

CEDAW General Discussion on Access to Justice, February 2013

Submission from International Women's Development Agency¹

Lack of access to justice remains a significant concern in Cambodia, particularly for women who are disadvantaged by gender, violence, disability or socio-economic status. International Women's Development Agency (IWDA) has worked with women's groups to promote women's rights in Cambodia since 1989. This submission draws upon two research studies supported by IWDA – one on the use of local reconciliation mechanisms, known as *somroh somruel*, in addressing violence against women;² and another major research project, Triple Jeopardy, investigating violence against women with disabilities.³

Prevalence of violence and discrimination against women

A number of large-scale studies have found that approximately 20 – 25% of women in Cambodia have experienced physical violence from a partner in their lifetime.⁴ These numbers relate to physical violence perpetrated by partners only, rather than the whole experience of domestic or family violence. Most of these studies are concerned with married women only. The Triple Jeopardy research compared experiences of violence, discrimination, mental wellbeing, and financial autonomy of women with and without disabilities.⁵ We found prevalence rates for partner violence similar to these studies, but extremely high levels of all kinds of family violence

¹ Prepared by Nina Vallins, Cambodia Program Manager, 31 January 2013.

² As part of a multi-year project called *Community Action Against Violence Against Women*, the following study was published: Ramage, Ian et.al. 2008. *Somroh Somruel and Violence Against Women*. AusAID, IWDA, Banteay Srei, ADHOC: Cambodia. The report can be downloaded at <http://www.iwda.org.au/2009/11/29/16-days-of-activism-against-gender-violence-day-five/>.

³ This project, Triple Jeopardy, took place from 2010 – 2012, and was implemented by Banteay Srei, the Cambodian Disabled People's Organisation, CBM-Australia, the International Women's Development Agency and Monash University with support from AusAID. This submission draws on raw data from surveys, interviews with women with disabilities who have experienced violence, interviews with key informants, internal reports and published reports from the research and gratefully acknowledge is due to Dr Jill Astbury and Fareen Walji for this work. All published reports and tools from the research can be accessed from <http://www.iwda.org.au/research/triple-jeopardy/>.

⁴ Kishor, S, and Johnson, K, 2004, *Profiling Domestic Violence – A Multi-Country Study*, Maryland: ORC Macro; Ministry of Women's Affairs, 2005, *Violence against women: A baseline survey*, Cambodian Ministry of Women's Affairs, Phnom Penh; National Institute of Public Health, National Institute of Statistics (Cambodia), and ORC Macro, 2006, *Cambodia Demographic and Health Survey 2005*, Phnom Penh, Cambodia and Calverton, Maryland, USA: National Institute of Public Health, National Institute of Statistics and ORC Macro; Yount, KM, and Carrera JS, 2006, 'Domestic Violence Against Married Women in Cambodia', *Social Forces*, 85 (1).

⁵ A variety of methods were used to conduct the research, including surveys with 354 women (half with disabilities), focus group discussions with approximately 80 women with disabilities, in-depth interviews with 30 women with disabilities who had experienced violence, and interviews with 15 key informants working at relevant organisations. All quotes contained herein are from the in-depth interviews.

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(emotional, physical and sexual) against women with disabilities, much higher than for women without disabilities. This was in addition to an array of controlling and coercive behaviour including having to seek permission from others in the family before accessing health care. It is clear that the experience of interpersonal violence is different and more abject for women with disabilities than those without.

Family violence over lifetime	Overall prevalence	Women with disabilities	Women without disabilities*
Emotional Violence	43.9%	52.5%	35.2%
Physical Violence	18.4%	25.4%	11.4%
Sexual Violence	3.4%	5.7%	1.1%

**The difference between the two groups is highly statistically significant.*

Sometimes my father would get drunk and hit me. Once time I got injured and my mouth was bleeding. He was hitting my mother and I ran to assist her, so he hit me with a piece of wood with a nail on top. He also used to push me to the ground... My younger brother never listens to me; when I ask him to assist me to do housework he hits me because he is bigger than me. (IDIPP1)

