

# Disrupting Harm

**Evidence from 13 countries on the context, threats, and children's perspectives of online child sexual exploitation and abuse.**

Detailed Analysis of Access to Justice and Legal Remedies in Cambodia  
Interviews with Children and Caregivers

**Introduction .....3**

**Access to the Justice System and Reporting the Crime .....4**

    Children’s decision on reporting abuse.....4

    Children’s feelings about first encounters with the police.....5

**Participation in the Justice Process.....8**

    Children’s feelings about interactions with lawyers and judges.....8

    Hardest part of talking with criminal justice actors for children .....9

    Children’s feelings about what was done by different criminal justice professionals to make the process easier for them .....11

**Compensation .....13**

    Children’s awareness on their right to compensation .....13

    Children’s experiences of seeking compensation .....13

    Main barriers to seeking /obtaining compensation .....14

**Successes.....16**

**Recommendations .....18**

This report is a summary of preliminary data collected for this research project. The perspectives contained herein represent the individuals interviewed and surveyed. Support from the Fund to End Violence Against Children does not constitute endorsement.

## Introduction

In total, six semi-structured interviews were carried out with children and young people (three female and three male, ranging from 17 - 23 years of age), and three with caregivers. As part of the sampling process, more than forty child protection organisations were approached in an effort to gain a sample of ten cases of children and also caregivers, but it was not possible to reach that number. Although limited research<sup>1</sup> and anecdotal evidence suggests that OCSEA is a growing and ‘significant’ problem in Cambodia, few organisations were able to identify cases where children had experienced OCSEA, and specifically cases that had passed through the formal criminal justice system. This sub-chapter is therefore based on analysis of a relatively small sample of six young people in two geographical locations. In addition, the number of interviews with caregivers is inferior to that of children and young people, as one caregiver did not wish to be interviewed, in another, the young person concerned did not wish the person who was her caregiver at the time of the offence to take part, and in the third, the quality of the recording proved insufficient for transcription. All interviews were held in person, in the presence of NGO social work staff, and all interviewees signed written consent forms prior to the interviews, and for those under the age of 18 years at the time of the interview, consent was also provided by a parent or guardian.

### **Brief Overview of Cases:**

Of the six children/young people interviewed, one case related to what today would be considered ‘online grooming’, but did not proceed beyond the initial police investigation, as the suspect was not located. Of the remaining cases, all charges related to the production of child sexual abuse material (‘child pornography’ as per Article 41 of the Law on Suppression of Human Trafficking and Sexual Exploitation (TIPSE, 2008<sup>2</sup>)), and in one case, an additional charge was brought under Article 232 “Threats accompanied by extortion” of the Criminal Code of the Kingdom of Cambodia.

In relation to compensation for OCSEA victims, this was only sought in relation to four of the cases (one case did not proceed beyond a police investigation, and in another, compensation was not sought). In the cases of the four victims who did apply for it, compensation was ordered as part of sentencing but only received by three individuals, after a period of several years. In the remaining case compensation was not paid, as efforts to identify or trace available assets of the convicted person were unsuccessful.

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<sup>1</sup> Cambodia National Council for Children (2019). Initial Situational Analysis on Online Child Sexual Exploitation (OCSE) in Cambodia.

<sup>2</sup> Government of Cambodia. (2008). [Law on Suppression of Human Trafficking and Sexual Exploitation](#),

## Access to the Justice System and Reporting the Crime

### Children's decision on reporting abuse

In some cases, the interviews indicate that children had not made a conscious decision to go to the authorities and make a complaint directly but were picked up as part of a larger 'operation', often involving collaboration between the police, authorities, and NGO staff. It appears that another parent or child had made the initial complaint, and/or the arrest of the perpetrator was based on intelligence. In the case of four of the interviewed children, involvement of the police came as a surprise and a shock, leading to confusion and fear, with some children believing that they were in trouble with the police. These operations were characterised by a lack of privacy and confidentiality, where it appears that many people in the community became aware of the abuse and of the victims' identity, as a result of police action. As one young person recalled, the perpetrator had been arrested some time previously, and when people he did not know came looking for him, he was also confused and frightened:

*"The NGO teacher (staff), they followed me so they could interview me, but I didn't know they wanted to interview me, right, I thought they wanted to catch me and take me to the police station, so I wanted to get away from them. Until they spoke to me face to face, I didn't know anything, I just felt afraid they would catch me and take me to the police... Because of what had happened, they followed me all over the village". (RA4-CA-02-Child)*

In another case (where the young person believed that the abuse had initially been reported to the authorities by another child's parent), the police arrived at her home to inform her parents of the complaint and pick them up for questioning. Their comments describe how difficult an experience this is for children and families when the news breaks, and subsequently, as a result of the police operation, confidentiality is not afforded the children.

