



HUMAN DIGNITY AND HUMAN RIGHTS: A CURRICULUM FOR HIGHER EDUCATION

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Authors: Dr Rachel Killean, Dr Gillian Kane and Ms Boravin Tann.

It is free to use with acknowledgment.

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1. Introduction

This manual contains materials that can assist in exploring the concept of human dignity within human rights curricula in higher education. It can be used in its entirety or specific modules can be extracted for incorporation into other classes, for example on international criminal law or international human rights law.

These are:

(1) A Reading List: The list contains essential and recommended readings which will act as an introduction to key academic debates regarding human dignity. Readings explore the contested meaning of human dignity, as well as the different meanings given to human dignity in diverse contexts and cultures, including Cambodia. Suggested readings are also included within each module.

(2) ‘Human Dignity and Human Rights’ Modules: This section contains materials which can be used to explore the role that human dignity has played in international, regional, and domestic law. The modules introduce the concept of human dignity and highlight its use in some treaties and legislative instruments. Case studies from international and regional law provide an explanation of relevant facts, an overview of key aspects of the relevant judgment/decision, and a set of discussion questions through which to explore the meaning of human dignity. The modules are:

- Module 1: Introduction to Human Dignity/Human Dignity in International Human Rights Law
- Module 2: Human Dignity in International Human Rights Law – Case Studies
- Module 3: Human Dignity in International Criminal Law and International Humanitarian Law – ECCC Case Studies
- Module 4: Human Dignity in Cambodian Law and Practice

(3) Appendices: At the end of the manual, five appendices are included. These contain supplementary materials which can be used alongside the case studies to further explore the concept of human dignity within international human rights law.

Why Human Dignity?

The materials in this guide enable human dignity to be explored within the context of human rights education. Our [research](#) demonstrates that while human dignity is an underpinning principle, goal, and tool of human rights education, its potential as a tool of human rights education may be under-realised. Since the concept of human dignity has points of resonance with Buddhist and Khmer concepts, it has the potential to act as a culturally relevant entry point to human rights education.

2. Reading List – Human Dignity and Human Rights

Essential Reading

1. Chia-Shin Hsu, Jimmy. (2022, forthcoming). Introduction: Human Dignity, Human Rights, and Cultural Change in Asia in *Human Dignity in Asia: Dialogue between Law and Culture*. Cambridge University Press. Available [here](#).
2. Govert den Hartogh, Gouvert. (2014). ‘Is Human Dignity the Ground of Human Rights?’ in Macus Düwell et al (eds), *The Cambridge Handbook of Human Dignity*. Cambridge University Press. 200-207. Available [here](#).
3. Ledgerwood, Judy and Kheang, Un. (2003). Global Concepts and Local Meaning: Human Rights and Buddhism in Cambodia. *Journal of Human Rights*, 2(4), 531-549. Available [here](#).
4. McCrudden, Christopher. (2022, forthcoming). Human Dignity. in Christina Binder et al (eds), *Elgar Encyclopedia of Human Rights*. Edward Elgar. Pre-print included alongside this document.
5. Murithi, Tim. (2007). A Local Response to the Global Human Rights Standard: The Ubuntu Perspective on Human Dignity. *Globalisation, Societies and Education*, 5(3). 277-286. Available [here](#).
6. Schmidt-Leukel, Perry. (2006). Buddhism and the Idea of Human Rights: Resonances and Dissonances. *Buddhist-Christian Studies*, 26, 33-49. Available [here](#).
7. Lee, Man Yee Karen. “Universal Human Dignity: Some Reflections in the Asian Context.” *Asian Journal of Comparative Law* 3, no. 1 (January 8, 2008). Available [here](#).

Further Reading

1. Barroso, Luís Roberto. (2012). Here, There, and Everywhere: Human Dignity in Contemporary Law and in The Transnational Discourse. *Boston College International and Comparative Law Review*, 35(2), 331-393. Available [here](#).
2. Regilme Jr, Salvador Santino F. (2019). The Global Politics of Human Rights: From Human Rights to Human Dignity? *International Political Science Review*, 40(2), 279-290. Available [here](#).
3. Waldron, Jeremy. (2013). Is Dignity the Foundation of Human Rights?. New York University School of Law Public Law and Legal Theory Research Paper Series, Working Paper No. 12-73. Available [here](#).

3. Module Overview

3.1 Introduction to Human Dignity

This session introduces the concept of human dignity, beginning with an overview of the history of the concept, and its diverse meaning across cultural, religious, geographical contexts. In addition, key provisions on human dignity within international human rights law are introduced. The session ends with an explanation and discussion on the case study approach through which human dignity will be explored in the subsequent three sessions.

3.2 Human Dignity in International Human Rights Law

In this session, cases from a range of international and regional human rights law bodies are used to explore how human dignity is defined in the context of: (1) physical punishment, (2) dwarf tossing, (3) protecting human rights defenders.

3.3 Human Dignity in International Criminal and Humanitarian Law

In this session, three judgments from the Extraordinary Chambers in the Courts of Cambodia (ECCC or ‘Khmer Rouge Tribunal’) are used to explore how human dignity is defined in the context of crimes against humanity and war crimes (grave breaches of the Geneva Conventions) committed during the Khmer Rouge regime.

3.4 Cambodian Domestic Law and Practice

In this session, the attention turns to Cambodia. Examples of how human dignity is used within Cambodian Law, including the Constitution, Criminal Code, Civil Code, and Draft Public Order Bill are included to encourage reflection on the meaning of human dignity in the Cambodian legal context. The session also includes case study scenarios drawn from media stories.

Instructions

Each module contains an overview with aims and objectives, suggested reading, and teaching materials. These materials can be used to structure a class. The sessions are intended to be delivered in a ‘bottom-up’ manner, giving students space to explore the diverse meaning of human dignity, and consider its resonance with local concepts.

Students should read/be guided through the examples and then be given time to think about the questions for discussion. These questions can be explored in smaller groups. It is important to emphasise that many of the questions do not have a ‘right’ or ‘wrong’ answer but are designed to encourage critical thinking about the law and reflection on the complexities surrounding human dignity as a concept.

Module 1: Introduction to Human Dignity

Overview

This session introduces the concept of human dignity, beginning with an overview of the history of the concept, and its diverse meaning across cultural, religious, geographical contexts. In addition, key provisions on human dignity within international human rights law are introduced. The session ends with an explanation and discussion on the case study approach through which human dignity will be explored in the subsequent three sessions.

Aims and Objectives

The aims of this session are:

- to introduce the concept of human dignity, situating it within an international human rights law context.
- to provide context for the case study method which will be used in subsequent modules.

By the end of this session, students should:

- have a broad understanding of the diverse conceptions and understandings of human dignity.
- have an awareness of references to human dignity in international human rights treaties.
- understand the case study approach used to explore human dignity in remaining sessions.

Suggested Reading

1. Luis Roberto Barroso, 'Here, There, and Everywhere: Human Dignity in Contemporary Law and in the Transnational Discourse' (2012) 35(2) Boston College International and Comparative Law Review 331. Available [here](#).
2. McCrudden, Christopher. (2022, forthcoming). Human Dignity. in Christina Binder et al (eds), Elgar Encyclopedia of Human Rights. Edward Elgar.
3. Murithi, Tim. (2007). A Local Response to the Global Human Rights Standard: The Ubuntu Perspective on Human Dignity. Globalisation, Societies and Education, 5(3). 277-286. Available [here](#).
4. Govert den Hartogh, Gouvert. (2014). 'Is Human Dignity the Ground of Human Rights?' in Macus Düwell et al (eds), The Cambridge Handbook of Human Dignity. Cambridge University Press. 200-207. Available [here](#).

A. Human Dignity: A Contested Concept

‘[T]he problem with “human dignity is not that it is an empty signifier; rather, it is because it is packed with different (often clashing) meanings that it is difficult to handle’.

(McCrudden, 2022)

Article 1 of the Universal Declaration of Human Rights (UDHR) states that: ‘[a]ll human beings are born free and equal in dignity and rights.’ Since the UDHR was adopted by the United Nations General Assembly in 1948, provisions on dignity have been included in a range of human rights treaties, and ‘human dignity’ has emerged as a foundational principle of international human rights law (IHRL). Despite the universal application of IHRL, human dignity is understood in differing ways across contexts and cultures.

Note: The following section contains some ideas to help introduce students to the concept of human dignity. The concept is a complex one. Its meaning and conceptual boundaries remain contested in academia and in practice. Therefore, the aim of this module is not to promote one definition over another, or to arrive at a conclusive definition of human dignity. Rather, it is to introduce the diverse, often conflicting, conceptions of dignity, and allow students to begin to interrogate the concept.

Introductory Discussion Questions

1. Have you come across the concept of ‘human dignity’ before? Where? When?
2. What do you think human dignity means/what words or ideas do you associate with human dignity?

Exploring Human Dignity

Starting point: To introduce students to human dignity, encourage them to take some time to read the materials in the reading list, particularly the four suggested readings for this session. Following this, you may wish to focus on some of the themes summarised below.

1. History of the Concept

While human dignity underpins the modern international human rights regime, the history of the concept pre-dates the 20th century. The historical development of the concept is complex. McCrudden points to some key developments in the evolution of the concept. These are:

1. The Latin concept of ‘*dignitas hominis*’: this term from ‘classical Roman thought’ related to ‘status’. In other words, an individual should be given ‘[h]onour and respect’ if they were deemed ‘worthy’ due to their rank or status in society (McCrudden, 2008: 656-657).

However, Barroso claims that it would be wrong ‘to understand the contemporary idea of human dignity as a historical development of the Roman concept of *dignitas hominis*. The current notion of human dignity did not supersede the old one; rather it is the produced of a different history that ran parallel.’ (Barroso, 2012: 355)

2. A ‘broader concept of dignity’ in classical Roman thought: for example, Cicero (a Roman lawyer and philosopher) who referred to the **dignity of humans**. Indeed, Cicero is listed as the first ‘to associate the expression “dignity of man” with reason and the capacity for free moral decision.’ (Barroso, 2012: 355, referring to Cicero, 44 BCE). This line of thinking reveals the idea that humans have dignity simply because they are human, ‘not dependent on any particular additional status.’ (McCrudden, 2008: 657)

3. Middle Ages (approx. 500 – 1500): in this time, Judeo-Christian religious conceptualisations, and humanistic approaches both referred to ‘the inherent dignity of man’. However, a key difference between the two was that religious approaches were based on the idea of **Imago Dei**, i.e., that humans are created in the image of God.

4. The Enlightenment (approx. 1685-1815): in this period, a more secular (non-religious) conception of dignity developed. This drew substantially on the importance of Man as having the capacity of reason. **Immanuel Kant** – a well-known Enlightenment philosopher – was key in developing thinking on dignity. A significant claim by Kant was that humans ‘should be treated as ends and not simply as means to an end’, meaning that there is inherent value in being human. Another key Kantian idea was the idea of ‘dignity as autonomy’ (McCrudden, 2008: 659, referring to Kant), meaning that dignity involves the ability to control our own choices and actions. During this period, the concept of dignity also gained traction through diverse ‘social and political movements advocating specific types of social reform’ (McCrudden, 2008: 660).

5. The post-World War II Era: Following the atrocities of the Nazi Holocaust in Europe, and the emergence of civil rights movements in the second half of the 20th century, human dignity has played an ever more central role in ‘political and social movements’ (McCrudden, 2008: 662-663). It has also emerged as an underpinning principle in the international human rights law regime, which, since the Universal Declaration of Human Rights was adopted in 1948, has been marked by the proliferation over a range of treaties, many of which explicitly refer to human dignity. It has been further echoed in the sustainable development agenda 2030 of the United Nations, reiterating its cross-cutting nature in socioeconomic affairs for humankind, i.e., a life of dignity for all.

2. Key Distinctions

McCrudden points to two key distinctions that can be helpful in guiding our thinking on human dignity. These are:

(1) The distinction, ‘between the meaning of human dignity and the function that it plays’. This means that on the one hand there are debates about what human dignity *means as a concept* (autonomy, Imago Dei etc.), and on the other there are the ways that human dignity *is used in practice*, for example as a legal concept or a religious concept.

(2) The distinction, ‘between an understanding of human dignity as intrinsic to what it means to be human, as opposed to an understanding that regards human dignity as attributed.’ This differentiates between human dignity being something *we have no matter what*, and human dignity being something that *humans give to each other*.

Thinking about these distinctions might be helpful as students move through the different modules.

(McCrudden 2022; Sulmasy, 2008; Jones, 2014)

3. Different Religious and Cultural Understandings of Human Dignity

Across and within cultural contexts, human dignity's meaning can vary. Some of the themes and concepts outlined above are also present in different religious and cultural approaches to human dignity.

Some examples include:

- Judeo-Christian Traditions: as outlined above, within these traditions, the concept of Imago Dei influences understandings of human dignity. At its most basic, Imago Dei refers to the theological belief that humans have dignity because they are made in the image of God.
- Islam: as one of the so-called 'religions of the book', the Islamic conception of dignity is similar to what is found in Judeo-Christian approaches, in that there is a 'deistic' or God-based foundation for human dignity (McCrudden, 2022)
- Buddhism: There are some overlaps between Buddhist concepts and human dignity. Braarvig points to a distinction between 'classical Buddhism' which is predominant in South Asia, and Mahāyāna Buddhism, which is more common in North Asia. In classical Buddhism, dignity is associated with arhat, which means it is not necessarily ascribed to all, 'but only to the monastic elite'. This understanding is closer to status-based understandings of dignity. In Mahāyāna Buddhism, however, 'dignity becomes an egalitarian moral notion' (Braarvig, 2014: 170) which is closer to intrinsic understandings of human dignity.
- Hinduism: Within traditional Hinduism, dignity appears in diverse and sometimes paradoxical ways depending on the source. Under *Upanisads* (dialogues in Sanskrit), dignity is related to the individual's work towards unification with a Universal Self. In the Mānavadharmasāstra text (or laws of Manu), dignity is something entwined with social status and class. In the Bhagavadgītā (which forms later Hindu religious thought), dignity is related to selfless action, while also indicating that human existence is not divine. As Braarvig (2015) notes, Hindu concepts do not necessarily align with 'the principle of inherent and equal dignity for all human beings.'
- Indigenous Concepts: Outside of formal religious contexts, concepts can be found across Indigenous cultures which resonate with the concept of human dignity. For example, Murithi (2007) argues that the African worldview known as *ubuntu*, which tries to capture the essence of what it means to be human and the connections that exist between people, advances a framework of human dignity.
- Asian Contexts: Human dignity is closely related to the idea of honour and social respect in Asian traditions (Lee, 2008: 30). It strongly ties into communal values. In a diverse setting of Asian societies, however, the concept may be "translated" or "localised" through local languages, meanings and practices rooted in their cultural and normative milieu (Hsu, 2022: 10).

B. Human Dignity and International Human Rights Law

In the first part of the session, students will have been made aware that the **aftermath of World War II** marked a key moment in the history of human rights and human dignity. Beginning with the Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948, **human dignity appears as a foundational principle** in many instruments, both in the preambles, but also within substantive rights provisions.

Students should be introduced to the examples below, to spark discussion on the role of human dignity within the modern human rights regime, and to encourage thought on the relationship between human dignity and human rights. These ideas will be explored in more detail in subsequent sessions.

