018.**"<sup>39</sup> **This agreement has however been suspended in August 2020, due to concerns from the EU over human and labour rights in the country.**

The latter remain in fact a major challenge for Cambodia. For instance, garment sector workers have long suffered from critically low wages, which has forced employees to work long hours overtime so as to be able to earn enough to sustain their families. Although a national minimum wage has existed in Cambodia since 1997 and its value has increased 9 times between 2007 and 2019, standing now at \$190 a month, the increase still falls short of the \$195 a month requested by trade unions.<sup>40</sup> It should also be noticed, moreover, that the existing minimum wage only applies to workers in the garment and footwear sector, leaving all other sectors uncovered.<sup>41</sup> In addition, Cambodian workers in brick kilns face even more extreme working conditions. The Cambodian's construction boom that has been taking place as a consequence of the country's fast economic growth has led to an increase in demand for building bricks, making the bricks industry a very profitable business. The way this industry is sustained, however, is through one of the most prevalent systems of modern slavery in the world: debt bondage. In fact, as agriculture-based livelihoods is being undermined by climate change (70% of rural Cambodians rely on agriculture that is heavily sensitive to it) both due to heightened climate risks and the lack of capacity of people to adapt and respond to them, many farmers find themselves struggling to farm and thus they accumulate unmanageable debts. Brick kilns owners offer to repay farmers' debts through a loan, but in return, farmers and their families are compelled to enter into debt bondage with them, working in their factories for extremely low wages - a whole team of workers, often 20 people or more, gets paid a cumulative amount of approximately \$0.006 per brick produced - until the debt is repaid.<sup>42</sup> It has been reported, moreover, that "workers are also prevented from leaving kilns to find other work when brick-making dies down in rainy months, forcing them to borrow more from kiln owners for daily spending in



<sup>39</sup> Ibidem

<sup>40</sup> <https://m.washingtontimes.com/news/2019/sep/20/cambodia-gives-garment-workers-44-minimum-wage-hike/>

<sup>41</sup> <http://documents1.worldbank.org/curated/en/147271556803838695/pdf/The-Impact-of-Minimum-Wage-Hikes-on-Employment-and-Wages-in-Cambodia.pdf>

<sup>42</sup> <https://static1.squarespace.com/static/596df9f8d1758e3b451e0fb2/t/5bc4d7cdc83025e41e7b10a0/1539627177544/Blood+bricks+high+res+v2.pdf>; <https://esrc.ukri.org/news-events-and-publications/news/news-items/how-climate-change-led-to-cambodias-blood-bricks/>

this period. As a result, families are forced to keep working at the kiln for years, or even for the rest of their lives.<sup>43</sup> Tens of thousands of Cambodian families are reduced to slavery through this system, and a survey carried out in 2020 by the Builders and Woodworkers Trade Union Association (BWTUC) found that nearly 4,000 children live in brickyards, with about one in six saying they are also working there.<sup>44</sup>

Finally, as reported by the SOLIDAR Network in Cambodia, another major issue in both the garment and brick industries is the safety and health of workers. Construction workers, for example, do not use safety material to protect themselves from injuries, and many garment factory workers fall sick due to the chemicals they come into contact with. The International Labour Organisation estimates that 1,500 workers are killed each year by occupational accidents in Cambodia, most of them in construction sites, brick kilns and small enterprises.<sup>45</sup>

### LABOUR LAW AND TRADE UNION FREEDOMS

Cambodia has been a member of the ILO since 1969 and has ratified 13 ILO conventions, including all eight core conventions.<sup>46</sup> Its Constitution guarantees the right to freedom of association and assembly, and so does the 1997 Labour Law. The latter is also the main source of labor and employment law in Cambodia.

