

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: *Fourth Cycle, 46th Session*

CAMBODIA

I. BACKGROUND INFORMATION

The Kingdom of Cambodia ("Cambodia") is one of the few countries in South-East Asia that has acceded to the *1951 Convention Relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the "*1951 Convention*"), ratifying both in 1992. Cambodia is not a Party to the *1954 Convention Relating to the Status of Stateless Persons* nor the *1961 Convention on the Reduction of Statelessness* (the "*1954 Convention*" and "*1961 Convention*", respectively).

At the national level, the Sub-Decree 224 establishing the "*Procedure for Recognition as a Refugee or Providing Asylum Rights to Foreigners in the Kingdom of Cambodia*" was enacted in 2009. This instrument aims "to contribute to ensuring the respect of human rights and rights of refugees so that refugees can enjoy their fundamental rights and freedom in accordance with the spirit of the *1951 Convention* and its *1967 Protocol* [...]"¹

As of 1 August 2023, the Refugee Department in the Department of Immigration had a total registered population of 28 refugees (21 male and 7 female, including three children under 18 years old) and 5 asylum-seekers (3 male and 2 female, including one child under 18 years old). The two most represented nationalities of origin are Viet Nam and Myanmar.

The Ministry of Interior in Cambodia reported at the end of 2018 a population of 57,444 persons of undetermined nationality, comprised of ethnic Vietnamese whose legal documents (e.g., birth certificates and national ID cards) were withdrawn. Most recent information shared by the Immigration Department of Cambodia in 2020, indicated that there was an estimated 75,000 ethnic Vietnamese whose legal documentation had been revoked. These individuals are considered by UNHCR to fall under its statelessness mandate. An unknown number of stateless individuals and individuals at risk of statelessness reside in the country.

Considering that Cambodia has established a national asylum system and the number of asylum-seekers and refugees in the country is small, UNHCR maintains only a minimal presence in Cambodia. UNHCR is engaged with the Government of Cambodia on issues of concern to refugees and asylum-seekers, including prevention of *refoulement* and improvement in asylum standards, as well as issues related to addressing statelessness and strengthening civil registration. UNHCR provides technical advice and support to the Department of Immigration, Refugee Department and other State officials concerned (including training and capacity-building). From 2021 to 2022, UNHCR supported the Ministry of Social Affairs, Veterans and Youth Rehabilitation to implement activities designed to strengthen the capacity of officials carrying out civil registration activities.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

¹ Sub-Decree on Procedure for Recognition as a Refugee or Providing Asylum Rights to Foreigners in the Kingdom of Cambodia, ch. 1, art. 2, 17 December 2009, <https://www.refworld.org/docid/4d81f0172.html>.

Linked to 3rd cycle UPR recommendation no.110.135 “Strengthen efforts to guarantee birth registration for all persons born in Cambodia, including for minorities and populations difficult to reach, such as border communities (Mexico)”

Cambodia has made continued efforts to strengthen its civil registration system. The most notable development concerns the passing of the Law on Civil Registration, Vital Statistics, and Identification on 1 July 2023. The new law is intended to provide a comprehensive legal framework for civil registration, vital statistics and identity. It will also provide a legal basis for an integrated national population register. The law is aligned with the objectives of the National Strategic Plan of Identification 2017-2026,² and the objective of achieving a universal and responsive civil registration system and identification system.

