

CENTER FOR SOCIAL DEVELOPMENT



SURVEY REPORT

ON

FREEDOM OF ACCESS TO INFORMATION

Phnom Penh
Kingdom of Cambodia
September 2004

ACRONYMS

CBO	Community based organization
CBA	Cambodia Bar Association
CDP	Cambodia Defenders Project
CSD	Center for Social Development
LAC	Legal Aid of Cambodia
NGO	Non-government organization
SOC	State of Cambodia
UNTAC	United Nations Transitional Authority of Cambodia

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ACKNOWLEDGEMENT

The Center for Social Development (CSD) would like to express its thanks and appreciation to all participants and to all those who supported this survey on Freedom of Access to Information, including the court officers in Kandal, Takao, Kampong Cham, Battambang and Sihanoukville, lawyers, media, litigants, NGOs and the private sector.

CSD would also like to thank and convey its appreciation to survey enumerators: Mr. Nou Dyla, Ms It Putheary and Ms By Kimsen for their commitment and dedication in completing the survey.

We would like also to thank CSD Project staff for the hard work in editing the Khmer and English versions of this report including Mr. Heav Veasna, Dr. Lao Mong Hay, Dr. Chek Sotha, Dr. Neou Sun, Mr. Nou Chhon, Mr. Oum Nareth, Mr. Soam Sila, Mr. Chhoun Makara, Mr. An Sakan, Ms. Christine Nissen, Ms. Noor Ayesha, Mr. Kevin Currie and Mrs. Agnes Rio.

We are also grateful to Dr. Rebecca F. Catalla for providing technical assistant on this survey.

CSD would like to express its sincere gratitude to The Asia Foundation for its support of the survey project and the producing and printing of this report.

To everyone who made this survey possible, thank you.

FOREWORD

Freedom of Access to Information is an important human right enshrined in the Covenant of Civil and Political Rights. It is also an important ingredient of development and democracy. It is common knowledge that in Cambodia, it is very difficult to access data and information from government bodies and courts even though the information is considered public and as such can be scrutinized by any interested individual or groups. This survey was undertaken to check the validity of common knowledge and perception. This report means to show that in the absence of a Freedom of Access to Information Act, people have difficulty in accessing and gathering information from the courts and public bodies, and where access has been allowed, the procedures involved are arbitrary and inconsistent.

The Center for Social Development (CSD) is a local NGO working to curb corruption and to promote public accountability and transparency in Cambodia. One of the tasks that CSD is currently undertaking is advocating for the enactment of the Anti-Corruption Law. To date, it had continued to advocate for the passage of this law so as to make it the legal and judicial foundation for effectively countering corruption. An important complement to this anti-corruption legislation is a law governing access to information. None of these laws exist in Cambodia today.

Between January 2004 and May 2004, CSD conducted a survey on Freedom of Access to Information in four (4) provinces and two (2) municipalities, namely, Kandal, Takeo, Kampong Cham, Battambang, Phnom Penh, and Sihanoukville. It obtained a total of 322 respondents representing court officers, lawyers, litigants, media and persons from the NGOs and the private sector.

We hope that the results of this survey will bring more benefits to the people of Cambodia through improved legislation and reform in the legal and judicial aspects of governance. These results are useful for the adoption of a Freedom of Access to Information law. A Freedom of Access to Information law will help strengthen the constitutional right for all Cambodian citizens, and will encourage government accountability to citizens, combat official secrecy, promote democratic principles and fight corruption. The Freedom of Access to Information law provides citizens a legally enforceable right to access to information regarding matters of public concern held by government, public authorities, and the private sector.

Chea Vannath
President
Center for Social Development

EXECUTIVE SUMMARY

The Center for Social Development (CSD) is a Cambodian non-government organization (NGO) working to fight corruption and to promote public accountability and transparency in Cambodia. For years, one of the main tasks of CSD has been to advocate for the adoption of an anti-corruption law. An important complement to anti-corruption legislation is a law governing access to information. None of the above-mentioned laws exists today in Cambodia and CSD will continue its work for the enactment of both laws.

The aim of this study was to show, in the absence of a Freedom to Information Act, the difficulties to access information from courts and public bodies, and where access is allowed the arbitrary procedures involved. From January to May 2004, the study was conducted in 4 provinces and 2 municipalities, namely: Battambang, Kandal, Kampong Cham, Phnom Penh, Sihanoukville, and Takeo. It obtained a total of 322 respondents represented by court officers, lawyers, litigants, media and persons from the private sector and NGOs.

All respondents were of Cambodian nationality with the exception of one working in the NGO/private sector. In a similar manner, Buddhism and Khmers dominated religious orientation and ethnicity. In terms of share to the total, courts officers comprised the most and lawyers the least, at 45% and 7.1% of the sample. Gender-wise, women were sufficiently represented, exceeding the percentage of men among litigants and representatives of the private sector and NGOs. There were more males among court officers and lawyers.

Most respondents came from certain groups: for journalists, almost two thirds were employed by the print media; 52.2% of lawyers came from private firms; litigants were mostly farmers, at 55.7% of the total; 72.6% of court officers were court clerks; and for the last group, 80% were NGO staff.

Across all types of respondents, information relating to civil and criminal cases was accessed; in addition, information important to and obtained by respondents was related to their jobs or careers. There were several ways that respondents acquired the information they needed: by paying someone, through official channels, by using his/her position, or by invoking certain laws.

Ninety six respondents or 30% of those who were asked said they had to resort to payment as a way to obtain information. Of these 13% reported doing this 'always' and 42% mentioned doing this 'sometimes'. Amounts paid ranged from less than 10,000 (US\$2.50) to more than 40,000 Riel (US\$10), reported by 62.5% of all types of respondents. Responses regarding this query can be roughly grouped into three: respondents who paid less than 10,000 Riel (22%), those who paid 20,000 Riel (14%), and those who paid more than 40,000 Riel at 16% of the total. Over a third or 37.5% said they did not pay for information.

Another way that respondents access needed information was through official channels or using their position. Nearly eight in ten court officers who were interviewed said they prepared letters requesting information. One in five used their position and while a minority reported having to provide something in exchange for the information.

Around two thirds of lawyers and members of the media also cited relevant laws in order to acquire the information they need. For the former, they referred to the laws at the time of the State of Cambodia (SOC) and the United Nations Transitional Authority in Cambodia

(UNTAC), while the latter alluded to the Press Law. There was a greater likelihood of females resorting to this method compared to male respondents.

Majority of all respondents found accessing information difficult to very difficult, at 57% and 27% of the total. By type of respondents, 82%, 76%, 64%, and 58% of the media, NGO staff, lawyers and the private sector representatives said this was difficult, respectively. In general, females were more disadvantaged in this respect, judging by the proportion of all types of respondents who noted that accessing information was difficult to very difficult.

More than eight of ten respondents or 85.8% of the total were of the opinion that accessing information in daily life or work was limited to difficult. Of note is that these were sentiments were shared by roughly the same proportion of all male and female interviews.

Some observations that can be drawn about the state of affairs in terms of access to information are as follows:

- In general, information is edited, censored, and sanitized; however, respondents are aware of the 'processing' that the information goes through.
- Information is a commodity and 'sellers' are sensitive to its market value using the prevailing socio-economic developments and political weather as bases to set the price.
- Information is controlled through money, influence, and perceptions about work and self, especially among government workers.
- Power directly impacts access and dissemination of information.
- Poor enforcement of the law, where existing, such as the Press Law.
- Access to information is affected by structural deficiencies (e.g. limited broadcasting facilities). Lacks of funds also affect the way it is disseminated.
- Perception regarding work and information affects the way information is disseminated.
- There are poor awareness levels regarding rights to information and rights to access to information.
- There is a perception that ordinary persons have no rights to access information.
- Poverty affects how information is accessed.

As education levels rise and the country's economic standing improves, these issues will be resolved since the citizenry will learn to assert themselves, whether they are conscious of the fact or not. However, CSD can assist and facilitate a change in the prevailing situation by taking measures in the following ways:

- Awareness raising about rights to information and right to access to information. At present the low levels of knowledge about rights should be changed.
- Awareness raising about the enforcement of laws.
- Alteration in the prevailing mind-set should be carried out so dissemination and access to information is easier. 'Gatekeepers' need to understand that information is an important input to any endeavor, from daily life to business activities and policy formulation. Unless there is overriding considerations to withhold information, everybody should be granted access.
- CSD should advocate a law on freedom of information, similar to those in other countries. Beyond this however, dedicated 'watch groups' are needed to curb misdemeanors among public officials and government workers. The effectiveness of oversight activities is greater if carried out collectively and stems from the populace.

These activities should not only be carried out in Phnom Penh but in the countryside as well. In their own recommendations, respondents were aware that there is a geographical limit in terms of the reach of information. This concern should also be addressed by CSD by undertaking regular seminars, workshops and dissemination in various forms of media. Another cost effective approach that could be assessed by CSD in terms of practicality is the ‘training of trainers’ on the rights of and laws that directly affect Cambodians.

In the context of the study and CSD’s work and experience, the organization is strategically suited to advocate for a rule of law where no one can act with impunity and Cambodian citizens live without fear. Taken forward, this would be CSD’s major contribution to nation-building.