*"The police came with the children who were photographed with me, brought them to my house... The whole village got into the car to see the faces of all the children who had been photographed... They came with the children who brought them to my house, who had made the complaint against him.... After that, my friends called on me to make a complaint against him and told me to get into the car with them. The car took me and some of my friends in the very full car to get there, all of us went up there ... When we got in the car, the whole village went crazy, screaming, and shouting, 'Make a complaint against him, make a complaint against him!' at the police... My father heard all that and he didn't understand. Then they pushed me into the car, and when my dad saw that he got into the car and came with me." (RA4-CA-07-A).*

In two other cases, involving individual children, parents initiated contact with the police after learning about what had taken place, as one young woman described:

*"When there was that problem, it was big and when they [the suspects] threatened me badly, they started to show my photos in public, then my parents knew ... So, they made the decision to take me to the police to make a complaint" (RA4-CA-9-A).*

### Children's feelings about first encounters with the police

The initial encounters with the police for many children are memorable for a variety of reasons - not least, the circumstances of being 'picked up by the police' were often quite dramatic and unexpected, as described above, and provided little or no privacy or confidentiality. In these and other situations, children described feelings of confusion, fear, shame and embarrassment, which for some, were often exacerbated by a lack of private and confidential environments, in which they were expected to discuss their case and experiences with the police. In many situations, initial interviews with children and parents took place in 'open offices' with other officers and people around, which proved very difficult, as one parent explained: *"I want that the room used for interviews should only have the people for the interview... just have one interviewer, that's enough. Don't do like they did with us, there were a lot of people there, there were a lot, not just a few."* (RA4-CA-4-A-Parent)

One child explained how he was nervous, afraid of the police and fearful of their responses:

*"When I spoke, I was afraid some of them would think about it and laugh, and embarrass me, look down on me and discriminate against me ... I was like, nervous... I thought about the way, when they asked, I answered. I answered, they shouted and then my words wouldn't come out, it would block up and I didn't know what to do".* (RA4-CA-3-A)

He later described how two other police officers also present in the room, not directly involved in the interview, were listening, and laughed at him when he was answering questions.

Other children commented on feeling scared, embarrassed, ashamed, fearful of the consequences, on the lack of choice they appear to have had in taking part in the process, and also in relation to the gender of the police officers who conducted the interview. One participant commented that *"I would have preferred a female; speaking with a female I would not be so embarrassed"* (RA4-CA-04-A), also confirmed by her mother: *"I remember feeling afraid that my daughter was ashamed, because usually with that kind of story, speaking with men, you'd automatically be ashamed"*. (RA4-CA-04-A-Parent)

Another participant explained at length how they did not wish to take part in the whole process.

*"At first I felt scared. I didn't want to go at all. I didn't want to join in the process, I didn't want my name to be part of what happened, I didn't want it to get messy. They knew I had asked them for me not to be part of it, they knew I asked for my name to be taken out of the whole thing. They knew I wanted to be cut out of the whole story. They told me that they couldn't do that. Really I still don't understand".* (RA4-CA-02-A)

The lack of choice is also illustrated in another case involving several OCSEA victims, where the children were placed at a shelter for several days, without any opportunity to make choices and be involved in the

decision-making process: *“Because absolutely no-one asked... we weren’t happy at all, we all cried together. We missed home.”* (RA4-CA-7A)

In some cases, experiences of meeting with law enforcement were unwelcoming, as one parent explained: *“The Police General said when we arrived there, we weren’t ‘all that’. They said that the NGO led us there and that’s the only reason we made a complaint. We went in and they just questioned us because they had to, and then ordered us back home. But it wasn’t like that.”* (RA4-CA-2-A-Parent)

There were examples of positive experiences shared, as one young person described how her father had made the initial complaint and accompanied her throughout the interview and evidence gathering process. This close support was an important part of her experience, as was the opportunity to meet the police officer in a quiet and private room:

*“There was just one who called us into an office and there were just three of us, there was him, me and my dad... It’s like, I was still young so I wasn’t really scared but I did feel a bit nervous and I was a bit embarrassed of the police; When he [father] went like that, I felt emotional, like we had each other, it was a warm feeling and I could dare to speak, dare to answer the questions the police asked about what happened ... At the time, I had told my dad everything and next, he was the one who made the complaint to the police, and I was the one who added information from behind him. Yes. Actually, when I was there... I felt I wanted him there and when not alone, I wasn’t scared.”* (RA4-CA-9-A)

The same young person also described how, being a female and meeting a male police officer was quite difficult for her, though her determination to gain justice, helped her overcome that:

*“Meeting a male police officer, it was difficult to speak. They were male, I’m female and with that, it was difficult to tell him things and answer questions. But even though it was difficult, I had to dare to speak so that I could get justice for myself.”* (RA4-CA-9-A)

The lack of choice for child victims, specifically related to their placement in residential institutions is significant.