In regard to labour legislation, the SOLIDAR Network in Cambodia reports that new policies on labour migration have been introduced by the government in 2018, namely the Policy on Labour Migration for Cambodia 2019-2023, and the Dispute Resolution Guidelines for Resolving Migrant Worker Grievances. The former improves conditions for safe migration and to fight human trafficking, by

43 <https://esrc.ukri.org/news-events-and-publications/news/news-items/how-climate-change-led-to-cambodias-blood-bricks/>

44 <https://www.freedomunited.org/news/child-labor-and-debt-bondage-persists-in-cambodian-brick-industry/>

45 <https://theaseanpost.com/article/construction-cambodia-lacks-safety>

46 [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_672734.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_672734.pdf)



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placing “emphasis on skills recognition, reducing the cost of migration borne by migrant workers, strengthening support and reintegration services, increasing access to social protection programmes, and increasing the opportunities available for women to migrate through formal migration channels”; the second one, on the other hand, consists of practical tools and reference points “for labour officials, service providers and stakeholders in supporting Cambodian migrant workers through dispute resolution processes.”<sup>47</sup> A second change in Labour Law, moreover, was brought about in 2019 through Prakas No. 442, which requires employers to pay employee salaries in twice-per-month installments as well as release the seniority fund two times per year. This move was made to protect employees from abuse and exploitation, and reduce their need to take out loans to get by.<sup>48</sup>

When it comes to trade union law, this has also undergone some changes starting from 2016/2017, especially in regard to trade union freedoms, which have been consistently under attack. For example, in 2016 a modification to the Law on Trade Unions (TUL) was passed on the subject of freedom to organise and bargain, which sets new rules on how unions can be formed, operated and dissolved, and that has been highly criticised by unions and rights groups. In 2019, 10 additional amendments were made in the TUL which were widely contested as further curtailing and limiting trade union freedoms and workers’ human and labour rights, and which have led more than 35 organisations including the SOLIDAR Network member Solidar Suisse and its partners, as well as Amnesty International and other CSOs, to write to Prime Minister Hun Sen arguing against the proposed changes and urge him to conform to its obligations under international human rights treaties and international labour conventions.<sup>49</sup>

<sup>47</sup> [https://www.ilo.org/asia/media-centre/news/WCMS\\_654639/lang--en/index.htm](https://www.ilo.org/asia/media-centre/news/WCMS_654639/lang--en/index.htm)

<sup>48</sup> <https://www.activpayroll.com/news-articles/prakas-no-442-cambodian-employees-to-be-paid-twice-a-month>

<sup>49</sup> <https://www.amnesty.org/download/Documents/ASA2316042019ENGLISH.pdf>



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### 4.1.1 Promoting Decent Work in Cambodia: SOLIDAR Network's recommendations

The guarantee of Decent Work and the protection of workers rights is a sine qua non for the realization of Economic and Social Rights, and is integral part of Goal 8 of the 2030 Agenda for Sustainable Development.

For this reason, and based on the evidence provided in regard to Cambodia's protection of rights at work and the challenges still faced by the country in this realm, the SOLIDAR Network calls for the EU to:

- Make the respect of International Labour Standards and human rights obligations a central item on the development cooperation agenda within Cambodia for the next Programming period 2021-2027.
- Contribute to promoting these rights by
  1. pressuring and advising the Cambodian government to establish a minimum living wage applicable to all sectors;
  2. technically and financially sustaining the government in extending social protection and security to all, including the most vulnerable groups, such as migrants and women

3. working in the informal and garment sector;
3. pressuring the government into creating better oversight mechanisms and stronger legislation to prevent forced labour and modern slavery and keeping employers accountable;
4. providing support to CSOs and trade unions defending workers rights through direct financing, as well as advising and pressuring the governments on adopting legislation that guarantees trade union freedoms in line with international standards, including through the continued use of trade sanctions.

### 4.2 Universal Access to Education

Education - including lifelong learning - reduces inequalities and promotes gender equality. Everyone should have the right to quality and inclusive education, training and lifelong learning, in order to maintain and acquire the skills necessary to participate fully in society and successfully manage transitions in the labor market.

The right to education is guaranteed in article 65 of the Cambodian Constitution. The 2007 Education Law established a comprehensive and uniform education system, and since then

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four strategic education plans have been developed, the most recent of which is the Education Strategic Plan 2019-2023.<sup>50</sup> The latter comes within the context of the new Rectangular Strategy IV, which has as its first objective that of improving Cambodia's human resources through education and learning.

