

General Condition of Education for Stateless Ethnic Vietnamese Children in Cambodia

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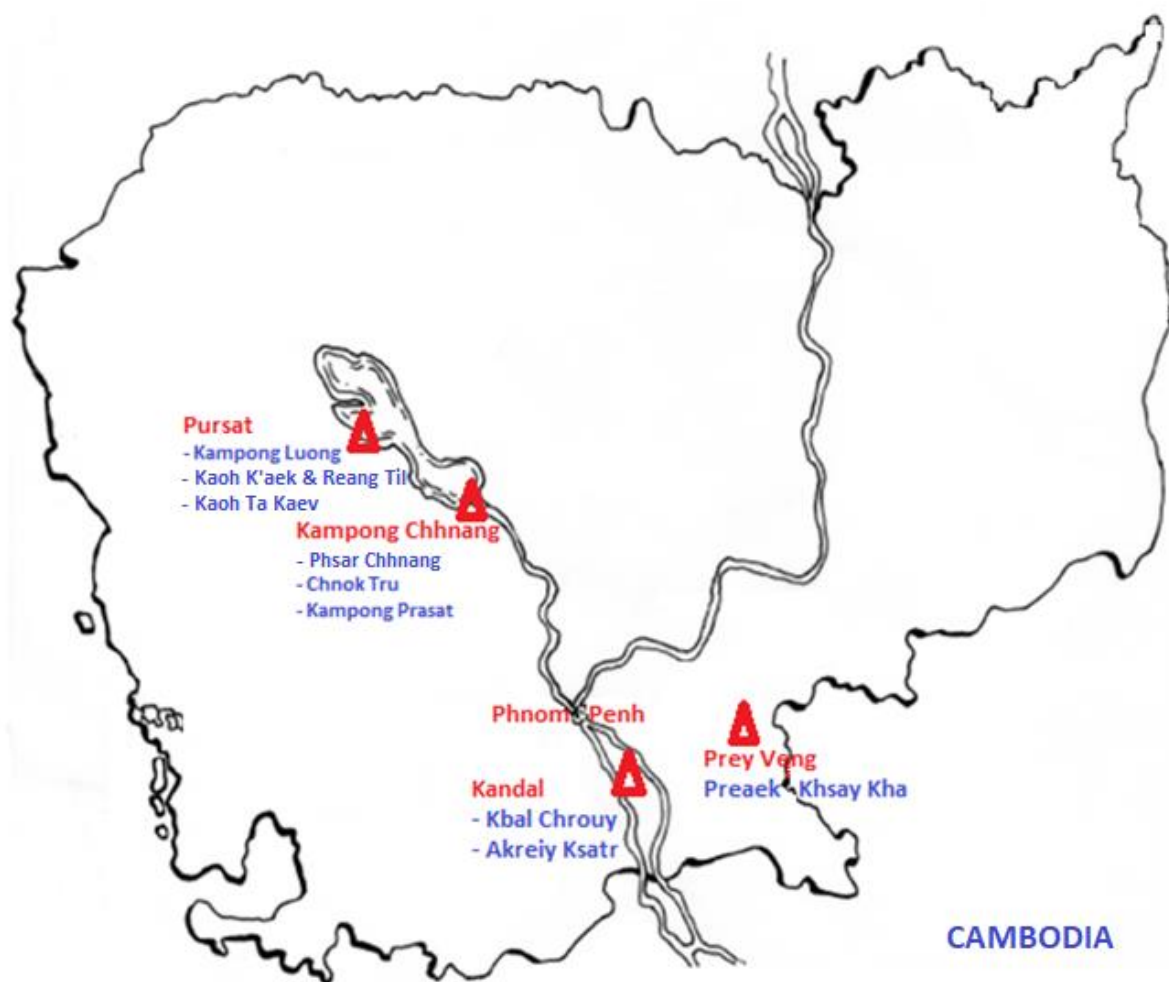


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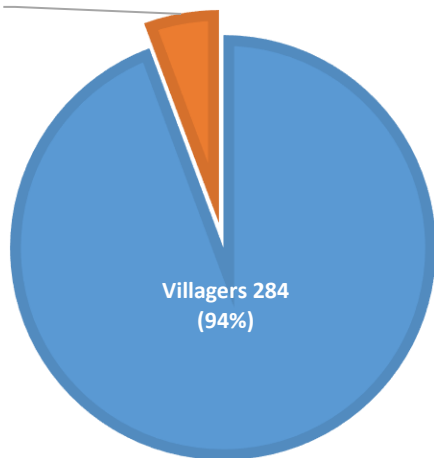
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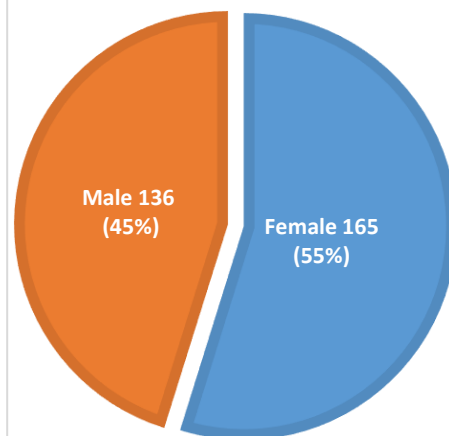


RESPONDENTS (N 301)

Authorities 17
(6%)



SEX OF RESPONDENTS



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Remarks about stateless children



Ethnic Vietnamese Child in Kaoh K' aek community, Kampong district, Pursat province

I want to go to school like everybody else, but I have no birth certificate!
If I could choose, I would not want to be born into an ethnic
Vietnamese family. We are poor and live on a floating
house, my parents cannot get a birth certificate
for me or my siblings, there's no place
for playing and the Khmer look
down on us and call us

‘Yuon’

I want to be born into a rich
family, but I cannot choose my birth.
Now I help my parents and go fishing
every day. Do I have another choice?



Only 2 percent of ethnic Vietnamese children study at a state school, 70 percent attend an informal school of the Vietnamese Association, 25 percent study at an informal Christian school and another 3 percent at a private school

65 percent of parents with at least two children do not send any of their children to school

99.6 percent of ethnic Vietnamese respondents hold a permanent resident card for immigrant aliens with a validity of two years.

Up to 75 percent of children help parents with fishing instead of going to school, 11 percent stay at home to look after their siblings, 10 percent help their parents with the housework and 4 percent collect garbage for recycling

‘My grandparents have lived in Cambodia since the time of Sangkum Reastr Niyum, even before the Khmer Rouge regime. But until today, neither I nor my children or grandchildren have a legal document and the children cannot go to a state school.’¹

‘I want to work in Cambodia, die in Cambodia and send my children and grandchildren to a Cambodian school. Most of all, I want to live here in Cambodia in peace and harmony. Please stop discriminating me and my family.’

¹ Tell the story by a fishman live in Koah Takaev floating community of Kandeang district, Pursat province

Legal Review

International

- UN Sustainable Development Goal 16.9
- ID4D World Bank 2014
- 1954 Convention on the status of stateless persons and the 1961 Convention on the reduction of statelessness
- UN #Ibelong campaign to end statelessness by 2024
- Universal Declaration of Human Rights, article 6, 7, 15
- International covenant on civil and political rights (ICCPR), article 24
- International covenant on economic, social and cultural rights, article 2(2)
- Convention on the rights of the child (CRC), article 2, 3, 7, 8
- Convention on the elimination of all forms of discrimination against women (CEDAW), article 9
- International convention on the elimination of all forms of racial discrimination (CERD), article 5
- ASEAN human rights declaration 2012, article 18
- Ministerial Conference on civil registration and vital statistics in Asia and the Pacific, Bangkok 24th – 28th November 2014

National

- 1994 constitution of Cambodia: article 31, 32, and 48
- 2018 law on nationality: article 9(2),
- 1934 nationality law under the French protectorate and 1954 law on nationality under Sihanouk
- Immigration law (1994): article 14 and 21

Basic Rights of Children

The four core principles of the CRC are: non-discrimination; devotion to the best interests of the child; the right to life; survival and development; and respect for the views of the child.

Basic Needs of Children

The CRC states the needs of: Physical protection, food, universal state-paid education, health care, criminal laws appropriate for the age and development of the child, equal protection of the child's civil rights, and freedom.

Comparing the situation of children with a nationality and stateless children in Cambodia



Children with nationality

- Their birth can be registered and they are eligible for a birth certificate
- Can find space and opportunities to play
- Have right to access free state schools at least until grade nine
- Are welcomed and protected by society
- Receive free health care service, vaccinations and regular health checks
- Are protected and respected by the law and the state



Stateless children

- cannot be registered for birth and have no right to obtain a birth certificate
- Do not have space to play, especially on dry land; have to help parents to generate income and look after siblings
- Cannot access state school; attend informal schools and pay fees
- Are discriminated and excluded as ethnic children
- Cannot access public health service; difficulties to reach medical services from remote homes, pay for unskilled medical services
- Are not protected by the law and are kept in limbo without nationality
- Unable to apply for citizenship when reaching legal age
- Live in a floating house and face dangers, have to move whenever required by authorities.

Executive Summary

The Convention on the Rights of the Child, the UN 2030 Agenda on Sustainable Development Goals, and the UNHCR 2014-24 Global Action Plan to End Statelessness, all ratified by Cambodia, obliges governments to fulfil the rights of every child to acquire a nationality. Yet, childhood statelessness persists. The Cambodian government is failing to take adequate steps to ensure that all children born on Cambodia territory can obtain nationality. Those affected face high risks of protracted de facto-statelessness. Moreover, this can mean exclusion from other rights and services, unfulfilled potential and a sense of never quite belonging. It brings hardships and loss of opportunities to children and their parents alike.

This research investigates the general condition of education for stateless ethnic Vietnamese children in Cambodia, particularly those born and living in floating communities along the Tonlé Sap River and Lake. The study aims to identify the general characteristics of stateless children, find the problems they face due to their lack of a secure legal status, and determine the impact of their legal identity on their education. To achieve these aims, cross-methodologies were applied with a random cluster sample $n = N / 1 + Ne^2$ Error scale 5 percent encounter, individual in-depth interviews with structured questionnaires, mapping geographies, training field research assistants, questionnaire testing and data analysis with SPSS.

