

**Fact Sheet:** Fundamental Freedoms Series: Freedom of Information

**Fundamental Freedom:** Freedom of Information / Freedom of Expression



**Snapshot:** Freedom of information is widely recognized as a fundamental human right and a key tenet of democracy. The Royal Government of Cambodia (the “RGC”) has declared its commitment to the right to freedom of information, however, the right to access information, the availability of information, and demand for information are far from entrenched in Cambodian society.

## Introduction

This fact sheet gives an overview of freedom of information in the Kingdom of Cambodia (“Cambodia”) and calls for recently drafted freedom of information legislation to be debated and enacted. This fact sheet is written by the Cambodian Center for Human Rights, a non-aligned, independent, non-governmental organization that works to promote and protect democracy and respect for human rights – primarily civil and political rights – throughout Cambodia.

## Freedom of Information Principles

Freedom of information, also referred to as the “right to know” or the “right to access information”, is widely recognized as a fundamental human right and is inherently linked to many other rights. Access to information is also linked to the basic elements of good governance, such as transparency and accountability, and is important in building confidence and trust in government. Without access to information, citizens are left unaware of issues that directly impact on their lives. In short, freedom of information is a fundamental tenet to the exercise of democracy, and is what distinguishes democratic governments from regimes that operate free from accountability and conduct their activities behind a veil of secrecy.

## Freedom of Information Law

In international human rights law, freedom of information is protected as part of the right to freedom of expression as found in Articles 19 of the Universal Declaration on Human Rights (“UDHR”) and the International Covenant on Civil and Political Rights (the “ICCPR”) respectively which state that “*everyone has the right to freedom of expression; this right includes freedom to... seek, receive and impart information*”. While there is no specific freedom of information legislation enacted in Cambodia, there are laws guaranteeing access to information:

**The Constitution of the Kingdom of Cambodia (the “Constitution”)** – The Constitution in Article 41 protects the right to freedom of expression, and the associated right to freedom of information. Furthermore, Article 31 of the Constitution pledges to recognize and respect the UDHR, and covenants and conventions related to human rights – which include Article 19 of the UDHR and ICCPR.

**The Archives Law (2005)** – The Archives Law regulates the management and maintenance of information in government archives, providing public access to “publicized documents” that are not harmful to national security, for research and consultation. However, the law does not specify what types of information are “publicized documents”.

**The Press Law (1995)** – Article 5 of the Press Law recognizes the right of the press to “access information in government held records”. Access can be denied on grounds of national security; interference with the privacy rights of individuals; confidential information; and where disclosure would cause danger to public officials carrying out their duties. The law only applies to members of the press, and thus ordinary Cambodians cannot rely on it to gain access to information in government-held records.

**The Organic Law on Administrative Management of Capital, Provinces, Municipalities, Districts and Khans (2008) (the “Organic Law”)** – The Organic Law, which forms part of the policy of deconcentration and decentralization – aimed at delegating certain powers, and administrative and management responsibilities to local authorities – includes certain access to information provisions such as provisions that all council meetings shall be held in public and that the council shall create favourable conditions for the public when disseminating public information on reports, minutes of meetings, bylaws etc. (Article 51); that upon approval of any development plans, the council shall post the plan in public (Article 41); and that each council shall have a public information board or other means of information dissemination that are easily accessible by citizens for public information (Article 52).

### Supply of and Demand for Information

**Supply** - The RGC has shown some commitment to freedom of information in recent years with the Ministry of National Assembly, Senate Relations and Inspections producing a draft policy paper on freedom of information in August 2007. The appointment of spokespeople to deal with inquiries at most of the ministries as well as the establishment of the Press and Quick Reaction Unit has helped with information flow. Yet officials continue to fail to duly share information in the spirit of maximum disclosure, viewing their activities as the business of those in power. The close ties between government, or those closely aligned with members of government, and business means there is a lack of incentive, despite certain law requiring such disclosure, to provide information about the granting of public contracts. As such, complete information pertaining to land and resources is not readily available, and serves to widen the gap between the rich and the poor.

**Demand** - Traditionally there has been a culture of deference to authority with Cambodians being reluctant to request information from their officials. A 2009 World Bank study found that Cambodians did not see it as their role to call authorities to account, fearing that simply making a request could be interpreted as an expression of distrust and lead to anger, loss of face or negative repercussions. In recent time, particularly in the face of prolific land evictions and perceived corruption on the part of officials, citizens are increasingly finding their voice in demanding information.

### Conclusion and Recommendations

While there have been some important steps towards positively respecting, protecting and fulfilling the right to information, there appears to be a lack of political will to take the final step of enacting a law and ensuring the necessary structures and practices are in place to support the implementation of any law. In December 2010, a draft law submitted by a lawmaker of the Sam Rainsy Party was tabled before the National Assembly, and subsequently rejected outright. An amended draft was submitted in March 2012. The RGC and the National Assembly should duly consider the draft, including by inviting public consultation on the draft, and pass a freedom of information law. Any legislation however must also be accompanied with a shift in how information is viewed and by a change in the relationship between the people and the government. An increased demand by the people for information and commensurate recognition by public officials of the importance of information will be a crucial element to the progressive development of Cambodia’s political, social and economic future.

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