Children in Cambodia are entitled to nine years free education - up to the lower secondary grade. Private education is also available, and it falls within three categories: (i) schools in which the language of instruction is Khmer and that run parallel to public education; (ii) non-Khmer language schools; and (iii) religious schools (including Islamic religious schools and Buddhist monastic schools).<sup>51</sup>

Over the last decade, Cambodia has achieved almost universal access to primary education (98%). However, enrolment at secondary and tertiary level remains relatively low (Gross Enrolment Rate of 55% in the former and 26% in the latter as of 2013-14, including private schools), representing a significant barrier to accessing technical and vocational training or higher education.<sup>52</sup> Some children still face problems in accessing education - especially girls and people with disability as well as minority ethnic children living in isolated rural areas - but also children who cannot attend school due to being forced into child labour.

**Besides access to education, the most pressing issue for the education sector in Cambodia is quality.** The quality of the country's primary education was in fact ranked by the World Economic Forum as low as 110 out of 140 countries in 2018.<sup>53</sup> As a result, children show very low learning outcomes, and poor literacy scores.<sup>54</sup>

<sup>50</sup> <https://www.globalpartnership.org/sites/default/files/document/file/2019-08-summative-gpe-country-program-evaluation-for-cambodia.pdf>

<sup>51</sup> *Ibidem*

<sup>52</sup> <https://eeas.europa.eu/sites/eeas/files/mip-cambodia-2014-2020-en.pdf>

<sup>53</sup> <https://www.weforum.org/reports/the-global-competitiveness-report-2018>

<sup>54</sup> <https://reliefweb.int/report/cambodia/unlocking-cambodia-s-future-improving-access-quality-basic-education>



In secondary schools especially, a high level of drop-outs also occurs.<sup>55</sup> The reason for the low quality of education and learning outcomes can be attributed to different factors, such as the lack of provision of textbooks and the inability of families to buy them for their children, as well as poor school infrastructure. For example, less than 60% of primary schools have access to safe water and hand-washing facilities, and the percentage is even lower for secondary schools. About 10% of both primary and secondary institutes also lack access to latrines.<sup>56</sup> This creates a major barrier to education, especially for girls and children with disabilities. In addition, the number of pupils compared to the number of available classroom spaces remains high, with a ratio of 47:1 for primary schools, and 50:1 for secondary schools as of 2017.<sup>57</sup> Moreover, schools are not always safe places for children, with 73% of students reporting at least one experience of violence, and more than one quarter of girls aged 13 to 17 who have been abused reporting that their first abuse happened in school. Such threats to safety, including the prevalence of corporate and humiliating forms of punishment which are still widely accepted, create ongoing obstacles to educational improvement.<sup>58</sup>

Also, another major concern when it comes to quality education is shortage of teachers and poor teacher training: only 73% of teachers meet national qualification standards, and the student-teacher ratio is very high: in 2018, it amounted to 36:1 on average for all school levels, with higher ratio disparities in secondary education and in rural areas. As many as six Cambodian provinces currently register a student/teacher disparity higher than 50:1, which is the maximum

<sup>55</sup> <https://theaseanpost.com/article/cambodias-failing-education-system>

<sup>56</sup> [https://www.globalpartnership.org/sites/default/files/document/file/2019-10-education\\_sector\\_plan-cambodia.pdf](https://www.globalpartnership.org/sites/default/files/document/file/2019-10-education_sector_plan-cambodia.pdf)

<sup>57</sup> <https://www.globalpartnership.org/sites/default/files/document/file/2019-08-summative-gpe-country-program-evaluation-for-cambodia.pdf>

<sup>58</sup> <https://reliefweb.int/report/cambodia/unlocking-cambodia-s-future-improving-access-quality-basic-education>





recommended by the UNESCO,<sup>59</sup> and which is also well above the 40:1 target of the Cambodian Ministry of Employment, Youth and Education for 2023.<sup>60</sup>

Moreover, although a pay raise was agreed by the government in 2014, teacher salaries remain very low. This incentivizes teachers to collect informal fees from their pupils' families, as well as 'force' their own public school students to pay for private classes.<sup>61</sup>