UNHCR stands ready to support the Cambodian government with its efforts to strengthen the civil registration and legal identity framework in Cambodia, including through the Law on Civil Registration, Vital Statistics, and Identification.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 3rd cycle UPR recommendations

Issue 1: Birth Registration

Linked to 3rd cycle UPR recommendation no.110.135 “Strengthen efforts to guarantee birth registration for all persons born in Cambodia, including for minorities and populations difficult to reach, such as border communities (Mexico)”

Although the law anticipates that both Cambodians and foreigners can access birth registration and be issued civil status certification, and welcoming recent progress in passing the abovementioned Law on Civil Registration, Vital Statistics and Identification, UNHCR notes that a number of obstacles continue to hinder birth registration in practice. This includes the requirement that the individual must have a specific permanent address in a commune. Further, the civil registration law in Cambodia lacks specific provisions or special procedures for refugees, asylum-seekers and stateless persons to accommodate their situation and constraints they face, including with respect to access to documentation. It is reported that 92% of births of children under 5 were registered, including 87% who were issued with a birth certificate.³ Between 2002 and 2017, only 169 non-Cambodians had their births registered in the national civil registration system.⁴

Systematic, timely, fair, and efficient universal birth registration in Cambodia would be beneficial for all concerned individuals and the State. It would help enable refugees, asylum-seekers as well as those who are stateless or of undetermined nationality to exercise their basic rights and ultimately, in appropriate cases, facilitate access to citizenship with the associated rights. Moreover, it would support efforts to identify stateless individuals and/or those at risk of statelessness in the country, thereby assisting in global efforts to reduce and prevent statelessness, and ensure the protection of the stateless and people at risk of statelessness wherever they are.

² UNESCAP, Cambodia National Strategic Plan of Identification 2017-2026, 2016, available at: <https://getinthepicture.org/resource/cambodia-national-strategic-plan-identification-2017-2026>.

³ National Institute of Statistics (NIS) [Cambodia], Ministry of Health (MoH) [Cambodia], and ICF. 2023. Cambodia Demographic and Health Survey 2021–22 Final Report. Phnom Penh, Cambodia, and Rockville, Maryland, USA: NIS, MoH, and ICF, available at: https://www.nis.gov.kh/nis/CDHS/2021-22/Cambodia_DHS2021-2022_Final_Report_EN.pdf.

⁴ UNHCR, Research Report, Promoting inclusion and sustainable development in building the ASEAN Community through ensuring the recognition of the legal identity of all women and children in ASEAN, 6-7 November 2017.

Recommendations:

UNHCR recommends that the Government of Cambodia:

- a) Enhance its efforts to guarantee the birth registration of all born within Cambodia, including by examining the situation of minorities and hard-to-reach populations with respect to access to birth registration and undertaking outreach registration efforts to ensure that births are registered.
- b) Undertake efforts to identify populations that are stateless or of undetermined nationality, ensuring their access to documentation and seeking appropriate solutions.

Issue 2: Accession to the Statelessness Conventions and the prevention and reduction of statelessness

Linked to 3rd cycle UPR recommendation no. 110.10 “Accede to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness (Benin)” and no. 110.136 “Adopt all measures necessary to ensure that all those born in Cambodia may acquire Cambodian nationality and that they have access to identity papers (Spain)”

Cambodia is not signatory to the *1954 Convention Relating to the Status of Stateless Persons* nor the *1961 Convention on the Prevention and Reduction of Statelessness*. While recognizing the ongoing efforts to strengthen law and policy related to civil registration and legal identity in Cambodia, accession to the Statelessness Conventions would complement these efforts and help to ensure the effective prevention and reduction of statelessness and the protection of stateless persons.

While a provision under Article 9 of the Cambodian Law on Nationality of 2018 creates a safeguard allowing abandoned children to access Cambodian nationality, no statistics on the application of this provision are available. There are no safeguards in place under Cambodian law to provide access to nationality for stateless persons born in Cambodia with known parentage. This presents a significant gap in terms of safeguards to prevent statelessness and does not align with international standards as reflected in the *1961 Convention on the Reduction of Statelessness*.

Recommendations:

UNHCR recommends that the Government of Cambodia:

- a) Accede to the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*.
- b) Amend the Cambodian Law on Nationality to ensure that a legal pathway to citizenship is available to stateless persons and that stateless persons born in Cambodia are able to attain Cambodian nationality.