I. INTRODUCTION

Cambodia has a history of mysterious and closed administration and not of openness. Decision making and information has mostly been hidden and not disseminated to the public. Before the French colonialist epoch, a Divine King ruled Cambodia. It meant that the King was not an individual on this earth, but a Divine King descended to earth from the Upper World to be born a God King and rule the people in the Lower World. For this monarchy, there must not be transparency, we, the people of the Lower World, must not know the Upper World's affairs; we have only to obey. This is a Cambodian custom. State affairs are secret because it is needed to protect the leader's rights and to preserve the people's unity. If the people were allowed to know things, there would be disruption causing different ideas and thus instability. In order to maintain unity, the leader's affairs must be kept secret. All the State affairs are not comprehensible. They are to be known only to a small circle. Only Brahmans and Pandits (intellectuals, scholars) know all of these. This is the mental concept of the Cambodian people, which has existed for thousands of years.

In the French colonialist epoch, this attitude continued to exist because the French people did not want us to know their affairs and they only wanted us to obey their orders. There was no open policy in ruling the country where Cambodian people could know, hear and participate. These secret systems remain present today.

In the Pol Pot regime, Cambodian people had been told to be kapok tree (don't talk). The Khmer Rouge policy was that you have to keep secret.

Up to and even now, it is thought, "Whoever has information, has power". Therefore, today, the government from village and commune up to national authorities still keeps information in secret, which means that the people cannot know information that they ought to know. On the other hand, because Cambodian political society is not stable; and the country poor; broadcasting systems are still limited; information technology is low, the people cannot receive the news which they need.

In Cambodia, there is no law that upholds the right to information and it is common knowledge that obtaining information from courts and public bodies is difficult. As part of the laws that governed the State of Cambodia and during the presence of the United Nations Transitional Authority in Cambodia (UNTAC) between 1989 and 1993, lawyers could access the necessary information from a client's file. Article 78 of the SOC law and Article 17 of the UNTAC code provided lawyers with the legal rights to access files and information from the courts regarding a client's case. However today, lawyers still claim to encounter problems when asking for information. From a party to a court case who is not represented by a lawyer, there is no legal right to get information from their files, which pose great problems to the parties involved. For instance, in land a right cases the party claiming the right to a piece of land should produce ownership papers for the claim. If the papers are not shown to the opposite party, s/he cannot argue the case or properly address an appeal.

To promote public transparency and accountability, it is important that journalists and the general public have a right to access to information from public bodies. The knowledge that the work of civil servants can be scrutinized at any time is an effective tool against corruption. The press has the right to access information in government-held records, with some exceptions, according to Article 5 of the Press Law. Despite this right, journalists face problems to access public information, and their role as society's watchdog is hampered.

This is also the case for the general public which does not have such a right. Moreover, there are no guidelines for when and how the courts or public bodies should give out information. This makes the procedure around access to information extremely arbitrary such that often, information that should be available to people free of charge is accessed only after payment.

The Center for Social Development (CSD) is an NGO working to fight corruption and to promote public accountability and transparency in Cambodia. For years, one of the main tasks within CSD has been to advocate for the adoption of an anti-corruption law. An important complement to anti-corruption legislation is a law governing access to information. None of the above-mentioned laws exists today in Cambodia and CSD will continue its work for the enactment of both laws.

The aim of this study is to show, in the absence of a Freedom to Information Act, the difficulties to access information from courts and public bodies, and where access was allowed, the arbitrary procedures involved. The study focused on the problems lawyers, journalists and the general public encountered in this area and the judge's opinions on access to information in courts and their way of dealing with it.

Some countries in the world have or are passing freedom of information laws in order to encourage government accountability to citizens, combat official secrecy, promote democratic principles and fight corruption. A freedom of information law provides citizens a legally enforceable right to access information regarding matters of public concern held by government, public authorities, and the private sector. Up to the present, only about twenty countries have adopted freedom of information laws.

Investment and contract agreements between government and private sector have been kept secret and are not disseminated to the public. For example the investment of the Angkor Wat temple with one private company. It has created a lot of problems because the public wants to know that how long it was rented for, and for how much? Does the company follow the agreement or not? So the government has to disseminate information to the public for their information.

In the Legislative branch, draft laws scheduled for debate in Parliament are not openly distributed. Anyone other than representatives, journalists or NGOs' agents has difficulty in accessing the documents, if needed. An easy way to get documents is to deal with the opposition representatives or to privately approach or spend money to get them. This shows the lack of transparency in laws circulation or in freedom of access to information or in providing opportunity to all sectors of society to participate in law making process or to understand those laws. Only a few draft laws or proposed laws were arranged for public hearing by the parliamentary commissions giving opportunity to civil society to contribute their opinion, and only a few recommendations presented by civil society were integrated into those draft laws.

So that the freedom of Access to Information in Cambodia is very difficult if compared to other democratic countries. Therefore the current struggle to get the right of access to information is an important and pressing issue that society needs action on.

II. METHODOLOGY

Survey forms were developed and written in Khmer and English by, the CSD Project Director. There were five survey forms that were used for the assigned target groups. After developing, the questionnaires were tested with focus groups, and were reviewed.

From January to May 2004, the study was conducted in 4 provinces and 2 municipalities, namely: Kandal, Takeo Kampong Cham, Battambang, Phnom Penh and Sihanoukville. It obtained a total of 322 respondents as represented by:

◆ Court officers (judges, prosecutors, clerks of court, etc.)	146
◆ Lawyers ⁽¹⁾	23
◆ Journalists (representing radio, television, newspapers in Khmer, English and French)	35
◆ Persons who had problems in court (consisting of a cross-section of people such as students, sellers, government officials, farmers, etc.)	61
◆ Private companies	12
◆ NGOs	45

The survey instruments were prepared and interviews carried out by the CSD. While all queries touched on access of information, a certain focus was given for sample types, as can be seen in Table 1 below.

Table 1: Focus and emphasis of survey questions, by type of respondents

Type of Respondents	Focus of Survey	Emphasis	Source of Information
Lawyer	Problems relating to access to information	Land rights cases	Court files
Media			Courts & other public bodies
Litigant		Civil & criminal	Court files
Private sector/NGOs			Courts & other public bodies
Court officers			

After the initial processing of the survey data, the completed general data summaries were further broken down to manageable and reader-friendly formats for ease in comprehension and utilization. Specifically, the following was carried out:

1. A review of relevant study documents and data sets, including interactions with CSD's Study Team Leader. This was to better understand the context of the study and its implementation procedures as well as to effectively write up the data from the survey.

¹ From Cambodia Defenders Project (CDP), Legal Aid of Cambodia (LAC), Cambodia Bar Association (CBA), private offices, etc.

2. Verification of data summaries, as well as the formulation of new tables and analysis. In particular, this entailed converting current Excel file datasets into SPSS to facilitate data processing and re-formulation of existing tables and generating new ones for the analysis. Based on the review of the datasets, dummy tables were developed where additional tables would be necessary. Answers to open-ended questions which are currently in the Khmer language were translated into English so that these were incorporated in the report.

III. LIMITATIONS

There were several limitations to this survey. One was the methodology used. The other was the reluctance and inability of some government ministries to respond and provide answers. And, lastly the difficulty in obtaining information from public bodies.

The lack of uniformity in the survey instruments used for various types of samples makes comparison difficult and in some cases, impossible because there were no equivalent questions. For instance, although litigants were asked if they paid to obtain documents, the amount they paid were not obtained so that this part of the subsequent comparisons of the responses. A more uniform and detailed tool could have been used.

Some of the data was also discrete (e.g. ages, amount paid) such that the quantitative measures like the averages and minimum/maximum amounts could not be determined affecting the level of analysis that could be made.

CSD wrote formal letters to some government ministries requesting access to government contracts with some private companies. Many ministries acknowledged receipt of the letter but politely turned the request giving various reasons for non-compliance. One ministry remained silent and never answered at all.

Many public offices gave the run around to the CSD staff where they were asked to go to one official, then to another official, until finally no answers were obtained at all.

These limitations affected the results of the survey.

IV. FINDINGS & ANALYSIS

A. PROFILE OF RESPONDENT

1. Age, gender, nationality and religion

All respondents were of Cambodian nationality. In a similar manner, Buddhism and Khmers dominated religious orientation and ethnicity.

The sample was skewed towards males, accounting for 75% of the total. Looking at each type of sample, the proportion of men was highest among lawyers and lowest among litigants at 87% and 52.5%, respectively. On the other hand, the presence of women was most felt among litigants, at 47.5% and least among lawyers, at 13% of the total (Table 2).