I do not have a good relationship with one my sisters. I remember one time I went to watch TV at a house near me. While I was watching my sister came. So I said I would not be able to watch the program when she is there. She said to me "Why don't you die?" I felt not good to hear that, so I said to her, "Why do you say that?" She cursed me, and I got angry and talked back. She hit me because she thought that as I have a disability I could not hit her back. She always hits me when she's angry. I get angry too but can't do anything. I quarrel often with my sister and she always uses bad words about my disability. I get upset and cry alone. I am upset that I am the oldest but she does not respect me at all. My mother did not help; she always favours my sister. (IDIPP2)

Women with disabilities experienced slightly higher rates of violence perpetrated by partners than women without disabilities, though the differences were not statistically significant. However, women with disabilities were up to 4.2 times more likely to be subjected to controlling behaviours by their partners than women without disabilities.

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Partner violence in lifetime	Overall prevalence	Women with disabilities	Women without disabilities*
Emotional Violence	43.5%	48.9%	41.8%
Physical Violence	24.3%	26.6%	23.4%
Sexual Violence	18.6%	24.4%	16.8%

*The difference between the two groups is not statistically significant.

My husband hits me mostly when he drinks alcohol, when he doesn't feel good about the children, or when he doesn't have enough money to buy wine. Sometimes if I don't stay away from him he hits me. Nobody can help me, if they try he will just hit them....So I do not talk aggressively to him, just plead with him, "Do not hit me." (IDIPP3)

In the interviews with women with disabilities who had suffered violence, as well as with key informants, it became obvious that violence against them was largely accepted by community members as normal; that women with disabilities were seen as a burden; and access to justice was extremely difficult for women with disabilities. Key informants spoke of terrible discrimination against women with disabilities, to the point where they are extremely isolated from their communities, abused by family and neighbours, and not allowed to join in local ceremonies or meetings. Women with disabilities are commonly not accepted as productive members of their family or community.

Last year in Takeo province, I met a 32-year-old woman with a disability had been neglected and excluded. She said that she has never been out of home, she even crawls to the toilet. She looked very dirty. If she wishes to join other ceremonies, local people just ignore her, saying she is totally handicapped and so it is not necessary for her to join the ceremony. This is another form of emotional abuse, as well as psychological abuse, which stops her from going outside of home. She is 32 years-old, illiterate, and never goes outside! She does not even know when the village /commune meeting is, so she never joins the meeting. She just crawls from her bedroom to the toilet, and she has experienced emotional and psychological abuse from her neighbours, as well as her family, who say that she is a woman with disabilities so she has no options in life besides support from her siblings who feed her. (KII2)

Women spoke of community members mocking them, avoiding or ignoring them, imitating them, and using derogatory language towards them. They described how family members and others found it difficult to include them in community events; and when they were included, it was often as a dishwasher or rubbish collector rather than a valued person. They talked about having few friends, or people staying away from them because they were considered to be

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diseased. Women with disabilities face a triple jeopardy of gender, disability and violence which makes it even harder for them to access justice when their rights have been violated.

My neighbours liked to copy my disability. This made me cry. My father told off the children and said to their parents, "Don't copy my daughter; she feels very sad." They stopped doing it then. When I moved to a new house my neighbours were not friendly and looked at me in a disrespectful way. I had one friend who was very nice to me. When I went to the market she pushed my chair. Then people said "Why do you go around with a disabled person? Everywhere you go, you have to help her all the time. Don't you feel embarrassed to have a friend like her?" My friend replied, "Even though she is disabled, she is a good person." (IDIPP5)

The doctor lent me 10,000 Riel to pay for the motor-taxi my husband had taken. He also said, "Why do you, as a disabled person, want to have a baby?" I felt furious. The doctor said, "It's ok if you want to have a husband, but don't have a baby because it'll bring you hardship." (IDIBB4)