Treaty	Provisions on Dignity
<p><u>1. Universal Declaration on Human Rights</u> <i>(Adopted 10 December 1948)</i> UNGA Res 217 A(III)</p>	<p>Preamble Whereas recognition of the <u>inherent dignity</u> and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, <u>in the dignity and worth of the human person</u> and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.</p> <p>Article 1 All human beings <u>are born free and equal in dignity and rights</u>. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.</p>
<p><u>2. International Covenant on Civil and Political Rights</u> <i>(Adopted 16 December 1966, entered into force 23 March 1976)</i> 999 UNTS 171</p>	<p>Preamble Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, <u>recognition of the inherent dignity</u> and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. Recognizing that these <u>rights derive from the inherent dignity of the human person</u>.</p> <p>Article 10(1) 1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.</p>
<p><u>3. International Covenant on Economic, Social and Cultural Rights</u> <i>(Adopted 16 December 1966, entered into force 3 January 1976)</i> 993 UNTS 3</p>	<p>Preamble Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the <u>inherent dignity</u> and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.</p>

	<p>Recognizing that these rights derive from the <u>inherent dignity</u> of the human person.</p> <p>Article 13</p> <p>1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the <u>full development of the human personality and the sense of its dignity</u>, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.</p>
<p><u>4. United Nations Convention on the Rights of the Child</u> <i>(Adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3</i></p>	<p>Preamble</p> <p>Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of <u>the inherent dignity</u> and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,</p> <p>Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental <u>human rights and in the dignity and worth of the human person</u>, and have determined to promote social progress and better standards of life in larger freedom,</p> <p>Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity.</p> <p>Article 23 (1)</p> <p>1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, <u>in conditions which ensure dignity</u>, promote self-reliance and facilitate the child's active participation in the community.</p> <p>Article 28(2)</p> <p>2. States Parties shall take all appropriate measures to ensure that <u>school discipline is administered in a manner consistent with the child's human dignity</u> and in conformity with the present Convention.</p> <p>Article 37 (c)</p> <p>(c) Every child deprived of liberty shall be treated with humanity and respect for the <u>inherent dignity of the human person</u>, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do</p>

	<p>so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.</p> <p>Article 39 States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which <u>fosters the health, self-respect and dignity of the child.</u></p> <p>Article 40(1) 1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent <u>with the promotion of the child's sense of dignity and worth,</u> which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.</p>
<p><u>5. Convention on the Rights of Persons with Disabilities</u> <i>(Adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3</i></p>	<p>Preamble (a) Recalling the principles proclaimed in the Charter of the United Nations which recognize <u>the inherent dignity and worth</u> and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world, (h) Recognizing also that discrimination against any person on the basis of disability is a violation of the <u>inherent dignity and worth of the human person,</u> (y) Convinced that a comprehensive and integral international convention to promote and protect the <u>rights and dignity of persons with disabilities</u> will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries.</p> <p>Article 1 The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, <u>and to promote respect for their inherent dignity.</u> Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and</p>

	<p>effective participation in society on an equal basis with others.</p> <p>Article 3 - General Principles The principles of the present Convention shall be: <u>Respect for inherent dignity</u>, individual autonomy including the freedom to make one's own choices, and independence of persons; Non-discrimination; Full and effective participation and inclusion in society; Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; Equality of opportunity; Accessibility; Equality between men and women; Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.</p> <p>Article 8 - Awareness Raising 1. States Parties undertake to adopt immediate, effective and appropriate measures: To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the <u>rights and dignity of persons</u> with disabilities;</p> <p>Article 16(4) - Freedom from Exploitation, Violence and Abuse 4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place <u>in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person</u> and takes into account gender- and age-specific needs.</p> <p>Article 24(1)(a) - Education States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life-long learning directed to: <u>The full development of human potential and sense of dignity and self-worth</u>, and the strengthening of respect for human rights, fundamental freedoms and human diversity;</p> <p>Article 25(d) - Health</p>
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	<p>d. Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, <u>raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities</u> through training and the promulgation of ethical standards for public and private health care;</p>
<p><u>6. Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</u> <i>(Adopted 18 December 1990 entered into force 1 July 2003) UNGA 45/158</i></p>	<p>Article 17 1. Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for <u>the inherent dignity of the human person</u> and for their cultural identity.</p> <p>Article 70 States Parties shall take measures not less favourable than those applied to nationals to ensure that working and living conditions of migrant workers and members of their families in a regular situation are in keeping with <u>the standards of fitness, safety, health and principles of human dignity</u>.</p>
<p><u>7. ASEAN Human Rights Declaration</u> <i>Adopted 18 November 2012</i></p>	<p>Article 1 All persons are born free and <u>equal in dignity and rights</u>. They are endowed with reason and conscience and should act toward one another in a spirit of humanity.</p> <p>Article 30(1) Every person shall have the right to social security, including social insurance where available, which assists him or her to secure the means for <u>a dignified and decent existence</u>.</p> <p>Article 31(3) Education shall be directed to the <u>full development of the human personality and the sense of his or her dignity</u>. Education shall strengthen the respect for human rights and fundamental freedoms in ASEAN Member States. Furthermore, education shall enable all persons to participate effectively in their respective societies, promote understanding, tolerance and friendship among all nations, racial and religious groups, and enhance the activities of ASEAN for the maintenance of peace.</p>
<p><u>8. African Charter on Human and Peoples' Rights</u> <i>(Adopted 27 June 1981, entered into force 21 October 1986)</i></p>	<p>Preamble Considering the Charter of the Organization of African Unity, which stipulates that "<u>freedom, equality, justice and dignity are essential objectives</u> for the achievement of the legitimate aspirations of the African peoples";</p> <p>Conscious of their duty to achieve the total liberation of Africa, <u>the peoples of which are still struggling for their</u></p>

	<p><u>dignity and genuine independence</u>, and undertaking to eliminate colonialism, neo-colonialism, apartheid, zionism and to dismantle aggressive foreign military bases and all forms of discrimination, particularly those based on race, ethnic group, color, sex, language, religion or political opinions;</p> <p>Article 5 <u>Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status.</u> All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.</p>
<p><u>9. Arab Charter of Human Rights</u> <i>Adopted 23 May 2004</i></p>	<p>Preamble Given the Arab nation's belief in human dignity since God honoured it by making the Arab World the cradle of religions and the birthplace of civilizations which confirmed <u>its right to a life of dignity based on freedom, justice and peace</u>,</p> <p>Article 1 (b) Racism, zionism, occupation and foreign domination pose a challenge to <u>human dignity</u> and constitute a fundamental obstacle to the realization of the basic rights of peoples. There is a need to condemn and endeavour to eliminate all such practices.</p>
<p><u>10. American Convention on Human Rights</u> <i>(Adopted 22 November 1969 enter into force 18 July 1978)</i></p>	<p>Article 5. Right to Humane Treatment 1. Every person has the right to have his physical, mental, and moral integrity respected. 2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be <u>treated with respect for the inherent dignity of the human person.</u></p> <p>Article 6. Freedom from Slavery 1. No one shall be subject to slavery or to involuntary servitude, which are prohibited in all their forms, as are the slave trade and traffic in women. 2. No one shall be required to perform forced or compulsory labor. This provision shall not be interpreted to mean that, in those countries in which the penalty established for certain crimes is deprivation of liberty at forced labor, the carrying out of such a sentence imposed by a competent court is prohibited. Forced labor shall not adversely <u>affect the dignity or the physical or intellectual capacity of the prisoner.</u></p> <p>Article 11. Right to Privacy</p>

	1. Everyone has the right to have his honor respected and <u>his dignity recognized</u> .
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C. Questions for Discussion

1. Has your understanding of ‘human dignity’ changed after looking at the above examples? If so, how?
2. Are there any common ideas to be found in across the various approaches to human dignity?
3. Are there any Khmer words/concepts that you think resonate with the idea of human dignity?
4. Many international human rights treaties refer to ‘inherent dignity’ of humans. Do you think dignity is inherent? Or is it something that can be lost and gained?

D. Introduction to the Case Study Approach

Module one has hopefully introduced human dignity as a human rights concept.

In the following three modules, human dignity will be further explored through a case study approach. This is a ‘bottom-up’ approach to learning about human dignity, meaning that students learn about the concept by learning about the ways it has been used. This should facilitate learning through exploration and discussion.

Module 2: Human Dignity in International Human Rights Law – Case Studies

Overview

Human dignity plays a role within international human rights law jurisprudence. The following case studies detail three very different situations where questions relating to human dignity arose. Adopting the case study approach described in Module 1, students should be guided through the facts, and then asked to consider the discussion questions at the end.

Aims and Objectives

The aims of this session are:

- to explore the role that human dignity plays in international human rights law.
- to reflect on the ways in which human dignity has been interpreted by international human rights bodies.
- to reflect on the role that human dignity plays across a range of contexts, as well as what particular contexts can reveal about the meaning of dignity.

By the end of this session, students should:

- be able to point to some concrete examples of how human dignity is operationalised in international law .
- have an understanding of the three cases under analysis in the session.
- be able to discuss how human dignity can play a role in international human rights law, using examples.

Suggested Reading

1. Chia-Shin Hsu, Jimmy. (2022, forthcoming). Introduction: Human Dignity, Human Rights, and Cultural Change in Asia in Human Dignity in Asia: Dialogue between Law and Culture. Cambridge University Press. Available [here](#).
2. Govert den Hartogh, Gouvert. (2014). Is Human Dignity the Ground of Human Rights?' in Macus Düwell et al (eds), The Cambridge Handbook of Human Dignity. Cambridge University Press. 200-207. Available [here](#).
3. Waldron, Jeremy. (2013). Is Dignity the Foundation of Human Rights?. New York University School of Law Public Law and Legal Theory Research Paper Series, Working Paper No. 12-73. Available [here](#).

A. Corporal Punishment by ‘Birching’

Facts: A 15-year-old boy physically harmed another student in his school. Allegedly, this happened because the student who was assaulted reported the boy and some others for bringing beer into the school. The boy was charged with an offence (causing ‘actual bodily harm’), to which he pleaded guilty. His sentence was a physical punishment: ‘three strokes of the birch’. ‘Birching’ – refers to the use of a birch rod to hit an individual as a form of punishment. To receive his ‘punishment’, the boy had to remove his trousers and underwear and bend over a table in the presence of his father and a doctor, to receive his punishment from policemen. His father was overcome with emotion after the third strike and attempted to strike one of the policemen. The boy’s skin was not cut, but the strikes caused a lot of pain – he was in pain for about 1.5 weeks after.

Case: *Tyrer v United Kingdom* (European Court of Human Rights)

The above scenario is based on the facts of *Tyrer v United Kingdom*, a case decided by the European Court of Human Rights in 1978. The boy who received punishment by birching was Anthony Tyrer, who lived on the Isle of Man (near England). Tyrer complained that his punishment constituted a breach of his rights under the **European Convention on Human Rights**, in particular:

- **Article 3** – Prohibition of Inhuman and Degrading Treatment or Punishment
- **Article 8** - Right to Private and Family Life
- **Article 13** – Right to an Effective Remedy
- **Article 14** – Prohibition of Discrimination

What role did Human Dignity Play in the Case?

The Court noted that the applicable Isle of Man legislation did contain some safeguards relating to birching. These included that it should not take place in public, a medical examination should take place prior to the punishment, and a doctor should be present. However, the Court’s focus was on whether other aspects of the punishment meant that it was ‘degrading’.

On this question, the Court noted that **‘[t]he very nature of judicial corporal punishment is that it involves one human being inflicting physical violence on another human being.’**

“ [T]he Court considered whether the punishment was degrading. It noted that Tyrer was treated as an object of the State and that by sentencing him to judicial corporal punishment, the State went against the very nature of Article 3 of the ECHR, which is to protect a person’s dignity and physical integrity. ”

(Hardy 2013)

The Court further observed that ‘although the applicant did not suffer any severe or long-lasting physical effects, his punishment - whereby he was treated as an object in the power of the authorities - constituted an assault on precisely that which it is one of the main purposes of Article 3 (art. 3) **to protect, namely a person’s dignity and physical integrity.** Neither can it be excluded that the punishment may have had adverse psychological effects.’

As well as this, the Court noted the fact that the punishment took place several weeks after the sentencing, meaning that ‘in addition to the physical pain he experienced, Mr. Tyrer was subjected to the mental anguish of anticipating the violence he was to have inflicted on him.’ (paras 32-33)

Ultimately, the Court concluded that ‘the applicant was subjected to a punishment in which the element of humiliation attained the level inherent in the notion of "degrading punishment" as explained at paragraph 30 above. **The indignity of having the punishment administered over the bare posterior aggravated to some extent the degrading character of the applicant’s punishment but it was not the only or determining factor.**’ (para 35)

B. Unlawful Detention

Following the establishment of a human rights NGO, some of its key members began to experience hostile treatment from the government. Some members were arrested and detained, while the NGO’s offices were sometimes searched even where there was no warrant to do so. One example of such conduct concerned a lawyer, who was arrested while returning from another country. He was detained and kept in a cell with very unsanitary conditions. He was also not allowed to receive medical attention, or to speak with his lawyer and family. The lawyer was interrogated but was never told what, if any charges, were being made against him. In the end, no charges were made. Another example concerns a member of the organisation who was detained for more than a month, despite no subsequent charge or trial. He too, was denied access to his family, doctor, and lawyers.

Case: Huri-Laws v Nigeria (African Commission on Human and Peoples’ Rights)

The above scenario is based on the facts of *Huri-Laws v Nigeria*, a case decided by the African Commission on Human and Peoples’ Rights in 2000. The case concerned the treatment of members of the Civil Liberties Organisation (CLO), a Nigerian NGO, established in 1987, and was brought by another NGO, Huri-Laws, which alleged that the treatment of CLO members amounted to violations of the African Charter on Human and Peoples’ Rights, in particular:

- **Article 5** – Prohibition of Torture and Cruel, Inhuman and Degrading Treatment
- **Article 6** - Right to Personal Liberty and Protection from Arbitrary Arrest
- **Article 7** – Right to a Fair Trial
- **Article 9** – Right to Receive Information and Free Expression
- **Article 10** – Right to Freedom of Association
- **Article 14** – Right to Property
- **Article 26** – Duty to Guarantee Independence of Courts

Ultimately, the Commission held that Nigeria had violated Articles 5, 6, 7(1)(a) and (d), 9, 10(1), 12(1) and (2), and 14 of the African Charter (para 54). Full decision can be found [here](#).

What Role did Human Dignity Play in the Case?

The issue of human dignity arose in the discussion on the alleged violation of Article 5 of the African Charter, the prohibition of torture, and cruel, inhuman and degrading treatment. What is interesting about Article 5 is that it explicitly mentions dignity: '[e]very individual **shall have the right to the respect of the dignity inherent in a human being** and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.' In the Commission's assessment, dignity is referenced in relation to the denial of access to medical care. The Commission held that, 'the denial of medical attention under health threatening conditions and access with the outside world do not fall into the province of "the respect of the dignity inherent in a human being and to the recognition of his legal status", nor is it in line with the requirement of Principles 1 and 6 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. This, therefore, is a breach of article 5 of the Charter.' (para 41)

C. Questions for Discussion: Human Dignity and Human Rights

1. Do you agree with the European Court of Human Right's decision in the case of *Tyner v UK*? Why/why not?
2. Is physically punishing a child always a violation of human dignity? Why/why not?
3. What role did 'humiliation' play in the Court's assessment in *Tyner v UK*? What do you think the relationship is between 'humiliation' and violations of 'human dignity'?
4. Who should decide when a violation of human dignity has occurred (e.g. the individual, the community, the Court, the State)?
5. What do you think about the approach taken in Article 5 of the African Charter – do you think other provisions on torture/inhuman treatment should refer explicitly to dignity?
6. Do you think denial/restriction of access to medical care impacts upon human dignity?
7. These cases take place in European and African countries. Do you think they would have different outcomes if they took place in other parts of the world? What about in Cambodia?

