



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

**Replies of Cambodia to the list of issues in relation to its third  
periodic report\***

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\* The present document is being issued without formal editing.



## **Legal Frameworks (Article 2)**

### **1. Reply to paragraph 1 of the list of issues (CCPR/C/KHM/Q/3)**

1. In the implementation of the Covenant on Human Rights, the Kingdom of Cambodia incorporates fundamental provisions into the national law – i.e. the Constitution of the Kingdom of Cambodia in Chapter 3, from Articles 31 to 50, which is a law guaranteeing the implementation of the national courts. In addition, the basic principles of human rights contained in the covenants such as the provisions of Article 14 of the Covenant on Civil and Political Rights are incorporated into the Criminal Code and the Code of Criminal Procedure of the Kingdom of Cambodia, which is a vital instrument for the implementation of the national courts.

2. As already mentioned in the report, in the Kingdom of Cambodia, international human rights law in general and in particular the Covenant on Civil and Political Rights is included in the training programme for judges, prosecutors and lawyers. Approximately 440 judges and prosecutors to date are trained and 1236 lawyers out of 2,170 lawyers are trained.

3. As already mentioned in the report, the Royal Government of Cambodia has been thoroughly considering finding an appropriate time and circumstances to ratify the Additional Protocol on Personal Communication and the Additional Protocol on the Abolition of the Death Penalty to the International Covenant on Civil and Political Rights.

### **2. Reply to paragraph 2 of the list of issues**

4. As already mentioned, the Royal Government of Cambodia has provided NGOs with the opportunity to draft a law establishing a national human rights body in accordance with the Paris Principles since 2007; however, technical difficulties as well as the circumstances have persisted to date. The Cambodian Human Rights Committee is currently re-drafting the law with the support and cooperation of experts from the Australian Embassy, the Japanese Embassy, the Asia-Pacific Day, as well as the Special Rapporteur on Human Rights. Once sufficient input is received, the draft law is to be submitted for consultation with stakeholders, especially civil society groups.

## **Anti-Corruption Measures (Articles 2 and 25)**

### **3. Reply to paragraph 3 of the list of issues**

#### *Measures to tackle corruption*

5. A general measure as required by law is that all public servants with the rank and position of department head or higher must declare their assets and keep them at the Anti-Corruption Unit.

6. A practical action is the Anti-Corruption Unit's two-pronged observations:

- In public, direct participation in the process of reviewing the situation and documents, for example, the Anti-Corruption Unit has assigned officials to observe the selection process of trainee judges at all stages from the beginning until the announcement of results.
- In private, through the collection of information about the background process, stakeholder relations (conflicts of interest).

7. From 2012 to date, the Anti-Corruption Unit has observed 112 procurement units at both the national and sub-national levels, totalling about 2,800 projects, reporting positive points and irregularities, and recommending corrections and continued to monitor their actions. Meanwhile, the Anti-Corruption Unit has also set up a procurement information management database.

8. In the field of taxation, a technology system has been set up for the preparation of the registration and payment forms so as to close the opportunity for people-to-people meetings, and to introduce some tax payment processes through the banking system.

9. With regard to anti-corruption law enforcement, the Anti-Corruption Unit has established a mechanism for receiving and resolving complaints that can be filed in all forms, including direct filing, through public mail boxes, post office, phones, emails and social network (Facebook) and examined and resolved all complaints.

10. The National Anti-Corruption Council has the following duties:

- Develop strategies and policies to fight corruption.
- Hold consultation and make recommendation in relation to the fight against corruption to the Anti-Corruption Unit.
- Monitor the work of the Anti-Corruption Unit.
- Request the Anti-Corruption Unit to report or clarify.
- Prepare reports to the Prime Minister on the operation of the Anti-Corruption Unit.
- Prepare semi-annual and annual reports to the Prime Minister.
- Prepare and approve internal regulations for performing its duties.
- The Anti-Corruption Unit acts as the judicial police, investigating corruption offences, identifying and apprehending offenders, and collecting evidence to courts.

11. To date, the Anti-Corruption Unit received, in 2019, 621 complaints, searched and collected 330 complaints, and 109 of them have no clues about corruption. Type of offences: there are 104 complaints about exploitation of state interests, 69 complaints about public services, 18 complaints about bidding and procurement, 431 other offences, and 15 suspects sent to court.

## **The Nation in a State of Emergency (Article 4)**

### **4. Reply to paragraph 4 of the list of issues**

12. The Law on the Management of the Nation in a State of Emergency serves as a legal basis to ensure the implementation of Article 22 *new* of the Constitution and as a legal basis to determine the authority of the Royal Government to introduce the necessary measures that are indispensable in response to the country in a state of emergency, for the purpose of protecting security, public order, the people's lives and health, as well as property and the environment.

13. The Law on the Management of the Nation in a State of Emergency states that the country can only be placed in a state of emergency when the nation is in danger – i.e. war or evasion by foreign forces, public health caused by the spread of diseases, national security and public order in utter chaos, as well as serious disasters that threaten or endanger the entire nation.