The formal justice system

Women are supported by the formal justice system in terms of existing laws and policies to protect their rights. Cambodia has ratified both the Convention to Eliminate all forms of Discrimination Against Women (in 1992) and the Convention on the Rights of Persons with Disabilities (in 2012). There are statutes enshrining equality between men and women, and freedom from sex-based discrimination,⁶ criminalising domestic violence⁷ and protecting the rights of people with disabilities.⁸ The Ministry of Women's Affairs is implementing its third strategic plan, Neary Rattanak III, which promotes women's empowerment and gender equality and the mainstreaming of gender concerns across all government agencies. The Government has developed a four-year National Action Plan to Prevent Violence on Women (NAPVW), 2009-12. The Disability Action Council was established by Government decree in 1997 as the national coordination and advisory mechanism on disability issues. There is a National Plan of Action for Persons with Disabilities including Landmine/ERW survivors 2009-11 (extended until 2013).

However, while laws and policies exist to protect women's rights, key informants found that laws regarding disability particularly have not been widely disseminated and implementation has been weak. Knowledge about the domestic violence law is increasing but more work needs to be done for this law too.⁹ There is a lack of resources to promote the laws, which means that local authorities are not aware of the laws they can use to protect women's rights and ensure

⁶ The Cambodian Constitution (1993), Article 31 and Article 45.

⁷ The Law on Prevention of Domestic Violence and Protection of the Victim was passed in 2005 and there are associated provisions in the Penal Code to criminalise conduct constituting domestic violence.

⁸ Law on the Protection and Promotion of the Rights of Persons with Disabilities, passed in 2009.

⁹ Ramage et al, above n2, 41, 53.

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their safety. Even where there may be a knowledge that laws exist, they may be poorly understood and with low understanding about the processes involved in participating in the formal justice system.¹⁰

Inefficiency and corruption are significant barriers to support. Court processes are also long, confusing, and expensive which prevents victims of violence from proceeding with claims. Perpetrators of violence pay bribes to the courts, so that cases against them do not proceed.¹¹

In Cambodia, if we do not have money we cannot do anything to progress the case ... Therefore women with disabilities have difficulty in getting lawyer to instigate a complaint when her rights have been abused. The Ministry of Women's Affairs has a sexual abuse and women's rights protection department, but it has not yet functioned well. (KII2)

The procedure to address their issue (filing the complaint) is not effective and complicated for them so sometimes the women withdraw because it takes long time for them to get a result. (KII9)

The issue of sexual abuse of deaf women and women with intellectual disability is rarely addressed. The offenders often pay money to the authorities. (KII1BB)

Informal justice responses

The informal justice system includes a village-level dispute resolution process, known as *somroh somruei*. *Somroh somruei* is used to settle disputes over land, debt or interpersonal issues including domestic violence.¹² A respected villager, such as the village leader, a monk, or someone who has had training with an NGO, will mediate between the disputing parties, using a mix of common sense, personal experience, Buddhist precepts, traditional codes governing women's and men's behaviour,¹³ laws and human rights principles.¹⁴ *Somroh somruei* is often preferred by villages to formal justice mechanisms, such as the courts, as it is seen as cheaper, easier to access, quicker and less corrupted.¹⁵

The emphasis of *somroh somruei* is on reconciliation and maintenance of village harmony, which means that the rights of the woman who is a victim of violence may not be prioritised. For conciliators who rely on both the traditional codes of conduct and modern human rights

¹⁰ Ramage et al, above n2, 38.

¹¹ See Ramage et al, above n2,

¹² Ramage et al, above n2, 1.

¹³ *Chbab Srei* is a Cambodian code of conduct for women; *Chbab Proh* for men. They take the form of a poem and until 2007 were taught in schools. [cite]

¹⁴ Ramage et al, above n2, 29-30.

¹⁵ Ramage et al, above n2, 2-3.

principles, there is a clash in values. The traditional code of conduct for women, *Chbab Srei*, instructs women not to talk about 'problems' in the home, to bend to the will of their husband, to be patient and conciliatory, and not to presume to be equal to their husband.

One deputy commune chief and conciliator interviewed in the *somroh somruei* research said,

Mostly, I do not rely on custom [such as the Chbab Srei and Chbab Proh] because it contradicts the law [and human rights principles]. But I usually draw on the Buddhist precepts because human rights [principles] are consistent with the Buddhist precepts. I also try to give real life examples of good behaviours in the commune and point out good role models in the village.