Module 3: Human Dignity in International Criminal Law and International Humanitarian Law – ECCC Case Studies

Overview

The concept of ‘human dignity’ has been used as a way of defining and interpreting international humanitarian law and international criminal law. The following subsections introduce how it has been used by the Extraordinary Chambers of the Courts in Cambodia (ECCC), also known as the ‘Khmer Rouge Tribunal’. The case studies detail different situations where questions relating to human dignity arose. Adopting the case study approach described in Module 1, students should be guided through the facts, and then asked to consider the discussion questions at the end.

Aims and Objectives

The aims of this session are:

- to explore the role that human dignity plays in international humanitarian law and international criminal law, through the lens of the ECCC.
- to reflect on the ways in which human dignity has been interpreted by the ECCC.
- to reflect on the role that human dignity plays in situations of conflict, as well as what conduct that takes place in conflict can reveal about the meaning of dignity.

By the end of this session, students should:

- be able to point to some concrete examples of how human dignity is operationalised in international humanitarian law and international criminal law.
- have an understanding of the three judgments under analysis in the session.
- be able to discuss how human dignity can play a role in international humanitarian and criminal law, using examples.

Suggested Reading

1. Beauvallet, Olivier & Jeanne-Thérèse Schmit, ‘The Extraordinary Chambers in the Courts of Cambodia’ in Sergey Sayapin et al. *International Conflict and Security Law: A Research Handbook* (Springer, 2022) 619-632. Available [here](#).
2. Hughes, Rachel , Christoph Sperfeldt and Maria Elander, ‘Cambodians await crucial tribunal finding into 1970s brutal Khmer Rouge regime’ *The Conversation*, 15 November 2018.
3. Benton Heath, J., ‘Human Dignity at Trial: Hard Cases and Broad Concepts in International Criminal Law’ *George Washington International Law Review* 44(2) (2012) 317. Available [here](#).
4. Grey, Rosemary, ‘Seen and Unseen: Sexual and Gender-Based Crimes in the Khmer Rouge Tribunal’s Case 002/02 Judgment’ *Australian Journal of Human Rights* (2020) 25(3): 466-487.

Extraordinary Chambers in the Courts of Cambodia (ECCC): Overview

The ECCC is a hybrid court – a ‘special Cambodian court’ that sits in the Cambodian legal system but is assisted by the United Nations Assistance to the Khmer Rouge Tribunals (UNAKRT). The ECCC prosecutes the most senior leaders of the Khmer Rouge regime and those most responsible for crimes committed between April 1975 and January 1979. There have been several investigations at the ECCC, although not all have gone to trial. The focus here is on the role of human dignity in the Court’s judgments in three trials: **Case 001, Case 002/01, and Case 002/02.**

Crimes against Humanity

Article 5 of the Law on the Establishment of the Extraordinary Chambers as amended defines crimes against humanity as: ‘any acts committed as part of a widespread or systematic attack directed against any civilian population, on national, political, ethnical, racial or religious grounds, such as

- murder
- extermination
- enslavement
- deportation
- imprisonment
- torture
- rape
- persecutions on political, racial, and religious grounds
- other inhumane acts’

This means that the acts listed above must be connected to a ‘widespread and systematic attack’.

Crimes against Humanity are found within other international criminal law treaties, most notably Article 7 of the International Criminal Court’s Rome Statute.

Case 001 - This case centred on the role played by Kaing (Geuk Eav), i.e. ‘Duch’ in the Khmer Rouge regime. Duch was indicted in 2008, accused of committing crimes against humanity, grave breaches of the Geneva Convention, murder, and torture. Duch was in charge of the Tuol Sleng prison (S-21), the site of torture and execution of thousands of people, including many Khmer Rouge cadres, as well as women and children.

Often, prisoners were forced to confess to crimes they did not commit, before being murdered at the ‘killing fields’ at Choeung Ek. Duch oversaw all operations at Tuol Sleng, though he claimed he was merely ‘following orders’.

Case 002/01 - This case centred on the role played by Nuon Chea and Khieu Samphan within the Khmer Rouge regime. The two were charged crimes against humanity, including other inhumane acts of enforced disappearances, forced transfer of the population, and **attacks against human dignity.**

These crimes related to the role of the accused in the forced movement of people from Phnom Penh and other areas, as well as the execution of soldiers from the former Khmer Republic at the outset of the Khmer Rouge regime.

Case 002/02 - As with Case 002/01, this case centred on the role played by Nuon Chea and Khieu Samphan during the Khmer Rouge regime. In Case 002/02, additional charges were brought, including: genocide perpetrated against the Cham and ethnic Vietnamese; grave breaches of the 1949 Geneva Conventions; and crimes against humanity, including **other inhumane acts of**

attacks against human dignity, and conduct characterised as rape, forced marriage, forced transfer and enforced disappearances.

What Role does Human Dignity Play in the ECCC’s Case Law?

In these cases, human dignity plays a role in both the **definition** of some crimes, and the judicial **interpretation** of others. These roles are explored further in the following sections.

A. Human Dignity and the Definition of ‘Other Inhumane Acts’

Other Inhumane Acts

One of the underlying acts of crimes against humanity is: ‘other inhumane acts’. But what conduct falls within the scope of this crime?

Referring to existing ECCC and ICL case law, the Trial Chamber in Case 001 explained that ‘[o]ther inhumane acts’ functions as a **residual category**, criminalising conduct which **meets the criteria of a crime against humanity but does not fit within one of the other specified underlying crimes**. The elements of the crime of ‘other inhumane acts’ are an act or omission of the accused or his subordinate:

- (i) causing serious bodily or mental harm or constituting a serious attack on human dignity; and
- (ii) performed deliberately with the intent to inflict serious bodily or mental **harm or commit a serious attack upon the human dignity** of the victim at the time of the act or omission.’ (para 437)

In Case 001, the charges of other inhumane acts related to the treatment of prisoners at S-21. Of relevance was the ‘deliberate deprivation of adequate food, sanitation and medical treatment’, as well as the fact that individuals were ‘beaten and subjected to stringent restrictions during detention’ (para 257), as well as forced medical tests (para 372).

The Trial Chamber held that ‘**S-21 detainees suffered serious bodily and mental harm from the deplorable conditions of detention deliberately imposed upon them by S-21 staff.**’

Moreover, the ‘acts and omissions routinely **degraded and dehumanized the detainees, leaving them in a state of constant fear**. They have the same gravity as the other underlying offences of crimes against humanity and qualify as separate acts that fall within the category of other inhumane acts’ (para 372)

B. Interpreting Other Inhumane Acts: Attacks on Human Dignity

In Case 002/01, the allegations of attacks on human dignity related to **the forced eviction** of almost 2 million people from their homes in Phnom Penh. As well as being forced to leave their homes, they faced numerous hardships, including ‘**the almost complete absence of food, water, medical care, shelter and hygiene facilities for periods ranging from several days to several weeks.**’ Many were forced to bury or abandon family members. (paras 563-564)

The Trial Chamber found that the violent circumstances surrounding the evacuation of the city, the severity of the conditions experienced by the evacuees, intensified by the length of their

journeys to their home villages, and their ill treatment by Khmer Rouge soldiers throughout **constituted serious attacks against human dignity** and caused the victims serious bodily and mental harm.’ (para 565)

In Case 002/02 the accused were charged with the crime against humanity of other inhumane acts through attacks against human dignity at several locations, as well as during ‘population transfer.’ (para 733). The Closing Order alleged, in particular, that **‘attacks against human dignity resulted from “depriving the civilian population of adequate food, shelter, medical assistance, and minimum sanitary conditions”.**’ (para 456)

The Trial Chamber found that **‘the circumstances of forced work in conditions of extreme hunger, fear, with wholly inadequate medical care, constituted serious attacks against human dignity.** (para 1199)

C. Interpreting Other Inhumane Acts: Rape within Forced Marriage

In **Case 002/02**, the accused were charged with ‘the crime against humanity of other inhumane acts through conduct characterised as rape in the context of forced marriage.’ In particular, the allegations centred on the claim that, ‘by imposing the consummation of forced marriages, the perpetrators committed a physical invasion of a sexual nature against a victim in coercive circumstances in which the consent of the victim was absent’. (para 729, referring to Closing Order)

In its reasoning, the Trial Chamber referred to the fact that couples were often forced to have sexual relations with their allocated spouse, and that ‘[m]ilitiamen were commonly ordered to monitor the couples at night to make sure that they had sexual intercourse.’ As well as this, ‘couples who were found to have not had sexual intercourse were re-educated or threatened with being killed or receiving punishment’ (para 3696).

In its assessment, the Trial Chamber considered ‘the mental and physical suffering inflicted upon individuals’ and ultimately, it held that the conduct amounted to a crime against humanity **insofar as women were concerned**, but not men. This was because of the definition of rape that reflected the ‘understanding of rape as at 1975’ (para 731). The Chamber found that ‘men could not be victims of rape in the context of forced marriage’ but went on to consider whether the conduct could fall within the scope of other inhumane acts, as ‘another form of sexual violence’. (para 731)

Ultimately, while acknowledging that **‘men were subjected to sexual violence that was contrary to human dignity’**, the Trial Chamber concluded that the gravity threshold of ‘other inhumane acts’ was not met. (paras 3698 – 3701).

Forced Rape and the Human Dignity of Men: Academic Critique

“ [T]he Trial Chamber found that men and women had been required to consummate their marriages shortly after the wedding ceremony. However, in the Trial Chamber’s view, only the *women’s* experiences of forced sexual intercourse were sufficiently grave to constitute ‘other inhumane acts’ (para 3701). This was a missed opportunity to recognise the gravity of a type of sexual violence that men seem to experience disproportionately – namely, being forced to rape a third party.’ Nonetheless, it was open to the Trial Chamber to regard the conduct of forcing men to have sexual relations as sufficiently grave to constitute ‘other inhumane acts’, taking into account...the Trial Chamber’s own observations that the sexual abuse of men was **“contrary to human dignity”** (para 3701) ” (Grey 2019: 477)

D. Interpreting Other Inhumane Acts: Forced Marriage

In addition to the charge of rape in the context of marriage, the accused were charged with the crime against humanity of other inhumane acts relating to forced marriage more broadly. As ‘forced marriage’ is not on the list of crimes against humanity’s ‘underlying acts’, the Trial Chamber assessed whether the conduct was severe enough to fall within the definition of ‘other inhumane acts’ (para 746). Of relevance was the fact that people were threatened with violence and even death if they did not marry; couples were ‘forced to enter conjugal relationships’ and many of the traditional rituals of a marriage ceremony were not respected’ (para 742).

The Chamber noted that marriages were arranged throughout Cambodia and that many ‘were married in a widespread climate of fear’ and in the absence of ‘genuine consent’. Some even faced threats of ‘being killed if they refused to marry’ (para 3690). As well as this, most marriages took place without ‘traditional rituals.’ In addition, after the ceremony, many were monitored closely to ensure that they had consummated their marriage. The Chamber noted that ‘[t]his pressure caused fear and led victims to feel that they were obliged to have sexual intercourse.’ As a result, the Chamber concluded that the conduct **‘cumulatively caused serious mental or physical suffering or injury or constituted a serious attack on the human dignity of the victims’** (para 3691).

In support of this conclusion, the Chamber noted that **‘the mental and physical suffering inflicted upon individuals through the threats of forcing them to marry, the fact that they had to marry someone that they did not know, the fear instilled to pressure them to consummate the marriage and that the conduct was performed intentionally. The severity of the mental suffering caused by being forced to marry in a coercive environment caused serious mental harm with lasting effects on the victims.’** (para 3692)

E. Human Dignity and Grave Breaches of the Geneva Conventions: Inhumane Treatment

In **Case 001** - the Amended Closing Order against Duch states that: “S21 personnel wilfully caused serious mental harm or physical suffering or injury, or submitted them to conditions which amounted to a **serious attack upon the human dignity of the prisoners at S21.**”

The Trial Chamber held that: ‘[s]ome treatment inflicted on protected persons not reaching the severity threshold of torture or great suffering, **nonetheless amounted to violations of human dignity**, as evidenced by the general conditions of detention and the numerous methods used to obtain forced confessions ... The Chamber is satisfied that protected persons were subjected to a serious attack on their human dignity.’ (para 449)

Significantly, the Trial Chamber refers to the International Committee of the Red Cross’s Commentary to the Fourth Geneva Convention, which states that ‘the aim of the [Fourth Geneva] Convention is certainly to grant civilians in enemy hands **a protection which will preserve their human dignity and prevent them from being brought down to the level of animals.**

Grave Breaches of the Geneva Conventions

There are four Geneva Conventions and three Additional Protocols which are part of International Humanitarian Law (the law of armed conflict). Each of the Conventions has a ‘grave breaches’ provision.

Article 6 of the Law on ECCC includes a similar provision, prohibiting the following acts against persons or property protected under provisions of these Conventions, and which were committed during the period 17 April 1975 to 6 January 1979:

- wilful killing;
- torture or inhumane treatment;
- wilfully causing great suffering or serious injury to body or health;
- destruction and serious damage to property, not justified by military necessity and carried out unlawfully and wantonly;
- compelling a prisoner of war or a civilian to serve in the forces of a hostile power;
- wilfully depriving a prisoner of war or civilian the rights of fair and regular trial;
- unlawful deportation or transfer or unlawful confinement of a civilian;
- taking civilians as hostages.

The Trial Chamber concluded that ‘inhumane treatment’ is not limited to physical injury or injury to health. The Chamber found that other measures, such as cutting off prisoners from the outside world and their families, or causing **‘great injury to their human dignity, could conceivably be considered as inhumane treatment.’** (para 441, referring to the ICRC Commentary)

F. Human Dignity, Restoration and Reparation at the ECCC

Reparations at the ECCC

Victims who participate as Civil Parties at the ECCC have the right to seek ‘collective and moral reparations’ which acknowledge the harm they experienced (Rule 23).

Initially, the only reparations that the Court could award were those taken from the assets of the accused. Where the accused had no meaningful assets, the Court could only award minimal recognition to the civil parties, and point to the benefits of reparations being funded by other actors (Case 001, para 663).

After Case 001, the Court’s Internal Rules were amended. Now the Court is permitted to recognise externally funded projects designed or identified in cooperation with the ECCC Victim Support section (Rule 23 *quinquies*). In Case 002/01 and Case 002/02 a total of 24 reparation projects were recognised by the Trial Chamber.

In Case 001, the Chamber emphasised that the ECCC’s role is different from international human rights courts, which have the competence to find States responsible, and compel States to make reparations.

It stated that, ‘[t]he Chamber has no jurisdiction over Cambodian or other national authorities or international bodies. Nor can it properly impose obligations on or grant rights to persons or entities that were not parties to the proceedings before it. **At most, the Chamber can merely encourage national authorities, the international community and other potential donors to show solidarity with the victims by providing financial and other forms of support that contributes to their rehabilitation, reintegration, and restoration of dignity.**’ (para 663)

Following the changes, to the Internal Rules of the Court, the Trial Chambers in Case 002/01 and Case 002/02 was able to ‘recognize that specific projects ... **contribute to civil parties’ rehabilitation, reintegration and restoration of dignity** where national or international authorities, non-governmental organisations or other potential donors, provide financial support and other forms of assistance to show solidarity with the victims of Khmer Rouge era crimes’ (Case 002/01, para 1116).