Table 2: Distribution of respondents by sample group, by gender

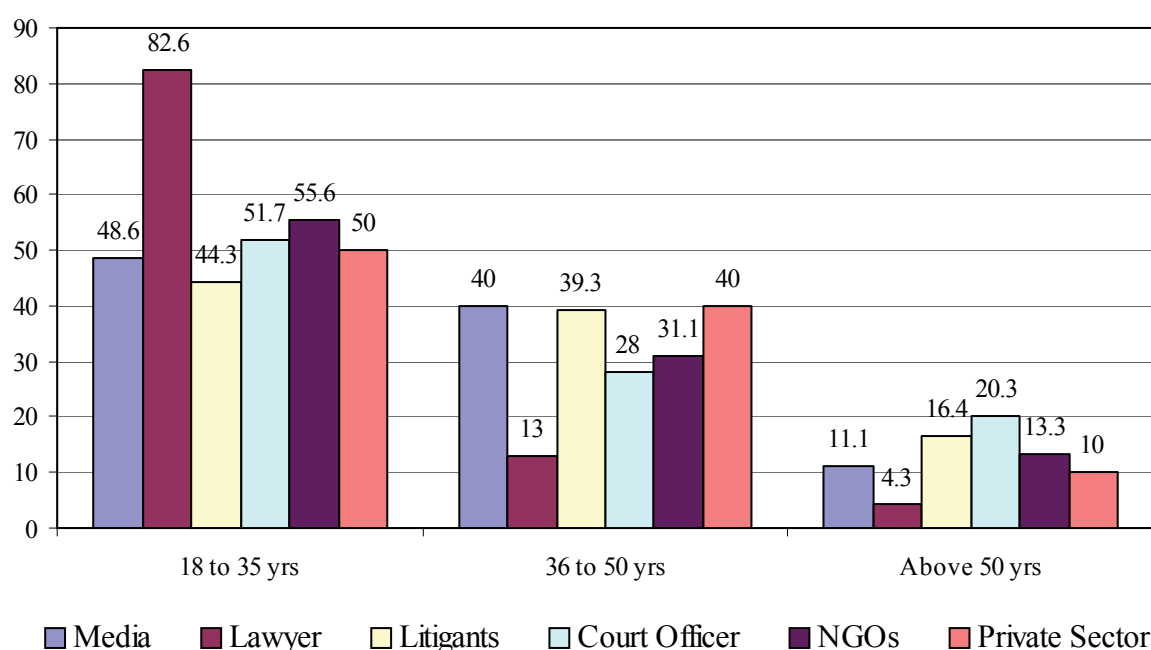
Type of Respondents	Male		Female		Total	
	No.	Percentage	No.	Percentage	No.	Percentage
Court officers	124	84.9%	22	15.1%	146	100.0%
Lawyer	20	87.0%	3	13.0%	23	100.0%
Litigants	32	52.5%	29	47.5%	61	100.0%
Media	26	74.3%	9	25.7%	35	100.0%
NGOs	27	62.8%	16	37.2%	43	100.0%
Private sector	10	71.4%	4	28.6%	14	100.0%
Total	240	74.5%	82	25.5%	322	100.0%

In terms of share to the total, courts officers comprised the most and lawyers the least, at 45% and 7.1% of the sample (Table 3). Gender-wise, women were sufficiently represented, exceeding the percentage of men among litigants and representatives of the private sector and NGOs. There were more males among court officers and lawyers.

Over half of the respondents were young, falling between 18 to 35 years age. Lawyers, interviewees from NGOs and the private sector, and court officers had the highest percentage of persons falling in this age group, at 82.6%, 55.6%, 50% and 51.7% respectively (Figure 1).

Table 3: Distribution of sample by occupation and gender

Type of Respondents	Male		Female		Total	
	No.	Percentage	No.	Percentage	No.	Percentage
Court officers	124	52.0%	22	26.5%	146	45.3%
Litigants	32	13.4%	29	35.0%	61	19.0%
NGOs	27	11.3%	16	19.3%	43	13.5%
Private sector	10	4.2%	4	4.8%	14	4.3%
Media	26	10.9%	9	10.8%	35	10.9%
Lawyer	20	8.3%	3	3.6%	23	7.1%
Total	239	100.0%	83	100.0%	322	100.0%

FIGURE 1. AGE DISTRIBUTION, BY TYPE OF RESPONDENT (A)

2. Occupation

Whether by intent or not, many respondents belonged to certain groups. For journalists, almost two thirds were employed by the print media, especially Cambodian newspapers, and 52.2% of lawyers came from private firms. Litigants were mostly farmers, at 55.7% of the total, while 72.6% of court officers were court clerks. Staff made up 80% of NGO respondents while those from the private sector comprised mostly of businessmen and other representatives (Table 4).

Table 4: Occupation of respondents, by gender

Type of Respondents	Male		Female		Total	
	No.	Percentage	No.	Percentage	No.	Percentage
<i>Court officer:</i>	<i>n=124</i>		<i>n=22</i>		<i>n=146</i>	
Court clerk	88	71.0%	18	81.8%	106	72.6%
Judge	12	9.7%	2	9.1%	14	9.6%
Prosecutor	10	8.1%	-	-	10	6.8%
Others	14	11.3%	2	9.1%	16	11.0%
<i>Lawyer at:</i>	<i>n=20</i>		<i>n=3</i>		<i>n=23</i>	
Private firm	11	55.0%	1	33.3%	12	52.2%
CBA	4	20.0%	1	33.3%	5	21.7%

A Five respondents did not report their ages: 2 male and 1 female court officers; and 1 male and 1 female private sector and NGO interviewees.

Type of Respondents	Male		Female		Total	
	No.	Percentage	No.	Percentage	No.	Percentage
LAC	3	15.0%	-	-	3	13.0%
CDP	2	10.0%	-	-	2	8.7%
Others	-	-	1	33.3%	1	4.3%
Litigants:	<i>n=32</i>		<i>n=29</i>		<i>n=61</i>	
Farmer	22	68.8%	12	41.4%	34	55.7%
Officer	3	9.4%	5	17.2%	8	13.1%
Businessman	-	-	5	17.2%	5	8.2%
Labor	1	3.1%	1	3.4%	2	3.3%
Soldier	2	6.3%	-	-	2	3.3%
Artist	-	-	1	3.4%	1	1.6%
Police	1	3.1%	-	-	1	1.6%
School student	1	3.1%	-	-	1	1.6%
Other	2	6.3%	5	17.2%	7	11.5%
Media:	<i>n=24</i>		<i>n=9</i>		<i>n=33</i>	
Newspaper	20	83.3%	2	22.2%	22	66.7%
Radio	4	16.7%	7	77.8%	11	33.3%
Television	2	8.3%	-	-	2	6.1%
NGOs:	<i>n=29</i>		<i>n=16</i>		<i>n=45</i>	
Staff	28	96.6%	16	100.0%	44	97.8%
Others	1	3.4%	-	-	1	2.2%
Private sector:	<i>n=7</i>		<i>n=3</i>		<i>n=10</i>	
Businessman	3	42.8%	-	-	3	30.0%
Seller	-	-	2	66.7%	2	20.0%
Officer	1	42.8%	-	-	1	10.0%
Others	3	14.3%	1	33.3%	4	40.0%

B. ACCESSING INFORMATION

1. Type of information being accessed

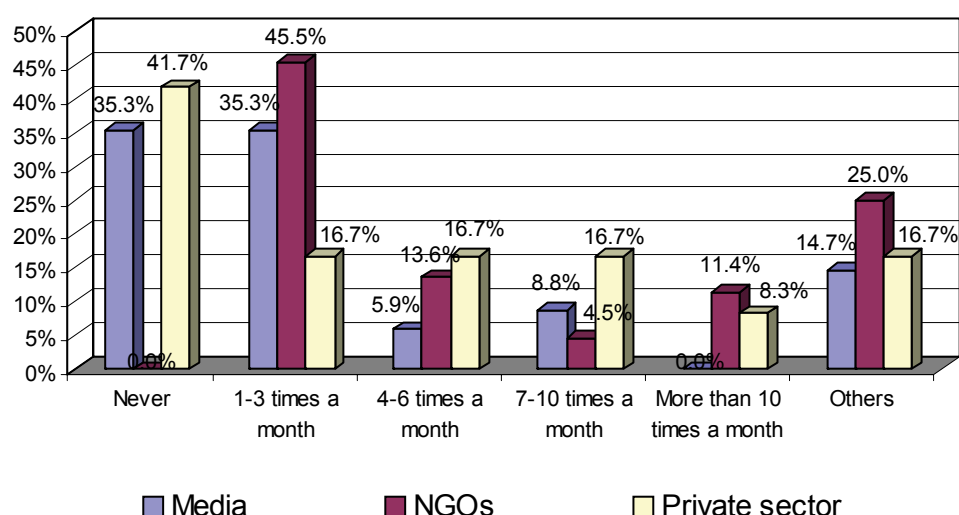
Across all types of respondents, information related to civil and criminal cases were accessed, although the purpose as to why these were being obtained differed. For instance, court officers, lawyers, and litigants need this information in connection with suits filed by injured parties in court. On the other hand, media want this kind of information for purposes of news while for the private sector and NGOs, this might be utilized in connection with studies and the like (Table 5). Other types of information obtained were those that were connected to their jobs or careers.

Table 5: Type of information accessed by respondents

Information Relating to:	Type of Information				
	Court officers	Lawyers	Litigants	Media	Private sector/NGOs
Civil cases	X	X	X	X	X
Criminal cases	X	X	X	X	X
Career	X				
Contracts, certification, house plans, etc.			X		
Public official documents				X	X
Information that is newsworthy (e.g. salaries of public officials, etc)				X	X

2. Source of information and frequency of interaction

Among the five types of respondents, the media, private sector and NGOs were asked with what groups, sectors or organizations they dealt with and the frequency of the interaction. Figure 2 compares the responses in terms of frequency. For the media, the focus of the questions was about the court, and dealings appear to be infrequent because 35.3% said they never did so and an equivalent proportion reported only 1-3 times a month.