14. The Law on the Management of the Nation in a State of Emergency has 5 Chapters and 12 Articles. Article 4, Chapter 3, stipulates that when the nation is declared a state of emergency, the Royal Government has the right to issue the following rules:

1. Prohibit or restrict the right to freedom of movement;
2. Prohibit or restrict the right to freedom of human assembly or gathering;
3. Prohibit or restrict activities of work or occupation;
4. Prohibit or restrict individuals from leaving any residence or lodge;
5. Introduce quarantine or isolation measures in case of public health emergencies caused by disease outbreaks;
6. Introduce movement and evacuation procedures in response to emergencies;
7. Adopt measures in relation to movement, confiscation, management of assets and services which are necessary in response to emergencies. The movement and repatriation procedures shall be determined by the Royal Government.

8. Introduce measures in relation to the closure of any public or private location as necessary in response to emergencies;

9. Introduce measures in relation to the closure of any public or private location as necessary in response to emergencies;

10. Introduce surveillance and monitoring systems for obtaining information through all forms of telecommunications in order to respond to emergencies;

11. Prohibit or restrict the distribution or dissemination of information that may cause public fear or unrest, or that may harm national security or mislead views on the state of emergencies;

12. Introduce other appropriate and necessary measures in response to emergencies.

15. This Article also states that measures to be taken when the nation is in a state of emergency may be placed throughout the country or for a particular territory. If necessary, the Royal Government may establish a mechanism or delegate the authority to any competent authority or use the armed forces to ensure the implementation of the aforesaid measures.

16. Article 7, Chapter 4, stipulates that any intentional act to obstruct or create obstacles to enforcing a state of emergency is punishable with imprisonment of one year to five years and a fine of one million Riels to five million Riels. An act of blocking emergency operations is punishable with imprisonment of five years to ten years if such an act leads to public turmoil or affects national security.

17. Article 8 of the same chapter states that any intentional act that fails to respect measures put in place by the Royal Government under Article 5 of this law is punishable with imprisonment from one month to one year and a fine of 100,000 Riels to one million Riels. Failure to respect state of emergency measures is punishable with imprisonment of one year to five years and a fine of one million Riels to five million Riels if such an act causes public turmoil.

18. Article 10, Chapter 4 states that competent officials who arbitrarily exercise their authority in violation of the purposes of the law and cause physically harm or damage to the property of another person shall be liable for the acts they have committed in accordance with the Cambodian law.

19. This law is not incompatible with the Constitution, international conventions and other national legal standards.

20. This law is prepared in accordance with Article 22 *new* of the Constitution, and should there be any provisions incompatible with the Constitution, the Constitutional Council will declare not legally enforceable.

21. The provisions of this law do not affect the prohibition of the implementation of the Covenant on Civil and Political Rights – i.e. Articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18.

22. As aforementioned, this law aims to respond to the country in a state of emergency, to protect public order, people's lives and health, as well as property and the environment, and aims to do so when the nation faces danger – i.e. public health emergencies caused by disease outbreaks. Therefore, these judicial provisions are to be implemented in response to the global spread of the COVID-19 disease.

23. The provisions of this law contain a disclaimer about the rights enshrined in the covenant, which allows for restrictions (Article 22).

24. As already mentioned, this law is made to respond to the country in a state of emergency, which means that this law is enforced whenever the country is declared a state of emergency in accordance with Article 22 of the Constitution. Thus, the disclaimer about certain rights of international covenants is made in compliance with the strict conditions of proportion to the urgency of the state of emergency, which is to be declared. In this regard, the Kingdom of Cambodia has not yet notified the Secretary-General of the United Nations as it has not yet declared a state of emergency.

## **Fight against Impunity and Human Rights Violations (Articles 2, 6, 7 and 14)**

### **5. Reply to paragraph 5 of the list of issues**

25. In the Kingdom of Cambodia, all violations, including human rights cases, are investigated by the competent unit – i.e. the judicial police who takes responsibility for finding, identifying and arresting offenders, gathering and sending evidence to court.

26. All acts that are considered serious human rights violations have occurred against the criminal law; therefore, the judiciary police is to take action according to the aforesaid legal procedures. Investigations may take place sooner or later, depending on circumstances of crimes, some of which may last for years. The competent authorities, that is to say, take action against the impunity, not leaving [it] behind.

### **6. Reply to paragraph 6 of the list of issues**

27. The Extraordinary Chambers in the Courts of Cambodia (ECCC) is a special tribunal with the participation of the United Nations. To ensure independence and efficiency, the tribunal establishes two separate unit structures, namely the Office of Administration and the Chambers. Judges, prosecutors and court officials work independently without outside interference. The tribunal is structured on an adversarial basis and has three levels (Pre-Trial Chamber, Trial Chamber and Supreme Court Chamber) to allow the parties to appeal. In order to make a decision and a judgement, the judges do their best to reach a unanimous agreement. If it cannot be reached, the decision requires a “supermajority.” According to the composition of the Chambers, each decision must be in national and international judges’ favour.

28. The Royal Government of Cambodia has been preparing for the inclusion of the ECCC strategies into national legal systems through its experiences such as the dissemination of judgements and appeal judgements of all judicial levels of the ECCC to communities, law students and national researchers, which is a means of providing [them with] real and direct knowledge. In addition, the ECCC regularly accepts law students from national universities for its internship programme in various fields within the ECCC. The general public, including up-and-coming law enforcement officials such as trainee judges and prosecutors, and trainee court clerks, is allowed to visit the Khmer Rouge tribunal for the purpose of studying and discussing administrative, legal, and judicial work. Furthermore, national judges who have completed their duties at the ECCC have returned to work at the national courts, bringing along additional experiences, skills and knowledge from the ECCC.