The social welfare sector in Cambodia has emerged and developed since the 1990s, following years of conflict. Since that time, the placement of children in residential childcare institutions (RCIs), shelters and residential centers, including orphanages, has been considered the norm in response to a range of social welfare issues, including poverty, lack of access to education, and disability. Oftentimes, this was and remains applicable to cases of children affected by sexual exploitation or abuse, irrespective of whether parents or families were directly involved or implicated in the abuse. This approach is supported by

government<sup>3</sup> and influenced by a significant number of NGOs (local and international) willing to provide such services, many of which were specifically established to ‘rescue and rehabilitate’ children, from trafficking, exploitation and abuse.

Anecdotal evidence<sup>4</sup> suggests that abuse and exploitation remain a reason for placing children in residential care, and not reintegrating children and reunifying families, including cases where family members are not directly involved in their abuse. Research indicates that the number of children living in residential care institutions in Cambodia is significantly higher than previous government estimates, with nearly 1 of every 100 children in residential care in Cambodia. Additionally, nearly one-third of the institutions where these children live do not have a Memorandum of Understanding with the Ministry of Social Affairs, Veterans and Youth Rehabilitation, and 70% of the institutions were not inspected by the Ministry of Social Affairs, Veterans and Youth Rehabilitation in 2014. These findings raise substantial concerns for child health, protection, and national development priorities.<sup>5</sup>

In the last few years, awareness of the potential harm, and the need to avoid institutionalization where possible, has grown, alongside an increasing commitment to community and family-based care, increase in the availability of foster care placements, and family strengthening initiatives. These initiatives, involving close collaboration with government, are contributing to a change in the ‘culture of care’ for all children. This is evidenced by the Family Care First initiative, led by the Ministry of Social Affairs, Veterans and Youth Rehabilitation, which is currently active in five provinces.<sup>6</sup>

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<sup>3</sup> The Sub Decree 119 on the “Management of Residential Care Centers” specifies that some children may need to be cared for in Residential Facilities. These accepted situations described in article 11, include orphans or children who do not have any family to live with or are separated from them for various reasons including migration and imprisonment, and children who are survivors of human trafficking, violence or sexual abuse or exploitation, among others. (Royal Government of Cambodia, 2015)

<sup>4</sup> Personal communication with the Ministry of Social Affairs, Veterans and Youth Rehabilitation Technical Advisor (December 2020)

<sup>5</sup> Stark, L., Rubenstein, B.L., Pak, K., Sok, K., (2017) [National estimation of children in residential care institutions in Cambodia: a modelling study | BMJ Open](#)

<sup>6</sup> [Family Care First | Safe and Nurturing Family Care for Cambodian Children \(fcf-react.org\)](#)



## Participation in the Justice Process

For many of the interview participants, their cases had taken place several years ago, so recall of some of the events and experiences was sometimes difficult. At times, for some there appeared to be confusion about the people they met - who was a lawyer, who was an NGO staff member, who were court appointed staff and judges, throughout the process.

### Children's feelings about interactions with lawyers and judges

In many, if not all cases, lawyers were provided by NGOs, the support of which overall was very positively regarded and appreciated, alongside other NGO support staff. It is difficult to imagine children and their families negotiating the challenges and nuances of the judicial system without the legal, practical and emotional support offered and provided by NGOs. As one child recalled:

*"At the very beginning, when I met them at first, I felt scared. I spoke with a stutter, then the second time, there was an NGO that helped to encourage me to speak. I spoke like I was scared, I spoke fast, I didn't remember things ... I stuttered, stopping and starting, forgetting everything. They explained clearly, really encouraged me to have the courage to talk ... and I had confidence to talk. They told me that whichever story they asked me to shed light on, like the rape story, I must talk about what exactly happened. And that I could be brave because they were behind me."* (RA4-CA-2-A)

Another child described feeling nervous when meeting lawyers, as they were asking detailed questions, but also, as he had a female lawyer, and would have preferred a male, as he was shy to discuss his case with a woman. He also described how he had little opportunity to ask questions, and was interviewed by the investigating judge alone, without a lawyer or adult present, as he recalled, the judge explained to him that *"this was a secret that other people should not know about"* (RA4-CA-3-A). This would appear to contravene the guidance suggested in the 2016 Guidelines on the Forms and Procedures for Identification of Victims of Human Trafficking for Appropriate Service Provision, which states that *"If a victim is a minor, a child-friendly methodology shall be used with the presence of his/her parent (s) or guardian (s) or legally authorized officials or adult (s) trusted by the child so that they can witness and create a comfortable environment; however, the presence of the person(s) suspected of involving in the offence (s) shall not be allowed"*.<sup>7</sup>

Another young person shared a vivid memory of her experiences, and how the support provided was helpful:

*"I was shaking and scared [when meeting the lawyer], and I was angry with that foreigner who had done that to us ... but it was easy to tell them everything... they were investigating and trying hard to help us... they paid attention to us."* (RA4-CA-7-A)

<sup>7</sup> Government of Cambodia. (2016). [Guidelines on the Forms and Procedures for Identification of Victims of Human Trafficking for Appropriate Service Provision](#), 17.



