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Civil and Political Rights**

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**Consideration of reports submitted by States
parties under article 40 of the Convention**

Second periodic reports of States parties due in July 2002

Cambodia*

[28 December 2012]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document has not been edited.

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I. Introduction

1. The Kingdom of Cambodia is a State party to the International Covenant on Civil and Political Rights (ICCPR), ratified on 26 August 1992, to which the Royal Government of Cambodia (RGC) is bound to all provisions stipulated in the Covenant and shall submit its periodic report to the United Nations (the Human Rights Committee) on its implementation.

2. Pursuant to Article 40 of the ICCPR, the RGC shall submit its reports to the Human Rights Committee. The RGC had submitted its initial report to the Committee on 23 December 1998. The RGC would like to submit its second periodic report to the United Nations with the following contents.

A. General situation

1. Geography and demography

3. The Kingdom of Cambodia covers the area of 181,035 square kilometers, located in the region of Southeast Asia, shares a border with the Kingdom of Thailand, Lao People's Democratic Republic and Socialist Republic of Viet Nam.

4. The Kingdom of Cambodia comprises 24 capital/provinces. The capital/provinces consist of 194 towns/districts/Khans (26 towns, 159 districts and 9 Khans). The town/districts/Khans comprise 1,633 communes/Sangkats, which consist of 13,939 villages. The total population is 14.5 million. The demographic density throughout Cambodia in 2012 is 86 people per square kilometer. (The Strategic Plan for National Development Update, year 2009-2013).

2. Legal, political and constitutional structures

5. The Kingdom of Cambodia is a State of independence, sovereignty, peace, neutrality, permanence and non-alliance.

6. The territorial integrity of the Kingdom of Cambodia is completely inviolable within its border as specified in the map of 1/100,000 scale developed between 1933 and 1953 and it was recognized internationally between 1963 and 1969.

7. The Kingdom of Cambodia upholds and implements the liberal and pluralist democracy. The citizens choose their representatives through free and secret suffrage. The citizens exercise their power through the National Assembly, the Senate, the RGC, and trial courts. The power is separated between executive, legislative and judiciary. The top three powers include the following.

(a) The Legislative Power represented by National Assembly and Senate

8. The National Assembly is created through regular and universal election with free and equality by direct and secret ballots. The candidates entitled to stand for parliamentary election shall be at least 25 years of age and hold a Khmer citizenship at birth (Article 76 of the Constitution). The National Assembly's legislature term shall be five years and shall be expired when a new National Assembly convenes (Article 78 of the Constitution).

9. The Senate is also an organ to hold legislative power. Some of the Senate members shall be appointed and some others shall be elected by non-universal suffrage. The candidates entitled to stand for senator election are Khmer citizens of both sexes of at least 40 years of age with Khmer nationality at birth (Article 99 of the Constitution). The Senate's legislature term shall be 6 years and expired when the new Senate convenes.

(b) Executive Power

10. Executive power is represented by the RGC led by one Prime Minister assisted by Deputy Prime Ministers, Senior Ministers, Ministers and Secretaries of State as members.

11. All members of the RGC have shared responsibilities vis-à-vis the National Assembly in relation to general policies of the Royal Government. Every member of the Royal Government has respective responsibility before the Prime Minister and National Assembly with regard to his or her respective performances.

(c) Judicial Power

12. The judicial power is independent; it ensures the impartiality and protection of rights and freedom of citizens. The judicial power covers all cases as well as administrative cases. The judicial institution of the Kingdom of Cambodia consists of the following:

- Capital/Provincial Courts of First Instances and Military Court are the lower courts
- Appellate Court and Supreme Court are the higher courts

13. The capital/provincial courts of first instances have jurisdiction extended within their territories. The military court located in Phnom Penh has jurisdiction across the Kingdom of Cambodia as a whole. The military court has competence over cases related to military disciplines or any harm to the military properties.

14. The appellate court located in Phnom Penh receives and examines both the facts and legal ground of a case and has competence over the Kingdom of Cambodia as a whole. The Supreme Court based in Phnom Penh has jurisdiction over the Kingdom of Cambodia as a whole.