G. Discussion Questions: Human Dignity and the ECCC

1. The Trial Chamber in each judgment mentions human dignity in a number of contexts. After reading the examples highlighted above, what do you think human dignity means?
2. Is a person's human dignity something that can be taken away by another person? Does someone experiencing torture still have their human dignity?
3. What kind of actions constitute a 'serious attack on human dignity', according to the ECCC?
4. Do you think forced labour is always a violation of human dignity? Why/why not? What about labour with very low pay?
5. The Trial Chamber found that depriving the civilian population of adequate food, shelter, medical assistance, and minimum sanitary conditions was a violation of human dignity. Do you agree with this finding? Why/why not?
6. The Trial Chamber in Case 002/02 found that while forced sexual encounters were a violation of men and women's human dignity, they only constituted a crime against humanity in relation to women. What do you think about this distinction? Do you agree?
7. The ECCC considers reparations to be projects which facilitate the rehabilitation, reintegration and restoration of dignity of victims. Do you think human dignity can be restored after atrocity? If so, who do you think should be responsible for restoring victims' dignity after atrocity?

Module 4: Human Dignity in Cambodian Law and Practice

Overview

In this session, the focus moves to the domestic context. Students should first be introduced to the examples of where dignity appears within Cambodian law. In the second part of the class, adopting the case study approach described in Module 1, students should be guided through the facts of the fictional scenarios - which are based on life in Cambodia - and then asked to consider the discussion questions at the end.

Aims and Objectives

The aims of this session are:

- to explore the role that human dignity plays in Cambodian law and practice
- to reflect on what human dignity means in the Khmer culture.
- to reflect on the role that human dignity plays across a range of local contexts, as well as what particular contexts can reveal about the meaning of dignity.

By the end of this session, students should:

- be able to point to some concrete examples of how human dignity is operationalised in Cambodian law.
- be able to discuss how human dignity resonates/conflicts with Khmer concepts.

Suggested Reading

1. Ledgerwood, Judy and Kheang, Un. (2003). Global Concepts and Local Meaning: Human Rights and Buddhism in Cambodia. *Journal of Human Rights*, 2(4), 531-549. Available [here](#).
2. Schmidt-Leukel, Perry. (2006). Buddhism and the Idea of Human Rights: Resonances and Dissonances. *Buddhist-Christian Studies*, 26, 33-49. Available [here](#).
3. Chia-Shin Hsu, Jimmy. (2022, forthcoming). Introduction: Human Dignity, Human Rights, and Cultural Change in Asia in *Human Dignity in Asia: Dialogue between Law and Culture*. Cambridge University Press. Available [here](#).

A. Human Dignity in Cambodian Law

Despite its inclusion in many human rights instruments which have been translated into Khmer, there is no ‘official’ Khmer translation of ‘human dignity.’ In Cambodia, ‘dignity’ is also paired with other concepts, such as the ‘dignity of citizens,’ the ‘dignity of the individual’, the ‘right to dignity’, and the dignity of specific individuals, groups, and professions, such as the dignity of women, children, and people with disabilities. The most direct translation of ‘human dignity’ appears in the explicit connections between human dignity, labour rights and working conditions as well as development and poverty reduction. Many other framings of ‘dignity’ can also be found related to the protection of the rights of citizens and/or specific groups within society. Meanwhile, it has been linked to status and used to restrict rights and/or establish standards of behaviour, i.e., dignity of women.

Instrument	Provisions
<p>Constitution of the Kingdom of Cambodia</p>	<p>Article 38 ‘The law prohibits all physical abuse of any individual. The law protects the life, honour and <u>dignity of citizens</u>. No person shall be accused, arrested, or detained except in accordance with the law.</p> <p>The coercion, physical ill-treatment or any other mistreatment which imposes additional punishment on a detainee or prisoner is prohibited. Persons who commit, participate in or conspire in such acts shall be punished according to the law.</p> <p>Confessions obtained by physical or mental force shall not be admissible as evidence of guilt.</p> <p>The accused shall have the benefit of any reasonable doubt. Any accused shall be presumed to be innocent until they are finally convicted by the court.</p> <p>Everybody shall have the rights to defend him/herself through the judicial system.’</p>
<p>Cambodian Criminal Code</p>	<p>Article 274: Subjecting to Working Conditions Incompatible with Human Dignity ‘Subjecting a person, by exploiting his or her vulnerability or dependence, to <u>working conditions incompatible with human dignity</u> shall be punishable by imprisonment from one month to one year and a fine from one hundred thousand to two million Riels.’</p> <p>Article 502: Insult ‘Insult consists of words, gestures, written documents, pictures or objects liable to undermine <u>the dignity of a person</u>.</p>

	<p>An insult addressed to a public official or a holder of public elected office, acting in the discharge or on the occasion of his or her office shall be punishable by imprisonment from one day to six days and a fine from one thousand to one hundred thousand riels.’</p> <p>Article 437 bis (2018 Amendment) Insult consists of words, gestures, written documents, pictures or objects liable to undermine <u>the dignity of a person</u>.</p>
<p>Cambodian Civil Code</p>	<p>Book One – General Rules 2. Fundamental Concepts ‘This Code gives concrete embodiment to the concepts of the <u>dignity of the individual</u>, the equality of the sexes and the guarantee of property rights provided in the Constitution.’</p> <p>Book Two – Persons Section II. Personal Rights 10. (Concept of Personal Rights) <u>Personal rights</u> include the rights to life, personal safety, health, freedom, identity, <u>dignity</u>, privacy, and other personal benefits or interests.’</p>
<p>2020 Draft Public Order Law</p>	<p>Article 1 Purpose: ‘to ensure public order management by maintaining order, aesthetic value, sanitation, cleanliness of the environment, quietness, social stability, preservation of national tradition, and <u>the dignity of citizens</u>.’</p> <p>Article 36 This article bans men from ‘being shirtless in public’ and states what women may not wear clothes that are “too short” or “too see-through” that “<u>affect the national tradition and dignity</u>”</p>

Civil Society Critique of Draft Public Order Law

‘We are deeply concerned that the law seeks to restrict women’s freedoms on the basis of vague and subjective criteria such as “national tradition and dignity”, “aesthetic value”, “quietness”, and “social stability”, none of which are legitimate restrictions on human rights under international human rights law.’ ([Joint CSO Statement, 2020](#))

B. Questions for Discussion: Human Dignity in Cambodian Law and Policy

1. What do these examples tell you about how ‘human dignity’ is understood in Cambodian domestic law?
2. Do you think ‘human dignity’ and ‘the dignity of citizens’ mean the same thing? How might they differ?
3. Do you think people’s rights should be limited to protect the dignity of others? Why/why not?
4. Does ‘human dignity’ require different behaviour from men and women?
5. Human dignity can mean different things to different people at different times. What challenges does this present?
6. If you were asked to explain ‘human dignity’ to someone after reading all of these examples, what would you say?

C. Applying Human Dignity to Factual Scenarios

Research conducted by a team from CSHL and Queen’s University Belfast involved piloting case scenarios with students, inviting them to reflect on various questions related to dignity. These scenarios sparked discussion on the gendered dimensions of dignity; how dignity interacts with Khmer social values and Buddhist concepts; and the relationship between dignity and human rights more broadly. Given such positive engagement and outcomes, we felt that the case study approach was worth pursuing further. Students should explore how they think human dignity is implicated in the following scenarios:

Scenario One

A botched robbery and kidnap were planned against a rich family in Phnom Penh, Cambodia. The ringleader was a former driver of the family who returned to ask for a job but was turned down. He then recruited three accomplices. The plan was known to the police and the four were shot and killed by the police.

The public looked the perpetrators up on social media and left thousands of derogatory comments concerning the perpetrators and their families. As result, some of the families of the perpetrators grew fearful of social stigma and public condemnation. They therefore delayed asking for the bodies to be returned in order to hide their own identities and protect their reputation. In the Cambodian Buddhist tradition, this delay had implications for the perpetrators; their souls could not rest or be reincarnated until the funeral has taken place.

In the end, the perpetrators were cremated without the presence of family members or Buddhist monks. Again, this had specific cultural implications, with the lack of ceremony meaning the

perpetrators' souls could not rest. In addition, photos posted on social media depicted the perpetrators lying in pools of blood and with their faces visible.

Questions:

- What role, if any, is dignity playing in this scenario? Has anyone, in your view, suffered a violation of their dignity?
 - Can we consider the treatment of the robbers' bodies a violation of dignity? Or does dignity only attach to the living?
 - Was the decision to shoot the robbers a violation of their dignity?
- While the robbers' faces were often visible on social media, some news sites chose to blur their faces. What do you think about the decision to show, or not show, the faces of the dead?
- Over 11,000 comments have been left on the Facebook page of one of the robbers, and their image has been used in a range of mocking memes. Some of the comments include:
 - “You got success, or got cemetery?”
 - “Don't die yet, give me your money, then go die.”
 - “Can you rise up from the death to read Facebook comment, then go die again?”

What do you think about these comments and the motivations of people who made them?

Scenario Two

A traffic policewoman posted a photo of herself on social media breastfeeding her son on the roadside in uniform while at work in Siem Pang district, Stung Treng province. The post said, “no matter what the circumstances, because of the child, I forget about any shame.”

In the following day, she apologized in another post, “I...publicly apologized for posting pictures of breastfeeding at work while wearing a uniform...I do not intend to harm the honour of the police unit or the dignity of Cambodian women. Based on this, units and leaders of all levels please be kind.”

She was reprimanded by Stung Treng Police Commissioner for posting the photo while on duty and had to sign a contract not to do anything affecting the value of women again. The police explained that she has failed to ask permission before posing a photo on social media and “it does not look good.” The chief further claimed that signing the contract only to educate her to do a good job and there would be no punishment. Instead, they advised her to find suitable places for breastfeeding.

Questions:

- What role, if any, is dignity playing in this scenario?
- The Commissioner justified their action using the language of “value of women.” What do you think about this justification?
- Do you think people's behaviour should be limited in order to protect “value of women?” Why/why not?
- Are there certain behaviours that you associate with ‘dignity’?
- Are these different for men and for women?

Appendices

The appendices in this manual contain additional material which may be of use to students in exploring the themes raised in the case studies, or in discussions on human dignity more broadly, and include:

- 1. Excerpts from Case Law**
- 2. Excerpts from Academic Literature**
- 3. References to Human Dignity in Human Rights Law**
- 4. Human Dignity, Human Rights, and Sustainable Development**
- 5. Human Dignity in Cambodian Law and Policies**

Appendix 1. Human Dignity and Human Rights: Excerpts from Case Law

1. International Criminal Law/International Humanitarian Law

A. Human Dignity and the Definition of ‘Other Inhumane Acts’

Case 002/01 ECCC, Co-Prosecutors v Nuon Chea and Khieu Samphan, Judgment, Case No. 002/12-09-2007/ECCC/TC (7 August 2014)

434. As relevant to Case 002/01, the Closing Order charges the Accused with ‘other inhumane acts’ as crimes against humanity, namely enforced disappearances, forced transfer and **attacks against human dignity**.

435. ‘Other inhumane acts’ was established as a crime against humanity under customary international law before 1975 and was thus both accessible and foreseeable to the Accused.

436. The NUON Chea Defence submits that in order to respect the principle of legality, indications that a form of conduct specifically charged in the Closing Order was not considered a crime against humanity at the relevant time precludes criminal responsibility. Contrary to this view, the conduct underlying the crime of ‘other inhumane acts’ need not itself have had the status of a crime against humanity. The Pre-Trial Chamber has previously ruled that ‘other inhumane acts’ is in itself a crime under international law and that it is accordingly unnecessary to establish that each of the sub-categories alleged to fall within the ambit of this offence were criminalised. Rather, the principle of legality attaches to the entire category of ‘other inhumane acts’ and not to each sub-category of this offence. The Trial Chamber agrees with the reasoning of the Pre-Trial Chamber and accordingly rejects the NUON Chea Defence submission.

437. **‘Other inhumane acts’ functions as a residual category, criminalising conduct which meets the criteria of a crime against humanity but does not fit within one of the other specified underlying crimes.** The elements of the crime of ‘other inhumane acts’ are an act or omission of the accused or his subordinate:

- (i) causing serious bodily or mental harm **or constituting a serious attack on human dignity**; and
- (ii) performed deliberately with the intent to inflict serious bodily or mental harm or **commit a serious attack upon the human dignity** of the victim at the time of the act or omission.

438. Acts or omissions must be of a nature and gravity similar to other enumerated crimes against humanity, the severity to be assessed on a case-by-case basis with due regard for the individual circumstances of the case. These may include the nature of the act or omission, the context in which it occurred, the personal circumstances of the victim, as well as the impact of the act upon the victim. The NUON Chea Defence submission that “the failure during the relevant period to characterize or prosecute any particular act as a crime against humanity would tend to establish ... that it was not seen to be of sufficient gravity to rise to the level of an ‘other inhumane act’” ignores the requirement that the severity of particular conduct needs to be assessed on a case-by-case basis with due regard for the individual circumstances of the case. Accordingly, while previous characterisation or prosecution of conduct as a crime against humanity may give a general

indication of the severity, it is not determinative of severity of the conduct in a particular case. The Chamber accordingly rejects this submission.

439. There is no requirement that the suffering have long term effects, although this may be relevant to the determination of the seriousness of the act.

440. It follows that in order to fall within the ambit of ‘other inhumane acts’ as a crime against humanity, the Chamber need only consider whether enforced disappearances, forced transfer and attacks against human dignity are of a similar nature and gravity to the other enumerated offences under the ECCC Law.

B. Interpreting Other Inhumane Acts: Attacks on Human Dignity

Case 002/02, ECCC Co-Prosecutors v Nuon Chea and Khieu Samphan, Judgment, Case No. 002/19-09-2007/ECCC/TC (16 November 2018)

456. As relevant to Case 002/01, the Closing Order alleges **that attacks against human dignity** resulted from depriving the civilian population of adequate food, shelter, medical assistance, and minimum sanitary conditions during phases one and two of the population movements.

457. According to international jurisprudence, deprivations of food, water, adequate shelter and medical assistance and sub-par sanitary conditions in the context of detention constitute an attack upon the human dignity of the detainees, and the offence of cruel treatment as violations of the laws or customs of war under the ICTY Statute. Similar deprivations have been described as cruel and inhumane treatment that can rise to the level of gravity of the other crimes enumerated in Article 5 of the ECCC Law and amount to persecution as a crime against humanity. In the context of genocide, the same deprivations have been considered to evidence conditions of life that would bring about a group’s physical destruction.

458. The Trial Chamber consequently finds that such deprivations may be of similar gravity to the enumerated crimes against humanity and thus may fall within the ambit of ‘other inhumane acts’.

563. At least two million people in Phnom Penh were forcibly evicted from their houses by Khmer Rouge soldiers at gunpoint with almost no prior warning and in terrifying and violent circumstances. They were forced to abandon their houses and property under the ruse that they would return within three days. The majority witnessed beatings, shootings and killings and saw countless dead bodies lying along the roads as they exited Phnom Penh. Some people even slept next to dead bodies.

564. The evacuees’ journeys were marked by the almost complete absence of food, water, medical care, shelter and hygiene facilities for periods ranging from several days to several weeks. Coupled with the peak of the hot season, and duped into believing they would only be gone for several days, many left unprepared and were forced to improvise food and accommodation in the face of a grim situation. In particular, the sick, the injured, the elderly, the pregnant and the young suffered, and countless victims succumbed to the unforgiving conditions throughout the journey. People were also forced to bury their dead children in forests or to abandon their elderly or sick family members by the roadside to a fate of certain death. Further, many people still do not know the fate of those family members who were taken away.