Based on the analysis with data from 301 ethnic Vietnamese respondents (female 55 per cent) 83 per cent of whom live in the floating communities especially a long Tonle Sap Lake, the study identified a number of general characteristics of stateless children: 99 per cent of their parents are ethnic Vietnamese at birth and have not only been living in Cambodia for generations, but also 95 per cent of them were born in Cambodia. Up to 76.74 per cent of the parents do fishing to support their families. Parents of ethnic Vietnamese children have no hope that their children will be able to access state school since they are not Cambodians. Many believe that they are not valued in the Cambodian society.

The study found the problems stateless children face are: without birth registration, only 5.4 per cent of ethnic Vietnamese children have a letter from a hospital that confirms the birth, which is requirement to register a birth with the authorities. Parents do not understand the importance of education; instead of sending their children to school, they have to help with fishing or take care of younger siblings. Stateless children are unable to access state school, find a good job, build their skills and personal capacities and contribute to the development of their communities. Also, their communication is limited because they do not learn to speak the Khmer language, and their living standard is lower than that of their parents.

The findings have determined the impact of the legal identity of children on their education: many children are left behind because they are not properly documented. As shown in Graph10, the study finds that over 75 per cent of ethnic Vietnamese children help their parent with fishing, while 11 per cent look after their younger siblings, 10 per cent help with housework, and 4 per cent collect garbage for recycling to contribute to the family income. In the future, all children will be poorer than their parents because the Tonle Sap River and Lake are over-fished and they can no longer catch enough fish. They cannot find better work than fishing, do menial labor, or collect garbage because they have no skills and knowledge to compete. Moreover, this affects the socio-economic development of their communities and can increase gender discrimination and domestic violence.

Graph 7 shows that 99.60 per cent of ethnic Vietnamese hold permanent resident cards for immigrant aliens with a validity of two years. The document cannot be used for applying for any legal document, like a birth certificate, identification card, land title, marriage certificate, etc. This document only recognizes the legality of the residence in Cambodia. After seven years, card holders have the right to apply for Cambodian nationality. The situation puts the basic rights of children at high risk, especially in the field of education. Without a birth certificate, ethnic Vietnamese children have no right to access state school; they can only attend informal schools, like schools various Christian churches or and the Vietnamese Association have set up in their communities.

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Case study

Mr. Nguyen Yang An is living in the floating community of Kaoh Ka' Aek, Reang Til commune, Kandieng district, Pursat province. This community of around 350 ethnic Vietnamese families is far from the land. It takes nearly two hours by motor boat from Kampong Loung in Krakor district to get to the community.

The family of five lives on a narrow boat turned into a small house. They have no electricity nor clean water or a toilet, and have no access to formal schooling, a hospital, a market or public services. Mr. An's family and all community members are at high risk of infectious diseases because of the water pollution as all household water and waste, including defecation flows unfiltered into the river. As well, women in the community are at high risk of maternal mortality since



no health centers or hospitals are nearby in which they can get support during delivery; instead, they often seek the help of midwives without professional skills.

Mr An's family has no right to buy immovable property, get bank services or public services because the permanent resident card of immigrant aliens does not come with any rights. In particular, his three children cannot access public school. Two of his children go to an informal school set up by the local Vietnamese Association, but there are only two hours of class per day and no classes at all during fishing seasons; his oldest child helps him with fishing.

Mr An's family and his community live in limbo. They live from what the river provides them with without thinking about or ever having heard of community development and/or having a share in socio-economic development. In our interview, Mr. An explains "I only think about my family's survival. In the morning I go fishing and after I come home in the evening I go to sleep. If I have no money to pay for medicine, we will die. I worry that my children won't know how to fish, so I try to teach them by taking them fishing every day rather than sending them to school. I don't want to see my children in a situation worse than mine, but I have no choice because they have no other skills that allow them to get a good job... I believe that fishing is the best job for my children's future!"

Chapter 1 General aspects of statelessness, stateless children and the impact on education

Background of Organization

Minority Rights Organization (MIRO) is a Cambodian non-governmental organization established in 2012 and legally registered with the Ministry of Interior on 28 January 2013 with the intention to fill a significant gap in the promotion and protection of the rights of vulnerable minority groups in Cambodia, in particular ethnic Vietnamese and Khmer Krom. Discrimination against these groups is pervasive throughout Cambodia, resulting in the denial of the most basic human rights. MIRO considers human rights awareness, empowerment initiatives and capacity building to be of the utmost importance to work for the social and economic integration of the Khmer Krom and ethnic Vietnamese into the Cambodian society and ensure their civic and political rights. Consequently, we provide legal counselling and representation and investigate violations of minority human rights, specifically in the context of statelessness and under-documentation. We publish critical reports and advocate at the international, national and local levels in favor of these marginalized groups. MIRO has identified children as key to sustainable change and addresses child rights and the empowerment of stateless children to social and economic participation.

Background of Ethnic Vietnamese:

The ethnic Vietnamese in Cambodia are the largest minority group in the country². According to official counts, around 48,675 families comprising of 180,690 individuals are of Vietnamese origin³. They mostly live in floating communities along the Tonle Sap River and Lake and they are at risk of statelessness in Cambodia. They face significant barriers in accessing fundamental human rights, such as access to formal education, employment, health care, adequate housing and freedom of movement.

After the national election in 2013, Cambodian authorities have adopted new policies which further target and marginalize the ethnic Vietnamese population through two steps: (1) An immigrant census, conducted from late 2014, with the aim of identifying and deporting ‘illegal immigrants’⁴. The Ministry of Interior reported that by 2017, over 11,000 Vietnamese were deported from Cambodia to Vietnam⁵. (2) In 2015, Cambodian authorities began implementing a centrally-organized, nation-wide registration process under the supervision of the Ministry of Interior. This involved the issuance of new immigration documents and more recently of permanent resident cards for immigrants. MIRO monitored this process in the provinces of Kampong Chhnang and Pursat. The new cards are issued for a fee of 250,000 Riel per person (more than US\$62,50), requiring renewal after two years for the same price.

Since mid-2017, this registration process has been accompanied by the systematic confiscation of all prior documentation that authorities deem to be ‘irregular administrative documents’. The Ministry of Interior identified at least 70,000⁶ mostly Vietnamese ‘foreigners’ holding such

² UPR 32nd Join submission <http://mirocambodia.org/?p=1095>

³ Report of the Special Rapporteur on the situation of human rights in Cambodia: comments by the State*, p. 23 <http://cambodia.ohchr.org/sites/default/files/Annualreports/Addendum%20to%20the%20Annual%20Report%20of%20SR%202018.pdf>

⁴ Seiff, A. (2014), ‘Cambodia’s Immigrant Census Stokes Fears Among Vietnamese’, UCA News, 17 October 2014.

⁵ Khy S. (2017), ‘Deportations of Vietnamese Dropped Last Year’, Cambodia Daily, 23, available at <https://www.cambodiadaily.com/news/deportations-vietnamese-dropped-last-year-123878/>

⁶ Reported at Kong M. (2017), ‘Interior Ministry Identifies 70,000 “Improper Citizens, Mostly Ethnic Vietnamese’, Phnom Penh Post, 5 October 2017. <<https://www.phnompenhpost.com/national/interiorministry-identifies-70000-improper-citizens-mostly-ethnic-vietnamese>> (9 May 2018)

irregular documents⁷. In the provinces monitored by MIRO, authorities have confiscated the majority of legal documents previously held by Vietnamese residents, including birth certificates, old immigration cards, in some cases Cambodian ID cards, family books and other identification documents.

Brief history ethnic Vietnamese: Vietnamese people have been migrating to and living in Cambodia for centuries. Under French rule of Indochina (1863-1953), migration from Vietnam to Cambodia increased, with many of Cambodia's modern Vietnamese villages dating back to this period. In the 1970s, first under the Khmer Republic (1970-75), and later under the Khmer Rouge regime (1975-79), anti-Vietnamese attitudes in Cambodia grew, largely because of anti-Vietnamese government propaganda. During the Khmer Republic, hundreds of thousands of Vietnamese had to flee Cambodia to escape persecution.

With the rise of the Khmer Rouge to power in 1975, life worsened for the ethnic Vietnamese. Over the course of their nearly four-year rule of Cambodia, the Khmer Rouge systematically dismantled the country's ethnic Vietnamese community, eliminating their presence in Cambodia entirely. The majority of Cambodia's ethnic Vietnamese community were forced out of the country as refugees to Vietnam, while almost all of the 20 000 ethnic Vietnamese who did not leave were killed by the Khmer Rouge. Prosecutors in the Extraordinary Chambers in the Courts of Cambodia (ECCC) have condemned these actions as genocide and the judges are announced a verdict in the end of 2018.

In 1979, the Vietnamese army removed the Khmer Rouge from power, and implemented a military occupation of Cambodia. With this, a new wave of immigration from Vietnam to Cambodia took place, as many people returned to the homes and villages they had fled. Although the majority of migrants from Vietnam to Cambodia were people returning to the villages their families had lived in for generations, the immigration wave added further stress to Khmer-Vietnamese relations. Many Khmer people saw the Vietnamese army's occupation of Cambodia as a form of communist expansion and colonization. The view that Vietnam has too much power in Cambodia remains strong to this day, as Prime Minister Hun Sen was installed as Cambodia's leader by the Vietnamese government in 1985 and has maintained strong ties to Vietnam for the entirety of his more than 30-year rule. As a result, the disdain for Vietnamese political influence in Cambodia has turned many people against the ethnic Vietnamese population of the country. Along with these problems of public discrimination, during the hectic process of returning to Cambodia, many Vietnamese did not receive documentation proving their legal rights to Cambodian citizenship. These historical events are responsible for the modern issues faced by Cambodia's ethnic Vietnamese.

Challenges of Ethnic Vietnamese: The first and most significant issue faced by the ethnic Vietnamese community is their inability to obtain identification papers proving their Cambodian citizenship. According to the Cambodian nationality law, if a child of foreign parents is born in Cambodia, and the parents live in the country legally, the child is considered a citizen of Cambodia. However, even though they meet this legal requirement, many Vietnamese cannot receive documentation to prove their citizenship. This is largely because of a lack of clarity in policy explaining the process by which Vietnamese must apply for documents, uncertainty within local authorities on how and when to issue new documents, lack of information in the communities on how to receive documentation, corruption, and racial discrimination. These barriers have left the majority of ethnic Vietnamese in a position of statelessness, preventing access to the rights and

⁷ Reported by Kong M. (2017), 'Interior Ministry Identifies 70,000 "Improper Citizens, Mostly Ethnic Vietnamese', Phnom Penh Post, 5 October 2017. <<https://www.phnompenhpost.com/national/interiorministry-identifies-70000-improper-citizens-mostly-ethnic-vietnamese>> (9 May 2018).

services they would be entitled to as citizens.