Since 2015, when the Teacher Policy Action Plan (TPAP) was approved, ongoing reforms have been carried out to promote teacher qualification, recruitment and training. These include the initiation of a Bachelor of Arts fast-track program to enable basic education teachers to earn a degree, the establishment of two Teacher Education Colleges (TECs) that offer four-year pre-service teacher training, and the adoption of policies for continuous professional development in 2017 and teacher career pathways in 2018.<sup>62</sup>

In addition, in order to improve the education system and pupils' educational attainment, a reform was carried out by the Minister of Education in 2014, to eliminate corruption during the 3-days standardised final exams of grade 9 (secondary-school exam) and grade 12 (high school exam). In the past, in fact, teachers would accept bribes from their students in exchange for a guarantee to let them cheat and/or help them pass the final exam. With this reform, Anti-Corruption Units and other external bodies now take part in monitoring the three-day exams, making the cheating hard to accomplish, and resulting in

<sup>59</sup> <https://www.globalpartnership.org/sites/default/files/document/file/2019-08-summative-gpe-country-program-evaluation-for-cambodia.pdf>

<sup>60</sup> <https://www.globalpartnership.org/sites/default/files/document/file/2019-08-summative-gpe-country-program-evaluation-for-cambodia.pdf>

<sup>61</sup> [https://www.researchgate.net/publication/327971826\\_Corruption\\_in\\_the\\_Classroom\\_The\\_Dilemma\\_of\\_Public\\_School\\_Teachers\\_in\\_Cambodia\\_Providing\\_Private\\_Tutoring\\_to\\_Their\\_Own\\_Students](https://www.researchgate.net/publication/327971826_Corruption_in_the_Classroom_The_Dilemma_of_Public_School_Teachers_in_Cambodia_Providing_Private_Tutoring_to_Their_Own_Students)

<sup>62</sup> <https://www.globalpartnership.org/sites/default/files/document/file/2019-08-summative-gpe-country-program-evaluation-for-cambodia.pdf>

students and teachers caught in acts of corruption to be punished.<sup>63</sup> While in 2014 merely 26 % of students passed the high school exams compared to 87% in 2013, five years later the numbers have begun to improve, with around two-thirds of students now managing to pass the test, as they adjusted to the new cheat-free reality.<sup>64</sup>

### 4.2.1 Ensuring quality education in Cambodia: SOLIDAR Network's recommendations

The achievement of an inclusive and equitable quality education is an integral part of Goal 4 of the Sustainable Development Agenda. There are many challenges in Cambodia which still require attention in this sector in order for the country to achieve this Goal.

Especially, the SOLIDAR Network highlights the following areas of improvement, which should receive special attention by the EU in its cooperation with Cambodia in the context of the 2021-2027 EU Programming, and which would contribute to the achievement of the Commission's priorities of increasing human capital through the promotion of education and skills, as well as of safeguarding fundamental rights, gender equality and women empowerment.<sup>65</sup> The EU should:

- Maintain Education and Skill as one of the main priority for cooperation with Cambodia in the next Programming, continuing on the path set by the current MIP 2014-2020.
- Concentrate efforts, through providing targeted financing and technical advice to the government, on improving the quality of public education, investing especially in teacher training and

<sup>63</sup> [https://riseprogramme.org/sites/default/files/inline-files/Politics\\_of\\_Change\\_Phalla\\_Chea.pdf](https://riseprogramme.org/sites/default/files/inline-files/Politics_of_Change_Phalla_Chea.pdf)

<sup>64</sup> <https://www.voacambodia.com/a/cambodian-high-school-exam-kicks-off-in-phnom-penh/4537938.html>

<sup>65</sup> [https://ec.europa.eu/international-partnerships/our-work\\_en](https://ec.europa.eu/international-partnerships/our-work_en)

<sup>66</sup> [https://www.oecd.org/countries/cambodia/SPSR\\_Cambodia\\_ebook.pdf](https://www.oecd.org/countries/cambodia/SPSR_Cambodia_ebook.pdf)

recruitment, so as to achieve a more balanced student/qualified teacher ratio; similarly, investments are needed to increase the availability of classrooms and improving school infrastructure, with a particular focus on WASH facilities. This will also help improve access to education for more marginalised groups, like girls and people with disabilities.