3. Economy

15. Cambodian economic development is characterized with constant growth, ensures the participation of all stakeholders and equitable distributions of fruitful achievement, based on the motto of increase equal and effective labour of the RGC's triangle strategy. Although Cambodia was affected by the debt crisis in Europe and the depression of the global economy, with additional duty to safeguard the sovereignty and territorial integrity, encountered the natural disaster resulted from the heavy flooding, the Cambodian economy had received a stable increase of 7.1% in year 2001. The gross domestic product had increased to 52,069 thousand million or approximately to 12,965 million US dollars in which the GDP for each person is 911 US dollars. The agricultural sector had increased 3.1% in 2011 in which plantation had increased 4.3%. Industrial sector had showed a remarkable speed with an increase of 14.5% in which textiles had greatly increased 19.9% and rubber production increased 13.6%. The service sector attained at 5.0%; the growth resulted from the increase of the financial sector (15.1%), hotels and restaurants (6.6%) and transport and telecommunication (5.8%). With regard to the poverty rate, according to the Millennium Goal, Cambodia shall attain the level of 19.5% by 2015. Based on the method of calculation the poverty, the rate in Cambodia had fallen to 14.6% in 2009. Cambodia, therefore; had achieved the first goal of the Cambodian Millennium Goal; and at the same time, Cambodia will seek other methods of calculation by considering other factors for calculating the poverty rate more effectively.

4. Acceptance of international human right standards

16. The RGC had committed to ratify the international human right treaties. Cambodia has become a party to the six most important treaties as follows:

1. International Covenant on Economic, Social and Cultural Rights (CESCR),
2. International Covenant on Civil and Political Rights (CCPR),

3. International Convention on the Elimination of All Forms of Racial Discrimination (CERD),

4. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its Optional Protocol (13 October 2010),

5. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and its Optional Protocol (29 April 2007), and

6. Convention on the Rights of the Child (CRC) and its two Optional Protocols

5. Legal framework for protection of human rights at national level

17. Beside the inclusion in the Constitution, which is a supreme law, the important contents of each above-mentioned human rights treaty had been extracted and put in the following national legislations. Those domestic laws are Criminal Code, Civil Code, Code of Civil Procedures, Code of Criminal Procedures, Land Law, Law on Marriage and Family, Law on the Prevention of Domestic Violence and Protection of Victims, and Labor Law. They are also included in the Law on Political Parties, Law on Nationality, Law on the Election of the MPs, Law on the Election of Senators, Law on the Election of Provincial-Municipal Councils, Khan/district Councils, Law on the Election of Commune/Sangkat Councils and Law on the Management of Provincial-Municipal, Khan/districts Administration, etc.

6. Jurisdiction framework for protection of human rights

18. The RGC has considered that the protection of human rights is a crucial part of indispensable obligations for ensuring the dignity and the livelihood of every person. Therefore, the RGC developed and allowed for the creation of human rights protection mechanisms at all parts of state administrations as well as the private sectors within national and international frameworks.

19. In the legislative framework, both the National Assembly and Senate had created its own Commission on Human Rights Protection and Receiving Complaints. These commissions have duties to coordinate and to deal with all requests of citizens whose rights are violated by various environments.

20. Within the executive framework, the RGC had created a mechanism called Cambodian Human Rights Committee whose roles and duties are to assist the RGC to advance the human rights and in solving all problems relevant to human rights violations.

21. In the judicial framework, there are sufficient trial courts at all levels with independent power to ensure impartiality and protection of all rights and freedoms of citizens against possible violations.

22. Apart from human rights protection mechanisms of the state, the RGC had opened widely to have many national and international NGOs to coordinate the protection of human rights of every person within the jurisdiction of Kingdom of Cambodia.

23. Those international organizations include UNESCO, OHCHR, ILO, ICRC, UNICEF and UNHCR. Likewise, many national NGOs were allowed to establish and obliged to facilitate and intervene in human rights protection and, in particular, rights of women and children in the Kingdom of Cambodia.

24. Cambodia signed and ratified the ICCPR in 1992 when Cambodia was under the leadership of Supreme National Council and also under the transitional period of government establishment.

25. Even though it was not published officially in the royal Gazette, the RGC has opened widely for a full dissemination of this covenant by all means and forms. The text of this covenant was translated into Khmer language, although it was unofficial, yet it was

permitted to publicize and distribute widely to public officials and citizens as well as broadcast on radios and TVs.

26. While publishing in Khmer language for dissemination, this covenant was included in consecutive training courses conducted by state institutions and NGOs to further interpret and explain the contents and the meaning in order to bring about deeper and clearer understanding to public officials and citizens.