As a response to increasing public criticism of uncontrolled immigration to Cambodia, the government in 2014/15 conducted a census of foreigners residing in the country. While indirectly, the census confirmed the legality of ethnic Vietnamese, they feel increasingly threatened, in particular because authorities collected all their existing identification papers. They were issued new immigration cards, perpetuating their status as temporary residents; it remains to be seen whether the prospective possibility of naturalization through the Immigration Law will provide an access to citizenship for ethnic Vietnamese at the end of the legally determined period of seven years. In the meantime, many ethnic Vietnamese fear a further deterioration of their security situation and the social and economic exclusion, and have made contingency plans to leave Cambodia and move to Vietnam.

The stateless status of most ethnic Vietnamese in Cambodia has translated into several issues facing the community. First, without citizenship, Vietnamese do not have access to land ownership. Instead, the people live in floating villages, situated primarily on Lake Tonle Sap. This means that Vietnamese often live in poverty in remote or isolated areas and have little livelihood security. They are traditionally fishermen, and are often extorted and mistreated by local fishing police. They have little choice but to submit to the extortion, as they fear defiance would lead to further punishment or even deportation. Commercial overfishing of the Tonle Sap increasingly results in loss of income based on fishing, which forces more and more male community members to migrate for menial jobs.

Furthermore, statelessness has resulted in low education rates across the community. Without birth certificates, children are disallowed from attending state schools. Other education options (mostly private schools) only exist occasionally or are not affordable due to the rampant poverty in ethnic Vietnamese communities. Education is a prerequisite to learning the Khmer language and understanding one's rights, and its inaccessibility constitutes a violation of the United Nations Declaration of the Rights of the Child which the Government of Cambodia has ratified in 1992. Other issues stemming from statelessness include a lack of support from local authorities, and an inability to vote in Cambodian elections.

Alongside statelessness, political and public discrimination are both important issues facing Cambodia's ethnic Vietnamese. While ethnic Vietnamese mostly have friendly relationships with their neighbors (many times living side by side in the same villages, with occasional intermarriages), general public opinions about them are often negative. Religious discrimination against Mahayana Buddhism which ethnic Vietnamese adhere to in contrast to the Theravada Buddhism which the majority of Khmer follow is only one example. Furthermore, in the timeframes surrounding elections, accusations of Vietnamese influence on the Cambodian economy and politics are common. The Vietnamese are often used as scapegoats in political rhetoric, and are accused of responsibility for Cambodia's political turmoil and corruption. Much of this anti-Vietnamese rhetoric is directed primarily at illegal migrants, but many people fail to recognize the distinction between illegal migrants and the stateless Vietnamese who are entitled to Khmer citizenship. As a result, the few ethnic Vietnamese citizens who are legally given the right to vote are often intimidated and physically prohibited from doing so. What is more, historically based fears of Vietnamese have resulted in prejudices that are passed on from the older to the younger generation in Cambodia today. Social media is widely used to perpetuate longstanding discriminatory stereotypes and perceptions, particularly regarding loss of territory and sovereignty.

Definition of statelessness: Being stateless means that someone does not have a country of nationality and no government takes responsibility for them. A stateless person is defined as someone who ‘is not considered as a national by any State under the operation of its law’.

Global Overview of Statelessness

According to UNHCR, 65.6 million people are forcibly displaced worldwide including 22.5 million refugees, 8.5 million persons in the Asia and Pacific region including 3.9 million refugees and 2.9 million internally displaced persons (IDPs). Statelessness is an issue that affects at least 10 million people around the world. 1,422,850 persons in Asia Pacific are denied a nationality. Discriminatory laws, policies and practices on the basis of gender, race and religion have significantly contributed to statelessness. Almost 0.2% of the population of the globe currently live without a nationality, or one in every 500 people, according to the World Report⁸ 2014 (ISI). As a result, stateless persons are often not allowed to go to school, see a doctor, get a job, open a bank account, buy a house or even get married; they are unable to pay taxes, buy and sell property, and register the birth of a child. Asia Pacific has the highest concentration of stateless persons of any region in the world. They are at a heightened risk of exploitation, human trafficking, arrest and arbitrary detention because they face difficulties proving who they are or their links to a country of origin. Statelessness can also be a precursor to forced migration.

Stateless Children in the Global Context:

Why is birth registration so important for children? The birth registration is the first right in life and the key to legal identity. *Why is civil registration and vital statistics (CRVS) so important for children?* The CRVS (1) provides the documentary evidence and permanent record for children to establish their legal identity, and proves civil status and family relationship, (2) protects a variety of social, economic, cultural, political and human rights, (3) facilitates access to essential services such as healthcare, education and social protection, (4) offers the basis for identity documents such as a passport or ID card, and (5) reduces the risk of statelessness, child marriage and human trafficking.

According to the UNHCR, the majority of the world’s stateless people have lacked any nationality since they were born. This is for two primary reasons: (a) their parents were stateless and (b) they were born in a country with a nationality law that does not confer its nationality on children even if this means that they would be left stateless. Every child is born with the right to a name and an identity, yet UNHCR estimates that globally, a baby is born stateless every 10 minutes⁹, meaning that over 70,000 children are born into statelessness each year. Globally, UNICEF stated in 2013, that around 230 million children under the age of 5 years did not have their birth registered. In Asia and the Pacific, around 135 million children under five years of age have not had their birth registered¹⁰. Six million stateless children are innocent victims of discrimination and political indifference claims¹¹.

Without birth registration, children may face exclusion from essential services such as health care, education, social services and protection. An effective CRVS system helps secure a person’s legal identity and tracks the major life events such as birth, adoption, marriage, divorce, death and cause of death. The birth registration can also be a means of empowerment and is strongly linked with equity and inclusive development.

⁸ The world’s stateless report December 2014 by Institute on Statelessness and Inclusion

⁹ UNHCR, Ending statelessness within 10 years: A special report, 2014.

¹⁰ UN high Commissioner on Refugee (UNHCR), available at <http://www.unhcr.org/news/briefing/2014/11/54787a056/uhcr-welcomes-declaration-civil-registration-asia-pacific-countries.html>

¹¹ www.worldsstateless.org

As UNHCR confirms, children born into a world stateless will face a lifetime of discrimination; their status profoundly affects their ability to learn and grow, and to fulfil their ambitions and dreams for the future. In more than 30 countries, children need nationality documentation to receive medical care. It highlights how not being recognized as a national of any country can create insurmountable barriers to education and adequate health care and stifle job prospects. It reveals the devastating psychological toll of statelessness and its serious ramifications not only for young people, whose whole futures are before them, but also for their families, communities and countries. It powerfully demonstrates the urgency of ending and preventing childhood statelessness. As stated in the Sustainable Development Goal 16.9, international law requires that every child has access to a nationality and registration immediately from birth (UDHR15, CRC7, ICCPR24, CRS). UNHCR's 10 years' campaign to end statelessness by 2024 aims at: 1). Allow children to gain the nationality of the country in which they are born if they would otherwise be stateless 2). Reform laws that prevent mothers from passing their nationality to their children on an equal basis as fathers. 3). Eliminate laws and practices that deny children nationality because of their ethnicity, race or religion. 4). Ensure universal birth registration to prevent statelessness.

The conference on civil registration and vital statistics in Asia and the Pacific in Bangkok in November 2014¹², affirmed in a Ministerial Declaration that universal and responsive civil registration and vital statistics systems have a critical role in achieving inclusive, equitable and people-centred development. The conference has been recognizing the need to address disparities in the civil registration coverage of hard-to-reach and marginalized populations, including people living in rural, remote, isolated or border areas, minorities, indigenous people, migrants, non-citizens, asylum seekers, refugees, stateless people, and people without documentation.

Stateless Children in the Cambodian Context:



Ethnic Vietnamese girl backed home from visiting her relative's house in Koah Takaev community, Kandeang district, Pursat province

How many children are affected by statelessness in Cambodia? This is a question to which no-one, has a firm answer. Statistics on statelessness are notoriously hard to come by across Cambodia. According to research findings, less than two per cent of ethnic Vietnamese children have been registered at birth. Therefore, with financial supported from the ViDan Foundation, MIRO is supporting school

attendance for needy children from different ethnic backgrounds in some communities in the provinces of Kampong Chhnang, Pursat and Prey Veng.

The World Statelessness Report of December 2014, published by the Institute on Statelessness and Inclusion¹³, 'In Cambodia, the populations of ethnic Vietnamese, ethnic Chinese and children of other ethnic minorities have been identified as possibly being impacted by statelessness. The extent

¹² <https://www.unescap.org/official-documents/ministerial-conference-on-crvs/session/1>

¹³ World statelessness report on pages 91

to which this is the case remains largely unmapped and the overall size of these populations is also uncertain – perhaps unsurprisingly, against the historic backdrop of persecution and ethnic cleansing of minorities during the rule of the Khmer Rouge.

It is a political question to resolve the issue of statelessness in Cambodia. Today, ethnic Vietnamese children continue to be born stateless due to the lack of a legal identity of their parents who did not obtain nationality under the law on the nationality of 2018. As graph 7 shows, 99.60 per cent of the respondents have a permanent resident card for alien immigrants with a two years validity. This document has been processed since the end of 2015. It only recognizes the legal residence, but no eligibility to apply for nationality, unless it has been renewed every second year at least 3 times.

The lack of a legal identity is often the result of a lack of access to or exclusion from birth registration for children of affected populations and results in a high risk of becoming stateless. The 2012 report¹⁴ “A Boat Without Anchors” and MIRO follow-on reports found that many ethnic Vietnamese minority communities have no effective access to birth registration. In 2016, MIRO found that only 5 per cent of 414 ethnic Vietnamese surveyed in Takeo, Kampong Chhnang and Pursat provinces had birth certificates¹⁵. Cambodian law allows children of non-citizens living legally in the country to be issued a birth certificate, but local officials seem to conflate issuing birth certificates with conferring citizenship. The absence of birth registration for children in these communities creates barriers for obtaining other documents relevant to exercising future rights and entitlements such as admission to school and access to Cambodian citizenship¹⁶. Many children in these communities are not able to visit public schools due to a lack of a birth certificate.