- Work with the Cambodian government on a reform to improve the efficiency of governance of the education sector, so as to guarantee a better distribution of education resources around the country and especially in rural areas.

### 4.3 Universal Access to Health

The enjoyment of the highest attainable standard of health and wellbeing is one of the fundamental rights of every human being. Good health enhances quality of life, increases capacity for learning, strengthens families and communities and improves workforce productivity. Governments have a responsibility for the health of their people, and guaranteeing them access to quality and affordable healthcare is an expression of social justice.

Universal health coverage (UHC) is an explicit goal of the Social Protection Policy Framework (SPPF) adopted by the Cambodian government in 2017. Currently, two main mechanisms exist for social health protection in the country, which are in the process of being strengthened and expanded with the objective of achieving UHC.<sup>66</sup> On the one hand, Social Health Insurance (SHI) is provided to civil servants and formally employed workers through the National Social Security Fund (NSSF). The contribution rate for this scheme is set at 2.4 per cent of the employee's salary and is currently paid by the



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employer, while the contribution for civil servants amounts to 1% of salary and is paid by the state. The scheme has been registering a gradual increase in the number of people enrolled, and as of April 2019 it covered 1,712,000 workers. At present, this scheme does not insure family members.<sup>67</sup>

On the other hand, the Health Equity Fund (HEF) exists, a nationwide programme targeted at the poorest and most vulnerable households. The HEF is non-contributory and free for users, and since 2017 approximately 2.6 million household members have been covered by it (80.9% of the poorest wealth quintile, or 16.1% of the total population). In 2017, HEF benefits have also been extended to some informal workers - defined as people working for less than 8 hours a week, or on a casual or seasonal basis - and additional allowances for (formal and informal) female workers have been included upon the birth of a child. Under the new law, employers are in fact required “to register their employees with the NSSF regardless of whether they are regular or casual workers. In order for female employees to receive the additional childbirth allowances, they must report the pregnancy to the NSSF within three months prior to the birth of the child, or within one month after the birth at the very latest.”<sup>68</sup> In addition, special categories’ beneficiaries have also become eligible for the HEF thanks to other directives issued by the government between 2017 and 2018, including “commune council members, village chiefs, deputy village chiefs, professional sport practitioners, association members, and People Living with HIV (PLHIV)”.<sup>69</sup>

Despite the presence of these schemes, however, many people remain excluded from health insurance and protection mechanisms: according to a 2020 study, 53 % of the total population (8.7

<sup>67</sup> <https://onlinelibrary.wiley.com/doi/full/10.1111/issr.12227>

<sup>68</sup> <https://www.taylorvinters.com/article/cambodia-recent-social-security-developments>

<sup>69</sup> <https://onlinelibrary.wiley.com/doi/full/10.1111/issr.12227>

million people) currently has no social health protection coverage, and about 16 % who do have access to a mechanism are not yet enrolled. Five of the 8.7 million not covered, moreover, can be considered as vulnerable individuals, and they represent 30.6 % of the total population.<sup>70</sup>

Furthermore, although the HEF has contributed to a significant reduction in out-of-pocket health expenditure, the latter remains still high among the poorest: overall, 37% of Cambodian households hold an outstanding debt averaging \$1,832, and the majority are concentrated in rural areas. Moreover, financial and non-financial barriers to access to healthcare remain even among those covered by the HEF. In fact, data from 2016 suggest that “only 26% of HEF beneficiaries sought health care in the public sector”, meaning that people instead rely on (potentially expensive) treatment in the private sector.<sup>71</sup>

The reasons for this can be varied, but as underlined by the SOLIDAR Network in Cambodia, one main problem remains certainly the accessibility of public health services. For instance, our Network reports that workers who live far from hospitals or try to reach hospitals in Phnom Penh - which are considered to provide better quality services - often need to use transportation to reach their destination, and this either requires them to pay a sum they cannot afford for their journey, or travel on public transport, which they may not be able to use. In addition, our Networks points out that hospitals also put a limit on the number of patients they can provide services for, which results in workers missing their work or having to take days off to be able to use the health services based on when appointments become available, or in them renouncing being examined altogether.