## **Non-Discrimination (Articles 2 and 25)**

### **7. Reply to paragraph 7 of the list of issues**

29. The Royal Government of Cambodia has been making its tremendous effort to eliminate discrimination against women by promoting gender equality and equity through the development and implementation of a legal framework, policies, action plans and various programmes so as to address and respond to discrimination against women and girls and promote equality between men and women in society. In order to implement the aforesaid programmes, the Royal Government of Cambodia has taken the Convention on the Elimination of All Forms of Discrimination against Women as a basis for raising awareness at all levels of the people to ensure the abolition of the law (Women’s Code of Conduct) and previous social norms displaying discrimination on the basis of sex, gender identity, and ethnicity.

30. In order to gather information about their needs from minorities and vulnerable groups, the Royal Government of Cambodia has tasked:

- The Ministry of Interior with taking responsibility for managing statistics and data;
- The Ministry of Rural Development with taking responsibility for the living conditions and needs; and

- The Ministry of Social Affairs and Veterans with taking responsibility for victims' needs.

31. The Kingdom of Cambodia has not intended to separately develop a comprehensive anti-discrimination law yet, on the grounds that the Criminal Code of the Kingdom of Cambodia contains applicable anti-discrimination provisions.

### **Violence against Women (Articles 2, 3, 6, 7 and 26)**

#### **8. Reply to paragraph 8 of the list of issues**

32. (a) The results of the Second National Action Plan on the Prevention of Violence against Women (2014–2018) are as follows:

- Media code of conduct for reporting violence against women was adopted in 2017 and is being implemented.
- A joint system of alcohol level notification has been put to trial, targeting alcohol abuse and violence against women.
- Guidelines for the referral of women and girls affected by gender-based violence have been finalised.
- Policies on sexual harassment in the workplace and prevention packages have been developed and implemented in textile factories.
- National guidelines for managing violence against women and children in health systems and medical books in response to sexual partners and sexual violence have been developed.
- As of the end of 2018, 101 public health care centres have received health training in [how to] provide services to victims of violence in response to violence against women.
- Sub-national working groups on gender-based violence have been initiated in eight provinces to improve coordination between key service providers.
- One-Stop-Service Centres (OSSC) have been piloted in two provincial hospitals, Kampong Cham and Stung Treng.
- Social norms and behavioural change are incorporated into training for public and private service providers.
- A “Why Stop” campaign focusing on sexual harassment was launched.
- Raising awareness to end violence against women was carried out in a 16-day campaign.
- All provincial judicial police officers have been trained in guidelines for legal protection for women victims.
- Funding has been increased to provide legal aid services for women victims.
- Funding has been increased to meet the immediate needs of victims/survivors of violence against women.
- A second data analysis of existing data samples was carried out to identify key areas for intervention: press, alcohol abuse, child abuse, and education.

33. (b) The 2005 Law on Prevention of Domestic Violence and Protection of Victims is consistent with the provisions of the Convention, including the focus on out-of-court settlement and the legal definition of domestic violence.

34. Article 2 of the Law on Prevention of Domestic Violence and Protection of Victims states that domestic violence is referred to the violence that occurs and may occur among:

1. Husband or wife;
2. Dependent children;

3. Persons living under the roof of the house and in the care of the family.
35. (c) The number of complaints, investigations, charges and convictions for all forms of violence against women are guaranteed during this reporting period, including information on various measures to protect victims.
36. In order to strengthen law enforcement in relation to violence against women:
- With practical measures to protect victims, the Ministry of Interior has trained local authorities in 25 provinces/cities in laws and legal procedures related to violence against women from 2018 to 2019, with 1,284 participants (1,124 women).
  - Minimum standards for basic counselling for woman and girl victims of gender-based violence and guidelines for gender-based stimulation to support survivors of violence against women have been incorporated into the new curriculum of the Royal School of National Police. The operational standards and code of conduct for police officers are implemented, including the code of conduct reflecting CEDAW and UNSCR 1325.
  - The Ministry of Women's Affairs has provided training to judicial police officers in various procedures and conciliation processes for women's rights work. From 2018 to 2019, the Cambodian National Council for Women provided assistance to 237 women survivors of gender-based violence through judicial police officers of the Ministry of Women's Affairs.
  - Judicial police officers have effectively coordinated with local authorities and court officials to expedite the proceedings of cases involving violence against women and children, especially minors.

## **Right to Life (Articles 6 and 24)**

### **9. Reply to paragraph 9 of the list of issues**

37. In the Kingdom of Cambodia, extrajudicial killings of any person are a criminal offence which is punishable under the criminal law. All extrajudicial killings are investigated, prosecuted and convicted.

(a) With regard to the case file of Kem Ley's assassination on 10 July 2016, the court sentenced the offender named Oeut Ang alias Chuop Samlab to life imprisonment according to Judgement No. 89<sup>៧</sup>7<sup>៧</sup> dated 23 March 2017;

(b) As regards the case file of Suon Chan's murder, the court sentenced six offenders to 13 years in prison and [ordered them to] pay 5,000,000 Riels in compensation according to the Kampong Chhnang Provincial Court's Judgement No. 27<sup>៣</sup> dated 11 November 2014.