Disclosure and help-seeking by women

Women with disabilities often do not confide in anyone that they have experienced violence as it is considered a private and/or shameful matter. Less than half of all women surveyed (42.9%) had ever disclosed to anyone that they had suffered family violence; the rates of disclosure were similar for women with and without disabilities. Similarly, less than half of all women surveyed (45.6%) had ever disclosed that they had suffered partner violence, though rates of disclosure were much lower for women with disabilities (32%) than for women without disabilities (56.2%). Women are most likely to disclose that they have experienced violence to other family members or neighbours, rather than to local authorities, police or community services.¹⁶ While some family members and neighbours may be sympathetic, not all will know what to do or be able to help.

When my father hit me, my uncle and aunt came to help me. But my father said, "She's my daughter to whom I gave life." They were afraid to do anything. I remember one old man who is my neighbour told my father, "You better stop hitting your daughter; she is an adult now." So he stopped hitting me that time, but a few days later he hit me again. I never asked the neighbours for help because he told me that if I ask others for help he would kill me. He never hits my sisters. He does not love all his children equally.
(IDIPP1)

I just told my relatives. I never told the local authorities about my husband's violence. I didn't want to break the relationship, so I just tried to be patient and live with him. His father is the vice-chief of the village, but he never educated his son not to do such bad things. I have never told other people because they will not think it is true, and since my father in law is the vice-chief, most people in the community respect him. They are afraid that they will not be invited to participate in the community or receive gifts.
(IDIBB5)

¹⁶ This aligns with the findings from the *somroh somruei* study: Ramage et al, above n2, 27.

The number of surveyed women who actively sought help was even lower. For family violence only 5.6% of women surveyed had sought help from a local leader; 2.3% had sought help from police; 2.2% from a shelter; the same from a disability organisation; and 1.1% from a women's organisation. No one had sought help from a hospital, legal advice centre, the courts, religious leader, or anyone else not suggested by the research team. For partner violence, 26% of women had sought help from a local leader; 10% from police; 4% both from a hospital or women's organisation; and 2% from a disability organisation. No one had sought assistance from a legal advice centre, court, shelter, religious leader, or anywhere else not suggested by the research team. The difference in rates of help-seeking between women with and without disabilities was not statistically significant.

I told the chief of the village about the violence, so the chief of the village came and told my husband to stop beating me. My husband responded in a nice way, "I never mistreat my wife." (IDIPP3)

Disclosure and asking for help may lead to only short-term relief and does not stop violence permanently. Women are often encouraged to return to their home to reconcile with the person who was violent towards them.

At the beginning when I got married to him the relationship went well. When I was pregnant with my first child he said he was shy about having a disabled wife. At that time I felt very sad so I ran away to live with my mother and step-father as they were still alive. A few days later he came to ask me back. He said, "I want you to come back home because there is no one to cook or do the housework. I will stop mistreating you." My mother said it was normal for a husband and a wife to have conflicts. Finally I decided to return home after ten days. He started fighting with me and hit me all over my body. During that time there was no intervention from the chief of the village at all. Then I decided to go back to my mother again. My mother always encouraged me not to think about it too much as I still have children. It's the reason I feel I have to go back home. I've left home about ten times. (IDIPP3)

In some cases where women sought help from the village leader, he responded by chastising the perpetrator or giving them a lecture. This strategy worked with varying degrees of success. Our study on *somroh somruel* found that men are often counselled to stop being violent; some will fix their thumbprint to a declaration promising this though these agreements are not necessarily followed, monitored or enforced.¹⁷

In other situations the village chief did not take any action following the complaint. In rarer cases the women reported the violence to the police, but they did not describe positive

¹⁷ See Ramage et al, above n2, 31-32.

outcomes arising from this. When action was taken, women either felt sympathy for the partner, and thus didn't make further complaints, or the police did not take the complaint seriously and the inaction dissuaded the woman from continuing to seek police support.