FIGURE 2. FREQUENCY OF INTERACTIONS BY TYPE OF RESPONDENT

More than two in five or 44.6% of the total respondents from the private sector and NGOs, on the other hand, said that they had contact with institutions, ministries or departments. More frequent interactions with these public bodies, ranging from 4 to more than 10 times a month, was cited by 32.1%.

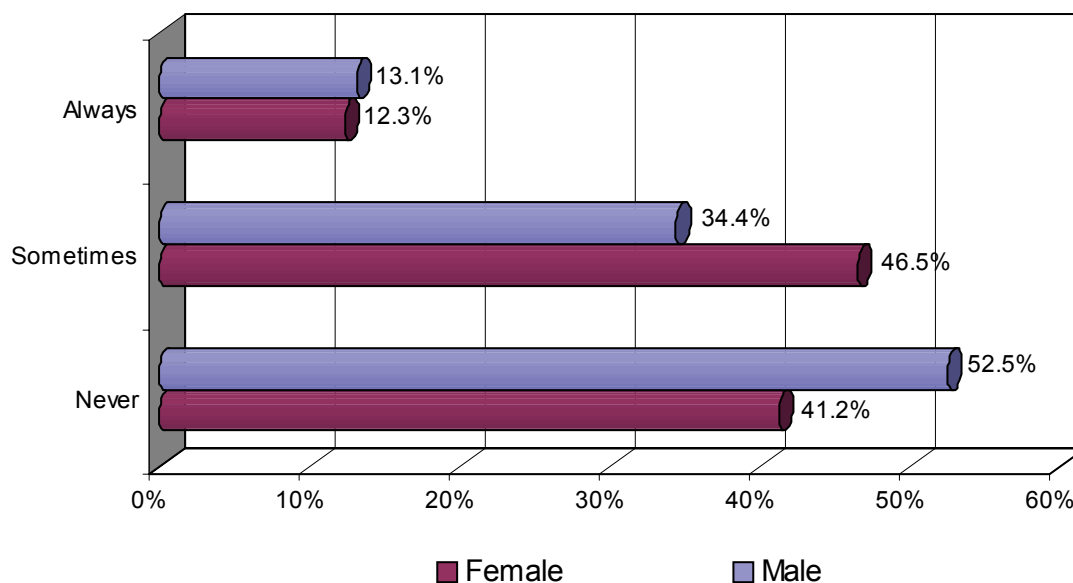
3. Manner of acquiring information

There were several ways that respondents acquired the information they needed: by paying someone, through official channels, by using his/her position, or by invoking certain laws. The occurrence of each manner of getting information is discussed in greater detail below.

Paying for information

Ninety six respondents or 30% of those who were asked said they had to resort to payment as a way to obtain information. Of these 13% reported doing this ‘always’ and 42% mentioned doing this ‘sometimes’ (Figure 3). It should be noted that paying for publications based on studies or research is a way of generating incomes and is practiced by many organizations. In this respect, paying for information is not necessarily an ‘under the table’ activity.

FIGURE 3. DISTRIBUTION OF ALL RESPONDENTS WHO PAID TO ACCESS INFORMATION



Except for one, the same proportion of lawyers said they paid always or sometimes, at 47.8% of the total (Table 6). Moreover, 70% of lawyers claimed they paid a different amount for certain types of documents. Documents relating to civil cases were noted to cost more in comparison to criminal related cases, according to 61% and 8% of all the lawyers. This amount also depends on the person who is filing or ‘behind’ a case, the size, and the prominence of the parties involved in the case.

Interviewees from the private sector, NGOs, media persons, and litigants were more likely to say they paid ‘sometimes’. Over half of respondents from the private sector/NGOs or 54% revealed that they had to pay a different price for certain types of documents, depending on the length, size or its connection to current news and interests. Similarly for the media, 34% of the total said that they did so, depending on whether or not these documents were ‘hot’ and therefore newsworthy. Twenty four litigants reported that when they accessed documents relating to their cases from the court, they had to pay always or sometimes.

Table 6: Payment as a way of obtaining information, by gender and type of respondent ^(a)

Type of Respondents	Male		Female		Total	
	No.	Percentage	No.	Percentage	No.	Percentage
ALL	<i>n=114</i>		<i>n=61</i>		<i>n=175</i>	
Always	14	12.3%	8	13.1%	22	12.6%
Sometimes	53	46.5%	21	34.4%	74	42.3%
Never	47	41.2%	32	52.5%	79	45.1%
Lawyer	<i>n=20</i>		<i>n=3</i>		<i>n=23</i>	
Always	10	50.0%	1	33.3%	11	47.8%
Sometimes	9	45.0%	2	66.7%	11	47.8%
Never	1	5.0%	-	-	1	4.3%
Litigants ^(b)	<i>n=31</i>		<i>n=29</i>		<i>n=60</i>	
Always	3	9.7%	5	17.2%	8	13.3%
Sometimes	12	38.7%	4	13.8%	16	26.7%
Never	16	51.6%	20	69.0%	36	60.0%
Media	<i>n=26</i>		<i>n=9</i>		<i>n=35</i>	
Sometimes	8	30.8%	3	33.3%	11	31.4%
Never	18	69.2%	6	66.7%	24	68.6%
NGOs	<i>n=29</i>		<i>n=16</i>		<i>n=45</i>	
Always	-	-	2	12.5%	2	4.4%
Sometimes	17	58.6%	9	56.3%	26	57.8%
Never	12	41.4%	5	31.3%	17	37.8%
Private sector	<i>n=8</i>		<i>n=4</i>		<i>n=12</i>	
Always	1	12.5%	-	-	1	8.3%
Sometimes	7	87.5%	3	75.0%	10	83.3%
Never	-	-	1	25.0%	1	8.3%

a Court officers were not asked this question.

b One missing response.

By gender, more women among the media and lawyers said they paid ‘sometimes’. The proportion of female litigants and those from the private sector and NGOs who stated they paid ‘always’ was also higher compared to their male counterparts.

Amounts paid ranged from less than 10,000 (US\$2.50) to more than 40,000 Riel (US\$10), reported by 62.5% of all types of respondents (Table 7). Over a third or 37.5% said they did not pay for information. Responses regarding this query can be roughly grouped into three: respondents who paid less than 10,000 Riel (22%), those who paid 20,000 Riel (14%), and those who paid more than 40,000 Riel at 16% of the total.

Interestingly, the private sector respondents seemed either to pay only nominal or large amounts, as can be seen in the 33.3% who paid less than or equal to 10,000 Riel and the 66.7% who paid more than 40,000 Riel (Table 7).

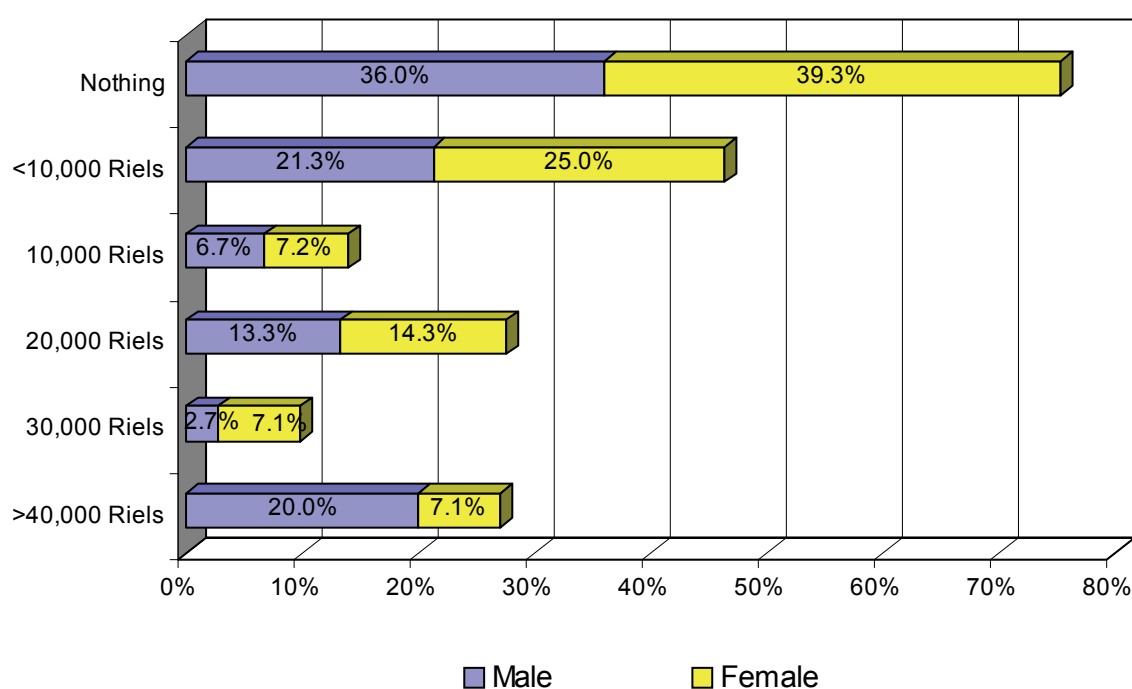
In general, more female respondents paid for lower amounts relative to their male counterparts. This situation, however, is reversed for amounts exceeding 40,000 Riel (Figure 4).