Gaps in nationality law: There are no adequate safeguards in nationality law against statelessness at birth to prevent statelessness from being passed down from one generation to the next. Ethnic Vietnamese children are unable to be registered at birth.

Lack of birth registration: Birth registration is the official record of a child’s birth by the state and a government’s first acknowledgement of a child’s existence. It is crucial to ensuring a culture of protection.

The birth registration indicates where a person was born and is a key piece of information needed to establish which country’s nationality a child can acquire. Lack of birth registration creates a particularly high risk of statelessness. According to MIRO’s research from 2016, over 95 per cent of ethnic Vietnamese children are unable to register their birth¹⁷. Children are usually not registered



Ethnic Vietnamese children in Chnok Tru, Boribo, Kampong Chhnang province

¹⁴ https://jrscambodia.org/aboat_without_anchors.html

¹⁵ Minority Rights Organization (MIRO) (2016), ‘Research Finding Statelessness Minority Groups in Cambodia Takeo, Kampong Chhnang, and Pursat’, Phnom Penh: MIRO

¹⁶ Hyde, M. (2016), ‘Report on Access to Birth Registration for Marginalised or Vulnerable Populations: A Case Study on Ethnic Vietnamese Minority Communities in Cambodia’, report prepared for the Minority Rights Organization (MIRO), August 2016. 22

¹⁷ Research Finding Statelessness Minority Groups in Cambodia Takeo, Kampong Chhnang, and Pursat Provinces 2016 on pages 19 (graph 8 legal document) be available for http://mirocambodia.org/?page_id=96

because of their parents' weak legal status as immigrants which does not indicate a nationality. A child can also become stateless when a birth record is destroyed or lost and there is no other means to link them with a particular country. For instance, passports, which are essential for international travel, are generally not issued to stateless children. Not having travel documents means no possibility of education abroad, travelling to visit family and relatives, or even seeking specialized medical care.

Primary education: The United Nations Universal Declaration of Human Rights states that everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. The birth certificate is the basic legal document for school enrollment. Education is usually limited or unavailable for stateless children. Graph 10 illustrates that less than 2 per cent of ethnic Vietnamese children in Cambodia are able to access state schools, while 70 per cent are studying at informal Vietnamese schools, and another 25 per cent study at informal Christian schools. Only 3 per cent can access private schools which have high tuition fees.

Health: Undocumented children, especially ethnic Vietnamese children face difficulties in accessing health care services. Without identity documents, medical costs are significantly higher than for nationals. This puts much-needed treatments out of reach. Instead, children will receive treatment by unskilled medical practitioners and risk getting medicine of low or uncertain quality. Since the floating communities are often located far from towns with health care services, ethnic Vietnamese not only lack access to treatment, but also to information. Children are particularly susceptible to infectious diseases due to the exposure to polluted water. Parents do not understand how to take care of their children's health and maintain hygienic conditions on the floating houses. For instance, at the floating communities of Reang Til in Kampong Loung and in Chnok Tru, the ethnic Vietnamese have to use the contaminated water from the river as drinking water, while at the same time, they use the water for cooking, washing, as a natural toilet and dump their garbage into it.

The Problem of Stateless Children:

Without citizenship and other documentation, ethnic Vietnamese children in Cambodia generally do not have access to basic socio-economic rights and face an array of disadvantages, including limited freedom of movement, education, difficulty accessing health care and employment, and legal protection. As non-nationals their parents cannot own land. These issues lead to a high risk of statelessness.



Ethnic Vietnamese in Kandal Village, Pshar Chhang, Kampong Chhnang

Ethnic Vietnamese children who are stateless lose the opportunity to develop themselves and contribute to the socio-economic development of their communities. Due to discriminatory laws, stateless children live a life in limbo without knowing their nationality. They are

at high risk of being exposed to illegal practices such as trafficking, sexual or labour exploitation, or early marriage, and to discrimination. Moreover, the conditions can have detrimental effects on the child's personal and social development and increase social misconduct and criminal offences like drug abuse and trafficking, domestic violence and rape, robbery and even felony. In 2018,

MIRO found that ethnic Vietnamese children are not only subjected to discrimination by exclusion from social services during their lifetime, but even after their deaths. Parents of deceased children who live in remote floating villages cannot find cremation and or burial sites. It has become a practice to wrap the dead body tightly into clothes and a mattress and hang it into a treetop above the water. This is being practiced for instance in Kaoh Ta Kaev, Kaoh K' Aek, and Anlung Rieng of Reang Til commune, Kandieng district, Pursat province.

Research Objectives: The research aims to achieve the following

- To identify the general characteristics of statelessness children;
- To find the problems faced by stateless children;
- To determine the impact of legal identity on children's education.

Scope and Geography:

The study has focused on the general condition of education for stateless ethnic Vietnamese children who are living in seven floating communities of Kampong Chhnang and Pursat province namely Kampong Luong, Kaoh K'aek, Kaoh Ta Kaev, Reang Til, Pshar Chhnang, Chnok Tru, and Kampong Prasat and three communities on the land in Kandal province and Prey Veng province namely Kbal Chrouy, Akreiy Ksatr, and Praeak Khsay Kha.

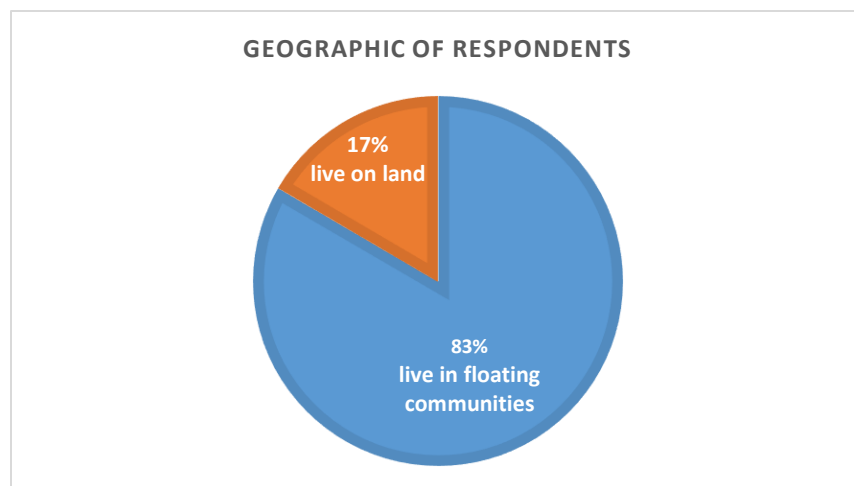
Research significance

This fact finding report is the first baseline document on stateless ethnic Vietnamese children in Cambodia for Cambodian civil society and national and international researchers working on statelessness. This is also the first document which reveals and reflects the real situation of stateless children in Cambodia to the interested public, students, stakeholders, government institutions and partners.

Chapter 3 Methodology

This survey will focus on the general condition of education for stateless ethnic Vietnamese children in Cambodia and explore the relationship of their legal identity and education in nine floating communities in the provinces of Pursat, Kampong Chhnang, Kandal and Prey Veng. The subject of this research will be a convenience random cluster sample, $n = N / 1 + Ne^2$ Error scale 5% encounter. We collected data through individual in-depth face-to-face interviews at a place convenient for the respondent, mostly in the respondent's house. Respondents were a parent or guardian of the child. A representative of the local authorities was present, which be agreeable to conduct field trips in each community. The research advisor developed a structured questionnaire, mapping geographies, trained the field research assistants, and tested the questionnaires. There have been four interviewers including the advisor. There were 301 respondents including 17 representatives of local authorities and the Vietnamese Association who were interviewed with a specially designed questionnaire; the answers from the interviews are kept confidential. The average time for one interview was 30 minutes for one respondent. All of the information has been entered into the Statistical Package for the Social Science (SPSS) program. SPSS is an application to analyze data with support of MS Excel. The data was analyzed through description of the frequency. All respondents agreed to have their pictures taken and the interview to be recorded.

Chapter 4 Finding



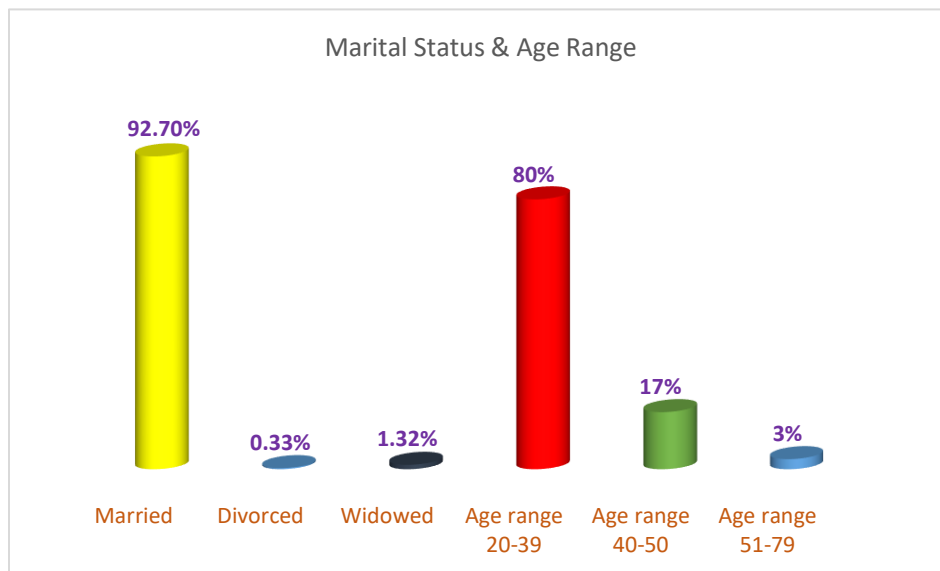
Graph 1: 83% out of 301 respondents live in floating communities, namely in Kampong Luong, Koh Ka ÉK, Raing Til, Kampong Prasat, Pshar Chhnang, Koh Keo, and Chnok Tru. Only 18 families out of the 17% live in rented houses. The land they live on is mostly located in Kbal Chrouy village of Koh Thom district, Kandal province.

Overview:

Koh Thom is a district in Kandal province, located around 80km south of Phnom Penh. The district has a population of 150,758 ethnic Vietnamese, with 90,395 individuals being older than 18 years. By December 2018, up to 9,395 ethnic Vietnamese of Koh Thom renewed their permanent resident cards for another two years, and over 100 who have reached the age of 18 years are preparing to apply for a permanent resident card.