The lawyers did explain the legal process, and if she did not understand, her father asked questions on her behalf, and when meeting the judge, the close support of her father also proved to be very important.

*“When I first went in, I felt nervous... my father said, “Don’t be nervous, you’ve done nothing wrong.” (RA4-CA-7-A) In relation to the court, she described that: “the process becomes a bit boring, having to repeat questions and answers again and again”, and in relation to the judge: “he asked and listened, but his speech was quite harsh”.*

One parent indicated that lawyers and court officials did not always explain adequately, and that the support of NGOs within the process was very important to achieve justice. Overall, for some, trust and confidence in the judicial system is low.

*“Nothing was explained. They just asked us about our issue and how much compensation we wanted for our child. They asked for what reason we wanted the compensation from them [the suspect]. I said that the reason was the reputation of the Khmer people, the reputation of Khmer children and the reputation of my child. Yes... The teachers (NGO staff) who came to talk to us said, ‘It’s ok, I’ll help support you’... Because this story is a story of our Cambodian children. If as parents we can’t support them, who else will help support them?” (RA4-CA-2-A-Parent)*

With regards to meeting lawyers and judges, the interviews indicated that information provided, and explanations related to the process, were not always sufficient, or confusing. Children also spoke of feeling nervous and scared, so the presence of parents, NGO lawyers and staff was considered very important to provide reassurance, support, and to seek further explanations and information. Their OCSEA experiences lead to difficulties for all respondents, who found it difficult to talk about the traumatic, embarrassing and shameful events that they experienced, and they commented on how having a choice of gender, in respect of lawyers, would have been preferable.

### Hardest part of talking with criminal justice actors for children

When meeting criminal justice actors, some children commented that they were often nervous and worried about saying the wrong thing, or remembering the answers to questions, while for others, the words and language used by some lawyers was hard to understand. As one child commented on meeting a lawyer:

*“The meanings of the words were really deep. But it was difficult to think, not easy; I really had to think, and I couldn’t really answer easily.” (RA4-CA-3-A)*

He also commented on the shame and difficulties he experienced, and that he still finds it hard to talk about:

*“It was difficult when they asked questions about why ... I can’t say it ... It came from that, from the first day at the beginning. It never ended, never ended... and when they showed the evidence (photographs) in the court case.” (RA4-CA-3-A)*

In many cases the interviews with police officers and making statements in offices where other officers were passing through, or sitting and doing other work, was a challenge as they felt that it did not provide privacy and confidential spaces. Several respondents commented on the ‘lack of privacy’, with people walking in and out of the room, and other officers being present. One interviewee remarked that the environment and the process of the interview with the police was difficult, as there was one police officer asking questions but many others around, and some of the language they used was confusing:

*“I want to say that there was one room, all disturbing each other... The police spoke nicely but didn’t know anything, they spoke like they didn’t really understand... and when I went to the station, they found it difficult to explain... They spoke like... they used words with difficult meanings ... I didn’t understand the meaning.” (RA4-CA-7-A)*

Others commented on how they felt that some of the justice actors (judges, lawyers and police) spoke to them in a way that could come across as ‘gruff and angry’ or ‘harsh’, which for a child who is confused and frightened makes the process even more difficult.

*“Sometimes, some police are angry – they make out that their hearts are not easy-going, and their faces are angry. So, it’s difficult.” (RA4-CA-2-A)*

Another child explained that some of the questions asked by the investigating judge were hard to answer correctly, and that he found the process of attending court very difficult:

*“I understood, but I was scared stiff a bit too. There were some questions, they asked the question, I saw that I had to think about them, but then the answers weren’t correct. They were hard, and made me really wonder ... When I went to court the first time, it was very loud. Sometimes when they asked me, I cried... Sometimes they made me feel scared.” (RA4-C-3-A)*

The difficulties when meeting the investigating judge were shared by one young person:

*“And when I met the judge face to face, I was scared. The first time, I felt very scared. I stuttered, I told my story and forgot everything. But my mum and the lawyer encouraged me to be able to speak ...When they asked questions loudly and gruffly and asked me very loudly and very fast.” (RA4-CA-2-A)*

Several children commented that at the trial, they often felt powerful emotions in such an environment:

*“It was really hard for me to talk, I felt I didn’t want them to see my face, I was shy, and when I told them my story, I was very embarrassed. I was so very ashamed.” (RA4-CA-02-A), while another commented on what he observed of other children: “When they asked them questions, they came forward and they were scared, some children were very scared, and they cried”. (RA4-CA-3-A). One young person also described feeling uncomfortable in court when the judge spoke: “his voice was very harsh, I was afraid when he spoke, he spoke in a way that intimidated me” (RA4-CA-7-A).*