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<sup>70</sup> *Ibidem*

<sup>71</sup> [https://www.oecd.org/countries/cambodia/SPSR\\_Cambodia\\_ebook.pdf](https://www.oecd.org/countries/cambodia/SPSR_Cambodia_ebook.pdf)

<sup>72</sup> [https://ec.europa.eu/international-partnerships/our-work\\_en](https://ec.europa.eu/international-partnerships/our-work_en)

### 4.3.1 Ensuring quality healthcare in Cambodia: SOLIDAR Network’s recommendations

Goal 3 of the 2030 Sustainable Development Agenda consists in ensuring healthy lives and promoting people’s well-being at all ages. The achievement of this goal is a fundamental precondition for the achievement of full Economic and Social Rights and of Decent Work.

Ensuring the provision of good quality and accessible healthcare is also part of the European Commission’s current priorities, being considered as one of the main prerequisites necessary to increase countries’ human capital and thus their capacity for development, as well as guarantee the respect of individuals’ fundamental rights.<sup>72</sup>

In light of this context, the SOLIDAR Network recommends the EU to support Cambodian citizens’ access to healthcare by implementing the following actions:

- Providing financial and technical support to the government of Cambodia to expand the coverage of existing national health protection mechanisms and provisions, so as to reach Universal Health Coverage, and especially provide protection to workers in the informal sector and the poorest and most vulnerable communities;
- Support the Cambodian government in expanding the capacities and accessibility of health services and hospitals, particularly in the most remote and rural regions, in order to obviate the financial and non-financial barriers currently faced by workers in accessing public health facilities.

## 5. THE IMPACT OF COVID-19 ON SOCIAL AND ECONOMIC RIGHTS AND CIVIL SOCIETY

The COVID-19 pandemic has had a strong impact on Social and Economic Rights worldwide as well as on the activities and ability to operate of civil society organisations.

The SOLIDAR Network in Cambodia reports that although some measures have been put in place by the government to prevent the spread and mitigate the impact of COVID-19, including arranging quarantine centers and providing support to vulnerable households through cash transfer mechanisms, the pandemic has still led to an exacerbation of the existing socio-economic challenges faced by the Cambodian population as well as it has resulted in a further crackdown by the government on civic freedoms.

The Network also reported that civil society organisations, such as the Cambodian Women's Rights Centre (CWCC), despite having had to suspend some of their activities on the field, made their contribution in helping prevent the spread of the virus by providing hygienic kits and training to targeted communities.

### Threats to worker's rights and social protection

The Network highlights that, due to COVID-19, garment factories have been closing down without following proper procedures and

companies have not been complying with the Labour Law in laying off employees, which has resulted in many workers not getting paid their due wages.

The Ministry of Labor and Vocational Training (MLVT), moreover, established, through Prakas No. 018/20, that both the issuance of seniority indemnity back payments for periods before 2019, and the issuance of seniority payments for 2020, will be delayed until 2021. As a result, employees under unspecified duration contracts (UDCs) will not receive payments associated with these programs in 2020.<sup>73</sup> With Letter No. 295, dated 19 June 2020, on Payments in Lieu of Prior Notice and Damages upon Termination of UDCs, and a later clarification issued on the same subject on 14 August 2020, furthermore, the MLVT established that laid off employees are not entitled to damage compensation where there is a 'valid reason' for their employment termination. 'Valid reasons' are considered to include economic hardships suffered as a consequence of COVID-19, such as the total cancellation of company's purchase orders, suspension of acceptance of delivery of finished products and non-payment by trademark owners.<sup>74</sup> This measure opens doors for abuses on workers by employers and can result in workers losing benefits during this very precarious time, as has already been happening to employees of several factories in Cambodia, who have in fact been repeatedly carrying out protests. For example, on 1st

<sup>73</sup> <https://www.lexology.com/library/detail.aspx?g=ebbe1fc3-e7f9-4548-978f-37b1663dddf4>

<sup>74</sup> <https://www.dfdl.com/resources/legal-and-tax-updates/cambodia-labour-august-2020/>

July 2020, around 300 Cambodian garment workers protested the scheduled closure of their factory in Phnom Penh and their lack of compensation.<sup>75</sup> In response, the government, which has long been warning workers against performing protests, sent a warning letter to the Cambodian Alliance of Trade Unions (CATU), threatening it of dissolution.<sup>76</sup>