B. Reporting process at the national level

27. In compliance with Article 40 of the ICCPR, the Cambodian Human Rights Committee formed a working group to write this report submitted to the United Nations. The working group consisted of 16 members, including a chairperson, a vice-chair and 14 members. The working group convenes its meeting regularly twice a month, presided by either the chairperson or the vice-chair.

C. Other information related to human rights

28. The office of the United Nations High Commissioner for Human Rights in Cambodia had cooperated with the Cambodia Human Rights Committee to conduct several consecutive training workshops on civil and political rights to government officials from 15 concerning institutions. These workshops started from 18 December 2009 to 16 September 2011. The institutions are

- Ministry of Interior
- Ministry of Planning
- Ministry of Land Management, Urbanization and Construction
- Ministry of Education, Youth and Sport
- Ministry of Health
- Ministry of Information
- National Committee for Election
- Ministry of Labor and Vocational Training
- Ministry of Cults and Religion
- Ministry of Social Affairs, Veterans and Youth Rehabilitation
- Ministry of Agriculture, Forestry and Fisheries
- Ministry of Rural Development
- Ministry of Women Affairs
- Ministry of Justice
- Phnom Penh Municipality

II. Implementation of each article of the Covenant

Article 1: Right to self-determination

29. Pursuant to the ICCPR, Cambodia has produced many laws in which the provisions on self-determination were provided to Khmer citizens in all sectors.

1. Political sector

30. The Constitution, Article 34:

- Khmer Citizens of either sex shall enjoy the right to vote and to stand as a candidate for the election.
- Khmer Citizens of either sex of at least eighteen years old have the right to vote.
- According to the Constitution and Electoral Law, Khmer citizens shall have the right to self-determination in political life.
- In the commune/sangkat council election for the second term on 1st April 2007, 12 political parties had participated, and 6.7 million citizens had registered as voters.
- In the general election, for the fourth legislature on 27 July 2008, 12 political parties had participated and 8.1 million citizens had registered as voters.
- In the commune/sangkat council election for the third term on 3rd June 2012, 10 political parties had participated, and 8.5 million citizens had registered as voters.

2. Economic sector

31. Cambodia adopts free market policy, so Khmer citizens have the right to choose an employment they prefer. This right is guaranteed by the Constitution in Article 36 as saying that, “Khmer citizens of either sex shall enjoy the right to choose any employment according to their ability and to the needs of the society”. The RGC had intervened in enabling Khmer citizens to enjoy the right to self-determination in choosing their employment through establishing many vocational training schools.

3. Land sector and ownership

32. The Land Law of the Kingdom of Cambodia provides rights to the proprietor, to sell, to exchange and to transfer their ownerships as stipulated in a number of articles of Land Law, including Articles 44, 63, 64, 66, 70 and article 71. The RGC provides land titles to citizens. Until May 2012, the lots owned with land titles numbered 2,705,341, and the proprietors enjoy full right to manage their own property. From June 2012, the RGC had started a big historical campaign in an in-depth land reform by demarcating the land in place and conferring the land titles to the citizens who actually possessed the land, but have no land document to have the title for their safe possession. The demarcation had so far accounted for 1.2 million hectares equal to 350 thousand families among whom 90% possess land measuring less than 5 hectares. At the same time, the RGC has accelerated the program on social land concession granted to veterans, disabled veterans and their families as well as the poor people who are actually short of land.

4. Religious sector

33. The religious affairs are controlled by Ministry of Cults and Religion in compliance with the Constitution; Article 43 says, “Khmer citizens of either sex shall have the right to freedom of belief. Freedom of belief and religious observance shall be guaranteed by the State on the condition that such freedom does not harm other beliefs or religions, the public order and security”.

34. Cambodia provides full freedom of beliefs and religions. Up to present, there is no conflict because of religious observance in Cambodia. Although the Constitution says, “Buddhism shall be the religion of the State”, several other religions are strongly active in Cambodia, namely the Muslim religion, Christianity, etc.

5. Marriage and family sectors

35. Marriage is not legitimately effective unless it complies with law. Man and woman have full right to choose a spouse he/she prefers without being forced or exploited by any person. According to the Constitution, Article 45, all forms of discrimination against women shall be abolished; the exploitation of women in employment shall be prohibited; men and women are equal in all fields, especially with respect to marriage and family matters. Marriage shall be conducted according to conditions determined by law and based on the principle of mutual consent between one husband and one wife.