## **Prohibition of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Articles 6, 7, 9 and 10)**

### **10. Reply to paragraph 10 of the list of issues**

38. The National Committee against Torture was established by Royal Decree No. ៩៩៤/៣៣៦/ 0817/619 dated 22 August 2017. Since its inception, it has been investigating cases of the suspicion of torture, maltreatment and killings during detention, detaining 11 persons, and interviewing 90 stakeholders, including 40 relevant competent officials and 50 people (witnesses) who were deprived of their liberty.

39. The Kingdom of Cambodia does not intend to establish a specific law on torture on the grounds that the Criminal Code of the Kingdom of Cambodia contains applicable anti-torture provisions.

(a) The National Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment gains legal independence. The officials who serve on

this committee must resign from their positions in the public service (Article 15 of the Royal Decree establishing the National Committee against Torture);

(b) For example, two Royal Gendarmerie officers used violence, beating the suspect named Tun Sros until the charged person Tun Sros died. A measure was taken; on 18 January 2020, the judicial police officers of the National Gendarmerie Commission built the case of two Banteay Meanchey Provincial Gendarmerie officers named Sar Bunsoeung, Deputy Commander of the Banteay Meanchey Provincial Gendarmerie and Chhoy Ratana, Assistant of the Banteay Meanchey Provincial Gendarmerie Anti-Drug Office and sent them to the Banteay Meanchey Provincial Court of the First Instance for trial;

(c) Confessions obtained from physical or psychological coercion must not be used as proof of guilt;

(d) The information obtained during the interviews of the National Committee against Torture with competent officials and citizens who have been deprived of their liberty (witnesses) shows that no [one was] forced to provide his/her thumbprint on the documents.

#### **11. Reply to paragraph 11 of the list of issues**

40. In order to relieve overcrowding of detainees in prisons, the Ministry of Justice has launched a campaign to resolve the congestion of criminal cases in the courts, reducing [the number of] pre-trial detainees and encouraging judges to take measure to place charged persons under the judicial supervision rather than provisional detention.

(a) The only choice other than detention in line with human rights has been exercised; that is to place charged persons under the judicial supervision. Convictions of non-violent offences without imprisonment include the imposition of suspended sentences and community work sentences, which the Ministry of Justice has advised and encouraged the courts to implement in accordance with the provisions of the law in force;

(b) Measures to tackle corruption and abuse by heads of prison cells and personnel in prisons: along the detention facilities, there are mailboxes for inmates to file complaints or make anonymous comments and suggestions; and only prison chiefs have the right to open them and take action. All correctional centres and prisons are regularly inspected by inspectors of the Ministry of Interior, the National Committee for the Prevention of Torture, the Cambodian Human Rights Committee, judges and prosecutors, who give detainees the opportunity to report directly on issues that arise in prisons. Heads of prison cells have to strictly follow the internal rules and regulations – i.e. prohibiting physical abuse;

(c) The Ministry of Justice has cooperated with the National Authority for Combating Drugs, considering the transfer of drug addicts and those involved in drug use to drug rehabilitation centres for treatment rather than sending them to court, and taking provisional detention measures by the courts because they are also victims of drugs and may even relieve overcrowding in prisons.

#### **12. Reply to paragraph 12 of the list of issues**

41. Responses to COVID-19 for the purpose of addressing risks to inmates:

- Measures to strengthen health check-ups for detainees and do the cleaning on a regular basis (for all suspicious cases, specialised officers are to go and take samples directly and take them to the Pasteur Institute for examination).
- Detention management measures (new detainees are to be quarantined/isolated).
- With regard the permission for relatives to meet with detainees, their entries and exits are strictly monitored; they are required to measure the temperature, meet through glass partition, wear masks, keep distance, wash hands, and reduce the number of visitors to one to one and so on.

## Deprivation of Liberty (Articles 9, 10 and 14)

### 13. Reply to paragraph 13 of the list of issues

42. As of 30 September 2020, the total number of detainees who have not been sent for trial was 11,897, or 30% of the total number of detainees, of which 804 are women, or 32% of the total number of female detainees. Overcrowding in prisons was addressed as described above.

43. There is a total of 122 infants who are taken care of by their mothers in prisons across the country. Under the prison law, they may live with their mothers for personal care in prison until they are three years old, only then are their relatives or social agencies allowed to take care of them.

44. In principle, detainees awaiting trial are held in separate buildings from convicts; however, as the number of detainees increase beyond the limit, pre-trial detainees are placed in buildings with convicts, but they are temporarily in separate cells.

45. The pre-trial detention period is limited by law:

- A misdemeanour lasts 4 months.
- A felony lasts 6 months.
- During this period, investigating judges may decide to extend detention periods in accordance with the law.

### 14. Reply to paragraph 14 of the list of issues

46. In order to increase legal aid for the accused as well as pre-trial detainees, the Royal Government of Cambodia:

- Allows the Bar Association of the Kingdom of Cambodia to deploy standing bar association delegates to all Provincial-Municipal Courts of the First Instance.
- Samdech Techo Prime Minister has organised a group of volunteer lawyers to help protect the poor in accordance with the law for free.
- The Cambodian Human Rights Committee has established a group of volunteer lawyers to help defend the poor for free.
- The Ministry of Justice has been developing a national policy on legal aid.