According to the representative of the Vietnamese Association in Koh Thom, around 30% of ethnic Vietnamese who live in Prek Chrey commune of Koh Thom district, which is located at the border with Vietnam, own land and/or houses in Vietnam.

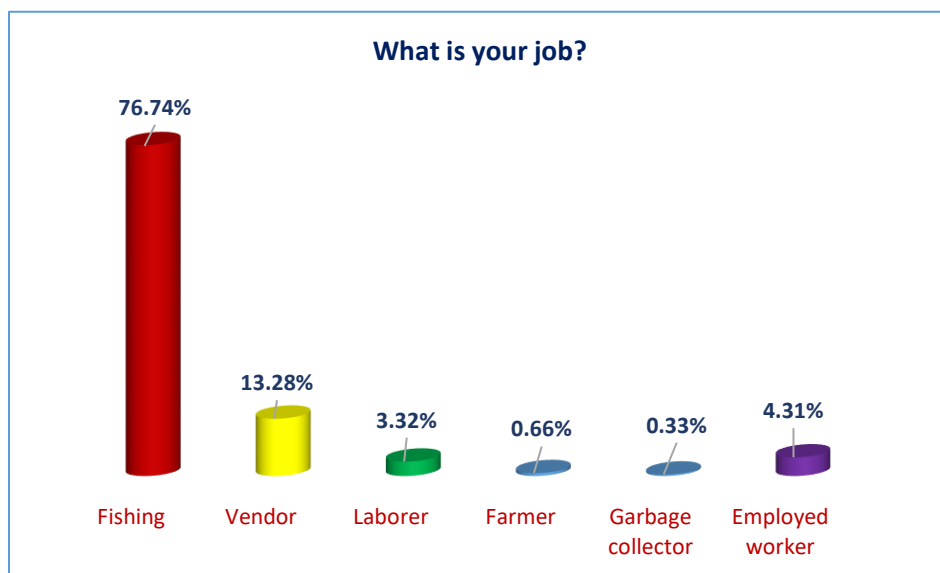
On the way from Phnom Penh to Koh Thom district, halfway between the border between Cambodia and Vietnam, Kbal Chroy village is located along the Mekong river. Around 129 ethnic Vietnamese families live here. In 1982, around 40 ethnic Vietnamese families, who had been deported by the Khmer Rouge in the late 1970s, returned to their home village. The village and commune authorities allocated a plot of land of 15x60 meters for each family. Today, three to four houses have been built on one plot of land. One of the local ethnic Vietnamese reported that he gave each of his four children some of that land when they married. His ancestors have lived in Kbal Chroy since the Sangkum Reastr Niyum in the 1950s.



Graph 2: Among the respondents, 92.70% were married, 1.32% widowed and 0.33% divorced.

80% of respondents were 20-39 years old, 17% 40-50 years and 3% 51-79 years.

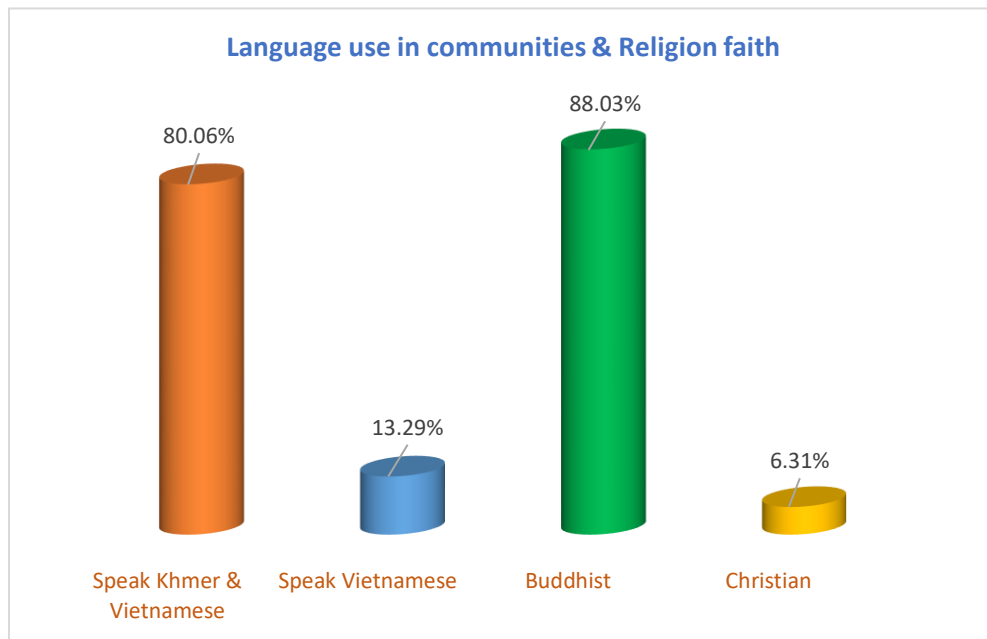
The majority of the respondents married when they were in their 20s or older.



The garment sector offers the best income opportunities for unskilled workers in Cambodia. The requirements to be employed in a garment factory are: have a birth certificate and/or an Identification Card to certify the legal age and nationality or the legality of residency in Cambodia.

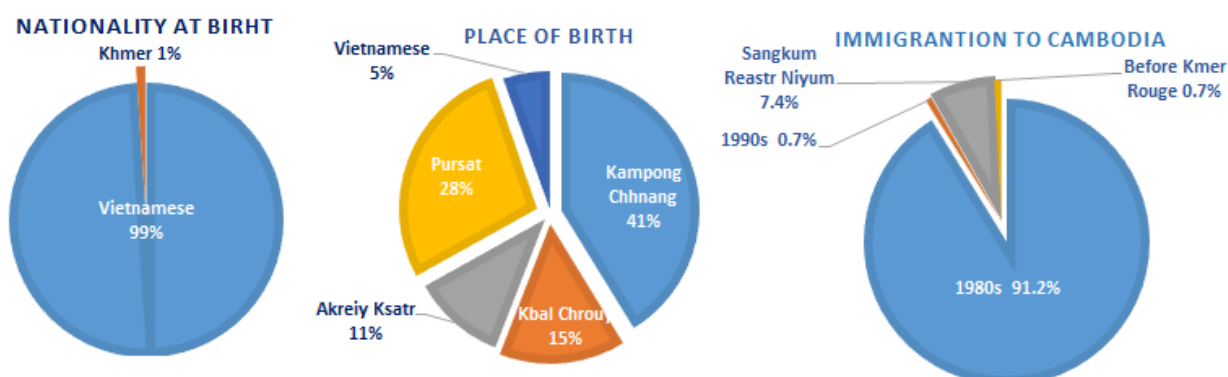
Stateless ethnic

Vietnamese have no legal documents except a permanent resident card for immigrant aliens which is not accepted. Therefore, they do not have the opportunity to apply for a job in the garment sector. Instead, most follow their fathers and grand-parents and do fishing. As indicated in graph 3 above, 76.74% earn their living by fishing, 13.28% sell commodities in the floating communities, 4.31% are employed workers and only 0.66% are farmers, mostly in Kbal Chrouy community.

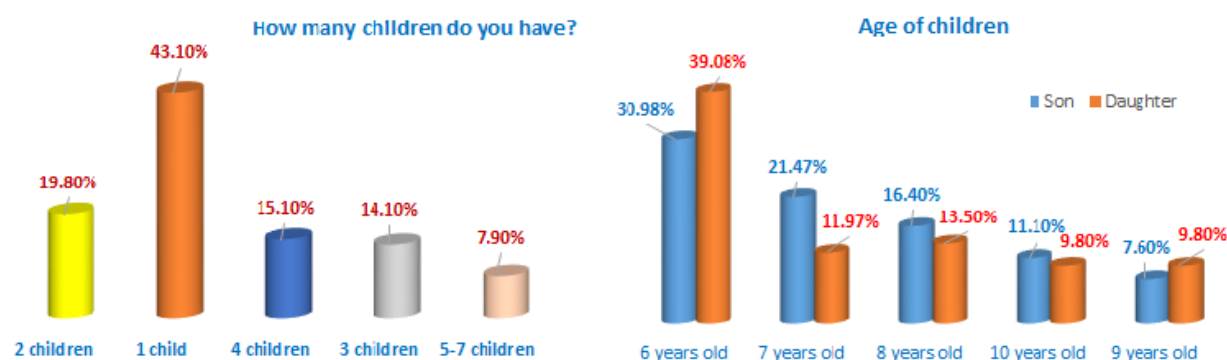


Graph 4: 80.06% of the respondents speak both Khmer and Vietnamese languages in their work and personal life.

In regard to religion, findings show that 88.03% identify as Theravada Buddhist and 6.31% as Christian.