Article 2: Non-discrimination

36. The Kingdom of Cambodia recognizes that every person is born free and equal in dignity and rights without any racial discrimination. Article 31 of the Constitution says, “The Kingdom of Cambodia recognizes and respects human rights as stipulated in the Charter of the United Nations, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women’s and children’s rights”.

1. Multi-racial Integration Movement

37. Even though the Law on Association is being drafted, the RGC has implemented in accordance with Article 42 of the Constitution, which says, “Khmer citizens shall have the right to establish associations and political parties. These rights shall be determined by law. Khmer citizens may take part in mass organizations for mutual benefit to protect national achievement and social order”.

38. Based on the provisions above, the RGC has permitted people of all races to unify and form groups as so-called associations, such as Khmer Kampuchea Krom Association, Northeast Regional Indigenous Association, Islamic Association, Chinese Association, Vietnamese Association, etc. Currently, Cambodia has more than 3,000 (three thousand) associations and NGOs being in normal operation.

39. Apart from associations and NGOs, Cambodia has many groups of religions that gather people from various races together regardless of complexion, caste or race.

40. The Associations, churches/temples/mosques and other religious centers are places for people of different races to carry out their observances according to their respective beliefs, their study and to receive good advice from those doctrines, bibles and other holy books. The RGC always pays attention to, encourages and welcomes them and never disturbs them in gathering, meeting, or carrying out their worship.

41. The RGC has regarded the development of human resources that are responsive to the needs of benefits and precise wishes of mountainous and highland tribal people as a priority project in which literacy programs and non-formal education programs are included to strengthen their awareness, culture and languages. The literacy books are prepared in two languages, Khmer and their respective indigenous languages.

42. The RGC respects the good relationship with mountainous and highland tribal people in using land and natural resources that their communities are utilizing. The RGC guarantees the possession and the uses of land in accordance with their tribal tradition by coordinating according to the applicable laws. Article 31, paragraph 2, says, “Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, color, sex, language, religion, belief, political tendency, birth origin, social status, wealth or other status”. This reflects the State’s attention to all individuals living in the territory of the Kingdom of Cambodia as clearly stipulated in the supreme law of Cambodia.

43. Criminal Code 2009 defines and pays attention to prevention of instigation and racial discrimination that may result in racial hatred as specified in Article 494, 496 and 497:

Article 494: The existence of instigation is punishable when it is committed by:

1. Speech of any kind, made in a public place or a meeting hall.
2. Writing or picture of any kind either displayed or distributed to the public.
3. Any audio-visual communication to the public.

44. According to provisions above, the RGC has taken the definition of the word “racial discrimination” into account as the ground for real practice without any interpreting besides this covenant such as the stipulation of non-discrimination on the ground of political tendency, national origin, social origin, properties or any tendency based on race, color, sex, language or religion.

45. Article 3 of the Criminal Procedure Code says, “The complaint is applied to every individual, both natural person and legal entity, without discrimination of race, color, sex, language, belief, religion, political tendency, birth, nation, social status, resources or other status”.

46. The Law on Nationality, Chapter 2, from Article 4 to 6, talks about Khmer nationality at birth and Khmer nationality through marriage. Also:

- The Law on Nationality, from Article 7 to 17 talks about nationalization.
- According to the Law on Nationality, Khmer nationality is provided to infants born in the Kingdom of Cambodia and infants born abroad from the parents having Khmer nationality at birth or being recognized as having Khmer citizenship.

47. Article 33 of the Constitution says “The deprivation of Khmer citizenship from Khmer citizens, including children, is prohibited.” Article 19 of Sub-Decree No. 103 dated 29-12-2000 on the civil registry requires that the local authorities shall carry out the birth registration for abandoned children. Meanwhile, the Ministry of Social Affairs, Veterans and Youth Rehabilitation has also encouraged to pay attention on this work, particularly the children living in state centers and centers of NGOs as specified in the policy on alternative care.

48. The Ministry of Education, Youth and Sport developed a comprehensive policy on education for children with disabilities aiming at ensuring that all children with disabilities enjoy the right to education as normal children on an equal basis with other children. The policy on education for children with disabilities covers any children who are mentally or physically impaired resulting in disruption of their livelihoods or daily activities, preventing them from being able to develop as other normal children do. The policy on education for children with disabilities determined the scope and activities framework in accordance with 6 components of the Child Friendly School program as follows:

- **Component 1:** All children are involved as all types of children with disabilities from everywhere are mobilized to access the education with equity.
- **Component 2:** The effective study enables the children with disabilities to access education with quality through various interventions with relation to healthcare services, community-based rehabilitation services and modification of education services ranging from pre-school to lower-secondary education.
- **Component 3:** Health, safety and protection of children ensure that all children with disabilities of all types have access to protection in terms of both health and safety for their daily livelihood at schools, families and communities.