565. The Chamber thus finds that the violent circumstances surrounding the evacuation of the city, the severity of the conditions experienced by the evacuees, intensified by the length of their journeys to their home villages, and their ill treatment by Khmer Rouge soldiers throughout **constituted serious attacks against human dignity and caused the victims serious bodily and mental harm**. Further, in light of the pre-established and systematic nature of the operation, its scale and its ongoing duration, the Chamber is also satisfied these acts were intentional. The Chamber is satisfied that the foregoing acts rise to the level of severity of the other crimes against humanity enumerated in Article 5 of the ECCC Law. **Accordingly, the Chamber finds that Khmer Rouge officials and soldiers committed the crime against humanity of other inhumane acts through attacks against human dignity.**

Case 002/02, ECCC Co-Prosecutors v Nuon Chea and Khieu Samphan, Judgment, Case No. 002/19-09-2007/ECCC/TC (16 November 2018)

733. As relevant to Case 002/02, the Closing Order charges the Accused with the crime against humanity of other inhumane acts **through attacks against human dignity at Tram Kak Cooperatives; Trapeang Thma Dam, 1st January Dam and Kampong Chhnang Airfield Worksites; S-21, Kraing Ta Chan, Au Kanseng and Phnom Kraol Security Centres; and through the treatment of the Cham during the second phase of population transfer.**

734. The Closing Order alleges **that attacks against human dignity resulted from “depriving the civilian population of adequate food, shelter, medical assistance, and minimum sanitary conditions”**. In assessing whether this underlying conduct amounts to other inhumane acts, the Chamber must determine whether such conduct is of similar gravity to the enumerated crimes against humanity, **whether it caused serious mental or physical suffering or injury or constituted a serious attack on human dignity**, and whether it was performed intentionally. Such deprivations may be of similar gravity to the enumerated crimes against humanity, and thus, may fall within the ambit of other inhumane acts. A final assessment on the basis of this conduct is to be made on the facts of the case.

1199. The Chamber finds that **the nature of the conditions in the Tram Kak Cooperatives, in particular the circumstances of forced work in conditions of extreme hunger, fear, with wholly inadequate medical care, constituted serious attacks against human dignity** that were of a nature and gravity similar to other enumerated crimes against humanity. The Chamber is therefore satisfied that the *actus reus* of other inhumane acts is established in light of the continuous subjection of people to serious mental and physical suffering or injury. The Chamber is also satisfied that the *mens rea* of other inhumane acts is established in light of the widespread and repeated nature of this conduct pursuant to the mass irrigation projects being undertaken in Tram Kak district. The Chamber allows for the possibility that other factors may also have contributed to a lack of food and/or medical facilities at times. Notwithstanding this possibility, the Chamber finds that the evaluation of all the evidence before it clearly establishes the existence of intentional attacks against humanity in this case by very deliberately forcing people to work in a climate of control, threats, fear, hunger and discrimination, with the most extreme consequences hanging over individuals should they complain or question the CPK’s policies. **The Chamber therefore finds that the crime against humanity of other inhumane acts through attacks against human dignity is established at the Tram Kak Cooperatives.**

C. Interpreting Other Inhumane Acts: Rape within Forced Marriage

Case 002/02, ECCC Co-Prosecutors v Nuon Chea and Khieu Samphan, Judgment, Case No. 002/19-09-2007/ECCC/TC (16 November 2018)

729. As relevant to Case 002/02, the Closing Order charges the Accused with the crime against humanity of other inhumane acts through conduct characterised as rape in the context of forced marriage. Specifically, it alleges that “by imposing the consummation of forced marriages, the perpetrators committed a physical invasion of a sexual nature against a victim in coercive circumstances in which the consent of the victim was absent” and that “perpetrators intended the physical invasion of a sexual nature, with the knowledge that it occurred in coercive circumstances or otherwise without the consent of the victim”.

730. The Co-Prosecutors submit that the Chamber should adopt a more “inclusive and gender-neutral definition of rape” under which both women and men could be the subject of a “physical invasion” amounting to rape. They submit that “regardless of whether or not it fits prior legal definitions of the crime of rape, forcing any person or couple to engage in sexual relations without their consent is clearly a crime of equal seriousness to other crimes against humanity”. No other parties made any relevant submissions in this regard.

731. The Chamber finds that the definition of rape suggested by the Co-Prosecutors goes beyond the understanding of rape as at 1975, that is the sexual penetration, however slight, of: (a) the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or (b) the mouth of the victim by the penis of the perpetrator; where such sexual penetration occurs without the consent of the victim. The Chamber will apply this definition as a first step in assessing whether rape as an other inhumane act was committed. When the conduct in question is characterised as rape in the context of forced marriage, not all alleged victims of forced marriage would be victims of rape. More specifically, having regard to the definition of rape above, the Chamber finds that men could not be the victims of rape in the context of forced marriage. The Chamber will nonetheless consider whether the conduct may possibly be characterised as another form of sexual violence of such serious gravity that it amounts to other inhumane acts. The Chamber recalls that the only relevant issue for it to assess is whether the conduct in question, in light of all the circumstances of the case at hand, fulfilled the definition of other inhumane acts.

732. In assessing whether underlying conduct of rape amounts to other inhumane acts, the Chamber must determine whether such conduct is of similar gravity to the enumerated crimes against humanity, **whether it caused serious mental or physical suffering or injury or constituted a serious attack on human dignity**, and whether it was performed intentionally. This assessment is to be made on the facts of the case.

3695. As relevant to Case 002/02, the Closing Order charges the Accused with the crime against humanity of other inhumane acts through conduct characterised as rape in the context of forced marriage. Specifically, it alleges that “by imposing the consummation of forced marriages, the perpetrators committed a physical invasion of a sexual nature against a victim in coercive circumstances in which the consent of the victim was absent” and that “perpetrators intended the physical invasion of a sexual nature, with the knowledge that it occurred in coercive circumstances or otherwise without the consent of the victim”.

3696. The Chamber has found that after wedding ceremonies, arrangements were usually made by the local authorities for newly wedded couples to sleep in an assigned location specifically in order

to have sexual intercourse. Militiamen were commonly ordered to monitor the couples at night to make sure that they had sexual intercourse. Both men and women felt compelled to have sexual intercourse with their new spouse. Couples who were found to have not had sexual intercourse were re-educated or threatened with being killed or receiving punishment.

3697. The Chamber finds that in the described circumstances a woman's lack of physical resistance does not indicate consent but a mere appearance of acquiescence due to coercion or coercive circumstances. The Chamber further notes that while the in-court statements were not always necessarily explicit in describing the penetration of the vagina by the penis of the husband, the circumstances such as the pain, the bleeding for a long time thereafter, or the explicit reference to forced penetration allow the Chamber to conclude that such penetration occurred. The Chamber further finds that in view of the establishment of conditions specifically to force the consummation of marriages, the conduct was performed intentionally. The Chamber accordingly finds that this conduct constitutes rape. **The Chamber further finds that this conduct cumulatively caused serious mental and physical suffering or injury and constituted a serious attack on the human dignity of the victims.**

3698. In assessing the gravity of these acts, the Chamber considers in particular the mental and physical suffering inflicted upon those individuals who were raped as part of the requirement that marriage would be consummated, and that such acts were performed intentionally. Considered holistically, the Chamber finds that this conduct is of similar gravity to other enumerated crimes against humanity. The *actus reus* of the crime against humanity of other inhumane acts through conduct characterised as rape in the context of forced marriage is therefore established.

3699. Noting that these acts were conducted in a framework established to force the consummation of marriages, the Chamber finds that such conduct was performed intentionally. The *mens rea* of the crime against humanity of other inhumane acts through conduct characterised as rape in the context of forced marriage is therefore established.

3700. Accordingly, the Chamber finds that the crime against humanity of other inhumane acts was committed through conduct characterised as rape in the context of forced marriage.

3701. The Chamber recalls its finding that, having regard to the definition of rape adopted by the Chamber, men could not be the victims of rape in the context of forced marriage. The Chamber will nonetheless consider whether men were subjected to sexual violence of such gravity that it amounts to other inhumane acts. The Chamber understands sexual violence to entail "any act of a sexual nature which is committed on a person under circumstances that are coercive". The Chamber understands sexual violence to not be limited to physical invasion of the human body and may include acts that do not involve penetration or even physical contact. The Chamber has found that men also could not refuse to consummate marriage. On one occasion, a husband had sexual intercourse with his wife following *Angkar's* instructions and out of fear for the lives of him and his wife. One Civil Party suffered greatly because he was not able to marry his fiancée. **However, in the absence of clear evidence concerning the level of seriousness of this kind of conduct and of its impact on males, the Chamber, while acknowledging that men were subjected to sexual violence that was contrary to human dignity, is unable to reach a finding on the seriousness of the mental and physical suffering suffered by these men.** Accordingly, the Chamber is unable to reach a conclusion to the requisite standard in relation to these incidents and does not consider that they constitute the crime against humanity of other inhumane acts through sexual violence.

D. Interpreting Other Inhumane Acts – Forced Marriage

742. As relevant to Case 002/02, the Closing Order charges the Accused with the crime against humanity of other inhumane acts through conduct characterised as forced marriage nationwide, as well as at the 1st January Dam, Tram Kak Cooperatives, Trapeang Thma Dam and in relation to the treatment of the Buddhists, alleging that victims were forced to enter into conjugal relationships in coercive circumstances. In addition, the Closing Order notes that in “the majority of cases of forced marriage death threats were made, violence was used and people were even executed if they refused to marry”. **Furthermore, the Closing Order notes that the weddings “took place devoid of traditional involvement of the parents” with no respect of traditional rituals, and that marriages were performed at the same time involving between 20 and 60 couples.** The Closing Order further refers to the “imposition of sexual relations aimed at enforced procreation”.

745. The Pre-Trial Chamber of the ICC recognised that forced marriage was not explicitly included within the jurisdiction of the ICC, but considered whether forcing women to serve as conjugal partners constituted an other inhumane act.²²⁶⁸ The Pre-Trial Chamber found that the “**central element of forced marriage is the imposition of ‘marriage’ on the victim, i.e. the imposition, regardless of the will of the victim, of duties that are associated with marriage [...] with the consequent social stigma**”. It further found that the “element of exclusivity of this forced conjugal union imposed on the victim is the characteristic aspect of forced marriage” and that the victims of forced marriage “suffer separate and additional harm to those of the crime of sexual slavery”. The Pre-Trial Chamber held that **forced marriage “violates the independently recognised basic right to consensually marry and establish a family”**.

746. In assessing whether underlying conduct of forced marriage amounts to other inhumane acts, the Chamber must determine whether such conduct is of similar gravity to the enumerated crimes against humanity, whether it caused serious mental or physical suffering or injury or **constituted a serious attack on human dignity**, and whether it was performed intentionally. This assessment is to be made on the facts of the case.

3686. The Closing Order charges the following acts as the crime against humanity of other inhumane acts through conduct characterised as forced marriage: victims were forced to enter into conjugal relationships in coercive circumstances; in “the majority of cases of forced marriage death threats were made, violence was used and people were even executed if they refused to marry”; weddings “took place devoid of traditional involvement of the parents” with no respect of traditional rituals. Marriages were performed at the same time involving between 20 and 60 couples; and sexual relations aimed at enforced procreation were imposed.

3687. The KHIEU Samphan Defence submits that traditional Cambodian marriage does not correspond to the Western concept of marriage. It contends that the traditional Cambodian arranged marriage was an agreement between two families and that neither the sentiment of love nor the consensus of the future husband and wife played a central role. It submits that the final decision on marriage rested with the parents, with the future husband and wife mostly removed from negotiations and arrangements related to a wedding and unable to refuse to marry due to social pressure. The NUON Chea Defence similarly submits that pre-DK marriages were always arranged by parents, with the opinion of the future spouses seldom being sought, and that opposing the parents’ decision would often be unthinkable. It contends that by charging the Accused with forced marriage and rape in the context of forced marriage, the Closing Order and the Co-Prosecutors are effectively putting the entire practice of arranged marriage on trial. The Civil Party Lead Co-Lawyers submit that there is a distinction between arranged marriage and forced marriage. In a traditional arranged marriage, future spouses express their consent by

delegating decision-making to their parents. However, if the marriage takes place even after one of the spouses refuses the arrangement, it is a forced marriage. The Co-Prosecutors make no submission in relation to the distinctions or similarities of arranged and forced marriage.

3688. The Chamber finds that, contrary to the Defence teams' submissions, arranged marriage in Cambodian culture is very different from forced marriage in the DK regime as charged in the Closing Order. Arranged marriage in Cambodian culture pre-DK regime was based on a mutual trust between parents and children. As Expert Kasumi NAKAGAWA described, parents were obliged to find the best option for the future of their children so that they would have a happy married life. In return, children trusted that their parents would make the best possible decision for them, and their agreement demonstrated respect and gratitude to their parents. The Chamber accepts the position of both Defence teams that weddings in the Cambodian culture do not correspond to the Western concept of marriage. In western culture, consent is given on the basis of an assessment and consequent choice of a partner made by the individual. In traditional Khmer culture, the making of this assessment and choice is delegated by the children to their parents on the basis of trust. Generally, arranged marriages do not include an element of force. There is no evidence that this delegation based on trust and the existence of a functional, caring family system was voluntarily transferred to the Party (*Angkar*) in DK. Finally, to what extent and how often social pressure in traditional marriages impacted the ability to freely consent is not of relevance for the facts charged in these proceedings. The evidence set out in this section clearly demonstrates a practice during the DK regime that was far from reflective of traditional Khmer wedding tradition: families of future spouses were not involved at all in the negotiation, communities were not involved, tradition was absent from wedding ceremonies and individuals agreed to get married for fear of being punished by the Party.

3689. Further, CPK policy deemed that *Angkar* could replace parents or should be put above them, however the CPK implemented measures notably aimed at discriminating against real or perceived political enemies, at forcibly moving city dwellers from their hometowns, at imposing upon a large number of people work in extremely harsh conditions on various construction sites and in cooperatives. It is hardly conceivable that all these revolutionary measures could, somehow, be compared with parents' behaviour toward their children in traditional Khmer society. **It is even harder to merely imagine that children of families the victims of severe discrimination and mistreatment could trust or agree in any manner to decisions concerning the core of their privacy and dignity, as these decisions were made by those seen as being responsible for deciding such policy and for implementing such measures.** The arguments of the Defence teams in this regard are therefore rejected.

3690. The Chamber has found that DK authorities arranged marriages throughout the DK period and in numerous geographical locations throughout the territory of Cambodia. Individuals were married in a widespread climate of fear and the consent purportedly given either before or during wedding ceremonies did not amount in most cases to genuine consent. Individuals were instructed to follow *Angkar's* instructions to get married and produce children, and there were instances where individuals were threatened with being killed if they refused to marry. Both men and women were forced to marry during the DK regime throughout the territory.

3691. In the majority of cases, during the wedding ceremony parents of individuals were not involved, traditional rituals were abandoned, and many couples were married at the same time. The Chamber has found that with the exception of favoured individuals, individuals were neither consulted nor informed in advance of their marriage – in many instances, they did not even know their spouse until the moment they arrived at the wedding venue. After marriage ceremonies, individuals were subjected to monitoring particularly aimed at establishing whether they had

consummated the marriage. This pressure caused fear and led victims to feel that they were obliged to have sexual intercourse. **The Chamber finds that the foregoing conduct, characterised in the Closing Order as forced marriage, cumulatively caused serious mental or physical suffering or injury or constituted a serious attack on the human dignity of the victims.**

3692. In assessing the gravity of these acts, the Chamber considers the mental and physical suffering inflicted upon individuals through the threats of forcing them to marry, the fact that they had to marry someone that they did not know, the fear instilled to pressure them to consummate the marriage and that the conduct was performed intentionally. The severity of the mental suffering caused by being forced to marry in a coercive environment caused serious mental harm with lasting effects on the victims. Considered holistically, the Chamber finds that this conduct is of similar gravity as other enumerated crimes against humanity. The *actus reus* of the crime against humanity of other inhumane acts through conduct characterised as forced marriage is therefore established.