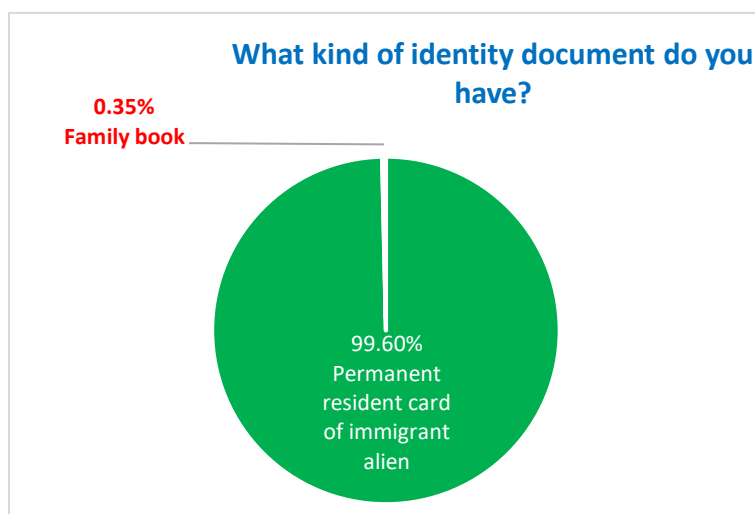
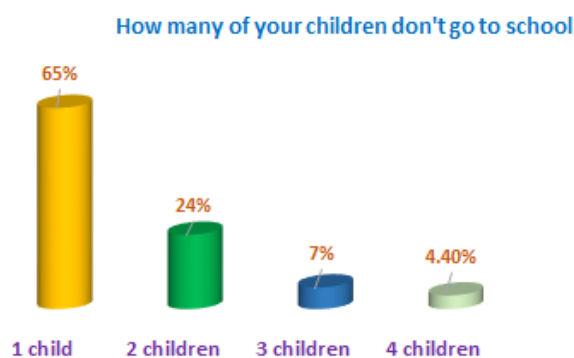
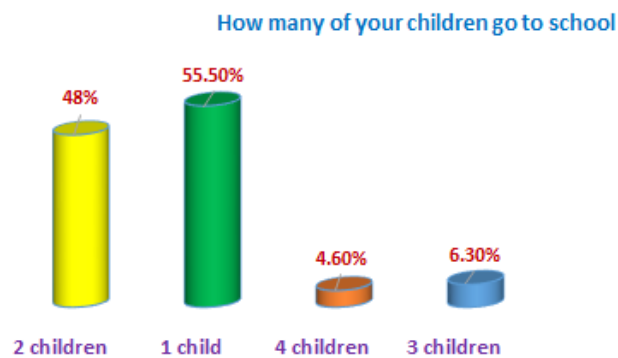
Graph 5: The findings showed that almost all respondents are ethnic Vietnamese who have lived in Cambodia for several generations, as the graph on the right side shows. According to it, 91.2% of the respondents first came to Cambodia in the 1980s, 7.4% immigrated during the Sangkum Reastr Niyum (1953-70), 0.7% came before the Khmer Rouge regime in the early 1970s and 0.7% came in the 1990s. The middle graph shows that most of the respondents were born in floating communities in Cambodia, namely 41% in Kampong Chhnang, 28% in Pursat and 26% in Kandal. Although their grand-parents were born in Cambodia and have lived here for a long time, 99% out of 301 respondents still cannot apply for Cambodian nationality, as is indicated in the left graph. Cambodian authorities are unclear considering whether they are ethnic Vietnamese nationality at birth or what?



Graph 6, left side, shows that 43.10% of respondents have one child, 19.80% have two children, 14.10% have three children, and 7.90% have from five to seven children. The right graph shows the age of children. Over 30% of respondents have children who are 6 years old and 7.60% to 9.80% have children at the age of 9 years.

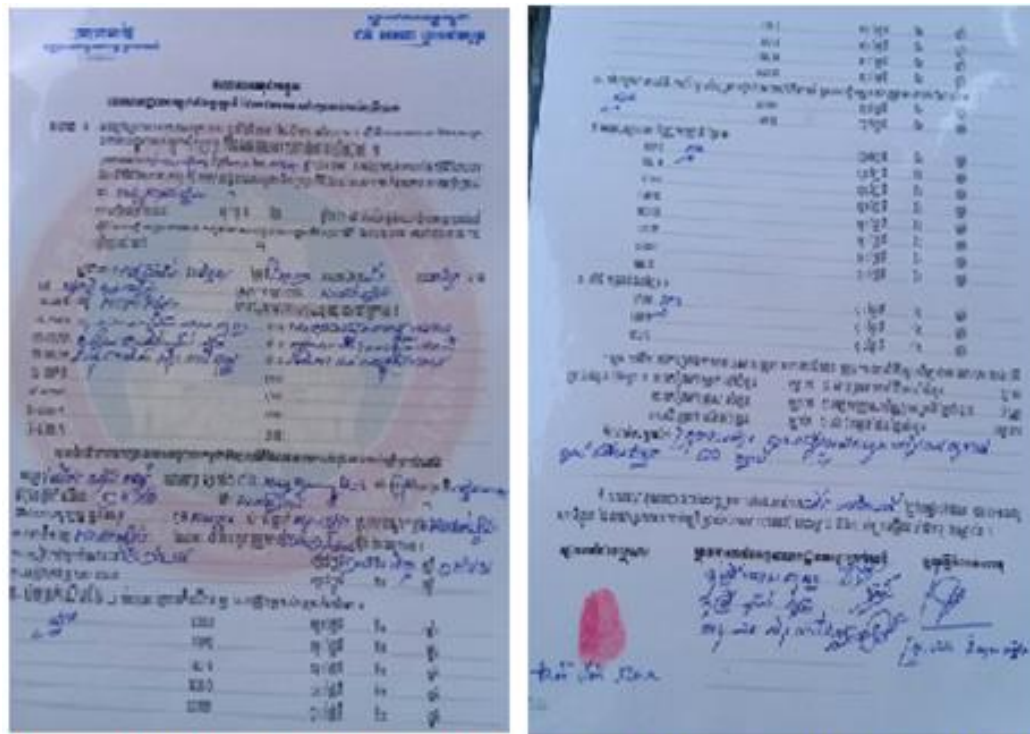
In case the social services are exclusive and birth registration is not accessible, ethnic Vietnamese children lose opportunities especially regarding education, as the graph 6 below indicates. 55% of the respondents send one child to school, while 4.6% send four children to school. Most children attending school are between 7 and 8 years old. 60% of those study at an informal Vietnamese school, 20.5% at an informal Christian school, 7.8% at a state school and 11.7% at an officially recognized formal private school. 60.40% studied at grade 1 and 39.6% at grade 2. Moreover, the research found that 85.56% out of 301 respondents cannot send their children to study at a Cambodia state school because they have no birth certificate which is the legal document required for school enrolment. 11.70% do not send their children to school because they are too poor and 2.74% said that they are not aware of the importance of education and rather require their children to help with fishing or looking after younger siblings. The majority of respondents do not understand about the importance of education and the documents that are required for school enrolment. Only 5.4% children had a letter from hospital to certify their birth, while 7.8% used an attestation letter which is a document issued by the commune council and accepted by state schools in Kampong Chhnang and Pursat for school enrolment of children without a birth certificate.

In comparison with the above findings, the graph 7 below (right side) shows that 65% of the respondents do not send their only child to school at the age of 13 years, 24% do not send two children and 7% do not send three of their children to school.

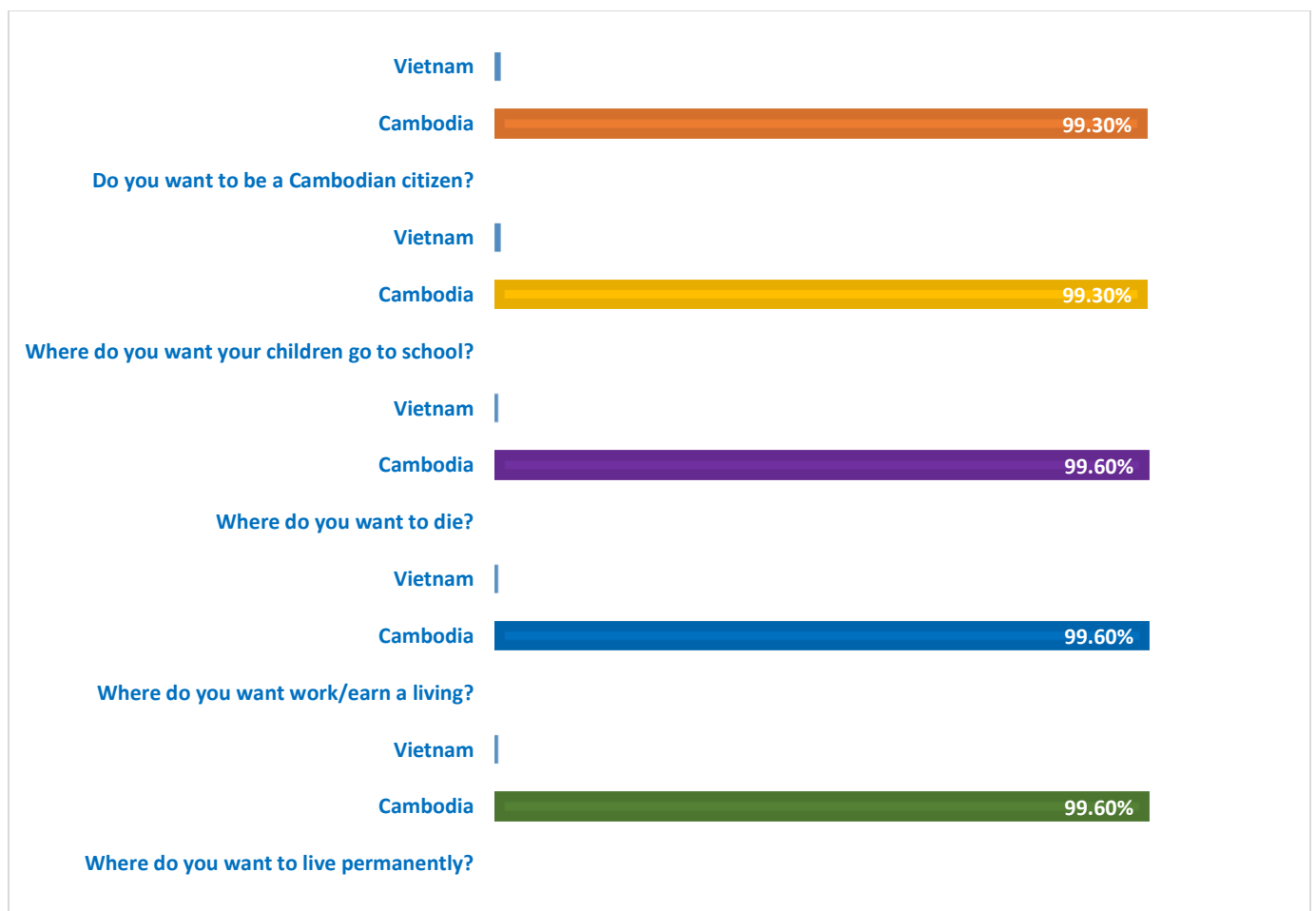


The permanent resident card of immigrant aliens is a new official card for immigrants which recognizes the legal residence of ethnic Vietnamese in Cambodia. It is valid for a period of two years. This card has been issued since the end of 2015 after the government's census of foreigners in 2014. As graph 8 shows, 99.60% of the interviewed ethnic Vietnamese respondents hold a permanent resident card for alien immigrants. 100% said that the Vietnamese

Association paid the official fee of 250,000 Riels (around US\$62.50) per person for that card.
See documents below.