The crimes that the children were subjected to resulted in them feeling traumatized and ashamed, and all respondents described how it was difficult to speak about what had happened to them at the time, (and even to this day), indicating the potential for OCSEA to have long term consequences. Child victims of OCSEA are expected to share accounts of their experience with multiple parties within Cambodia’s legal system, often in environments which do not provide the privacy and confidentiality that is so clearly important to them, contributing to their difficulties. For some, the events and circumstances related to being brought in for questioning, appeared to add to the trauma they experienced, as they were unexpected, shocking, and were conducted in a very public manner, with other people in the community becoming aware of the identify of victims. This lack of confidentiality and privacy afforded the children, and lack of choice is of concern. Article 49 of the TIPSE Law<sup>8</sup>, on the concealment of victims’ identity applies to mass media, as does the Law on the Press (Article 15), which prohibits disclosure of information which may make it possible to identify children in any criminal or civil suit<sup>9</sup>. It is also worthy of consideration for the police, authorities and NGOs involved to make additional efforts to ensure that this commitment is also applied to operations where children are identified and located, especially as they will return to live in those communities.

While examples of good practice exist, it appears that the concept of ‘child-friendly justice’, does not exist in all settings, and room for significant improvement exists.

### Children’s feelings about what was done by different criminal justice professionals to make the process easier for them

There were some encouraging examples of how various actors in the criminal justice system behaved and responded to make the process easier for the children, and to help them participate in the process. One female respondent described how her experience of meeting the police was positive and supportive:

*“They helped me talk... when they interviewed me, they encouraged me a bit too... and I was able to talk without being nervous... they helped me to say everything... they spoke really straightforwardly and used words that are... they didn’t say technical words, they only used words that I know... They were easy to understand. He used language that I use every day.” (RA4-CA-9-A)*

She also described how the police continued to work and communicate effectively throughout the investigation process, and how this positive experience was complemented by her lawyer, and experience at court – where she was provided with accurate information, encouragement, and a safe and confidential environment:

*“For the police, they kept talking and communicating with us, because they hadn’t yet caught the suspect, so we had to stay in contact with them, send them evidence and documents... so that made it easier. And secondly, because the lawyer encouraged me from the very beginning to the very end, that made it easier... Most of the time, I met with the senior female lawyer ... so I wasn’t*

<sup>8</sup> Government of Cambodia. (2008). [Law on Suppression of Human Trafficking and Sexual Exploitation](#)

<sup>9</sup> Government of Cambodia. (1995). [Law on the Press](#), Article 15.

*embarrassed. The way they spoke was calming, promoted my trust and helped me to be brave, helping me to dare to speak about what really happened to me. And for when I went up to court, they put me in the quiet room and the screen to hide my face made it easier.” (RA4-CA-9-A)*

The presence of NGO staff (lawyers, social workers, counsellors etc.) was consistently acknowledged by children and parents as being very important, and highly valued throughout every step of the process. This involves the provision of both emotional and practical support, (for example, with transportation to attend court), including the preparation of children and parents for attending the court hearing, and processing the required paperwork to help the apply for compensation. As one mother described: *“But before we went there, the teachers [NGO staff] told us everything. They told us, they came to tell us, ‘Now tomorrow, you’ll go to court about those actions that happened’. Our lawyers had put them to the court already and we had to answer them afterwards that we sought compensation for the reputation of our child, the reputation of the Khmer people. But because the teachers from the NGO were helping us, I had confidence that whatever happened, the NGO would continue to support us in the future. Yes ... If there are no more NGOs, even if ordinary people try to look for them, the doors will be closed, and they won’t have anything.” (RA4-CA-2-A-Parent)*

For one child, an NGO lawyer also proved invaluable: *“the lawyer did make it easier and encouraged me to speak. I was worried and scared about what was happening, but she said, ‘Don’t worry, I will sort it out’.” (RA4-CA-7-A)*. When asked if she would report such an incident to the police in future, she responded: *“If something happened [in future], I wouldn’t go to the police. I’d go to the NGO and have the NGO help, an NGO focused on children”.*

Children and parents identified the importance of ‘encouragement’ from police and criminal justice actors, as being very important to help promote trust and confidence in the process, and also to ease their anxiety. Regular communication and updates and use of straightforward and accessible language by professionals was also noted as helpful. Overall, the presence of NGO staff, including lawyers, is considered vital, helping to establish a ‘bridge’, and address power imbalances between criminal justice actors, and thus enabling children and families to engage in what was at times, a confusing and intimidating process.

## Compensation

### Children's awareness on their right to compensation

For all participants, the length of time between the court cases taking place and the research interview was several years, and therefore memory and knowledge of compensation issues and processes was limited. The majority of young people interviewed were generally aware of the potential for compensation to be sought, as they had been informed by NGOs supporting them, and on some occasions remember it being discussed in court by the judge and court officials, as one young person commented: *'I knew ... At that time at the court, to my parents, at the time they asked us first how much do you want to claim?'* (RA4-CA-07-A), although there appeared to be confusion over both the process and the progress of cases. As one young person explained: *'I don't know if I heard it from the judge or the lawyer... Everyone was telling everyone else, even the children'* (RA4-CA-02-A). From observation, the issue of, and details of the process related to compensation appeared to be more often followed up with parents directly, and not children. One young person, when asked, appeared confused, and assumed that where compensation is ordered, it is paid to the NGO involved, and the funds received are then used to support the children and family.