Table 7: Amount paid for information, by type of respondent and gender

Type of Respondents	Male		Female		Total	
	No.	Percentage	No.	Percentage	No.	Percentage
<i>ALL</i>						
Nothing	27	36.0%	11	39.3%	38	37.0%
<10,000	16	21.3%	7	25.0%	23	22.3%
10,000	5	6.7%	2	7.2%	7	6.8%
20,000	10	13.3%	4	14.3%	14	13.6%
30,000	2	2.7%	2	7.1%	4	3.9%
More than 40,000	15	20.0%	2	7.1%	17	16.5%
Total	75	100.0%	28	100.0%	103	100.0%
<i>Lawyer</i>						
Nothing	1	5.0%	-	-	1	4.3%
<10,000	1	5.0%	1	33.3%	2	8.7%
10,000	3	15.0%	-	-	3	13.0%
20,000	7	35.0%	-	-	7	30.4%
30,000	1	5.0%	2	66.7%	3	13.0%
More than 40,000	7	35.0%	-	-	7	30.4%
Total	20	100.0%	3	100.0%	23	100.0%
<i>Media</i>						
Nothing	13	59.1%	4	44.4%	17	54.8%
<10,000	8	36.4%	4	44.4%	12	38.7%

Type of Respondents	Male		Female		Total	
	No.	Percentage	No.	Percentage	No.	Percentage
10,000	-	-	1	11.1%	1	3.2%
More than 40,000	1	4.5%	-	-	1	3.2%
Total	22	100.0%	9	100.0%	31	100.0%
NGOs						
Nothing	13	50.0%	7	50.0%	20	50.0%
<10,000	5	19.2%	2	14.3%	7	17.5%
10,000	2	7.7%	-	-	2	5.0%
20,000	3	11.5%	4	28.6%	7	17.5%
30,000	1	3.5%	-	-	1	2.5%
More than 40,000	2	7.7%	1	7.1%	3	7.5%
Total	26	100.0%	14	100.0%	40	100.0%
Private Sector						
<10,000	2	28.6%	-	-	2	22.2%
10,000	-	-	1	50.0%	1	11.1%
More than 40,000	5	71.4%	1	50.0%	6	66.7%
Total	7	100.0%	2	100.0%	9	100.0%

FIGURE 4. AMOUNTS PAID BY RESPONDENTS, BY GENDER

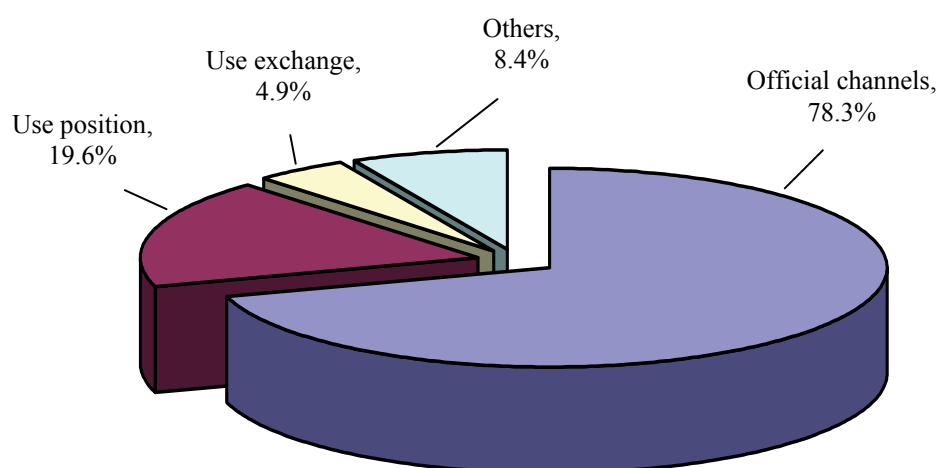


Using formal channels and connections

Another way that respondents used to get hold of the information they needed was through official channels or using their position. In Figure 5 below, nearly eight in ten court officers who were interviewed said they used official channels to obtain the required information. This meant that letters requesting for information were prepared and submitted to the authorities that would give permission. One in five used their position and while a minority reported having to provide something in exchange for the information.

Regrettably, this question was not asked to all types of respondents. It would have been instructive to know the extent with which respondents do this since it appears to be common knowledge that these practices are not limited to court officers.

FIGURE 5. HOW COURT OFFICERS OBTAIN INFORMATION



Other ways of obtaining information

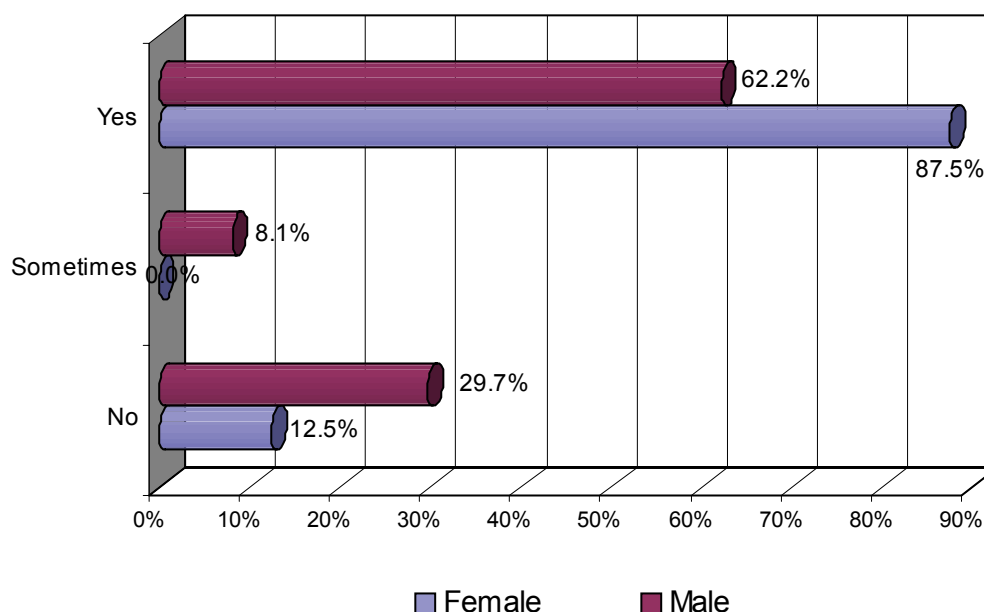
Around two thirds of lawyers and members of the media cited relevant laws in order to acquire the information they need (Table 8). For the former, they referred to the laws at the time of SOC and UNTAC, while the latter alluded to the Press Law. There was a greater likelihood of females resorting to this method compared to male respondents (Figure 6).

Table 8: Invoking the law to get information

Type of Respondents	Male		Female		Total	
	No.	Percentage	No.	Percentage	No.	Percentage
<i>ALL</i>						
Yes	23	62.2%	7	87.5%	30	66.7%
Sometimes	3	8.1%	-	-	3	6.7%
No	11	29.7%	1	12.5%	12	26.7%

Type of Respondents	Male		Female		Total	
	No.	Percentage	No.	Percentage	No.	Percentage
Total	37	100.0%	8	100.0%	45	100.0%
Lawyers						
Yes	12	60.0%	3	100.0%	15	65.2%
Sometimes	3	15.0%	-	-	3	13.0%
No	5	25.0%	-	-	5	21.7%
Total	20	100.0%	3	100.0%	23	100.0%
Media						
Yes	11	64.7%	4	80.0%	15	68.2%
No	6	35.3%	1	20.0%	7	31.8%
Total	17	100.0%	5	100.0%	22	100.0%

FIGURE 6. RESPONDENTS WHO INVOKE THE LAW TO GET INFORMATION, BY GENDER



Lawyers, as part of their duties in representing their clients, examine and make copies of documents from court files. However, there were times when lawyers could not access these and had to pay for the information. At these times, 65% of all lawyers also informed court officers of their right to access their clients' files and for 42% of these lawyers, they successfully obtained the needed files. Clients became aware of this problem occasionally since lawyers do not raise this topic frequently.

Almost three quarters of respondents from the media or 73% of the total knew about the Press Law and their right to access information. Sixty eight percent of those who were aware or 15 respondents invoked this law when trying to get the information they needed but only 37% were successful. Some of the common ways by which officials deny the media were:

- pretending not to know the Press Law and postponing meetings,
- ignoring and not following the Press Law,
- citing internal rules, regulations, and policies of organizations (e.g. ‘this is the policy or law here’), and
- citing political and other external conditions as excuses (e.g. ‘not have new government so please wait’).

4. Levels of difficulty

Majority of all respondents found accessing information difficult to very difficult, at 57% and 27% of the total. By type of respondents, 82%, 76%, 64%, and 58% of the media, NGO staff, lawyers and the private sector representatives said this was difficult, respectively (Table 9). Nearly half of litigants or 47.5% of the total on the other hand, declared that this was very difficult. Of note is that around 25% of this group also stated that it was ‘easy’ to obtain information.

In general, there were more females who said it was very difficult were more disadvantaged in this respect, judging by the proportion of all types of respondents who said that accessing information was difficult to very difficult (Figure 7).