3693. In assessing the intent of the authorities to engage in the above conduct, the Chamber has found that instructions on the regulation of marriage originated from the upper level. The lower level was involved in the matching of couples, for which authorisation was required from the upper level (district, sector or ministry level, depending on the spouse's rank). Authorities used threats to force individuals to marry and were involved in wedding ceremonies and in implementing the monitoring process. The Chamber finds on this basis that this conduct was performed intentionally by the authorities. The *mens rea* of the crime against humanity of other inhumane acts through conduct characterised as forced marriage is therefore established.

3694. Accordingly, the Chamber finds that the crime against humanity of other inhumane acts was committed nationwide through conduct characterised as forced marriage.

E. Human Dignity and Grave Breaches of the Geneva Conventions: Inhumane Treatment

Case 001 ECCC, Co-Prosecutors v Kaing (Geuk Eav) alias 'Duch' Judgment, Case No 001/18-07-2007/ECCC/TC, Doc No F28, Doc No E188 (26 July 2010)

440. Inhumane treatment is defined by ICTY jurisprudence as an intentional act or omission against a person protected under the Geneva Conventions, **which causes serious mental harm or physical suffering or injury, or constitutes a serious attack on human dignity.**

441. The ICRC Commentary to Geneva Convention IV provides assistance in interpreting the offence: [Inhuman treatment] could not mean, it seems, solely treatment constituting an attack on physical integrity or health; **the aim of the Convention is certainly to grant civilians in enemy hands a protection which will preserve their human dignity** and prevent them from being brought down to the level of animals. That leads to the conclusion that by 'inhuman treatment' the Convention does not mean only physical injury or injury to health. Certain measures, for example, which might cut the civilians internees off completely from the outside world and in particular from their families, **or which caused great injury to their human dignity**, could conceivably be considered as inhuman treatment.

442. Acts which constitute torture or wilfully causing great suffering or serious injury to body or health will simultaneously constitute inhumane treatment. **The offence extends also to encompass other acts which violate the principle of humane treatment, in particular the**

respect for human dignity. This assessment is a question of fact which must take into account all of the circumstances of the individual case.⁷⁹² Acts such as mutilation and other types of severe bodily harm, beatings and other acts of violence,⁷⁹³ and serious physical and mental injury⁷⁹⁴ have been considered as inhumane.

443. Inhumane treatment differs from torture in that it need not be undertaken for any particular purpose. The ICTY has found that inhumane treatment includes an act causing serious mental or physical suffering which does not reach the threshold of severity required for the offence of torture.⁷⁹⁵

444. The perpetrator must have committed the act or omission with the intention to inflict serious physical or mental suffering **or to commit a serious attack on the human dignity of the victim, or with recklessness as to whether suffering or an attack on human dignity would result.**

445. The Amended Closing Order states:

149. S21 personnel wilfully caused severe pain or suffering, whether physical or mental, to protected persons during interrogation. The purpose of using such methods within the course of the interrogation was to extract confessions aimed at obtaining military information and supporting CPK propaganda.

150. S21 personnel wilfully caused serious mental harm or physical suffering or injury, or submitted them to conditions **which amounted to a serious attack upon the human dignity of the prisoners at S21.**

449. **Some treatment inflicted on protected persons not reaching the severity threshold of torture or great suffering, nonetheless amounted to violations of human dignity,** as evidenced by the general conditions of detention and the numerous methods used to obtain forced confessions of Vietnamese detainees. **The Chamber is satisfied that protected persons were subjected to a serious attack on their human dignity.** The Chamber further finds that this treatment was intentional or recklessly inflicted by S-21 staff.

F. Human Dignity, Restoration and Reparation at the ECCC

Case 001 ECCC, Co-Prosecutors v Kaing (Geuk Eav) alias ‘Duch’ Judgment, Case No 001/18-07-2007/ECCC/TC, Doc No F28, Doc No E188 (26 July 2010)

663. Further, the competence of the ECCC is distinct from that of certain regional human rights courts, which are instead empowered to adjudicate questions of State responsibility and to order States to make reparation to their citizens where found responsible for gross violations of international human rights law. The Chamber has no jurisdiction over Cambodian or other national authorities or international bodies. Nor can it properly impose obligations on or grant rights to persons or entities that were not parties to the proceedings before it. **At most, the Chamber can merely encourage national authorities, the international community and other potential donors to show solidarity with the victims by providing financial and other forms of support that contributes to their rehabilitation, reintegration, and restoration of dignity.**

Case 002/01 ECCC, Co-Prosecutors v Nuon Chea and Khieu Samphan, Judgment, Case No. 002/12-09-2007/ECCC/TC (7 August 2014)

1114. Internal Rule 23*quinqüies*(1) provides that in the event an Accused is convicted, the Chamber may award only collective and moral reparations to Civil Parties. Collective and moral reparations for the purpose of these Rules are measures that:

- a) acknowledge the harm suffered by Civil Parties as a result of the commission of the crimes for which an Accused is convicted and
- b) provide benefits to the Civil Parties which address this harm.

1115. Internal Rule 23*quinqüies*(1) expressly states that these benefits shall not take the form of monetary payments to Civil Parties. The Supreme Court Chamber has interpreted the term “moral” to mean repairing moral damages rather than material ones, and “collective” as confirming the unavailability of individual financial awards.

1116. The redress available before the ECCC differs from that available under a number of international treaties and other instruments, or before certain regional human rights courts, which are instead empowered to adjudicate questions of State responsibility and to order States to make reparation to their citizens were found responsible for gross violations of international human rights law. The Chamber has no jurisdiction to order the implementation or the payment of reparation measures against Cambodian or other national authorities or international bodies. Nor can it properly impose obligations on persons or entities that were not parties to the proceedings before it. However, the adoption of Internal Rule 23*quinqüies*(3)(b) has enabled the Chamber to recognize that specific projects give appropriate effect to an award sought on the behalf of the consolidated group of Civil Parties **to contribute to their rehabilitation, reintegration and restoration of dignity where national or international authorities, non-governmental organisations or other potential donors, provide financial support and other forms of assistance to show solidarity with the victims of Khmer Rouge era crime.**

2 International Human Rights Law

A. Punishment by 'Birching'

Case: Tyrer v UK (ECtHR)

32. As regards the manner and method of execution of the birching inflicted on Mr. Tyrer, the Attorney-General for the Isle of Man drew particular attention to the fact that the punishment was carried out in private and without publication of the name of the offender. Publicity may be a relevant factor in assessing whether a punishment is "degrading" within the meaning of Article 3 (art. 3), but the Court does not consider that absence of publicity will necessarily prevent a given punishment from falling into that category: it may well suffice that the victim is humiliated in his own eyes, even if not in the eyes of others. The Court notes that the relevant Isle of Man legislation, as well as giving the offender a right of appeal against sentence, provides for certain safeguards. Thus, there is a prior medical examination; the number of strokes and dimensions of the birch are regulated in detail; a doctor is present and may order the punishment to be stopped; in the case of a child or young person, the parent may attend if he so desires; the birching is carried out by a police constable in the presence of a more senior colleague.

33. Nevertheless, the Court must consider whether the other circumstances of the applicant's punishment were such as to make it "degrading" within the meaning of Article 3 (art. 3). The very nature of judicial corporal punishment is that it involves one human being inflicting physical violence on another human being. Furthermore, it is institutionalised violence that is in the present case violence permitted by the law, ordered by the judicial authorities of the State and carried out by the police authorities of the State (see paragraph 10 above). **Thus, although the applicant did not suffer any severe or long-lasting physical effects, his punishment - whereby he was treated as an object in the power of the authorities - constituted an assault on precisely that which it is one of the main purposes of Article 3 (art. 3) to protect, namely a person's dignity and physical integrity. Neither can it be excluded that the punishment may have had adverse psychological effects.** The institutionalised character of this violence is further compounded by the whole aura of official procedure attending the punishment and by the fact that those inflicting it were total strangers to the offender. Admittedly, the relevant legislation provides that in any event birching shall not take place later than six months after the passing of sentence. However, this does not alter the fact that there had been an interval of several weeks since the applicant's conviction by the juvenile court and a considerable delay in the police station where the punishment was carried out. Accordingly, in addition to the physical pain he experienced, Mr. Tyrer was subjected to the mental anguish of anticipating the violence he was to have inflicted on him.

34. In the present case, the Court does not consider it relevant that the sentence of judicial corporal punishment was imposed on the applicant for an offence of violence. Neither does it consider it relevant that, for Mr. Tyrer, birching was an alternative to a period of detention: the fact that one penalty may be preferable to, or have less adverse effects or be less serious than, another penalty does not of itself mean that the first penalty is not "degrading" within the meaning of Article 3 (art. 3).

35. Accordingly, viewing these circumstances as a whole, the Court finds that the applicant was subjected to a punishment in which the element of humiliation attained the level inherent in the notion of "degrading punishment" as explained at paragraph 30 above. **The indignity of having the punishment administered over the bare posterior aggravated to some extent the**

degrading character of the applicant's punishment but it was not the only or determining factor. The Court therefore concludes that the judicial corporal punishment inflicted on the applicant amounted to degrading punishment within the meaning of Article 3 (art. 3) of the Convention.⁷

B. Unlawful Detention

Case: Huri-Laws v Nigeria (African Commission on Human and Peoples' Rights)

40. The Complainant alleges a violation of article 5 of the Charter with respect to Mr. Ogaga Ifowodo only. Article 5 states:

Every individual shall have *the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.*

It is alleged that Mr. Ogaga Ifowodo was detained in a sordid and dirty cell under inhuman and degrading conditions. Also that being detained arbitrarily, not knowing the reason or duration of detention, is itself a mental trauma. Moreover, added to this deprivation of contact with the outside world and health threatening conditions, it amounts to cruel, inhuman and degrading treatment.

Principle 1 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides:

All persons under any form of detention or imprisonment shall be treated in a humane manner and *with respect for the inherent dignity of the human person.*

Further, Principle 6 states:

No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

It is worth noting that the term 'cruel, inhuman or degrading treatment or punishment' is to be interpreted so as to extend to the widest possible protection against abuses, whether physical or mental (See UN Body of Principles).

41. The prohibition of torture, cruel, inhuman or degrading treatment or punishment is absolute. However, as observed by the European Court of Human Rights in *Ireland v. United Kingdom* when called upon to decide on similar provision of the European Convention on Human Rights "...the treatment prohibited under Article 3 of the Convention is that which attains a minimum level of severity and...the assessment of this minimum is, in the nature of things, relative.... It depends on all the circumstances of the case, such as the duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim etc." (Judgement of 18th January 1987, series A no. 25 para. 162; see also the European Commission on Human Rights decision in **Jose Antonio URRUTIKOETXEA v. France**, Decision of 5th December 1996, p. 157). The treatment meted out to the victim in this case constitutes a breach of the provision of Article 5 of the Charter and the relevant international human rights instruments cited above. Also the denial of medical attention under health threatening conditions and access with the outside world do not fall into the province of **the respect of the dignity inherent in a human**

being and to the recognition of his legal status', nor is it in line with the requirement of Principles 1 and 6 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. This, therefore, is a breach of article 5 of the Charter.

C. Social Assistance to Ensure Dignified Conditions

Case C-709/20, CG v The Department for Communities in Northern Ireland (15 July 2021) **ECLI:EU:C:2021:602**

68. As regards, in the second place, the nature of the social benefits at issue in the main proceedings, it must be stated that 'social assistance', within the meaning of Article 24(2) of Directive 2004/38, refers to all assistance schemes established by the public authorities, whether at national, regional or local level, to which recourse may be had by an individual who does not have sufficient resources to meet his or her own basic needs and those of his or her family and who by reason of that fact may, during his or her period of residence, become a burden on the public finances of the host Member State which could have consequences for the overall level of assistance which may be granted by that State (judgment of 11 November 2014, *Dano*, C-333/13, EU:C:2014:2358, paragraph 63 and the case-law cited).

69. **Thus, subsistence benefits, which are intended to ensure that their recipients have the minimum means of subsistence necessary to lead a life in keeping with human dignity,** must be held to be 'social assistance', within the meaning of Article 24(2) of Directive 2004/38 (see, to that effect, judgment of 6 October 2020, *Jobcenter Krefeld*, C-181/19, EU:C:2020:794, paragraph 57 and the case-law cited)

89. In particular, it is for the host Member State, **in accordance with Article 1 of the Charter,** to ensure that a Union citizen who has made use of his or her freedom to move and to reside within the territory of the Member States, who has a right of residence on the basis of national law, and who is in a vulnerable situation, **may nevertheless live in dignified conditions.**

90. Furthermore, **Article 7 of the Charter recognises the right to respect for private and family life.** That article must be read in conjunction with the obligation to take into consideration, in all acts relating to children, **the best interests of the child,** which are recognised in Article 24(2) thereof (see, to that effect, judgment of 26 March 2019, *SM (Child placed under Algerian kafala)*, C-129/18, EU:C:2019:248, paragraph 67 and the case-law cited).

91. **The host Member State is required to permit children, who are particularly vulnerable, to stay in dignified conditions with the parent or parents responsible for them.**

92. In the present case, it is apparent from the order for reference that CG is a mother of two young children, with no resources to provide for her own and her children's needs, who is isolated on account of having fled a violent partner. **In such a situation, the competent national authorities may refuse an application for social assistance, such as Universal Credit, only after ascertaining that that refusal does not expose the citizen concerned and the children for which he or she is responsible to an actual and current risk of violation of their fundamental rights, as enshrined in Articles 1, 7 and 24 of the Charter.** In the context of that examination, those authorities may take into account all means of assistance provided for by national law, from which the citizen concerned and his or her children may actually and currently benefit. In the dispute in the main proceedings, it will be for the referring court, in particular, to ascertain whether CG and her children may benefit actually and currently from the assistance, other than Universal Credit, referred to by the representatives of the United Kingdom Government and

the Department for Communities in Northern Ireland in their observations submitted to the Court.

93. However, provided that a Union citizen resides legally, on the basis of national law, in the territory of a Member State other than that of which he or she is a national, **the national authorities empowered to grant social assistance are required to check that a refusal to grant such benefits based on that legislation does not expose that citizen, and the children for which he or she is responsible, to an actual and current risk of violation of their fundamental rights, as enshrined in Articles 1, 7 and 24 of the Charter. Where that citizen does not have any resources to provide for his or her own needs and those of his or her children and is isolated, those authorities must ensure that, in the event of a refusal to grant social assistance, that citizen may nevertheless live with his or her children in dignified conditions.** In the context of that examination, those authorities may take into account all means of assistance provided for by national law, from which the citizen concerned and her children are actually entitled to benefit.

Appendix 2: Dignity and Human Rights: Excerpts from Literature

A. The Meaning of Human Dignity

‘[T]he problem with ‘human dignity’ is not that it is an empty signifier; rather, it is because it is packed with different (often clashing) meanings that it is difficult to handle.’ (page 437)

Christopher McCrudden, ‘Human Dignity’ in Christine Binder and others, Elgar Encyclopedia of Human Rights (Edward Elgar, 2022)

‘Whether dignity is used as a principle with specific content, or as a right, or as an obligation, or as a justification, particular values seem particularly closely related to the judicial interpretation of the core idea of dignity. Sometimes dignity is viewed as particularly associated with individual autonomy where, for example, a woman’s freedom to have an abortion is upheld on the basis of dignity. Sometimes dignity is viewed as particularly associated with freedom from humiliation as, for example, where restrictions are placed on the publication of information or data that would lead to a person being pilloried. Sometimes dignity is seen as particularly associated with protecting individuals from severe physical or mental torment inflicted by the authorities, thus prohibiting torture and other forms of inhuman or degrading treatment. Sometimes dignity is seen as particularly associated with protection from discrimination.’