The minutes of the withdrawal of documents, Sangkat Phsar Chhnang, Kampong Chhnang (2017)



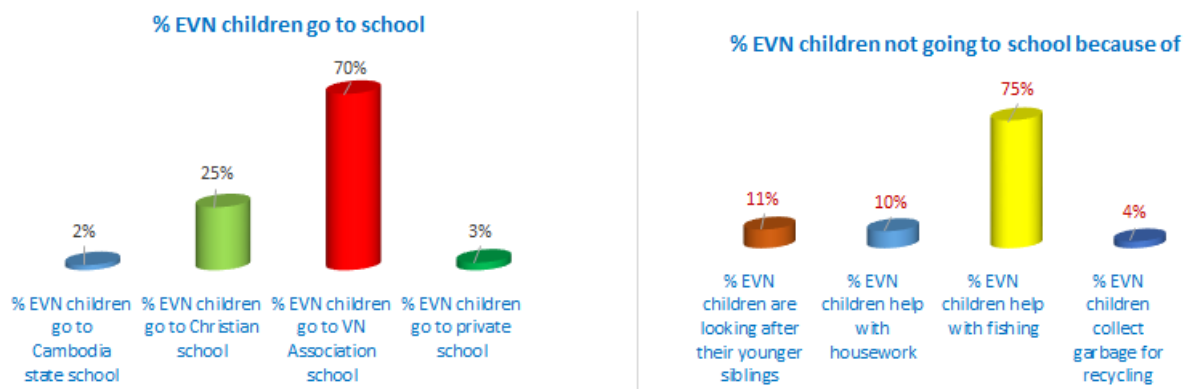
Almost all respondents obviously consider Cambodia as the country where they prefer to live and be buried although they are aware that they are excluded from social services due to a lack of legal documents. As the above graph 10 illustrates, 99.60% of all respondents stated that they want to

live permanently in Cambodia, that they want to work and earn a living in Cambodia, and want to die in Cambodia. 99.30% want their children to go to school in Cambodia. They also want to have Cambodian citizenship; the reasons they give are that their ancestor already lived in Cambodia for a long time, they do not own land in Vietnam, they were born in Cambodia and have lived here all their lives. Also there is enough space to live in Cambodia and there is enough work available to make a living.

Graph 11 below: Among the respondents were 17 representatives of local authorities, 45.5% of whom were village chiefs and commune council. Mostly they have been holding their position for 5-10 years. We found that in interethnic communities in which ethnic Vietnamese, Cham and Khmer live together, there is a similar number of Khmer and ethnic Vietnamese families, while Cham families amount to around 10% only.

Generally, in each community, there are 35%-48% ethnic Vietnamese children at the age of 6-10 years, 27%-37% Khmer children and 5%-15% Cham children of that age group. There is an average of one state primary school, one Christian primary school, and two to three schools run by the Vietnamese Association.

2% of ethnic Vietnamese children attend Cambodian state schools, 25% informal Christian schools, 70% go to informal schools of the Vietnamese Association and 3% go to private schools.



Some of the main reasons why the majority of ethnic Vietnamese children do not go to school are: 75% of them help their parents with fishing, 11% look after their younger siblings, 10% help their parents to do housework and 4% collect garbage for recycling.

Conclusion:

The analysis of data from 301 ethnic Vietnamese respondents found that the majority of ethnic Vietnamese living in the floating communities along Tonlé Sap River and Lake only hold one identity document, which is the permanent resident card of immigrant alien with a validity of two years. This document recognizes their legal residence in Cambodia, but it cannot be used to access any public social services. Respondents cannot buy immovable properties, take out a loan from the bank and apply for important documents such as a birth certificate for their children, since only 5.4 per cent of ethnic Vietnamese children have a hospital letter. These children are at risk of becoming stateless in Cambodia. They face significant barriers in accessing fundamental human rights, such as formal employment, education, health care, adequate housing and freedom of movement. Moreover, the forced relocation onto land of floating communities in Kampong

Chhnang province obviously affect the access to education of children, for instance over 65 per cent of ethnic Vietnamese children who lived in Kandal floating community dropped out from school, i.e. Kandal Samki Primary School, after their floating community was forced to resettle far from school.

The percentage of ethnic Vietnamese children who attend public school is 5 per cent which is 2 per cent lower than MIRO's research findings in 2016. The main reason for the decrease of school attendance is the lack of basic documents, mainly birth certificates. Another important factor is the general lack of understanding of the importance of education among parents of ethnic Vietnamese children. This is the reason why the percentage of ethnic Vietnamese parents who do not send their children to school has increased to 65 per cent not even sending one of their children to school. The majority of children do not go to school, instead 75 per cent contribute to generating the family income by helping their parents with fishing. This factor affects the socio-economic development of their communities. As well, it can increase gender discrimination and domestic violence because of the poverty. Generally, ethnic Vietnamese cannot find a better job than fishing.

The field interview showed that most ethnic Vietnamese parents who were interviewed are afraid for their children's future because there are no income opportunities for them. So at least they want them to know how to fish. This is another aspect of how poverty and a weak legal status perpetuates the inaccessibility to education. The lost opportunity for children to access their basic rights especially education affects socio-economic community development. This is a real concern for the Cambodian society. *Therefore, we would like to invite all relevant stakeholders, civil society and the government to take the situation of education for ethnic Vietnamese children, as represented in this survey, into account and resolve it in order to develop the society in Cambodia.*

Recommendation:

1. **UNITED NATIONS:** Review and follow up the Cambodian Government's official acceptance of the recommendations from state parties especially from the 3rd cycle of the Universal Periodic Review in January 2019 at Geneva in Switzerland. The UN should in particular refer to the recommendations regarding education for all kinds of children in Cambodia.
2. **Cambodian GOVERNMENT:** Non-citizens living legally in the country should be issued birth certificates for their children born in Cambodia. Local officials seem to be reluctant in issuing birth certificates conferring citizenship. The absence of birth registration for children in communities with an ethnic Vietnamese population creates barriers for them in obtaining other documents that are essential for exercising their rights and entitlements such as admission to school and access to Cambodian citizenship¹⁹. Many children in these communities are not able to visit public schools due to a lack of birth registration.

Ensure the full implementation of Article 7 Convention on the Rights of the Child (CRC), by immediately registering the births of all children born in Cambodia – without exception – and ensure that all such children who would otherwise be stateless, are granted Cambodian citizenship. Take all necessary steps to address barriers to accessing birth registration – including through ensuring that the new identification law is fully compliant with international standards.

¹⁹ Hyde, M. (2016), 'Report on Access to Birth Registration for Marginalised or Vulnerable Populations: A Case Study on Ethnic Vietnamese Minority Communities in Cambodia', report prepared for the Minority Rights Organization (MIRO), August 2016.

Ensure that the births of all ethnic Vietnamese children born in Cambodia are registered immediately, through the non-discriminatory, comprehensive and consistent implementation of regulations relevant to birth registration, including by providing for free birth registration for those unable to pay the current costs and raising awareness about the importance of birth registration. Consider the strengthening of policies on birth registration in the drafting of the Law on Population Density, Identification and Population Density Statistics that would fulfill obligations under international law.

Pursue Cambodia's targets under the Sustainable Development Agenda and strengthen collaboration with international partners, with the strongest possible emphasis on the principle of "no one left behind", thereby prioritizing the ethnic Vietnamese community throughout development programming, and in particular, in the implementation of Target 16.9. as well as act in light of the Global Action Plan to End Statelessness 2014-2024 UNHCR ("Action 2: Ensure that no child is born stateless and Action 7: Ensure birth registration for the prevention of statelessness").

3. **LOCAL AUTHORITIES:** In the transitional period, the relevant authorities should allow ethnic Vietnamese children to access state schools based on an attestation letter in the absence of a birth certificate.
4. **NGOs:**
 - Cooperate with local authorities, raise awareness on the importance of education and basic rights of children in target communities.
 - Provide legal training about minority rights, statelessness, and how to apply for school attendance.
 - Advocate for access to school enrollment of stateless ethnic Vietnamese children.
5. **PARENTS OF CHILDREN**
 - Participate in events regarding the interest of children and the community development;
 - Enroll all children in school and ensure that all children regularly attend school at least until grade nine;
 - Communicate with relevant authorities for documents with which they can apply for state school.

Full reference of legal review:

1. International law

- The 2030 agenda for Sustainable Development Goal “SDGs” ref: A/RES/70/1, target 16.9 By 2030, provide legal identity for all, including birth registration.
www.sustainabledevelopment.un.org

- ID4D world bank 2014: The World Bank Group’s Identification for Development (ID4D) High-level Advisory Council and United Nations recognizes the enabling and transformational role of identification systems in achieving several of the Sustainable Development Goals (SDGs) and advancing progress in many areas such as social protection, women and girls empowerment, financial inclusion, governance, healthcare, digital development and humanitarian response. The Advisory Council provides strategic guidance to the ID4D initiative and promote the vision of services and rights for all persons through robust, inclusive and responsible identification systems. The indicator currently associated with SDG 16.9 on providing a legal identity for all is under-5 birth registration, which measures progress for only a subset of the population. ID4D Data global identification challenge_1 Billion people lack an official proof of identity, 1 in 2 women in low income countries does not have an ID, limiting their access to critical services and participation in political and economic life and 161 countries have ID systems using digital technologies, reinforcing the need for robust privacy and data protection safeguards. <http://id4d.worldbank.org/global-dataset> and www.worldbank.org/id4d

- Cambodia has not ratified the Convention on the status of stateless persons from 28th September 1954, New York, United Nations treaty series, vol.360, p.117.
<https://www.ohchr.org/EN/ProfessionalInterest/Pages/StatelessPersons.aspx>

Article 1: (p1)...Stateless person means a person who is not considered as a national by any state under the operation of this law.

Article 27: The contracting states shall issue identity papers to any stateless person in their territory who doesn’t possess a valid travel document.

Article 32 (Naturalization): The Contracting States shall as far as possible facilitate the assimilation and naturalization of stateless persons. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

- Cambodia has not ratified the Convention on the reduction of statelessness from 30th August 1961, New York, United Nations treaty series, vol. 989, p. 175.
<https://www.refworld.org/docid/3ae6b39620.html>

Article 1: (1) 1. A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless...[.]. (4) A Contracting State shall grant its nationality to a person who would otherwise be stateless and who is unable to acquire the nationality of the Contracting State in whose territory he was born because he has passed the age for lodging his application or has not fulfilled the required residence conditions, if the nationality of one of his parents at the time of the person's birth was that of the Contracting State first above mentioned. If his parents did not possess the same nationality at the time of his birth, the question whether the nationality of the

person concerned should follow that of the father or that of the mother shall be determined by the national law of such Contracting State. If application for such nationality is required, the application shall be made to the appropriate authority by or on behalf of the applicant in the manner prescribed by the national law.