FIGURE 7. LEVEL OF DIFFICULTY AMONG ALL TYPES OF RESPONDENTS, BY GENDER

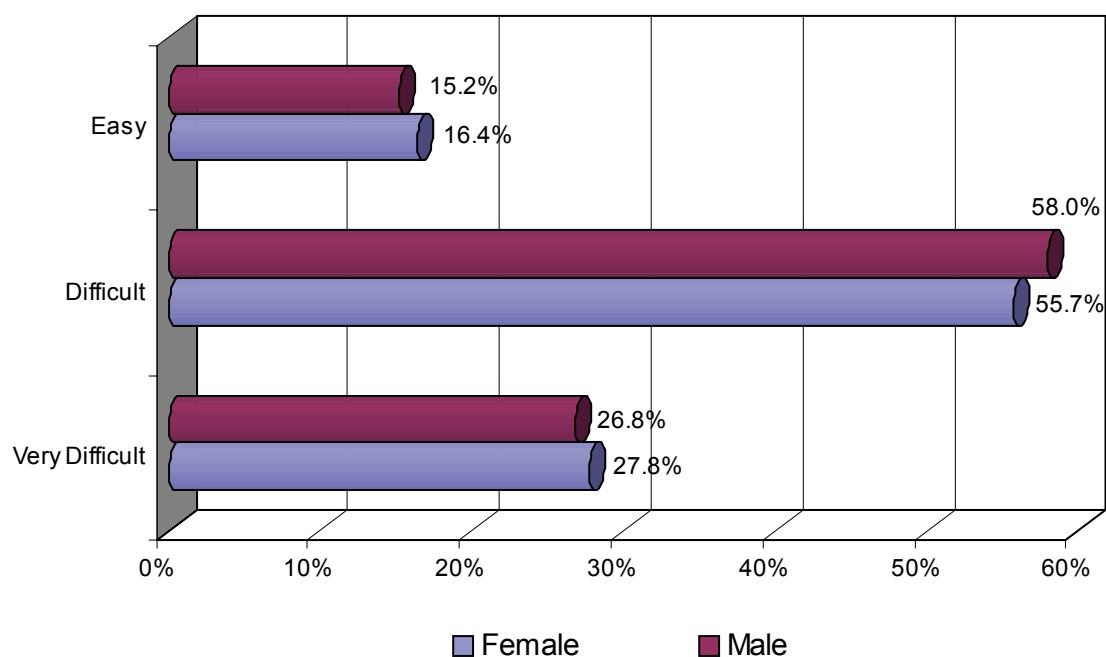


Table 9: Difficulty in accessing information

Type of Respondents	Male		Female		Total	
	No.	Percentage	No.	Percentage	No.	Percentage
Media						
Easy	2	8.3%	1	11.1%	3	9.1%
Difficult	19	79.2%	8	88.9%	27	81.8%
Very difficult	3	12.5%	-	-	3	9.1%
Total	24	100.0%	9	100.0%	33	100.0%
Lawyer						
Easy	3	15.8%	-	-	3	13.6%
Difficult	12	63.2%	2	66.7%	14	63.6%
Very difficult	4	21.1%	1	33.3%	5	22.7%
Total	19	100.0%	3	100.0%	22	100.0%
Litigants						
Easy	8	25.0%	7	24.1%	15	24.6%
Difficult	9	28.1%	8	27.6%	17	27.9%
Very difficult	15	46.9%	14	48.3%	29	47.5%
Total	32	100.0%	29	100.0%	61	100.0%
NGOs						
Easy	2	6.9%	2	12.5%	4	8.9%
Difficult	22	75.9%	12	75.0%	34	75.6%
Very difficult	5	17.2%	2	12.5%	7	15.6%
Total	29	100.0%	16	100.0%	45	100.0%
Private Sector						
Easy	2	25.0%	-	-	2	16.7%
Difficult	3	37.5%	4	100.0%	7	58.3%
Very difficult	3	37.5%	-	-	3	25.0%
Total	8	100.0%	4	100.0%	12	100.0%

For court officers ⁽²⁾

Among court officers, accessing information appeared to be more straightforward for civil relative to criminal cases, based on the percentage of respondents (16%) who said this was easy for the former against the 5% for the latter (Table 10). When asked about civil cases, over three quarters of respondents said that obtaining documents was difficult or very difficult. Similarly for criminal cases, nearly nine in ten or 88.5% of all court officers reported varying levels of difficulty.

2 Data for this respondent type was separated because there was a distinction made regarding the difficulty in acquiring information for civil and criminal cases.

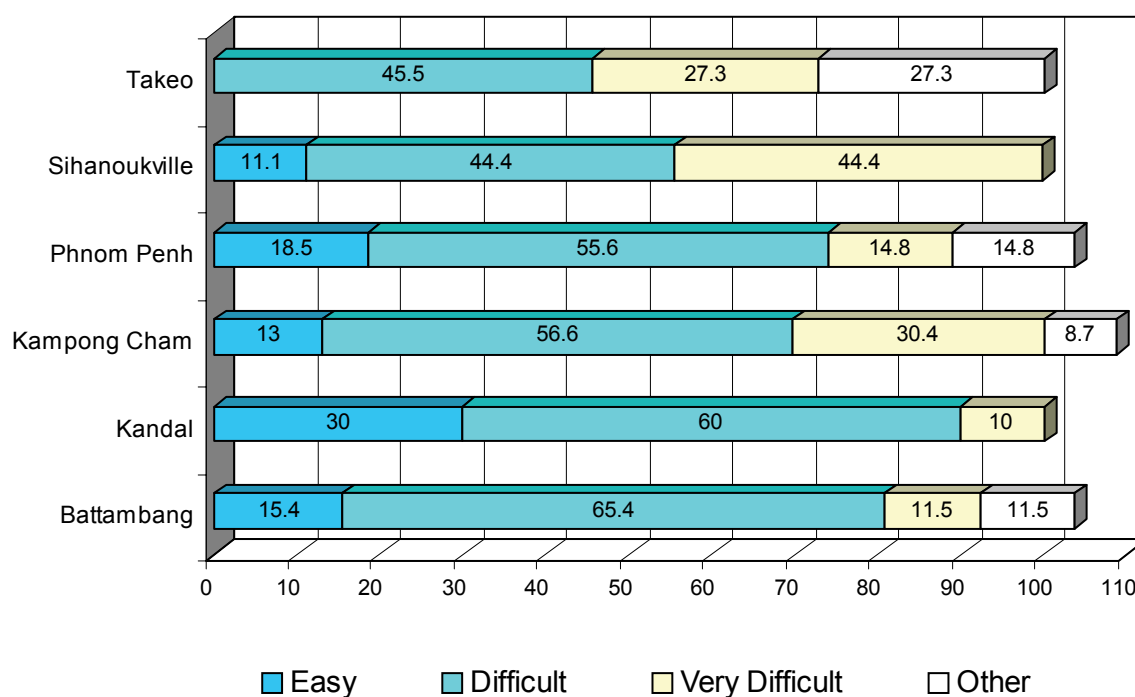
Gender-wise, a higher percentage of women-respondents found difficulty in obtaining information connected to civil and criminal cases, at 71% and 35% of the total respectively.

Table 10: Difficulty in accessing document involving civil and criminal cases

Type of Respondents	Male		Female		Total	
	No.	Percentage	No.	Percentage	No.	Percentage
<i>Civil cases</i>	n=112		n=21		n=133	
Easy	18	16.1%	3	14.3%	21	15.8%
Difficult	60	53.6%	15	71.4%	75	56.4%
Very difficult	24	21.4%	2	9.5%	26	19.5%
Others	15	13.4%	1	4.8%	16	12.0%
<i>Criminal cases</i>	n=119		n=20		n=139	
Easy	7	5.9%	-	-	7	5.0%
Difficult	66	55.5%	11	55.0%	77	55.4%
Very difficult	39	32.8%	7	35.0%	46	33.1%
Others	17	14.3%	2	10.0%	19	13.7%

Court officers believed that due to the difficulties arising from obtaining the required information, the outcome of a criminal or civil case had a greater likelihood of being unfair, according to 48% of all court officers. This opinion was expressed by more females, at 70% of the total compared to 45% of males.

By location, over half to nearly two thirds of court officers in Battambang, Kandal, Kampong Cham, and Phnom Penh said that it was difficult to obtain information relating to civil cases. A significant proportion of respondents in Kampong Cham and Takeo also said this was very difficult, at 30.4% and 27.3% of the total (Figure 8). Respondents in Sihanoukville were equally divided between 'difficult' and 'very difficult' when asked regarding the ease of accessing information and documents.