Christopher McCrudden, ‘Human Dignity and Judicial Interpretation of Human Rights’ (2008) 19(4) European Journal of International Law 655-724, 685.

B. Human Dignity in ECCC Jurisprudence

Rape in the Context of Forced Marriage

As noted above, the Trial Chamber found that men and women had been required to consummate their marriages shortly after the wedding ceremony. However, in the Trial Chamber’s view, only the women’s experiences of forced sexual intercourse were sufficiently grave to constitute ‘other inhumane acts’ (para 3701). This was a missed opportunity to recognise the gravity of a type of sexual violence that men seem to experience disproportionately – namely, being forced to rape a third party.’ (footnote) Nonetheless, it was open to the Trial Chamber to regard the conduct of forcing men to have sexual relations as sufficiently grave to constitute ‘other inhumane acts’, taking into account...the Trial Chamber’s own observations that the sexual abuse of men was “contrary to human dignity” (page 477, referring to para 3701)

‘Yet there is some hope that this pattern of sidelining male experiences of sexual violence might still be rectified in Case 002/02. In their appeal against the trial judgment, the Co-Prosecutors have challenged the finding that forcing men to consummate marriages is not sufficiently grave to constitute an ‘inhumane act’ (ECCC 2019e). They contend that the Trial Chamber erred in law by requiring proof that the relevant act caused serious mental or physical suffering when there was an alternative actus reus available – namely, that the act constituted a serious attack on human dignity.’ (page 478)

Rosemary Grey, ‘Seen and unseen: sexual and gender-based crimes in the Khmer Rouge Tribunals’ Case 002/02 judgment’ (2020) 25(3) Australian Journal of Human Rights 466-487

C. Human Dignity in the European Court of Human Rights

Corporal Punishment - Tyrer v United Kingdom

‘Although the applicant suffered no severe or long-term physical effect, his punishment involved being treated as an object in the power of the authorities which constituted an assault on precisely that which it is one of the main purposes of Article 3 to protect, namely, a person’s dignity and physical integrity. Circular reasoning of this kind is rare indeed. All penal punishments involve the subject in being treated as an object in the power of the authorities. Why is this one peculiarly vulnerable to attack under Article 3? According to the Court, it is because it constituted an assault on precisely that which Article 3 seeks to protect, but what does Article 3 seek to protect? This, of course, is the question on which the whole case turns. We learn that it is a person’s dignity and physical integrity. But what do these terms mean? Is a diminution of one’s dignity automatically degrading? Is not imprisonment just as much an assault on one’s dignity? How does it add significantly which attends any punishment? And even if a person’s physical integrity is undermined by birching, does that automatically make it a degrading punishment? If it does, why?’

‘While critical of the Court’s reasoning in the judgment, Zelic asserts that, ‘a properly-reasoned, judicial case against birching could perhaps be formulated:... [t]o do so, it is necessary first to make clear what is understood by “degrading” in this context, which the Court never does. It is suggested that to be degrading the punishment must be inescapably humiliating and debasing beyond the normal limits of punishment, such that it reduces the essential humanity and dignity of the victim, leaving him with a feeling not simply that he has suffered discomfort or inconvenience or worse, as a result of wrongdoing, but that he has been reduced in status and subjected to an indignity incompatible with the status of man.’

Graham Zelic, ‘Corporal Punishment in the Isle of Man’ (1978) 27(3) International and Comparative Law Quarterly 665 – 671, 667, 669.

Human Dignity the ECtHR’s Case Law

‘[W]ithin the European Convention on Human Rights system, human dignity does play a role: not in the treaty text, but in the practice of the Court’s jurisprudence, its case-law. To date (a search I did in the case-law database halfway October 2016) 876 cases include a reference to human dignity. Sometimes because a victim of a human rights violation mentions or invokes it, but very often because the European Court itself uses it. In a case about transsexuals ([Christine Goodwin v the UK](#)) the Court even found “human dignity and human freedom” to be the “very essence” of the Convention (para. 90).’

‘[I]s quite visible that **the Court refers to dignity by far the most when it concerns so-called core rights as defined by the Court: Articles 2, 3, and 4 of the Convention – these are respectively the right to life, the prohibition of torture and inhuman and degrading treatment, and finally the prohibition of slavery and servitude.** Article 3 specifically is very often applied in the context of human dignity reasoning, from the acceptability of prison conditions to certain forms of punishment. The three roles that human rights can take may help to explain this. Considering human rights as norms, many of these core rights are considered to be absolute and thus not warranting exceptions or tinkering by states (although the right to life has some exceptions). If one looks at human rights as tools, these core rights are seen as essential means for the exercise of other human rights. In addition, applicants before the European Court

may invoke the human dignity argument to support their claim and give it more moral or even legal weight: human dignity is then used discursively, as a way to frame a claim.’

Antonie Buyse, ‘The Role of Human Dignity in ECtHR Case-Law’ (ECHR Blog, 21 October 2016)
<https://www.echrblog.com/2016/10/the-role-of-human-dignity-in-echr-case.html>

Appendix 3: Human Dignity and Human Rights: References to Human Dignity in International Human Rights Law

1. Universal Declaration on Human Rights

(Adopted 10 December 1948) UNGA Res 217 A(III)

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

2. International Covenant on Civil and Political Rights

(Adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171

Preamble

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, **recognition of the inherent dignity and** of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Recognizing that these rights derive from the inherent dignity of the human person.

Article 10(1)

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

3. International Covenant on Economic, Social and Cultural Rights

(Adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3

Preamble

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Recognizing that these rights derive from the inherent dignity of the human person.

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

4. United Nations Convention on the Rights of the Child

(Adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3

Preamble

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity.

Article 23 (1)

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

Article 28(2)

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

Article 37 (c)

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40(1)

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

5. Convention on the Rights of Persons with Disabilities

Adopted 13 December 2006, entered into force 3 May 2008 2515 UNTS 3

Preamble

(a) Recalling the principles proclaimed in the Charter of the United Nations which recognize the inherent dignity and worth and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world,

(h) Recognizing also that discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person,

(y) Convinced that a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries.

Article 1

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

Article 3 - General Principles

The principles of the present Convention shall be:

- a. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- b. Non-discrimination;
- c. Full and effective participation and inclusion in society;
- d. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- e. Equality of opportunity;
- f. Accessibility;
- g. Equality between men and women;
- h. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Article 8 - Awareness Raising

1. States Parties undertake to adopt immediate, effective and appropriate measures:

- a. To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;

Article 16(4) - Freedom from Exploitation, Violence and Abuse

4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.

Article 24(1)(a) - Education

States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life-long learning directed to:

- a. The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;

Article 25(d) - Health

d. Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;

6. Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Adopted 18 December 1990, entered into force 1 July 2003

Article 17

1. Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and for their cultural identity.

Article 70

States Parties shall take measures not less favourable than those applied to nationals to ensure that working and living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity.

7. Convention on the Elimination of All Forms of Discrimination against Women

Adopted 18 December 1979, entered into force 3 September 1981

Preamble

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

8. ASEAN Human Rights Declaration

Adopted 18 November 2012

Article 1

All persons are born free and equal in dignity and rights. They are endowed with reason and conscience and should act toward one another in a spirit of humanity.

Article 30(1)

Every person shall have the right to social security, including social insurance where available, which assists him or her to secure the means for a dignified and decent existence.

Article 31(3)

Education shall be directed to the full development of the human personality and the sense of his or her dignity. Education shall strengthen the respect for human rights and fundamental freedoms

in ASEAN Member States. Furthermore, education shall enable all persons to participate effectively in their respective societies, promote understanding, tolerance and friendship among all nations, racial and religious groups, and enhance the activities of ASEAN for the maintenance of peace.

9. African Charter on Human and Peoples' Rights

Adopted 27 June 1981, entered into force 21 October 1986

Preamble

Considering the Charter of the Organization of African Unity, which stipulates that “freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples”;

Conscious of their duty to achieve the total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence, and undertaking to eliminate colonialism, neo-colonialism, apartheid, zionism and to dismantle aggressive foreign military bases and all forms of discrimination, particularly those based on race, ethnic group, colour, sex, language, religion or political opinions;

Article 5

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

10. Arab Charter of Human Rights

Adopted 23 May 2004

Preamble

Given the Arab nation's belief in human dignity since God honoured it by making the Arab World the cradle of religions and the birthplace of civilizations which confirmed its right to a life of dignity based on freedom, justice and peace,

Part I

Article 1

(a) All peoples have the right of self-determination and control over their natural wealth and resources and, accordingly, have the right to freely determine the form of their political structure and to freely pursue their economic, social and cultural development.

(b) Racism, zionism, occupation and foreign domination pose a challenge to human dignity and constitute a fundamental obstacle to the realization of the basic rights of peoples. There is a need to condemn and endeavour to eliminate all such practices.

11. American Convention on Human Rights

Adopted 22 November 1969 enter into force 18 July 1978

Article 5. Right to Humane Treatment

1. Every person has the right to have his physical, mental, and moral integrity respected.
2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.

Article 6. Freedom from Slavery

1. No one shall be subject to slavery or to involuntary servitude, which are prohibited in all their forms, as are the slave trade and traffic in women.
2. No one shall be required to perform forced or compulsory labour. This provision shall not be interpreted to mean that, in those countries in which the penalty established for certain crimes is deprivation of liberty at forced labour, the carrying out of such a sentence imposed by a competent court is prohibited. Forced labour shall not adversely affect the dignity or the physical or intellectual capacity of the prisoner.

Article 11. Right to Privacy

1. Everyone has the right to have his honour respected and his dignity recognized.
2. No one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honour or reputation.
3. Everyone has the right to the protection of the law against such interference or attacks.

12. Charter of Fundamental Human Rights of the European Union

Adopted 26 October 2012

Preamble

Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice

TITLE I DIGNITY

Article 1 Human dignity

Human dignity is inviolable. It must be respected and protected.

Article 25 The rights of the elderly

The Union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.

Article 31 Fair and just working conditions

1. Every worker has the right to working conditions which respect his or her health, safety and dignity.
2. Every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave.

Appendix 4: Human Dignity, Human Rights and Sustainable Development

1. UNGA Res 70/1 Transforming our World: The 2030 Agenda for Sustainable Development (2015)

Preamble: We are determined to end poverty and hunger, in all their forms and dimensions, and to ensure that all human beings can fulfil their potential in dignity and equality and in a healthy environment.

Para 4: As we embark on this great collective journey, we pledge that no one will be left behind. Recognizing that the dignity of the human person is fundamental, we wish to see the Goals and targets met for all nations and peoples and for all segments of society. And we will endeavour to reach the furthest behind first.

Para 8: We envisage a world of universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination; of respect for race, ethnicity and cultural diversity; and of equal opportunity permitting the full realization of human potential and contributing to shared prosperity. A world which invests in its children and in which every child grows up free from violence and exploitation. A world in which every woman and girl enjoys full gender equality and all legal, social and economic barriers to their empowerment have been removed. A just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met.

Para 14: We are meeting at a time of immense challenges to sustainable development. Billions of our citizens continue to live in poverty and are denied a life of dignity. There are rising inequalities within and among countries. There are enormous disparities of opportunity, wealth and power. Gender inequality remains a key challenge. Unemployment, particularly youth unemployment, is a major concern. Global health threats, more frequent and intense natural disasters, spiralling conflict, violent extremism, terrorism and related humanitarian crises and forced displacement of people threaten to reverse much of the development progress made in recent decades. Natural resource depletion and adverse impacts of environmental degradation, including desertification, drought, land degradation, freshwater scarcity and loss of biodiversity, add to and exacerbate the list of challenges which humanity faces. Climate change is one of the greatest challenges of our time and its adverse impacts undermine the ability of all countries to achieve sustainable development. Increases in global temperature, sea level rise, ocean acidification and other climate change impacts are seriously affecting coastal areas and low-lying coastal countries, including many least developed countries and small island developing States. The survival of many societies, and of the biological support systems of the planet, is at risk.

2. United Nations Economic and Social Council (ECOSOC), 'Inclusive and resilient recovery from COVID-19 for sustainable livelihoods, well-being and dignity for all: eradicating poverty and hunger in all its forms and dimensions to achieve the 2030 Agenda (10 February 2022)

Para 3: *Reaffirms* the commitment to implementing the 2030 Agenda for Sustainable Development for all by ensuring that no one would be left behind and reaching the furthest behind first, and by recognizing human rights and that the dignity of the human person is fundamental.

Para 7: *Encourages* Member States to promote affordable and equitable access to basic services, in particular quality formal and non-formal education, at all levels, including programmes that promote equality and inclusion through the affirmation of the fundamental dignity of the human person, and health-care services, including through the acceleration of the transition towards equitable access to universal health coverage, as well as access to affordable housing, nutrition and food, and access to employment and decent work, information and communications technology and infrastructure, through advancing gender equality and the empowerment of all women and girls;

Para 48: *Invites* the United Nations system to continue to support Member States, upon their request, in their pursuit of inclusive and resilient recovery from the COVID-19 pandemic for sustainable livelihoods, well-being and dignity for all, and facilitate international cooperation to end hunger and eradicate poverty in all its forms and dimensions, with the aim of achieving the 2030 Agenda for Sustainable Development for the common future of present and coming generations.

3. Conference of States Parties to the Convention on the Rights of Persons with Disabilities, ‘Economic Empowerment and Entrepreneurship of Persons with Disabilities’ (22 March 2022)

Para 4: The economic empowerment of persons with disabilities is achieved through decent work, in the form of employment, self-employment or entrepreneurship. Economic empowerment is the ability of persons with disabilities to bring about change and contribute to society as a result of increased economic capabilities and agency by participating in the labour markets on equal terms with others. It allows persons with disabilities to live life in dignity with respect to their rights at work and beyond.

4. UN Human Rights Council, ‘Guidelines for the Implementation of the Right to Adequate Housing – Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context’ (26 December 2019)

Para 12: The right to adequate housing has been recognized as a fundamental human right because it is integral to core human rights values such as dignity, equality, inclusion, wellbeing, security of the person and public participation.

Para 15: As clarified by the Committee on Economic, Social and Cultural Rights, the right to adequate housing should not be interpreted narrowly, as a right to mere physical shelter or to housing conceived as a commodity. Rather, the right to housing must be understood in relation to the inherent dignity of the human person.

Para 16(b): The right to housing should be defined as the right to live in a home in peace, security and dignity, and include security of tenure, availability of services, affordability, habitability, accessibility, appropriate location and cultural adequacy.

Para 20: The right to meaningful and effective participation is a core element of the right to housing and critical to dignity, the exercise of agency, autonomy and self-determination.

Para 30: Homelessness is a profound assault on dignity, social inclusion and the right to life. It is a prima facie violation of the right to housing and violates a number of other human rights in

addition to the right to life, including non-discrimination, health, water and sanitation, security of the person and freedom from cruel, degrading and inhuman treatment.

Para 33(d): States should provide, within their justice system, alternative procedures for dealing with minor offences of homeless people to help them break the cycle of criminalization, incarceration and homelessness and secure the right to housing. Police should be trained to interact with homeless persons in a manner that respects and promotes their dignity and rights.