As pointed out by the SOLIDAR Network on the ground, thus, the COVID-19 crisis helped to further highlight the socio-economic vulnerabilities of workers and Cambodian peoples, as well as the **need for the country to develop a more comprehensive system of social protection, able to protect both formal and informal workers as well as vulnerable individuals from shocks. The SOLIDAR Network hence calls for the government to redouble its efforts to achieve these objectives in light of the ongoing health crisis, with the EU's support.**

**Our Network furthermore emphasises that the provision of quality education in the context of the pandemic must also be guaranteed, and the challenges posed by distance learning must be met.** So far, in fact, many children from poor families and those living in rural areas, including university students, have not been able to access online classes nor homework assignments - which are usually uploaded on cloud platforms - due to lack of technologies like TVs and smartphones, and/or poor internet connection and speed.

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<sup>75</sup> <https://www.rfa.org/english/news/cambodia/garment-07012020164357.html>

<sup>76</sup> <https://www.business-humanrights.org/en/latest-news/cambodia-ministry-of-labour-issues-a-warning-letter-to-catu-president-and-accuses-her-of-violating-law-in-protesting/>

<sup>77</sup> <https://www.hrw.org/news/2020/04/02/cambodia-emergency-bill-recipe-dictatorship>

<sup>78</sup> *Ibidem*

## Crackdown on Civil freedoms

In April 2020, the government passed a state of emergency law, which provides it with new extraordinary powers in view of the crisis. The law has been highly criticised by many human rights activists, the reason being that it contains “many overly broad and vague provisions that would violate fundamental rights without specifying why these measures are necessary and proportionate to address the public health emergency.”<sup>77</sup>

For example, Article 5 of the emergency law gives the government: unlimited surveillance powers over telecommunications; control of media and social media by “prohibiting or restricting the distribution or broadcast of information that could generate public alarm or fear or generate unrest, or that could bring about damage to national security, or that could bring into being confusion regarding the state of emergency”; the possibility of arbitrarily “putting in place other measures that are deemed appropriate for and necessary to responding to the state of emergency”; complete authority to restrict freedom of movement and assembly; and the permanent opportunity to declare martial law “at times of war, or in other circumstances in which national security is confronted with grave danger”. Also, Articles 1 and 4 allow the law to be used even after the COVID-19 crisis ends, giving the government the possibility to declare a state of emergency when “the people of the nation face danger” and “in order to defend national security, public order, the lives and health of citizens as well as property and the environment.” Article 3 also makes it clear that a state of emergency could be declared “for a limited or unlimited period of time,” without specifying the basis for making decisions about the length, and the law fails to provide any oversight for the use of the emergency powers it grants.<sup>78</sup>

The SOLIDAR Network shows concerns over the consequences that this law will cause on people's ability to exercise their freedoms. Already, several cases of civil freedoms violations have been reported since the beginning of the COVID-19 crisis: "in the first weeks after the pandemic's outbreak, the Cambodian authorities arrested over 30 people based on allegations that they had spread 'fake news' about the virus in Cambodia. Among those arrested were opposition activists, a child, ordinary citizens speaking out on Facebook, and journalists."<sup>79</sup> In view of this, the SOLIDAR Network calls for the EU to pressurise the government over repealing the law or amending its most controversial provisions, as well as respect individuals' human and civil rights.

<sup>79</sup> <https://www.hrw.org/news/2020/06/17/cambodia-end-crackdown-opposition>



Author: Sasin Tipchai, Pixabay.com



## 6. CONCLUSIONS

The promotion of Economic and Social Rights and of a favourable and enabling environment for CSOs and Human Rights Defenders is an essential prerequisite for the achievement of the 2030 Agenda on Sustainable Development and its SDGs.