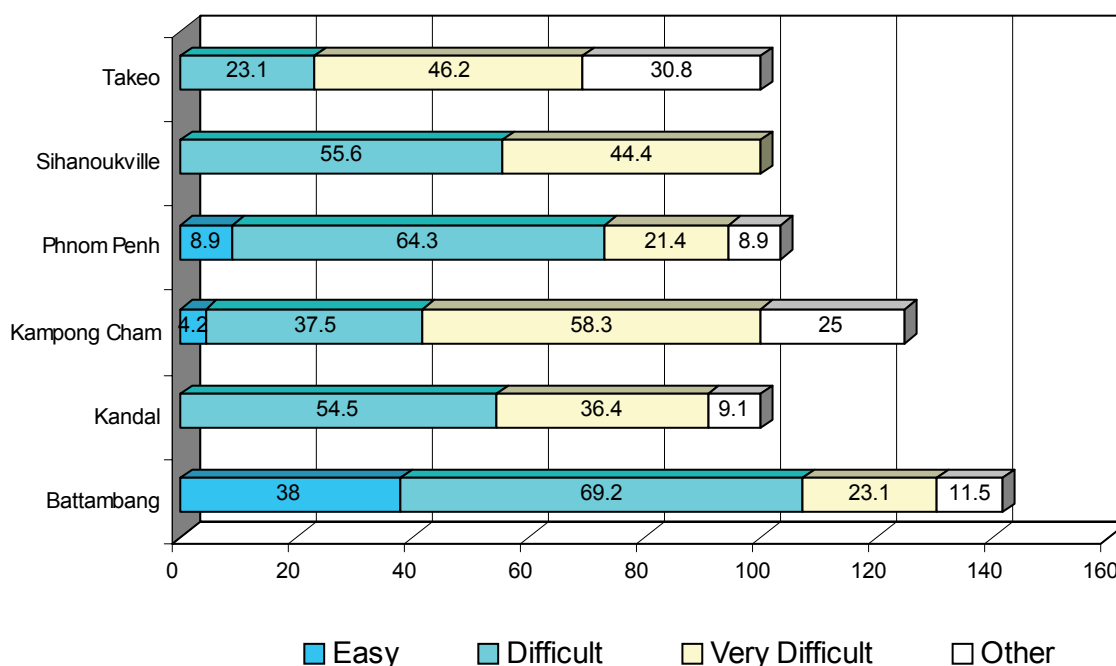
FIGURE 8. DIFFICULTY IN ACCESSING INFORMATION AND DOCUMENTS ABOUT CIVIL CASES

Staff of the Ministry of Justice and the Court of Appeals shared the same opinion regarding the problematic nature of getting information: over half of the former (52%) and nearly eight of ten staff of the latter (78%) said that this was difficult and very difficult, respectively.

Similarly, court officers in Battambang, Phnom Penh and Kandal expressed the opinion that it was difficult to get hold of information regarding criminal cases, at 69%, 64% and 54.5% of the total, respectively (Figure 9). On the other hand, there were more respondents in Kampong Cham and Takeo who said that it was very difficult to find information.

In the Ministry of Justice and the Court of Appeals, 67% and 96% of the staff reported that it was difficult and very difficult to obtain information about criminal cases, respectively.

In addition to cases, court officers experienced challenges in accessing information (e.g. laws, sub-decrees) relating to their career. Over half or 54.5% said this was difficult and 27% stated that obtaining these types of information proved very difficult.

FIGURE 9. DIFFICULTY IN ACCESSING INFORMATION & DOCUMENTS ABOUT CRIMINAL CASES

Nevertheless, officers were of the opinion that documents involving the court or civil and criminal cases should be kept confidential, at 22% of the total while those who disagreed comprised 8%. Nearly two thirds or 62% however maintained that documents could be 'secret and not secret'. Problems pointed out by respondents regarding these information and documents were:

- despite the desire by the courts to disseminate news about cases, there was no facility or equipment (e.g. radio) that could be used;
- powerful people controlled the release of information and documents so that non-confidential matters were also affected;
- for investigations, calling litigants and witnesses was difficult because they refused to come;
- documents obtained from various authorities were inconsistent with each other; and
- court officers wanted to get information related to cases but this meant spending their own meager salary.

For litigants

Among the litigants interviewed, 44% and 56% were involved in criminal and civil cases, respectively. About thirty percent of the total had lawyers representing them. When the case was sent to court, the majority did not request for some documents relating to the case (e.g. testimonies, contracts, certifications, etc). Some of the explanations offered for not doing so were:

- the litigant wanted to pursue the case at the higher level and the documents are passed on to the Appeals Court from the municipality level in these cases;

- cases being pursued were personal in nature or a minor offense;
- the case was still under litigation or would be discussed with the presiding judge directly;
- the case has not been filed yet or evidence was still being gathered;
- lawyers were responsible for the documentation;
- respondents did not know what happened to the case or what documents to ask for; and
- respondents did not submit documents or could not read or write.

Eight however, did so and the motivation for obtaining copies was for future reference, in case another person would file a case against them. Another said that he wanted to get the documents because he wanted to show the judge the reasons for the divorce he was seeking.

For members of the media

For media persons who said their work was related to court cases, 16% and 58% could 'always' and 'sometimes' easily access the information for cases which were on trial respectively. Two in five have experienced being denied permission to attend the trial for the following reasons:

- the court did not want to give out information or did not want the media to turn the case into news;
- those involved do not want others to know about the extent of their culpability;
- litigants do not want media to come inside because they feel this would be an intrusion to their privacy;
- affiliations to political parties determined if members of the media could attend;
- cases were passed off as 'internal problems' and media representatives told that there 'was no need to know'.

An effect of this control on information was that journalists' opinions and responses were affected by issues of personal safety. In attempting to find out the results of trials they were not able to attend, 42% of respondents from the media reported the following success rates: 14% said they always got the results while the rest said that were successful 'sometimes'.

With reference to other public bodies, 46% and 51% of journalist-respondents had to interview or get public official documents as part of their job. Among those who reported doing these activities 'always', 11% and 86% of the total experienced being refused 'always' and 'sometimes', respectively. In cases where public officials did not provide the information that was needed, the rationale comprised of:

- requiring requests in writing, which would be approved by their supervisors;
- lack of authority to respond;
- fearing for their safety or scared to lose their jobs;
- being very busy; and
- following instructions from the higher-ups, and keep the information requested under wraps.

Respondents also mentioned instances that when the case was related to a high-ranking official, they were refused without any explanation. In cases relating to corruption, public officials did not want to divulge information saying, 'this is a secret, you do not need to know about that'. There were also instances when public officials denied that a certain case happened or information existed because of their own participation or guilt. If these officials

shared the information in their possession, they were afraid that their positions in the government would be affected. In a worst case scenario, they would be dismissed.

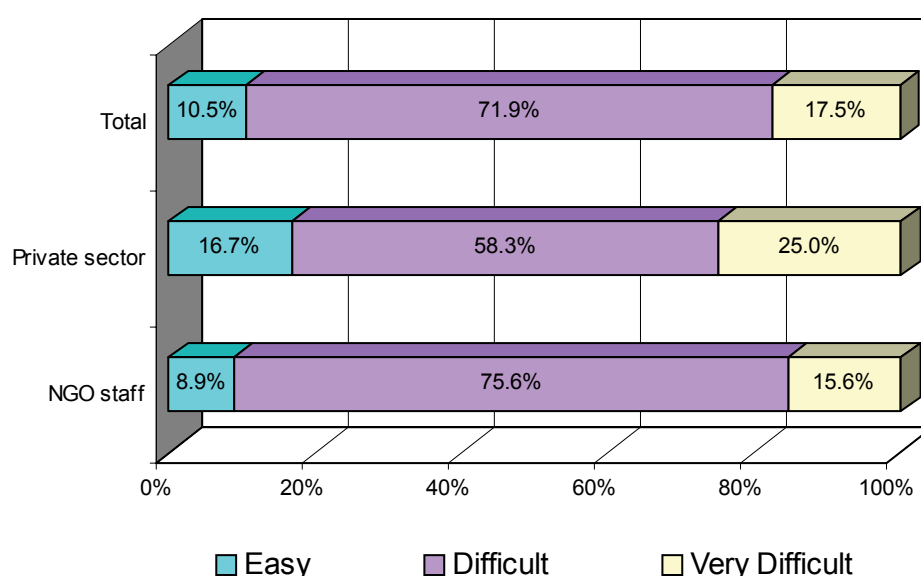
For representatives of the private sector and NGOs

More respondents from NGOs said that it was ‘difficult’ (75.6%) and they were also less likely to say ‘easy’ when accessing information and documents. On the other hand, more representatives of the private sector said that it was ‘very difficult’ to get information, at 25% of the total against the 16% of respondents from NGOs (Figure 10).

For this group of respondents, 64% reported being denied when information was sought from institutions, ministries, and departments for the following reasons:

- public bodies did not want to disseminate the information, especially if this cast the government or institution in a negative light;
- the information asked for relates to powerful people;
- ‘no envelope was given’, which is a reference to informal fees;
- inability to decide and seekers of information were referred to other persons so secrecy was maintained;
- referred to supervisors and may not necessarily be allowed to meet them;
- actual or ‘real’ information was not given;
- not having or unable to find the pertinent document;
- supervisors might blame them if they provide information;
- no formal request (i.e. letters) was submitted;
- perception that certain information/documents should be kept secret (e.g. draft laws);
- government workers think that their work is confidential;
- government workers have small salaries, hence have no time for NGO staff;
- information sought (e.g. contracts, agreements) is an institutional/company matter or an internal issue;
- scared that people would learn about democracy and rights;
- NGOs were not trusted because these organizations always looked for the negative aspect. NGOs were seen as the ‘opposition’ party;

FIGURE 10. DIFFICULTY IN ACCESSING INFORMATION AND DOCUMENTS



To some extent, NGOs also asked for legal documents because this relates to their work. Since NGO staff experienced being asked for money in exchange for some work or information, the workers also wanted to check the provisions contained in the laws.