Additional protection challenges

Issue 3: Effectiveness of the asylum procedure

Further efforts are needed to ensure Cambodia's asylum system operates efficiently, effectively and in line with the country's obligations under both international and domestic law. Asylum-seekers experience significant delays in having their claims registered with the Refugee Department. The authorities do not recognize individuals as asylum-seekers from the moment they express an intention to seek asylum, but rather after two separate interviews – one to collect basic data and one to provide counselling. As a result, some persons seeking international protection remain in the country without a formal asylum-seeker status for months, during which time they are unable to access related rights. Once registered, asylum-seekers undergo a lengthy refugee status determination procedure that

can take several years to complete, despite legal provisions requiring rapid assessment of refugee claims.

Asylum-seekers entering Cambodia without documentation or overstaying their visa are also vulnerable to arrest and deportation. UNHCR is also aware of cases where individuals in detention face significant challenges to apply for asylum, impacting on the right to seek and enjoy asylum.

Recommendations:

UNHCR recommends that the Government of Cambodia:

- a) Ensure compliance with domestic legislation and international standards by registering asylum-seekers immediately and undertaking an efficient assessment of all asylum claims.
- b) Ensure that the 2009 *Sub-Decree on the Procedure for Recognition as a Refugee or Providing Asylum Rights to Foreigners in the Kingdom of Cambodia* is fully implemented.
- c) Ensure that detention of asylum-seekers is used only exceptionally as a measure of last resort for the shortest duration possible after consideration of alternative measures in accordance with international standards.
- d) Ensure that persons indicating they are in need of international protection are able to apply for asylum from detention.

Issue 4: Refugee rights

Under Cambodian law “a refugee shall have the same rights and be subject to the same obligations as a legal immigrant foreigner...”⁵ Although the Law on Immigration is silent on specific rights granted to a legal immigrant in Cambodia, the domestic law on refugees and asylum-seekers states that refugees have the right to a residence card, the right to work and operate a business, the right to sponsor a family member to immigrate to Cambodia, and the right to travel documents if he or she wishes to depart Cambodia.⁶ In addition, it provides that “a refugee shall comply with all obligations and enjoy all rights stipulated in the 1951 Convention and the 1967 Protocol relating to the Status of Refugees.”⁷

Despite there being clear provisions in legislation, individuals who have been recognised as refugees in Cambodia do not have full access to basic rights while in the country. Instead of residence cards, refugees receive “refugee cards”, which beyond law enforcement authorities are generally unknown and unrecognised in Cambodia. Without residence cards, refugees face difficulties in accessing the rights and benefits to which they are legally entitled, including employment, an adequate standard of living and housing as well as access to property, a driver’s license, communication and banking services.

Furthermore, several refugees and asylum-seekers have married, have children with their Cambodian spouses and have resided in the country for many years. Although a legal pathway to Cambodian citizenship exists for them under the Law on Nationality, these individuals have been unable to access citizenship and the rights it confers. This is due, in part, to challenges faced in meeting requirements for naturalization under the Law on Nationality. These include the need to have a residence card and civil documentation, including marriage certificates, which refugees and asylum-seekers face significant difficulty acquiring.

Freedom of movement is similarly hindered as refugees lack recognised national identity documentation and hesitate to travel to places outside the capital due to fear that rural/ local authorities, police, and communities do not have information or knowledge about their status

⁵ See Note 1, Ch. 5, Art. 15, 17.

⁶ Id., Art. 15-18.

⁷ Id., Art. 18.

and presence in the country.

Recommendations:

UNHCR recommends that the Government of Cambodia:

- a) Fully implement national legislation governing refugee and asylum status by issuing refugees with Cambodian residence cards, in addition to their refugee cards, and enable refugees' access to basic rights and services in accordance with national and international standards.
- b) Provide Government bodies as well as communities at national and local levels with information on refugee status and associated rights.
- c) Ensure refugees can effectively access pathways to Cambodian citizenship or to other forms of permanent status within the country to which they are entitled under the law..

UNHCR
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