### 15. Reply to paragraph 15 of the list of issues

47. In the Kingdom of Cambodia, drug users are educated and encouraged to seek voluntary treatment – i.e. nothing to do with the obligations of treatment and deprivation of drug addicts' liberty. We currently have up to 450 clinics at health centres, referral hospitals, provincial hospitals and national hospitals, and 883 health officials have been trained to provide caring and counselling [services] and treatment to drug addicts. However, those who have severe addiction will pose a real threat to themselves or others and will be deprived of their liberty and forced to seek medical treatment and rehabilitation in accordance with Articles 107 and 108 of the Law on Drug Control of the Kingdom of Cambodia.

48. In 2019, a total of 13,414 drug addicts were sent for treatment and rehabilitation at temporary centres. However, the majority was integrated into families or communities. As a matter of fact, the total figure at the end of 2019 was only 4,351 drug addicts at temporary centres for further treatment and rehabilitation.

## **Elimination of Slavery, Servitude and Human Trafficking (Articles 2, 7, 8 and 26)**

### **16. Reply to paragraph 16 of the list of issues**

49. In the Kingdom of Cambodia, all forms of labour trafficking and exploitation are offences punishable under the Law on the Suppression of Human Trafficking and Sexual Exploitation.

(a) In the first half of 2020, a total of 79 offences were committed, with 103 suspects arrested and sent to court and 287 victims rescued. In 2019, 114 cases were investigated, with 130 offenders charged and sent to court, 47 of which were tried and, as a result, 97 were convicted, serving prison sentences. In the Kingdom of Cambodia, the situation of debt bondage does not exist. What happens is workers working in various handicrafts borrow the money from the owners of those handicrafts in order that they overcome their shortcomings, and when their wages are paid, they settle their debts; such an act is not a debt bondage at all;

(b) In the Kingdom of Cambodia, the law does not define surrogate mothers or the commission of prostitution act in person as offenders; therefore, women who engage in such activities are not imprisoned – they are just instructed. Those who are imprisoned are those who exploit the business;

(c) In order to tackle vulnerabilities to human trafficking and exploitation, as well as migration in the context of COVID-19, the Royal Government of Cambodia provides cash to poor and vulnerable families; from 25 June to 24 September 2020, 434 billion, 989 million, 392 thousand Riels were spent.

## **The Independence of the Judiciary (Article 14)**

### **17. Reply to paragraph 17 of the list of issues**

50. Steps taken to address corruption in the judiciary include:

- Inspire the loyalty of judges through the training of trainee judges in their code of conduct and statute, in which the principle of integrity is fundamental to uphold their integrity at the commencement of their work in courts.
- Provide further education on the provision of justice to the parties who play the role of judges and who are fulfilling their duties regularly – the members of the Supreme Council of the Magistracy regularly visit the courts in order to build responsibility [skills] in making decisions, based on the evidence and legal basis in force.
- The Disciplinary Council of the Supreme Council of the Magistracy examines and resolves all complaints that denounce irregularities in judges during the performance of their duties, including corruption. In the event that evidence of irregularities is found, the Disciplinary Council will impose the administrative discipline in accordance with the statute for judges. In particular, should they engage in criminal offences (such as corruption) and they will be sent to court.

51. Guarantees for the independence of the judiciary from the executive branch of the government include:

- The Constitution divides powers into three separate branches, one of which, the judiciary is independent. The executive branch of the government has no power to order the courts. The Ministry of Justice, a governmental institution of the executive branch, is in charge of dealing with the administration of the courts, having no authority to manage, appoint, transfer, remove names, revoke functions, take disciplinary [measures] against judges. All these functions are within the competence of the Supreme Council of the Magistracy, which is chaired by the King who guarantees the independence of the judiciary.

52. The duties of the Anti-Corruption Unit – to tackle corruption in the judiciary – include:

- The Anti-Corruption Unit acts as the anti-corruption justice police who has the authority to search for offences, investigate, collect evidence, and arrest corrupt offenders through information or complaints. Upon receipt of information or complaints denouncing judicial corruption, the Anti-Corruption Unit is to investigate under two rules permitted by law: open and confidential:
  - Open investigation is to follow the rules of face-to-face interviews, gather information and evidence, and analyse offences.
  - Confidential investigation is that the Anti-Corruption Unit may assign agents to monitor all court activities, may stealthily install sound recorders and cameras to record court operating activities, and may assign secret agents to participate in court corruption activities in all forms.

53. Through this work, some court officials have been arrested by the Anti-Corruption Unit on a charge of corruption and sent to court for trial according to the law.

### **The Rights to Freedom of Expression, Association and Assembly (Articles 19, 20, 21 and 22)**

#### **18. Reply to paragraph 18 of the list of issues**

##### *Reply to paragraph 18 (a)*

54. A number of national and international media companies, including 17 news websites, were closed in 48 hours before the 2018 election due to the fact that they did not respect their professionalism and violated the prohibited law:

- The publication of 17 website units was blocked due to the fact that they advertised and disseminated fake news and incitement news related to the election process on the White Day and Election Day.
- 17 news websites [were closed] in 48 hours before the 2018 election because they violated Article 7.2.4 of the Law, Procedures and Regulations for the Sixth Legislative National Assembly Election, on the Ban on Propaganda Campaigns 24 hours before the election day and Article 142 of the Law on the Election of Members of the National Assembly, which prohibits the dissemination of information, prevents people from going to the polls, causing confusion and loss of confidence in the secrecy of voting and having an adverse effect on and creating a gloomy atmosphere for the election process.