### Children's experiences of seeking compensation

Of the six young people interviewed for this research activity, only three received compensation, and those cases are described in more detail below. Of the remaining three cases, one did not move beyond the police investigation stage and therefore was not eligible for compensation, and one plaintiff chose not to seek compensation, as the parents thought imprisonment was a sufficient punishment. In the third case, at the time of the interview, when asked if compensation had been provided, the young person appeared to be uncertain of the outcome of the claim and stated that she had not received an update. *"Not yet... I don't know"* (RA4-CA-07-A). Further inquiries revealed that although compensation was ordered by the court several years ago, it was not paid, as the plaintiff's (NGO) lawyer was unable to 'identify or trace any valuable assets belonging to the perpetrator'<sup>10</sup>.

As described above, compensation was eventually paid to three OCSEA victims, several years after their cases were settled at court. At the time of the interviews, compensation had not yet been paid, and there was some confusion about the progress of the settlement for both young people and parents<sup>11</sup>.

Seeking and gaining compensation is acknowledged as generally being a 'long process', and may involve attending repeated meetings and court appearances, which has implications for plaintiffs, including taking time off work, which can result in loss of earnings, and additional costs (e.g., if they wish to employ the

<sup>10</sup> Personal communication, APLE NGO, December 2020.

<sup>11</sup> Payment of compensation was later confirmed through communication with the NGO supporting the children, December 2020.

services of a private lawyer), so there is little to motivate and encourage them, in a process which can be complex.

During one of the interviews with children, at which the child's caregiver was also present, the latter added that there was a limited opportunity to fully engage in the process. Instead, the caregiver explained, they had to remain silent and listen to the court procedure until it was finished and accept whatever the court decided. In this particular case, according to the accompanying parent, each victim was awarded compensation of \$500. Because the court process was very time consuming, they were reluctant to proceed further, the child and their caregiver accepted the award and returned home.

There was a degree of dissatisfaction following decisions made in relation to compensation, even several years after the case, with another parent describing their feelings: *"I'm not happy with the court, the court doesn't think about the benefits for the people, doesn't think about the reputation of the Khmer people. They just don't think. They just think about themselves."* RA4-CA-2-A-Parent.

She also described how she believes 'compensation and reputation' are equally important in Khmer culture, as part of the justice process, and also, at the beginning, how the responses of NGOs and some law enforcement officers differed in relation to the gravity of the crimes committed:

*"Actually, we didn't want compensation but they [the NGO] explained. If we didn't claim compensation, we would be afraid that our reputation would fall further and, in the future, our Cambodian children will just have more problems... So, claiming compensation from the suspect, he will learn the error of his ways and not do it again in the future ... Let there be compensation or restored reputation. Compensation and reputation are equal ... They [the police] asked us, just because they took naked photos of your children, why do you need to get compensation? Why do you have to make a complaint and go to court? I answered because I made a complaint, because I asked for compensation for the reputation of the Khmer people. Yes. The reputation of my child and the reputation of the Khmer people."* RA4-CA-2-A-Parent.

In another case, compensation of \$1250 was awarded but not paid, as the lawyer, provided by an NGO was unable to locate any assets of the convicted criminal, which to this day, is a cause of significant anger and disappointment.

*"In the beginning, the lawyer was talking about what happened to us. Some of us were angry and said, 'Put him in prison forever.' But then he said that he will not be put into prison following his own request, but also, he can't be put into prison for life. But they can give compensation. And when they went to court, they said the same. The victims' parents and the victims wanted to claim compensation. I am angry ... Angry that I didn't get compensation, angry with him because of what he did to us."* (RA4-CA-7-A)

### Main barriers to seeking /obtaining compensation



In the absence of a mechanism for compensation provided through country managed funds, plaintiffs rely upon compensation that is ordered at the time of conviction by a presiding judge in a criminal court, or may pursue compensation separately as a civil case. When compensation orders are made, the main barriers to obtaining compensation in relation to the children interviewed appear to be the frequent lack of execution of the compensation order and the length of the overall process, which, even when successful can take a significant amount of time. Moreover, even when granted, the amounts awarded often appear to be relatively small<sup>12</sup>.