- **Component 4:** The response to gender ensures that every child, especially children with disabilities, can access to school and can participate in all activities at schools as well as in the society as other children do.
- **Component 5:** The participation of children, families and communities enables the promotion of awareness on disability and children's needs in a wider range to all the stakeholders so that they can engage in providing education to children with disabilities.
- **Component 6:** The support of education system program ensures the effective implementation of education for children with disabilities by all hierarchical cycles. The children with disabilities enrolled in 2009-2010 accounted for 78,966 (33,120 females) and most of them were affected by visual impairment, hearing impairment, mental impairment, convulsion, etc.

2. External religion affairs

49. Article 43 of the Constitution stated, "Khmer citizens of both sexes shall have full right to beliefs." The RGC permitted the establishment of churches, mosques, temples and other religious centers and beliefs where the holders may observe without any restriction over freedom and religious observances or of racial discrimination:

- (a) Muslim religion: There are 392 mosques, 420 Suraos, 233 schools and 320,419 followers;
- (b) Christianity:
 - 40 Catholic churches, 39 centers, 30 schools and 8,623 followers
 - 465 Protestant churches, 783 centers, 318 schools, 85,065 followers
- (c) Mahayana Buddhism and other beliefs, Mahayana Buddhism of Korea, Japan, Vietnam, Kongs Em, Meilek, Khungming are followed by 34,168 followers.

3. Launch of appropriate actions

50. The Kingdom of Cambodia completely ended the political forces and Khmer Rouge troops at late 1998, which was the largest unit applied racial and political discrimination during their government from 1975 to 1979. The win-win policy known as DIFIT (Divide Isolate Finish Integration Develop) of Samdech Prime Minister Hun Sen, Cambodia set up and laid down legal and administrative measures and many other appropriate actions to prevent racial discrimination and to stop from happening again in Cambodia.

4. Policy and measures of Royal Government

51. The RGC had considered racial discrimination and xenophobia as acts violating the laws and human rights. Based on this spirit, the RGC focuses on reduction of poverty to develop the economy, democracy and rules of law. By adhering to the regime that strengthening the national solidarity policy under the national motto of "Nation Religion King", democracy, pluralism and free market economy, the Kingdom of Cambodia broadly opens for participatory activities from people of all races to contribute to country development in every sector without tendency of racial discrimination. The RGC determines within its policy that the RGC firmly adheres to national reintegration policy to mobilize all forces throughout the country from all levels, political tendencies, domestically and internationally.

52. The RGC considers the incitement to violence and all forms of racial discrimination as an act breaching the law. The incitement to nurture of thoughts of superiority or hatred, violence, instigation of racial discrimination or isolation of any group of people with different skin color or different origins shall be regarded as illegal acts and shall be

convicted pursuant to the applicable laws. The incitement by any means to discrimination, revenge or violence against someone or any group on the ground that this person is a member or not a member of a specific ethnicity, race or religion shall be convicted from 1 (one) to 3 (three) years imprisonment and shall be fined from 2,000,000 (two million) Riel to 6,000,000 (six million) Riel if such incitement is ineffective. The incitement via media shall be subject to the provisions of the Law on the Press¹.

53. Article 11 of the Law on the Press says, “The press shall not disseminate any information which incites people to discriminate race, skin color, nationality, sex, language, belief, political tendency, origin, social status, resources or any status. The press shall not publish anything which may affect public order by directly inciting one or more persons to commit violence. The commitment of the offense mentioned above shall be penalized by a fine from 1,000,000 Riel to 5,000,000 Riel”.