##### *Reply to paragraph 18 (b)*

55. The application of criminal and civil actions; or individuals who claim to exercise their freedom of expression in violation of criminal and civil laws, as opposed to the exercise of freedom of expression, for example:

- Sok Udom, the licensee of the website Rithy Sen ([www.rithysen.news.com](http://www.rithysen.news.com)) disseminated exaggerated information, incited violence, and provoked racial discrimination, insecurity and social unrest.
- Uon Chhin and Chheang Sothearith, former Radio Free Asia staffers, were charged with supplying foreign state with information prejudicial to national defence of the Kingdom of Cambodia under Article 445 of the Criminal Code.
- Radio Free Asia, which had an office in Cambodia, closed its own broadcast. As for The Cambodia Daily, it violated the Law on Taxation, failing to pay taxes to the state and shut down its publication.

##### *Reply to paragraph 18 (c)*

56. In the Kingdom of Cambodia, there is no violation of freedom of expression on the Internet. The websites operating online were blocked because they violated the law – not the exercise of freedom of expression.

**19. Reply to paragraph 19 of the list of issues***Reply to paragraph 19 (a)*

57. In Cambodia, never have the licenses of benevolent media companies who disseminate information on global pandemics been revoked except for those that use this global pandemic disease as an excuse to spread intimidation, causing civil unrest; applicable law shall be applied [to them].

*Reply to paragraph 19 (b)*

58. If [they] only constructively criticise the government's response to COVID-19, no arrests are made. However, the competent authorities have made arrests so far because a small number of crooks have taken this opportunity to fabricate information that pollutes the social environment, causing fear, with the intention of causing insecurity and sabotaging the economy.

*Reply to paragraph 19 (c)*

59. The arrest of the reporter named Sovann Rithy was not because he was quoting Samdech Prime Minister Hun Sen's direct remarks about COVID-19 because he posted an excerpt from the beginning and end of the sentences, omitting a phrase from the entire context of Samdech Techo Hun Sen's remarks, which misled the public over the government's measures and created chaos on social security.

60. Sovann Rithy was charged with incitement to commit a felony. The court sentenced him to 18 months' imprisonment. He served prison sentence from the date of his detention until the day the judgement was pronounced; the remaining penalty was suspended. He was currently released.

**20. Reply to paragraph 20 of the list of issues***Reply to paragraph 20 (a)*

61. The Kingdom of Cambodia does not have any plans to amend the provisions of the Criminal Code in relation to defamation, public insult, incitement and insult.

*Reply to paragraph 20 (b)*

62. The amendment to the Criminal Code in 2018 for the inclusion of the offence of insulting the King is not incompatible with the provisions of the Covenant because this amendment is in accordance with Article 73 of the Constitution of the Kingdom of Cambodia which states that the King shall not be abused by anyone.

*Reply to paragraph 20 (c)*

63. The powers conferred on the competent authority by the 2016 Telecommunications Law are not incompatible with the provisions of this Convention because the powers conferred by this Law are merely the responsibilities of the authorities for administering offences only. As regards the Inter-Ministerial *Prakas* No. 170 ប្រកាសអន្តរក្រសួង dated 28 May 2018, nothing is incompatible with the provisions of this Covenant as well because this *Prakas* is only a division of responsibilities among the competent institutions for combatting cybercrime and preventing any activities that spread false information or other images that endanger national security and the right to privacy.

*Reply to paragraph 20 (d)*

64. The Draft Law on Access to Information was widely discussed and commented on by United Nations agencies to Cambodia, including UNESCO and OHCHR representatives, and civil society organisations engaging in human rights affairs. The draft law is being reviewed and commented from the Ministry of Justice on penalties.

- As regards the amendment of the 1995 Law on the Press, the Ministry of Information has established a commission for the amendment in order that it searches and revises the text of the draft law in consultation with all stakeholders to ensure that the draft law is in line with international obligations.
- Separately, with regard to the Draft Cybercrime Law, the Ministry of Interior has been discussing with relevant stakeholders.

## 21. Reply to paragraph 21 of the list of issues

### *Reply to paragraph 21 (a)*

65. The 2017 Circular, which sets a three-day notice before the civil society organisations could act, was repealed; [the Circular was] no longer implemented. The Ministry of Interior issued Instruction No. 040, Circular of 31 October 2018 and Letter No. 2006 ស្រី៧៧៧ dated 27 November 2018 to ensure NGO associations and communities have full freedom to act without notifying local authorities.

### *Reply to paragraph 21 (b)*

66. With regard to the meeting held by the Prey Lang Community Network (PLCN), the authorities only abided by the Law on Peaceful Demonstration. The use of force in Sihanoukville land protests affected lives because of the violence and security forces who just used weapons for self-defence. However, for this incident, those responsible also received administrative discipline; the position of two deputy governors were terminated by the Royal Government.

### *Reply to paragraph 21 (c)*

67. Mrs Tep Vanny and Mr Meach Sovannara were not charged with criminal offences for exercising their right to freedom of association and freedom of assembly, as the reports exaggerated. According to the court's judgement:

- Mrs Tep Vanny was charged with insulting public officials and anti-public officials and intentional violence, which are all criminal offences under the Criminal Code of the Kingdom of Cambodia.
- Mr Meach Sovannara was charged with leading a riot, which is a criminal offence, serving prison sentence under the Criminal Code.