Para 38(b): National laws governing evictions must be compliant with human rights norms, including the principle of respect for human dignity and the general principles of reasonableness, proportionality and due process, and should equally apply to those living in homeless encampments. Access to justice must be ensured throughout the process and not just when eviction is imminent. All feasible alternatives to eviction must be explored, in consultation with affected persons. If, after meaningful engagement with those affected, relocation is deemed necessary and/or desired by the community, adequate alternative housing of similar size, quality and cost must be provided in close proximity to the original place of residence and source of livelihood.

Para 58(a): States must ensure the equal enjoyment of the right to housing without discrimination for all internally displaced persons and all migrants, regardless of documentation, in conformity with international human rights and humanitarian law. States must ensure coordination between migration, internal displacement and housing programmes to ensure the right to adequate housing in all contexts. Reception and other centres for migrants must meet standards of dignity, adequacy and protection of the family and other requirements of international human rights law and international humanitarian law. Migrant children should never be separated from their parents or guardians, and families that have been separated by displacement should be reunited as quickly as possible.

Para 79(b): Monitoring progress on the implementation of the right to housing should be focused on assessing compliance with the obligation to progressively realize the right. It should include the collection of qualitative and quantitative data related to dignity and the experience of rights holders with respect to all aspects of the right to housing, including security of tenure, availability of services, affordability, habitability, accessibility, location, cultural adequacy, homelessness and evictions. Statistical and qualitative information with appropriate safeguards should also be collected on the housing circumstances of groups facing systemic discrimination, on structural barriers to housing and on the outcomes of measures taken to address such barriers. Major trends and emerging challenges should also be identified.

Para 83: Access to justice should be ensured for all components and dimensions of the right to housing that are guaranteed under international human rights law, covering not just the right to a physical shelter, but to a home in which to live in security, peace and dignity; not just protection from eviction or other State action, but also from State neglect and inaction and failure to take reasonable measures to progressively realize the right to housing. States should revoke legal provisions suggesting that the right to adequate housing is not justiciable under domestic law and should desist from making this argument before courts. Where the right to housing is not enshrined in national or constitutional law, access to effective judicial remedies can and should be ensured by recognizing the interdependence and indivisibility of the right to housing with other rights, such as the rights to life, health and non-discrimination.

Appendix 5: Human Dignity in Cambodian Law and Policies

1. Human Dignity in Cambodian Law

A. Constitution of the Kingdom of Cambodia 1993

Article 38.

The law forbids any physical abuse against any individual.

The law protects the life, the honour and the dignity of the citizens.

The prosecution, arrest, police custody or detention of any person shall not be done, except in accordance with the law.

Article 41.

Khmer citizens shall have the freedom to express their personal opinions, the freedom of press, of publication and of assembly. No one can take abusively advantage of these rights to impinge on dignity of others, to affect the good mores and custom of society, public order and national security.

Article 46.

Human trafficking, exploitation of prostitution and obscenities which affect the dignity of women shall be prohibited.

B. Criminal Code 2014

Article 274: Subjecting to working conditions incompatible with human dignity

Subjecting a person, by exploiting his or her vulnerability or dependence, to working conditions incompatible with human dignity shall be punishable...

Article 275: Attempt

An attempt to commit the misdemeanour defined in Article 274 (Subjecting to working conditions incompatible with human dignity) of this Code shall be punishable by the same penalties.

Article 277: Criminal Responsibility of legal entities

Legal entities may be found criminally responsible under Article 42 (Criminal responsibility of legal entities) of this Code for the offences defined in Article 274 (Subjecting to working conditions incompatible with human dignity) of this Code.

Article 502: Insult

Insult consists of words, gestures, written documents, pictures or objects liable to undermine the dignity of a person.

An insult addressed to a public official or a holder of public elected office, acting in the discharge or on the occasion of his or her office shall be punishable by imprisonment from one day to six days and a fine from one thousand to one hundred thousand riels.’

Article 437 bis (2018 Amendment)

Insult consists of words, gestures, written documents, pictures or objects liable to undermine the dignity of a person.

An insult addressed to the King shall be punishable by imprisonment from 1 (one) year to 5 (five) years and a fine from 2,000,000 (two million) riels to 10,000,000 (ten million) riels.

Legal entities may be held criminally responsible as stipulated under article 42 (Criminal Responsibility of Legal Entities) of this Code for an insult addressed to the King.

Legal entities shall be punishable by a fine from 10,000,000 (ten million) riels to 50,000,000 (fifty million) riels and one or more of the following additional penalties:

- 1- dissolution as regulated by article 170 (dissolution and liquidation of legal entities) of this Code;
- 2- placement under judicial supervision as regulated by article 171 (placement under judicial supervision) of this Code;
- 3- prohibition from carrying on one or more activities as regulated by article 172 (prohibition from carrying on activities) of this Code;
- 4- closure of an establishment used for commission of the crime as regulated by article 176 (closure of an establishment) of this Code;
- 5- confiscation of instruments, materials or items which were used or intended to be used to commit the offence as regulated by article 178 (ownership, sale, and destruction of items confiscated) and article 179 (confiscation and rights of third parties) of this Code;
- 6- confiscation of items or funds which were the subject of the offence as regulated by article 178 (ownership, sale, and destruction of items confiscated) and article 179 (confiscation and rights of third parties) of this Code;
- 7- confiscation of proceeds or property arising out of the offence as regulated by article 178 (ownership, sale, and destruction of items confiscated) and article 179 (confiscation and rights of third parties) of this Code;
- 8- publication of penalty decisions as regulated by article 180 (publication of decision) of this Code;
- 9- broadcasting of penalty decisions by written media or audio-visual communication as regulated by article 181 (broadcasting of decision by audio-visual communication) of this Code.

C. Civil Code 2007

Article 2. (Fundamental concepts)

This Code gives concrete embodiment to the concepts of the dignity of the individual, the equality of the sexes and the guarantee of property rights provided in the Constitution.

Article 10. (Concept of personal rights) Personal rights include the rights to life, personal safety, health, freedom, identity, dignity, privacy, and other personal benefits or interests.

D. Labour Law 1997

Article 104

The wage must be at least equal to the guaranteed minimum wage; that is, it must ensure every worker of a decent standard of living compatible with human dignity.

E. Law on the Prevention of Domestic Violence and the Protection of Victims 2005

Article 8

Every disciplining by giving advice or reminding or appropriate measures taken to allow spouses or children or dependent persons to follow the good ways of living with dignity and the nation's good custom and tradition, if the disciplining and teaching are conducted with the noble nature (consisting of compassion, pity, joy at other's happiness, and sincerity) and in accordance with the principles of the United Nations Conventions on Human Rights and Child Rights recognized by the Kingdom of Cambodia, shall not be included as the use of violence or acts of domestic violence.

F. Law on the Suppression of Human Trafficking and Sexual Exploitation 2008

Article 1: Purpose of the Law

The object of the Law is to suppress the acts of human trafficking and sexual exploitation in order to protect the rights and dignity of human beings, to improve the health and welfare of citizens, to preserve and enhance good national customs, and to implement the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, or other international instruments or agreements with regard to human trafficking that the Kingdom of Cambodia has ratified or signed.

G. Education Law 2005

Article 2: Objective

The objective of this law is to develop the human resources of the nation by providing a lifelong education for the learners to acquire knowledge, skills, capacities, dignity, good moral behaviour and characteristics, in order to push the learners to know, love and protect the national identification, cultures and language.

Article 35: Rights and Obligations of Learners

The learner's rights concerning education are:

- The right to free expression of academic views;
- The right to freedom of study;
- The right to access the quality of education;
- The right to assemble as groups or clubs of the learners for educational purposes.
- The right to examine and make own note about educations

- The right to participate actively and fully in order to develop educational standards at institutional and national levels, directly or through their representatives;
- The right to be respected and paid attention on human rights, especially the right to dignity, the right to be free from any form of torture or from physical and mental punishment.

A learner shall have the following obligations:

- Respect regulations of the educational institutions, the gender equity values by exercising their rights with the spirit of responsibility and the respect for other persons' rights;
- To make their best efforts to learn in order to develop their knowledge, skills, capacity, mentality and dignity.

Article 37: Rights and Obligations of Educational Personnel

The rights of educational personnel are as follows:

- The right to achieve career value dignity and social high respect

H. Law on Peaceful Assembly 2009

Article 18

Upon the request for assistance from the leaders of a peaceful assembly, competent authorities shall endeavour to respond with full attention towards appropriate requests in accordance with the law in order to ensure the exercise of their right to freedom of peaceful assembly and the exercise of their right to freedom of expression publicly with dignity.

I. Law on Minimum Wage 2018

Article 1

The purpose of this law is to:

- Enhance the decent living with dignity, job opportunities, and productivity of workers; and
- Promote more attractive business and investment environment.

2. Human Dignity in Cambodian Policies

A. Pentagonal Strategy Phase I (2023)

Cambodia is “a vibrant society” that sustains everlasting peace, political stability and strong public order, as well as accords respect for the rule of law, social justice, rights and human dignity; is a strong sovereign state that enjoys full independence, territorial integrity, strong ownership, clear national identity, has high prestige, equal footing and equal rights on the international stage; and is a democratic state with good governance, and strong, transparent, and accountable institutions, which effectively serves the nation and people, in accordance with the approach of the dynamics of stakeholder system. (page 18)

Cambodian people “live in dignity and happiness, and enjoy equal access, equal rights, and equal opportunities in social protection” in a society wherein the state attaches great importance to the

building of a robust social protection and social assistance system; promotes the insurance sector; strengthens and modernizes the healthcare system; pays attention to sports and public health sector promotes gender equality; and promotes a digital society. (page 19)

The need to continue strengthening and expanding the achievements that the RGC achieved in the past legislatures within the frameworks of the Triangular Strategy and the Four-Phase Rectangular Strategy, by continuing to strengthen peace, political stability, and public order; strengthening respect for the rule of law, rights and freedoms, people's dignity, and liberal multi-party democracy; and implementing the actual measures aimed at improving the living standards and well-being of the people, particularly resolving the issues related to the effectiveness of governance, institutions and social justice, as well as enhancing integrity and quality of public services. (page 21)

Further strengthening the rule of law, liberal multi-party democracy, culture of peace, social morality, respect for human rights and dignity, and further strengthening a favorable environment and strong normalcy for the well-functioning of public institutions. (page 34)

Continuing to promote respect for morality, women's values, family's dignity, and dignity of the Cambodian society. (page 47)

Continuing to expand labor market abroad; preventing illegal Cambodian labor migration; training and promoting the rights, interests, and dignity of Cambodian migrant workers; developing mechanisms for skills recognition; and activating the mobility of the social security system. (page 58)

B. National Strategic Development Plan 2019-2023

The 1993 General Elections have prompted the adherence to the principles of pluralist democracy, market economy, and the respect for human rights, freedom and dignity.

This has set the stage for a profound transformation of Cambodia from a region of uncertainty, war, internal strife, instability and backwardness into an epicentre of sustained peace, security and social order, respect for democracy, human rights and dignity, cooperation and shared development.

Organized Cambodia Ageing Day and International Ageing Day on 01 October each year to promote the dignity and integrity of the elderly.

The RGC of the Sixth Legislature of the National Assembly will focus on (1) Securing national sovereignty and territorial integrity by not allowing foreign interference in Cambodia's internal affairs; firmly preventing and cracking down on activities related to colour revolution or incitements that could lead to political instability and social unrest, (2) Reinforcing the rule of law, democracy, peace culture, social morality, respect for human rights and dignity and ensuring a conducive environment for the normal functioning of public institutions.

The RGC has achieved some great results such as mainstreaming gender equity in policy framework and national development plan, reducing gender gap in education, vocational training and civil service; widening women entrepreneurship initiative, reducing domestic violence and sexual abuse against women and children, uplifting social morality, women dignity and Cambodian family, and improving legal service for women and children.

Through their modern media, all national media are obliged to contribute to promoting Cambodia's national identity and prestige on the international stage as well as to the timely reaction of all broadcasts and information that may be distorted and can cause harm to the harmony and the national peace or affect the rights of individuals as well as affecting the dignity of the general public.

C. National Disability Strategic Plan 2019-2023

2. Vision

Persons with disabilities and their families have a high quality of life and participate actively, fully and equally in a society in which their rights and dignity are respected with the inclusion of disability across all sectors.

D. Education 2030 Roadmap Sustainable Development

As articulated in the NSDP 2014-2018, the principal aim of the Royal Government of Cambodia is to 'maintain peace, political stability and social order to promote rule of law and protect human rights and dignity, and multi-party democracy, sustainable long-term equitable economic growth and increased outreach, effectiveness, quality and credibility of public services.'

E. National Plan of Action on the Suppression of Human Trafficking, Smuggling, Labour and Sexual Exploitation (2011-2013)

In response to this gross violation of human rights and personal dignity, the Royal Government of Cambodia continues to undertake all measures possible to prevent human trafficking, to protect victims of trafficking and to prosecute traffickers; the Royal Government is committed to ending trafficking in persons to, from and through the Kingdom of Cambodia.

The act of selling, buying or exchanging a person, exploitation of prostitution and indecent acts affecting the dignity of women are also prohibited.

The National Committee to Lead S.T.S.L.S. developed the current Plan of Action on the Suppression of Human Trafficking, Smuggling, and Labour and Sexual Exploitation in order to strengthen law enforcement efforts, contribute to behavioural change in society, promote standards of human rights and dignity, as well as Khmer values and women's rights and to widely minimize all forms of human trafficking.

F. National Employment Policy 2015-2025

Especially, as the demography of the country is characterised by an abundant young labour force, providing this young labour force with vocational trainings would thus considerably contribute to economic growth by ensuring decent jobs that would improve livelihood, dignity and social harmony.

2. Vision

The vision of this Policy is to improve livelihood and dignity of the people and social harmony by providing them with equal opportunities of decent and productive employment.

G. Policy on Labour Migration for Cambodia (June 2010)

Decent work is defined as productive work, available to both men and women, in conditions of freedom, equity, security, and human dignity. To achieve the decent work agenda, a country needs to promote economic growth, investment, and entrepreneurship to produce quality jobs and employment.

The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers endorsed by the Heads of State in January 2007 in Cebu, the Philippines, called on both labour-sending and labour-receiving countries to promote “the full potential and dignity of migrant workers in a climate of freedom, equity, and stability in accordance with the laws, regulations, and policies of the respective ASEAN Member Countries”.

H. Policy on Labour Migration for Cambodia 2019-2023

The Royal Government of Cambodia, under the wise leadership of Samdech Akka Moha Sena Padei Techo Hun Sen Prime Minister of the Kingdom of Cambodia has proudly been leading Cambodia to the development and growth ever over the past two decades, directing Cambodia to new phase of growth including politics, diplomatic, socio-economic developments. In line with the implementation and the achievements of the Rectangular Strategy from all three phases, the Royal Government of Cambodia for the Sixth Legislature of the National Assembly formulated the socio-economic policy agenda and the Rectangular Strategy Phase IV for Growth, Employment, Equity and Efficiency, of which the sixth key element of Strategy 1 “labour market development” in the Third Triangle Element “the development of private sector and employment” stipulates the continued strengthening of the labour migration governance, the expansion of the multilateral, and bilateral cooperation in order to open up for the formal foreign labour market, to prevent the irregular labour migration, to promote the protection of the rights, interests, occupational safety and health, as well as honour and dignity for migrant workers, to provide the facilitation of a family relation and communication including, repatriation and reintegration of migrant workers, through providing job counselling, selfemployment creation, skills recognition, and the transfer of social security benefit from destination countries to Cambodia.