Article 4(p1): A Contracting State shall grant its nationality to a person, not born in the territory of a Contracting State, who would otherwise be stateless, if the nationality of one of his parents at the time of the person's birth was that of that State. If his parents did not possess the same nationality at the time of his birth, the question whether the nationality of the person concerned should follow that of the father or that of the mother shall be determined by the national law of such Contracting State. Nationality granted in accordance with the provisions of this paragraph.

Article 5: (1) If the law of a Contracting State entails loss of nationality as a consequence of any change in the personal status of a person such as marriage, termination of marriage, legitimation, recognition or adoption, such loss shall be conditional upon possession or acquisition of another nationality. (2) If, under the law of a Contracting State, a child born out of wedlock loses the nationality of that State in consequence of a recognition of affiliation, he shall be given an opportunity to recover that nationality by written application to the appropriate authority, and the conditions governing such application shall not be more rigorous than those laid down in paragraph 2 of Article 1 of this Convention.

- UNHCR, #Ibelong campaign to end statelessness by 2024 was launched in November 2014. <https://www.unhcr.org/ibelong-campaign-to-end-statelessness.html>

Action 2: Ensure that no child is born stateless.

Action 7: Ensure birth registration for the prevention of statelessness

- Universal Declaration of Human Rights (UDHR) was proclaimed by the United Nations General Assembly in Paris on 10th December 1948_General Assembly Resolution 217A has been translated into over 500 languages.
<https://www.un.org/en/universal-declaration-human-rights/>

Article 1: All human beings are born free and equal in dignity and rights.

Article 6: Everyone has the rights to recognition everywhere as a person before the law.

Article 15: (1) Everyone has the rights to a nationality (2) No one shall be arbitrarily deprived of his nationality nor denied the rights to change his nationality.

- International covenant on civil and political rights (ICCPR), 23rd March 1976 by United Nations General Assembly Resolution 2200A 16th December 1966.

Article 24: (1) Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State. (2) Every child shall be registered immediately after birth and shall have a name. (3) Every child has the right to acquire a nationality.

Article 27: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

- International covenant on economic, social and cultural rights (CESCR), 3rd January 1976 by United Nations General Assembly Resolution 2200A 16th December 1966.
- <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

Article 2(2): The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

- Convention on the rights of the child (CRC), 2nd September 1990 by United Nations General Assembly Resolution 44/25 20th November 1989.
- <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

Article 2: (1) States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

Article 3: (1) In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. (2) States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures. (3) States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 7: (1) The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents. (2) States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8: (1) States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference. (2) Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 30: In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.

- Convention on the elimination of all forms of discrimination against women (CEDAW), adopted by United Nations General Assembly 18th December 1979, New York. <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>

Article 9: (1) States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband. (2) States Parties shall grant women equal rights with men with respect to the nationality of their children.

- International convention of the elimination of all forms of racial discrimination (CERD), 4th January 1969 by United Nations General Assembly Resolution 2106. <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>

Article 5: States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the rights...d(iii) The rights to nationality. d(v) The rights to education and training.

- ASEAN human rights declaration, 19th November 2012 on the occasion of the 21st ASEAN Summit in Phnom Penh, Cambodia. The ASEAN namely: namely Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam. <https://asean.org/asean-human-rights-declaration/>

Article 4: The rights of women, children, the elderly, persons with disabilities, migrant workers, and vulnerable and marginalized groups are an inalienable, integral and indivisible part of human rights and fundamental freedom.

Article 18: Every person has the right to a nationality as prescribed by law. No person shall be arbitrarily deprived of such nationality nor denied the right to change that nationality.

Article 30: (3) Motherhood and childhood are entitled to special care and assistance. Every child, whether born in or out of wedlock, shall enjoy the same social protection.

Article 31: (1) Every person has the right to education. (2) Primary education shall be compulsory and made available free to all. Secondary education in its different forms shall be available and accessible to all through every appropriate means.

- Ministerial declaration to “Get everyone in the picture” in Asia and the Pacific at the ministerial conference on civil registration and vital statistics in Asia and the Pacific, held in Bangkok, from 24th to 28th November 2014. <https://www.unescap.org/resources/ministerial-declaration-get-every-one-picture-asia-and-pacific>

Affirming that universal and responsive civil registration and vital statistics systems have a critical role in achieving inclusive, equitable and people-centred development,

including: (p1) Providing documents and a permanent record for individuals to establish their legal identity, civil status and family relationships, and subsequently promoting social protection and inclusion by facilitating access to essential services, such as education and health care, among others, (p3) Providing vital statistics on the demographics and health of the population and other information that offer an evidence base for policymaking at local, provincial and national levels, including preventative and targeted interventions for addressing social, economic and health inequities, especially among hard-to-reach and marginalized populations, (p6) Preventing and reducing the risk of statelessness, human trafficking, child and early marriage, child labour etc., as well as promoting durable solutions for refugees, including by documenting links to the country of origin.

Recognizing the need to address disparities in the civil registration coverage of hard-to-reach and marginalized populations, including people living in rural, remote, isolated or border areas, minorities, indigenous people, migrants, non-citizens, asylum seekers, refugees, stateless people, and people without documentation.

2. National Law

- Cambodia Constitutional Law, 23rd September 1993. By 2018, the constitution has been amended five times: (1) 14th July 1994 (2) 8th March 1999 (3) 28th July 2001 (4) 19th June 2005 (5) 9th March 2006. http://www.ccc.gov.kh/historyccc_en.php and http://www.bigpond.com.kh/Council_Of_Jurists/Constit/cons001g.htm

Article 31: (p1) The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human rights, the covenants and conventions related to human rights, women's and children's rights. (p2) Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, color, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status.

Article 48: (p1) The State shall protect the rights of children as stipulated in the Convention on Children, in particular, the right to life, education, protection during wartime, and from economic or sexual exploitation. (p2) The State shall protect children from acts that are injurious to their educational opportunities, health and welfare.

- The law on nationality, 21st June 2018. *Impossible reference linkage with Cambodia national assembly*

Article 9: (2) Shall obtain Khmer nationality by being born in Cambodia: (i) Any child who was born from a foreign mother and father (parents) who were born and living legally in Cambodia. (ii) Any child who was born from an unknown mother or father (a parent) and a newly born child who is found in Cambodia, shall be considered as having been born also in Cambodia.

Article 24: A foreigner who has spouse or child/children of under legal age and who also intend(s) to apply for Khmer nationality/citizenship may apply or naturalization as a family as a whole.

- 1934 nationality law under the French protectorate, Royal Ordinance No. 66 of 5 June 1934. Under the amendments, citizenship (nationalité) was defined largely under the

principle of *ius sanguinis*. Article 22 listed categories of people who ‘are Cambodian’ as being:

Christoph Sperfeldt, 2017 Report on Citizenship Law, Cambodia, pages 2 and 3.

https://www.google.com/search?source=hp&ei=BQqnXJmNCsO68QWY8aQGBw&q=Cambodia+1934+nationality+law+under+the+French+protectorate+&btnK=Google+Search&oq=Cambodia+1934+nationality+law+under+the+French+protectorate+&gs_l=psy-ab.3...1159.7869..8897...0.0..0.200.1709.0j12j1.....0....2j1..gws-wiz.....0.vywdtE79m6k

Article 22: (1) Individuals born of Cambodian parents; (2) & (3) An individual born of a Cambodian father or mother, regardless of the nationality of the other parent, unless that nationality is French, in which case the child takes on French nationality; (4) & (5) Individuals born of an unknown father and a Cambodian mother, or unknown parents (unless French nationality is attributed by the competent French authorities, the father, or both parents, although their nationality is unknown, are presumed to have French nationality in accordance with conditions stipulated by French law); (6) Individuals who are part of an ethnic group ‘fixed’ in Cambodia and not forming part of an independent political unit, such as “les Malais, Cham, Kha, Kouy, Phnong, Por Stiend, etc”.

Law on the nationality under Sihanouk: Kram No. 913-NS of 30 November 1954 significantly amended the citizenship provisions of the 1920 Civil Code. The law stated that “no distinction is made in favour [of] or to the detriment of Cambodian ethnic minorities living in the territory of Cambodia, such as Malays, Cham, Burmese, Lao, Kha, Kouy, Phnong, Por, Stiengs etc, nor the Tagalog Cambodians and former Thai nationals remaining in the territories surrendered to Cambodia by the Treaty of 23 March 1907”.⁴ Ethnic Chinese and Vietnamese groups were notably absent from these provisions, presumably because they were considered as ‘foreign residents’

- Immigration Law, Adopted by the National Assembly 26th August 1994 during the Extraordinary Session of its first legislature. It was promulgated by Decree No. 05/NS/1994 on 22 September 1994. <https://www.refworld.org/docid/3ae6b52f8.html>

Article 14: All immigrant aliens shall have to present themselves at the Alien Office of the Municipal or Provincial Police Commissariats at the place where they are willing to stay, within 48 hours after their arrivals, to complete applications for the Resident-cards. Receipts shall be given to concerned persons after receiving such above applications.

Article 21: (p1) The initial Resident-Card granted, shall be valid for a period of two years, and may be applied for extension once every two years. The filling of the application forms for new Resident-Cards or for the extension thereof, are to be done in front of the authorities as specified in Article 14 of this law. (p2) If over this above period, the holders of the Resident-Cards who failed to apply for new resident- cards, or for the extension thereof, shall then be considered as staying in an illegal condition. The Ministry of Interior shall specify by a ministerial proclamation, of the actions to be taken relating to the administration, the issuance of the Resident-Cards, and the applications and the conditions to be applied in this field.

Relevant documents



Identification Card of Foreigner (1970)



Immigration Card & Resident Card (2002)



Voting Card 1992



Poor Card 2011



Prakas Ministry of Interior
recognized immigrant alien (2015)



Receipt of receiving
immigration application



Request letter for wedding, Phsar
Chhnang, Kampong Chhnang 2012



Attestation letter for school enrollment
2014, Sangkat Phsar Chhnang,
Kampong Chhnang



Foreigner Checking Receipt Phnom Penh 2016