### *Reply to paragraph 21 (d)*

68. The 2016 National Animal Law is a law that was consulted with the International Labour Organisation (ILO), designed to protect the interests of both workers and employers as defined in the purposes and objectives of this law:

- Purposes:
  - To provide rights and freedoms to enterprises or institutions and private individuals under the provisions of the Law on Labour and Personnel Serving in the Air and Maritime;
  - To determine the organisation and functioning of professional organisations of workers and employers in the Kingdom of Cambodia.
- Objectives:
  - To protect the rights and legitimate interests of all persons under the provisions of the Law on Labour and Personnel Serving in the Air and Maritime;
  - To ensure the right to freedom of negotiation with the collective between workers and employers;
  - To promote harmony in professional relations;
  - To contribute to job development, productivity increment and investment;

- Certain unions face legal action in the course of their work – i.e. in the event that they violate the criminal law only; and
- Cases where national union activists are threatened and attacked are the issues of private individuals who may infringe upon the interests or rights of others.

## **22. Reply to paragraph 22 of the list of issues**

69. The Law on Associations and Non-Governmental Organisations is developed, based on the basic laws such as the Constitution of the Kingdom of Cambodia, the Universal Declaration of Human Rights, the Covenant on Civil and Political Rights, and the Convention on the Rights of the Child. Therefore, this law is not incompatible with the International Covenant on Civil and Political Rights.

70. Through the partnership forum between the Royal Government and civil society organisations, roughly 500 representatives of civil society organisations proposed to amend 14 Articles of the Law on Associations and Non-Governmental Organisations, including Articles 1, 7, 8, 9, 10, 11, 20, 24, 25, 26, 30, 31, 32 and 35. In this regard, from November 2019 until July 2020, the working groups of the Royal Government and civil society organisations already met and consulted six times; however, they have not fully finalised an agreement yet. The work is under discussion until an agreement is reached.

## **Voting Rights and Participation in Public Life (Articles 25, 2 and 10)**

## **23. Reply to paragraph 23 of the list of issues**

### *Reply to paragraph 23 (a)*

71. The Supreme Court of the Kingdom of Cambodia has jurisdiction to decide on the dissolution of a political party in accordance with the 2017 Amended Law on Political Parties. Article 44 *new* stipulates that regardless of other criminal penalties, [when] a political party violates Article 6 *new* and Article 7 of this Law, the court may decide the following:

- Suspend the activities of that political party, not exceeding five years.
- Dissolve that political party.

72. Article 7 states that all political parties shall not be subordinated to or under command or order of any foreign political party or any foreign government.

73. Article 6 *new* states that all political parties shall not:

1. Create a secession that would lead to the destruction of national unity and territorial integrity of Cambodia;
2. Conduct sabotage to counter liberal, multi-party democracy and constitutional monarchy regime;
3. Carry out an activity that would affect the security of the state;
4. Create an armed force;
5. Incite to break up the national unity.

74. The National Election Committee (NEC) had jurisdiction over the re-allocation of the seats of the Cambodia National Rescue Party (CNRP) to the Cambodian People's Party. By law, [the seats] were re-allocated according to the formula of Article 138 *bis* of the Amended Law on the Election of Members of the National Assembly, which stipulates that, "In the mandate of the National Assembly, if any political party declares to give up on their seats or has been dismissed from political party registration or has been dissolved according to the Law on the Political Parties, the list of its candidates and representatives will become invalid and disqualified. In that event, the NEC will distribute those vacant seats within at most 7 days to other political parties who participated in the national election in the capital and provinces, excluding the political parties who give up on their seats or have their names removed from the political party registration or have been dissolved in accordance with the

Law on Political Parties and the political parties who have seats in the National Assembly and lead the Royal Government.”

75. The decision to distribute the seats made by the NEC was not incompatible with this Covenant, as it was made in accordance with the applicable law of the Kingdom of Cambodia.

*Reply to paragraph 23 (b)*

76. The decision on the re-allocation of the seats did not affect the principle of political pluralism in the election, as this principle applies only to the electoral participation, not to the political pluralism of the members of parliament.

77. Holding all seats for the Cambodian People’s Party is not incompatible with the provisions of this Covenant.

*Reply to paragraph 23 (c)*

78. The reform of the Law on Political Parties neither allows the government to dissolve political parties nor prohibits members of political parties. Article 38 *new* of this Law authorises the Ministry of Interior, an institution of the Royal Government, to monitor the activities of political parties to ensure that political parties act in accordance with the law in force. In the event that any political party is found to violate the law, the Ministry of Interior has the right to issue a written warning only, asking [that political party] to stop illegal activities and suspending its activities for a specified period of time. In severe cases, the Ministry of Interior may have the right to appeal to the Supreme Court, which has jurisdiction under the law in force.

79. The provisions that authorise the Ministry of Interior to have the aforesaid powers, pursuant to Article 38 *new* of the Law on Political Parties, is not incompatible with those of the International Covenant.

*Reply to paragraph 23 (d)*

80. No attempts have so far been made to punish individuals who did not go to the polls. What happened was refer to individuals who acted to prevent people from going to the polls.

#### **24. Reply to paragraph 24 of the list of issues**

81. [With regard to] criminal charges in relation to insults, incitement and treason, not only are opposition party members charged, any other party members who commit criminal offences are equally charged as well.