In one case where compensation of US\$1250 was ordered, it was not paid as the plaintiff's (NGO) lawyer was unable to identify or trace available assets of the suspect. The support of an NGO lawyer would also appear crucial to gaining compensation, as the costs of hiring a lawyer to follow up on cases where compensation is not paid, would appear to be prohibitive, and in many cases would exceed the award. Whatever the realities of each case, for some participants, they appear to have little trust in the justice system in Cambodia, or appear resigned to the lack of justice, and for some, assuming that corruption may also play a hand. *"There is still corruption actually. Don't let the corruption continue."* (RA4-CA-2-A-Parent)

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<sup>12</sup> In cases discussed as part of this research, compensation payments made to plaintiffs were confirmed as 2 million Riel (Approximately US\$ 487.80)



## Successes

**Brief case description:** The suspect was arrested, charged with Article 41 “Child Pornography” of the Law on Suppression of Human Trafficking and Sexual Exploitation, and Article 232 “Threats accompanied by extortion” of the Criminal Code of the Kingdom of Cambodia. The suspect was sentenced to 3-year imprisonment; compensation was not sought in this case.

According to interviews with the young person and her father, in contrast to others, this case appears to have been handled well, and with a degree of professionalism according to existing guidelines and ‘best practices’ throughout the process, including recommendations related to child-friendly interviews. The father of the plaintiff was educated, from a middle-class background, and appeared confident and assertive when engaging with the police and other authorities, which may be significantly related to the handling and responses of actors within the case.

The parent described how he chose not to involve the ‘local police’ and go directly to the Cyber Crime Unit to lodge his complaint, and was very encouraged by their response, which was both informative and confidential. *“They welcomed and cooperated with us very well... the police explained the father’s rights and children’s rights ... the process of the police was careful and secure”*. (RA4-CA-9-A-Parent). The parent also indicated that he was quite assertive in ensuring his daughter received the appropriate responses, which was also a factor: *“If we weren’t stern with the police, they wouldn’t subdivide quickly to be able to arrest him, because he had disappeared completely from his account, on his telephone.”*

His account of the process appears to indicate that guidelines for conducting interviews in a ‘child-friendly’ and confidential manner, were followed, in contrast to descriptions of other cases. At the police station where the complaint was lodged, the child and her father were interviewed in a quiet and confidential room, with no disturbances; the police used appropriate language that the child understood; and the father attended the interview, which enabled him to provide support and encouragement to his child. The [female] NGO lawyer was supportive and encouraging, and identified by the child as preferable, as she considered it easier to discuss the case with a woman. The child also had access to a Social Worker / counselor, who was very supportive and advocated for the young person.

Meeting the investigating judge was also described as a smooth and confidential process: *“At the time I met the investigating judge, there wasn’t anything to explain again because he had all my documents already, so he had questions that he asked, and read out what the suspect said, and he asked questions to clarify if that was the truth or not the truth. At that time, there was nothing that was difficult and there weren’t many people there while we met, there was just his side and us”*. (RA4-CA-9-A)

She then described the court process, which appeared to meet the requirements of the guidelines, restricting those attending, to those directly involved in the case, therefore excluding members of the public:

*“At the court, there were a lot of people together and at that time, there was just the court people and some others, and for the people from outside, it was the wish of the court that they not be let in to watch. For myself, there was a room outside, and I could sit in there waiting and listening, and when they needed my statement, I went in and they put a screen in front of me so no-one could see my face. So, it was quite easy for me” (RA4-CA-9-A)*

This success story shows that there are instances in which OCSEA victims can access justice in an appropriate and child-friendly manner. Nevertheless, the case stands out starkly against those of the other interviewees, showing that it is still more the exception than the rule in Cambodia. Moreover, while the sample is too small to draw any clear conclusions, the interviews suggest that a committed and supportive parent with a higher level of education and knowledge about the justice system may positively impact the justice process for child victims.

## Recommendations

When asked about suggestions and changes to make it easier and better for children to participate in criminal cases, several key themes emerged.

### Time frame:

Many participants and their parents commented that the length of time that cases take to proceed from reporting through to conviction (and accessing compensation), is too long, often characterised by delays and lack of accurate information, and hoped for the process to be concluded more quickly. One parent, whose daughter's case was generally handled well commented *"If we get our child into the court process and they do it really well for my daughter's story, then other similar cases of other children, please let them be done properly and fast too"* (RA4-CA-9-A-Parent).

### Specialist Courts focusing on child protection:

The same parent also suggested that there should be *"specialist courts, with adequate resources to focus on child protection cases, and not mix them up with other cases, in an effort to make them more 'child-friendly', and reduce the fear that children experience"*. This includes specialist 'child protection lawyers and judges' (RA4-CA-9-A-Parent).

### Making the process more welcoming and participatory for children:

Both children and parents commented on feeling scared, fearful and often intimidated by the process, and shared specific ideas for how to achieve a more welcoming and participatory process for children. *"To make it easier, don't scare them [children] when they speak; when children ask a question, answer. Or if they are wondering about anything, let them ask lots of questions, speak up, tell them this or that about what's happening. That would make it easier because it's more welcoming. Get them to think about being welcoming, not make the children scared. Like that"*. (RA4-CA-02-A). Another child also commented on this: *"Encourage the children not to be scared when they explain anything, smile, do anything to make the apprehension disappear"*. (RA4-CA-3-A)

Other respondents included suggestions that 'police and others should explain clearly', also using more 'child-friendly' language, and avoiding language that is perceived as 'technical' when interviewing and explaining the process. Other suggestions included active encouragement of children (and parents) to ask questions, as the legal process is complex.