I've told the chief of the village. He came a few days after the beating and asked my husband, "Why do you hit her like that? She always goes to collect the garbage wherever there are weddings or ceremonies." I don't know why but he didn't listen to chief of the village at all.

Later, he hit me until I got a bloody nose. I went to the police, who arrested him and kept him for more than one day. They said "You cannot hit her because she is a woman with a disability. If you hit her a second time we will send you to the Commune Police." From that time he rarely hit me. I started to think that if I went to inform the police again they would jail him. Then people would fight him in jail. So I tried to accept the violence towards me. I pitied him. The police never asked me for money. They said that I have nothing because I am a garbage collector. They pitied me. If it were somebody else they would have asked for \$10. After they put him in jail, they called me to take him back. They made him sign an agreement that if he hit me again he would be sent to jail. This is the reason I don't want to tell them again. It would take time and money. (IDIPP3)

I went to the village chief, but he didn't believe me by saying that no one would take such a disabled girl like me. He didn't believe me about the rape until I got pregnant. (IDIKS1)

I went to the village chief after being beaten by my husband. He didn't come, but called me and my husband to his home. Until then my husband didn't know I wanted a divorce. I requested a divorce without any of the official paperwork. We had the divorce, but because my husband came back home so often to take the children, we were reconciled by the village chief. (IDIBB1)

Key informants in the Triple Jeopardy study agreed that village leaders generally neglected women with disabilities, failing to intervene when the women experience violence or to take legal action.

Women with disabilities tend to be more vulnerable than women without disabilities. When they face violence, there is no intervention from local authority. Importantly, most women with disabilities in the rural area are poor. So the local authorities do not pay attention to address those problems. On the other hand, they tend to think that violence against women with disabilities is normal. (KI12)

Recommendations

Women with disabilities identified a variety of initiatives that could help them cope with or escape violence. Some cited being able to study, work, and earn an income which would give

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them independence and the ability to leave a violent relationship. Others wanted support from legal services or organisations that could provide legal, moral and financial support. Examples given were microfinance to raise pigs or the presence of a disabled person's organisation. Others thought attitude change in the community was important, as acceptance of people with disabilities would lead to a better situation for them.

I would like to request the authorities to create a close atmosphere with women with disabilities to help solve their problems immediately. I want the authorities to establish confidence and trust with women with disabilities. If they make a claim about violence or sexual the authorities should take immediate action 24 hours a day. They should also keep the claims confidential. (IDIBB3)

I wish that the local authority could find the service provider of wheelchairs and build the accessible ramp at the commune hall for wheelchair user. I have a lot of barriers to travel to the commune hall which is located upstairs without ramp. The local authority do not understand my disability. He always asked me to go upstairs. He does not come downstairs. (IDIBB5)

As village chiefs and police were commonly named as the first authority that the women went to for support, they need to be equipped with the skills and tools to handle the unique situation of women with disabilities more appropriately as well as better support victims of violence more broadly. Community members clearly both discriminate against and attempt to support women who experience violence; there should be activities aimed at challenging discrimination against women who experience violence and women with disabilities and also providing information on how to support such women. Such activities should also target local authorities.

There needs to be broader dissemination of laws and policies protecting women's rights and the rights of people with disabilities, as well as training in dispute resolution which prioritises the elimination of violence against women. Such training should be based on principles which promote women's rights and safety rather than harmful cultural traditions. Village leaders who are strong in *somroh somruei* should be supported to mentor and train other village leaders in their areas.

As women with disabilities experience more violence from family members than from partners, services which focus on domestic violence – as commonly understood to be perpetrated by partners rather than family members – will exclude women with disabilities from accessing their services. Moreover, there appears to be more stigma attached to suffering family violence which results in women who experience this kind of violence being less likely to seek help; this affects women with disabilities disproportionately as they experience higher rates of family violence than women without disabilities.

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As said above, women with disabilities face a triple jeopardy of gender, disability and violence which makes it even harder for them to access justice when their rights have been violated. Special attention must be paid to women with disabilities to ensure that they are not forgotten and left behind.

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