82. Mr Kem Sokha has evidence that he has accepted foreign models and strategies to change leaders in Cambodia. He committed criminal acts involving conspiracy with foreigners, carrying out subversion. He was charged with conspiracy with foreign power, pursuant to Article 443 of the Criminal Code of the Kingdom of Cambodia.

83. The passports of 12 CNRP members and activists were confiscated due to the fact that they engaged in the activities with the outlawed rebels led by Sam Rainsy in order to overthrow the government and the monarchy. The court issued arrest warrants. Therefore, the Ministry of Interior annulled the 12 passports.

84. No evidence suggests that political dissidents were threatened with violence and intimidation during the run-up to the 2018 election. If there was any, it was a difference of opinion between individuals who supported different parties, and verbal clashes just occurred in the election campaign.

### **The Rights of the Child (Articles 23, 24 and 26)**

#### **25. Reply to paragraph 25 of the list of issues**

85. In order to reform the juvenile justice system, after the Law on Juvenile Justice was promulgated, the Royal Government established an inter-ministerial working group composed of the Ministry of Interior, the Ministry of Justice, the Ministry of Social Affairs,

Veterans and Youth Rehabilitation and the Court of Appeal. In partnership with UNICEF, the Inter-Ministerial Committee has been exploring the possibility of promoting alternative penalties for minor offences committed by minors and has developed relevant plans, measures and regulations so as to transfer juvenile detainees from the Ministry of Interior to the Ministry of Social Affairs, Veterans and Youth Rehabilitation in accordance with the Law on Juvenile Justice.

86. Meanwhile, the Ministry of Justice has been preparing guidelines on the rules and procedures for the transfer of juvenile offenders and the law from the formal judiciary as defined in the Law on Juvenile Justice.

87. In order to ensure the full and effective implementation of the 2016 Law on Juvenile Justice, the Royal Government of Cambodia has:

- Issued Sub-Decree No. 155 អនក្រឹត្យ ១៥៥ ចុះថ្ងៃទី ២៩ ខែ កញ្ញា ២០១៧, on the Organisation and Functioning of the Youth Rehabilitation Centres for the purpose of managing minors detained.
- Introduced a strategic plan and action plan for the implementation of the Law on Juvenile Justice (2018–2020).
- Prepared an inter-ministerial draft *Prakas* between the Ministry of Social Affairs, Veterans and Youth Rehabilitation, the Ministry of Interior and the Ministry of Justice on the transfer, management and rehabilitation of minors in conflict with the law.
- Prepared a draft *Prakas* on the minimum conditions for the care of minors in youth rehabilitation centres.
- Appointed a total of 50 social agents in the 25 capitals and provinces for facilitating and providing social services to minors in conflict with the law.
- Incorporated the Law on Juvenile Justice into the curriculum of the Police Academy of Cambodia.

88. To date, minors have not been detained with adult prisoners. They have been detained in communal centres, but in separate buildings from adults. Once rehabilitation centres become operational, minors will be remanded in those centres.

89. Pre-trial detention of minors is of last resort and a necessary case, as the Kingdom of Cambodia has not been able to secure the appearance of charged minors before the courts during the hearing yet.

## **Indigenous Peoples (Articles 2, 25, 26 and 27)**

### **26. Reply to paragraph 26 of the list of issues**

#### *Reply to paragraph 26 (a)*

90. Indigenous communities are re-located only when it is necessary for national interest or urgent national needs. Such re-location is implemented in accordance with the resettlement policies, and there is appropriate advance compensation according to the law in force. The Royal Government needed to build a hydropower plant that affected indigenous peoples' houses. As a solution, the Royal Government exchanged all their affected houses for other locations where the Royal Government had prepared for them; for example:

- New villages with adequate public infrastructure were developed;
- An 80-square-metre house on an area of 20 metres by 50 metres was built for each family;
- Each family was provided with land ownership of 5 hectares;
- To embark upon new lives, [the Royal Government] provided [them] with foodstuff, oil for lighting, various seeds and pesticides for a one-year period; and

- [the Royal Government] also provided [them] with forest land, non-timber forest products, cemeteries and places of worship, according to the traditions of the communities.

*Reply to paragraph 26 (b)*

91. In order to protect and guarantee the rights of indigenous peoples to own and occupy land, the Royal Government has established a policy on land registration and land use rights of indigenous communities and issued Sub-Decree No. អនក្រឹត្យលេខ ៩៤ ចុះថ្ងៃទី ៩ ខែ មិថុនា ២០០៩ លើ ប្រព័ន្ធគ្រប់គ្រងដីធ្លីរបស់ប្រជាជនស្រីវិជ្ជមាន.

92. The Royal Government of Cambodia has made its great effort to protect and guarantee the ownership and occupancy of indigenous peoples. By the end of 2020, 152 indigenous communities had registered their lands and continued the registration process.

*Reply to paragraph 26 (c)*

93. [As regards] the measures taken by the States Parties to provide comprehensive protection to the minority groups from COVID-19, the Ministry of Rural Development has educated them and disseminated the information on how to prevent the spread of COVID-19 in line with the guidelines of the Royal Government. The Ministry of Rural Development adheres to and strictly implements the guidelines of the Ministry of Health of the Kingdom of Cambodia in order to further disseminate [the information] in the national language and in each indigenous language to all indigenous communities and villages living in 15 provinces of the Kingdom of Cambodia in order that they are aware and implement sanitary measures to prevent the spread of the COVID-19 disease.

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