

INVESTIGATING DOMESTIC VIOLENCE LAW IN CAMBODIA

Legislation seeking to address violence against women has grown in recent years – at least 144 countries now have laws on domestic violence (DV). However, many women are still prevented or deterred from accessing justice. The ESRC-DFID Joint Fund for Poverty Alleviation Research on DV law in Cambodia not only contributed to greater understanding of the limitations of the legislation but was also used as evidence in a law court. The Principal Investigator (PI) acting as expert witness was a significant factor in preventing a domestic abuse survivor living in the United States from deportation to Cambodia where she feared being harmed. The research provided the grounds for relief from deportation through the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).

THE CHALLENGE

In Cambodia, the legislative framework includes the 2005 Law on the Prevention of Domestic Violence and the Protection of the Victims and the 2nd National Action Plan to Prevent Violence Against Women (NAPVAW) 2014–2018. NAPVAW aims

to ‘advance Cambodia from awareness-raising to a more comprehensive and coordinated approach targeting positive changes.’ Despite high levels of public awareness about the legislation’s existence, the rights it accords are not well known. Women are commonly not in a good position to take up the legislation or may seek legal advice only to change their minds later in the process due to the safety and financial dangers involved.

THE RESEARCH

From 2012 to 2015, researchers from Royal Holloway, University of London; Western University, Phnom Penh; and Gender and Development for Cambodia (GADC) examined the gap between Cambodia’s DV law and its practice. The study was carried out with rural and urban households in two provinces in Cambodia – Siem Reap and Pursat. The team adopted a mixed method approach to explore experiences of, and attitudes to, domestic violence, DV law, and gender roles and attitudes. As part of the quantitative household survey, 1,177 men and women were surveyed. Some 120 interviews were conducted with women survivors of DV, ‘lay’ men and women, and others involved in implementing the law such as judges, lawyers and police.

The research identified women’s economic dependence on spouses as a primary factor for women choosing not to pursue legal action or for dropping an existing case, since a jail sentence for the perpetrator results in hardship for the whole family.

The findings also highlighted the inadequacy of financial and human resources to support legal training on implementation and enforcement of DV law, together with confusion over women’s rights, as the environment is such that women are actively



Cover photo: Commune poster building awareness about domestic violence in Cambodia. Credit: © Katherine Brickell 2019

discouraged from seeking justice. Since the 2005 legislation lacks clear penalties and definitions of mediation processes, survivors of DV were being offered ad hoc measures or makeshift arrangements to resolve legal cases. Cultural ideals of community and household harmony – written into the 2005 law – work against women’s best interests. In some cases, women were persuaded to ‘reconcile’ with perpetrators, allowing for a continued cycle of DV.

THE IMPACT

The research has strengthened awareness of the barriers that women face in accessing justice in DV cases. The project report recommended systematic policy changes in Cambodia including revisions to the 2005 law, and improvements to DV law training particularly at village level.

National and global take-up of the research has included findings communicated by *Cambodia Daily*, *Phnom Penh Post*, *the Guardian*, *Huffington Post*, Radio Free Asia, and Radio France International. UN Women commissioned a background paper to inform their flagship report *Progress of the World’s Women* (2014). DFID featured the research in its 2016 Guidance Note and in evidence digests. UK Parliamentary Select Committees published the research in 2013 and 2016. The findings were also raised with the Cambodian National Council for Women and the Cambodian Ministry of Women’s Affairs. A representative of UN Women in Cambodia confirmed the research ‘effectively highlights to UN Women that the challenges of domestic violence reduction are wide-ranging and a plurality of gaps require systematic policy attention’.

The research has also had significant transnational impact. In 2017, the PI acted as an expert witness in deportation proceedings for a female DV survivor living in the US. Born in a refugee camp in Thailand, the woman entered the US as a child refugee and, although a Cambodian citizen, she had never lived in Cambodia. In 2003, in spite of psychologists’ reports providing evidence that she was experiencing battered woman syndrome, and having endured emotional, sexual and physical abuse for some time before the proceedings began, she was convicted and sentenced to life imprisonment for her role in a fatal shooting perpetrated by her abuser. On being granted parole in 2017, she then faced deportation by the US Immigration and Customs Enforcement (ICE) agency. Even though her abuser was in prison in the US, his family connections in Asia led her to fear for her safety in the event of deportation to

Cambodia since he, and his family, blamed her for his incarceration. Asian Americans Advancing Justice – Asian Law Caucus (hereon referred to as Advancing Justice – ALC), San Francisco, which represented the survivor, prepared a case under UNCAT (the Convention against Torture) to defer the deportation. It called the PI as an expert witness, and eventually the deportation was deferred.

Advancing Justice – ALC later wrote that the ESRC-DFID research ‘provided a significant evidence base for the case we put forward’. When an appeal failed to overturn the judge’s decision, the caucus wrote again confirming that the research ‘had made an enormous difference on what was one of the hardest parts of the claim’.

For the survivor herself, the impact of the research evidence has been life changing.



... I am so grateful... to have gotten you on board and to help make my freedom all the more permanent here... each and every one of you played a vital role in my freedom.

(Extract from survivor’s letter to the PI).

FURTHER READING

Brickell, K.; Prak, B.; and Poch, B. (2014) *Domestic Violence Law: The Gap Between Legislation and Practice in Cambodia and What Can Be Done About It*, London: Royal Holloway, University of London

Law, V. (2017) ‘After Abuse and Prison, A Woman Faces Deportation to a Country She’s Never Been To’, VICE, 10 August

OHCHR (1996-2019) *General Assembly resolution 39/46, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) – 26 June 1987*, Geneva: Office of the United Nations High Commission for Human Rights

UN Women (2019) *Facts and Figures: Ending Violence Against Women*, New York NY: United Nations Women

Walker, L.E. (2009) ‘Battered Woman Syndrome’, *Psychiatric Times* 26.7



Lay and Institutional Knowledges of Domestic Violence Law: Towards Active Citizenship in Rural and Urban Cambodia

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THE IMPACT INITIATIVE

For International Development Research

The Impact Initiative seeks to connect policymakers and practitioners with the world-class social science research supported by the ESRC-DFID Strategic Partnership, maximising the uptake and impact of research from: (i) the Joint Fund for Poverty Alleviation Research, and (ii) the Raising Learning Outcomes in Education Systems Programme. We seek to identify synergies between these programmes and their grant holders, support them to exploit influencing and engagement opportunities, and facilitate mutual learning. The Impact Initiative is a collaboration between the Institute of Development Studies (IDS) and the University of Cambridge’s Research for Equitable Access and Learning (REAL) Centre.

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CREDITS

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