Through sheer persistence (i.e. going back 5-10 times to relevant public body), other respondents from the private sector or NGOs were able to get the information they wanted.

C. PERCEPTIONS REGARDING ACCESS TO INFORMATION

More than eight of ten respondents or 85.8% of the total expressed the opinion that accessing information in daily life or work was limited to difficult. Of note is that these were stated by roughly the same proportion of all male and female interviews (Figure 11).

By type of respondent, employees of the private sector and NGOs, members of the media, lawyers and court officers found access to information limited, at 82%, 73%, 62%, 56%, and 53% respectively (Table 11). In contrast, those who considered that access was free were in the minority, mostly court officers and litigants at 21% and 18% of the total.

Respondents also shared their views regarding problems and possible solutions about accessing information or documents from the court and public bodies.

FIGURE 11. PERCEPTIONS REGARDING RIGHT TO ACCESS TO INFORMATION

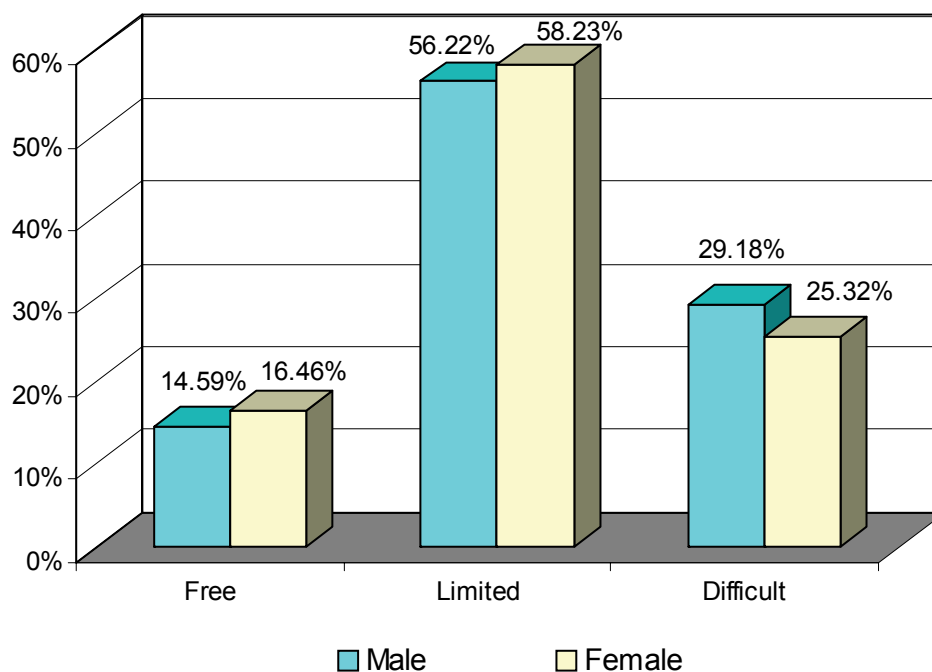


Table 11: Opinion on right to access to information in daily life or work

Type of Respondents	Male		Female		Total	
	No.	Percentage	No.	Percentage	No.	Percentage
<i>Court officer</i>	<i>n=121</i>		<i>n=21</i>		<i>n=142</i>	
Free	25	20.7%	5	23.8%	30	21.1%
Limited	65	53.7%	10	47.6%	75	52.8%
Difficult	33	27.3%	7	33.3%	40	28.2%
<i>Lawyer</i>	<i>n=20</i>		<i>n=3</i>		<i>n=23</i>	
Free	1	5.0%	1	33.3%	2	8.7%
Limited	11	55.0%	2	66.7%	13	56.5%
Difficult	8	40.0%	0	0%	8	34.8%
<i>Litigants</i>	<i>n=31</i>		<i>n=25</i>		<i>n=56</i>	
Free	4	12.9%	6	24.0%	10	17.9%
Limited	16	51.6%	11	44.0%	27	48.2%
Difficult	11	35.5%	8	32.0%	19	33.9%
<i>Media</i>	<i>n=23</i>		<i>n=9</i>		<i>n=32</i>	
Free	3	13.0%	-	-	3	9.4%
Limited	12	52.2%	8	88.9%	20	62.5%
Difficult	8	34.8%	1	11.1%	9	28.1%
<i>NGOs</i>	<i>n=29</i>		<i>n=16</i>		<i>n=45</i>	
Free	-	-	1	6.3%	1	2.2%
Limited	22	75.9%	11	68.8%	33	73.3%
Difficult	7	24.1%	4	25.0%	11	24.4%
<i>Private Sector</i>	<i>n=7</i>		<i>n=4</i>		<i>n=11</i>	
Free	1	14.3%	-	-	1	9.1%
Limited	5	71.4%	4	100.0%	9	81.8%
Difficult	1	14.3%	-	-	1	9.1%

1. Perceived problems

The difficulties cited by respondents in accessing information were manifold, the highlights of which were the following:

- the government does not sufficiently broadcast information on television and radio;
- access to information is limited, difficult or non-existent;
- information is usually available only in towns and urban areas;
- many Cambodians are still poor and do not have enough money to access information (e.g. no money to buy newspapers);
- many do not know about the law;

- there is freedom of information but cannot exercise this right (i.e. still do not have access);
- respondents believe that they do not have the right to access information;
- information is controlled by political parties;
- difficult to get from certain sources but easy in others (i.e. data on poverty might be difficult to obtain from government agencies but not from NGOs)
- for court officers, they could not get information from the police unless they pay so they cannot carry out the necessary investigations;
- court officers also mentioned that even if they are in possession of information that should be disseminated, they cannot tell anyone; if they tell government agencies, there is no action taken;
- other respondents reiterated the need to pay for information;
- parliamentarians do not 'go to the people' even if they are supposed to represent their needs;
- censorship is practiced on television and radio: if there is unwillingness to broadcast certain information, the truth is presented in another way so that the actual situation remains unknown;
- as a result of fear for personal safety, informants do not talk openly, and only 'good' information is given; and
- some institutions are unwilling to share the information they have.

2. Proposed solutions

To resolve the abovementioned problems, respondents offered the following suggestions:

- disseminate the laws down to the grassroots level; this should be done by government agencies, NGOs and Community Based Organizations (CBO);
- dissemination of information should be done in all types of media (e.g. print, electronic) especially in the countryside;
- the Ministry of Information should 'announce everything and not hide';
- change how government workers, legal staff, local authorities and others think about the law and information. This is not only for one person or one party but for all citizens.
- make access to information easier and provide it free;
- promote transparency. There are cases when a person or party is misinformed and hence manipulated;
- everyone should be encouraged to understand about the right to access information;
- documents should be sold cheaply; and
- CSD should hold seminars once a month to let people know about their right to access to information and learn about the law.

V. CONCLUSIONS & RECOMMENDATIONS

Some observations that can be drawn about the state of affairs in terms of access to information are as follows:

- In general, information is edited, censored, and sanitized; however, respondents are aware of the 'processing' that the information goes through.

- Information is a commodity and ‘sellers’ are sensitive to its market value using the prevailing socio-economic developments and political weather as bases to set the price.
- Information is controlled through money, influence, and perceptions about work and self, especially among government workers.
- Power directly impacts access and dissemination of information.
- There is poor enforcement of the law, where this exists, such as the Press Law.
- Access to information is affected by structural deficiencies (e.g. limited broadcasting facilities). Lack of funds also affects the way it is disseminated.
- Perceptions regarding work and information affect the way information is disseminated.
- There are poor awareness levels regarding rights to information and rights to access to information.
- There is a perception that ordinary persons have no rights to access information.
- Poverty affects how information is accessed.

As education levels rise and the country’s economic standing improves, these issues will be resolved since the citizenry will learn to assert themselves, whether they are conscious of the fact or not. However, CSD can assist and facilitate a change in the prevailing situation by taking measures in the following ways:

- Awareness raising about rights to information and right to access to information. At present, the low levels of knowledge about rights should be changed.
- Awareness raising about and advocacy on the enforcement of laws.
- Alteration in the prevailing mind-set should be carried out so dissemination and access to information is easier. ‘Gatekeepers’ need to understand that information is an important input to any endeavor, from daily life to business activities and policy formulation. Unless there are overriding considerations to withhold information, everybody should be granted access.
- CSD should advocate a law on freedom of information, similar to those in other countries. Beyond this, however, dedicated ‘watch groups’ are needed to curb misdemeanors among public officials and government workers. The effectiveness of oversight activities is greater if carried out collectively and stems from the populace.

These activities should not only be carried out in Phnom Penh but in the countryside as well. In their own recommendations, respondents were aware that there is a geographical limit in terms of the reach of information. This concern should also be addressed by CSD by undertaking regular seminars, workshops and dissemination in various forms of media. Another cost effective approach that could be assessed by CSD in terms of practicality is the ‘training of trainers’ on the rights of and laws that directly affect Cambodians.

In the context of the study and CSD’s work and experience, the organization is strategically suited to advocate for a rule of law where no one can act with impunity and Cambodian citizens live without fear. Taken forward, this would be CSD’s major contribution to nation-building.

ANNEXES AND APPENDICES