### Addressing Discrimination and Motivation:

One child who experienced police officers laughing at him when he was being interviewed, commented that *"I would stop the laughing and the discrimination"* (RA4-CA-3-A), and a parent, highlighting the need for empathy, commitment and sensitivity, commented that actors within the criminal justice system should *"pay attention to treat the children as their own, as if the victims were their own children and so get them justice quickly. When they think of the victims as any old person, they can't really be bothered"* (RA4-CA-9-A-Parent).

### Language and Communication:

Several children commented on the behaviour of some of the police officers, and other actors that they met, suggesting ‘judges and lawyers not to speak harshly’ and in relation to police officers specifically, a suggestion that they *“change their behavior and the way they ask questions ... And when they ask questions, they should ask slowly, not too fast and ask really clearly so there’s no mistaking what they’re asking”*. (RA4-CA-3-A)

### Confidentiality and Privacy:

One of the most common concerns and themes that emerged from the interviews with children, was that in many cases, interviews with police officers often took place in busy and often crowded offices, which did not provide appropriate levels of confidentiality, privacy, and safety for children who were expected to speak of such shameful and painful events.

Specific suggestions noted that interviews should be carried out ‘in private rooms without others listening’, and just one police officer. As one young person commented:

*“If a story like this happens again to someone else, the police should keep it confidential... They shouldn’t keep everything open to let them all know. Because in the room where he questioned us all, it wasn’t just him and victims, there were other people in there.”* (RA4-CA-7-A)

Another respondent stated:

*“For the police, they should find the quietest place possible to question or talk, question and answer, question and answer like that, so those children don’t find it so difficult. Because some children are embarrassed, they’re nervous, they’re afraid and they can’t speak. So, they should find a quiet place so it’s easy to speak and ask anything.”* (RA4-CA-4-A)

### Privacy at Court:

One young person’s positive experience throughout the process and at court, led her to recommend that other children also be provided with the same opportunities. *“When you go up to court, you can ask for a private one [room] like mine, that is easy, like that you aren’t so afraid. And another thing - victims at the trial, they don’t have to see the face of the suspect, they don’t dare look at them, but when they put a screen up, it helps them feel fair.”* (RA4-CA-9-A). Her father also agreed: *“Child protection cases should be heard privately and not in open court, more attention [should be] paid to this”*. (RA4-CA-9-A-Parent)

### Gender considerations:

Throughout the interviews, several participants indicated that throughout the process, where possible, a choice of gender should be provided when children meet police, lawyers and other key individuals. For many of the children, their experiences led to feeling great shame, and being interviewed is a difficult and embarrassing process, and they felt that having a person of the same gender would be preferable. Importantly, this was the case both for girls and boys.

### Laws and Awareness Raising:

Some participants suggested that laws addressing online abuse and exploitation should be reviewed: *“should have laws that are a bit stricter, so that the bad people online like threatening children into doing something like that and make the law stricter”*. (RA4-CA-4-A)

One participant, considering prevention and support issues, also suggested how there needs to be more awareness of online threats to children, and of the services that are available to support them:

*“But I do want to disseminate information about this issue, so that it’s more open than before, because vulnerable children don’t know about it, so they don’t know about who can help them. Disseminating information about that so that it’s open and they can be brave to get out of the things that are happening, that they are experiencing.”* (RA4-CA-9-Parent)

### b) Main changes suggested by children to make it easier for children to seek compensation

As mentioned earlier in this report, the time frame for cases to be settled is often lengthy, which often acts as a deterrent to continuing with cases, as repeated court appearances, and meetings with lawyers take time and effort to conclude the process. Of the cases described, only three individuals received compensation, and this was several years after their cases first appeared in court. As one young person remarked: *“I want to shorten it to be a really short time, really soon after, in the next month. I want it to be short, not to be too long after two months”*. (RA4-CA-2-A).

Other participants appeared to suggest that corruption was still an issue within the Cambodian law system, which needs addressing. *“When victims need compensation, it should follow what the victims want. There must be [compensation] for children... think about it, they scorn them and drown out their speech... the money is thrown away, it flows away”* (RA4-CA-3-A).

One young person shared that while she thinks compensation is important, there are also other significant issues for children affected by online abuse and exploitation that need to be taken into consideration, including the long-term impact of their experiences.

*“I think they should be able to receive it [compensation] ... but what is important is that it relates very strongly to mental health. I think that compensation is not enough, what’s important is that time is needed to heal the effects on mental health. .... At that time, I wasn’t really immediately affected badly, but after about a year, when I started to grow up, I started to remember when it happened. Sometimes I remembered and became ashamed. When I remembered it, I cried, and sometimes when I recalled about stories similar to mine, I started to get scared. Yes.”* (RA4-CA-9-A)