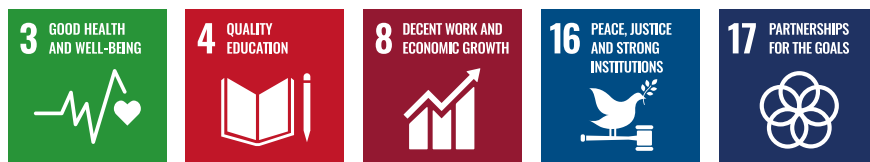
The COVID-19 pandemic and its response policies, and the hardship that these have and will continue to cause on people's lives, especially when it comes to their ability to work, to access public services such as health and education, not to mention their ability to exercise fundamental freedoms such as freedom of assembly, make the promotion of economic and social rights and the strengthening of countries' civil society fabric all the more urgent. In a country like Cambodia, moreover, where the respect of human and labour rights is already a major issue, the pandemic presents an occasion for the government to further crackdown on citizens' rights and freedoms, as well as to move further away from democracy and consolidate the country's one-party-rule.

The ongoing EU Programming process represents a true opportunity to address these issues and make sure that economic, social and human rights and the achievement of the SDGs will be the backbone of future EU work with partner countries, a work that SOLIDAR is ready to support. More particularly, and in line with the European

Consensus and the 2019 Von der Leyen Commission priorities, the SOLIDAR Network makes the following recommendations to the EU, in regard to (1) building of an enabling environment for CSOs and (2) promoting decent work and social protection in Cambodia.

In regards to building an enabling environment for CSOs and HRDs, the SOLIDAR Network calls for the EU to:

- Increase the amount of EU funding aimed at Cambodian CSOs, simplifying the process of accession to these funds and including strong capacity building components to their programme.
- Advise and support the government in carrying out reforms to the existing legal provisions for CSOs' operations in Cambodia, including easing the bureaucratic burden and simplifying taxation processes of CSOs, so as to guarantee an enabling environment for their work;
- Continue to put pressure on the government to comply with international human rights standards and guarantee human rights in the country, including through prolonging the suspension of the EU-Cambodia EBA trade agreement.



## IN REGARDS TO THE PROMOTION OF DECENT WORK AND SOCIAL PROTECTION FOR ALL, THE SOLIDAR NETWORK CALLS FOR THE EU TO:

### Decent Work

- Make the respect of International Labour Standards and human rights obligations a central item on the development cooperation agenda within Cambodia for the next Programming period 2021-2027.
- Contribute to promoting these rights by
  1. pressuring and advising the Cambodian government to establish a minimum living wage applicable to all sectors;
  2. technically and financially sustaining the government in extending social protection and security to all, including the most vulnerable groups, such as migrants and women working in the informal and garment sector;
  3. pressuring the government into creating better oversight mechanisms and stronger legislation to prevent forced labour and modern slavery and keeping employers accountable;
  4. providing support to CSOs and trade unions defending workers rights through direct financing, as well as advising and pressuring the governments on adopting legislation that guarantees trade union freedoms in line with international standards, including through the continued use of trade sanctions.

### Access to Education

- Maintain Education and Skill as one of the main priority for cooperation with Cambodia in the next Programming, continuing on the path set by the current MIP 2014-2020.
- Concentrate efforts, through providing targeted financing and technical advice to the government, on improving the quality of public education, investing especially in teacher training and recruitment, so as to achieve a more balanced student/qualified teacher ratio; similarly, investments are needed to increase the availability of classrooms and improving school infrastructure, with a particular focus on WASH facilities. This will also help improve access to education for more marginalised groups, like girls and people with disabilities.
- Work with the Cambodian government on a reform to improve the efficiency of governance in the education sector, so as to guarantee a better distribution of education resources around the country and especially in rural areas.

## IN REGARDS TO THE PROMOTION OF DECENT WORK AND SOCIAL PROTECTION FOR ALL, THE SOLIDAR NETWORK CALLS FOR THE EU TO:

### Access to Healthcare

- Provide financial and technical support to the government of Cambodia to expand the coverage of existing national health protection mechanisms and provisions, so as to reach Universal Health Coverage, and especially provide protection to workers in the informal sector and the poorest and most vulnerable communities;
- Support the Cambodian government in expanding the capacities and accessibility of health services and hospitals, particularly in the most remote and rural regions, in order to obviate the financial and non-financial barriers currently faced by workers in accessing public health facilities.



Author: Vanna Phom, Unsplash



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