5. Measures to prevent and combat racial discrimination

54. The RGC launched administrative and special measures to ensure the progress of all races or nationals by helping some weak individuals and households and supported, promoted and enabled them to benefit and have equal access to human rights and fundamental freedom. The RGC perceives the same as the concerns of the United Nations General Assembly that in the current world there is appearance of racial discrimination, which even results in brutal acts such as suicidal bombing, kidnapping, commitment of cruel torture and taking improper pictures due to racial, religious and ethnical discriminations. Such acts do not exist in Cambodia for the reason that the characteristics of Khmer citizens are, in general, gentle, polite and honest, and they are aware clearly of misdeed, good deed, virtue, love and mutual valuation. Nowadays, in sports and arts there are more involvements from all races, so Khmer citizens feel happy and congratulate without caring about winning or losing because sports and arts are friendships of all people living in a comfortable and peaceful world.

55. The RGC agrees with the concerns of the United Nations and takes part in seeking a joint means to direct the global effort to eliminate the racial discrimination, xenophobia, and intolerance. The RGC is not excessively proud of its country that can avoid these acts because these concerns and sufferings are of our world.

Article 3: Equal rights between men and women

56. The Constitution of the Kingdom of Cambodia ensures equal rights between men and women by allowing women to enjoy full right to involve actively in the social life. This principle is a measure ensuring the elimination of discrimination against women and enabling women to access equal rights as the men do in terms of economic, social and cultural lives as stated in Article 31, 34, 35, 45 and 46 of the Constitution 1993.

57. In employment sector, the women who are working are protected by Article 178, to 182 of the Labor Law. The laws also prioritize women in applying for government jobs (Article 11 of Co-statute for Civil Servants).

58. To implement the rules of law and all provisions effectively, based on equality between men and women, the RGC takes non-discrimination actions to ensure that the women can take part as representatives at the international arena and can participate in activities according to their situation and possibilities. The RGC has been promoting the status and roles of women in legislative, executive and judiciary. To enable women to take part in political and public life, on the equal basis with men, from stage to stage, the RGC

¹ Article 496 of Criminal Code.

has increased the number of women in the state leadership, in order that women can take part in developing and exercising the policies of public function at all level of the government in this fourth legislature.

59. At the legislative, there are 123 MPs in 2012 including 22 women MPs. Among 61 senators in 2012, there are 12 women senators. At the executive, women are part of government composition:

<i>Deputy Prime Minister</i>		<i>Minister</i>		<i>Secretary of State</i>		<i>Under-secretary of State</i>	
Total	Women	Total	Women	Total	Women	Total	Women
10	1	26	2	198	15	204	30
100%	10%	100%	8%	100%	8%	100%	15%

60. At the judiciary, the total number of judges across the country is 185 including 21 women judges.

Article 6: Right to life

61. In Kingdom of Cambodia, the right to life and personal security is strictly protected by the law for every national under its jurisdiction. Every person has the right to life, freedom and personal security. The capital punishment has been abolished. Article 38 of the Constitution says, “The law shall be responsible for non-violation of any individual and the law shall protect the life, honor and dignity of every citizen”. For example:

- The accusation, arrest, police custody or detention of any individual cannot be carried out unless it complies properly with the law. Any physical coercion or maltreatment, which results in additional torture on the detainees or prisoners, shall be prohibited. The perpetrators, the offenders and the accomplice shall be punishable in accordance with applicable laws.
- The confession obtained through physical and mental coercion shall not be regarded as evidence of guilt.
- Doubt shall be resolved in favour of the accused.
- Every accused shall be presumed innocent as long as the court has not held complete sentence.
- Every person shall have the right to access judicial protection.

62. In ensuring the right to life, the RGC has paid attention to prioritizing the solutions for child mortality and implementing anti-malnutrition and widespread of transmitted diseases measures through enforcing the development of healthcare sector in order for provision of quality, effective, equal and sustainable healthcare services. The priorities are given to rural and remote areas and vulnerable groups aiming at regularly promoting the health condition and welfare in order to enable all people to actively contribute to livelihood and socioeconomic development.

63. The RGC has regarded healthcare sector as one of 4 priority sectors of the priority activity programs of the RGC to ensure timely allocation and funding for both current expenses and capital.

64. The RGC has supported the United Nations commitment on child rights, declaration and action plans of global summit for children in 1990, declaration on hunger elimination and reduction of all forms of malnutrition in international assembly in 1992, international summit on world food in Rome, Millennium Declaration approved by the General Assembly in September 2000.

65. The RGC has concentrated much attention on implementing the preventive program and treatment program on transmitted diseases, especially the mother and child care ward to reduce the infant and maternal mortality rate through emergency rescue, education and dissemination of information on health and hygiene, especially to the poor in the rural areas. In 2010, 24 provinces throughout the country had implemented the national programs on provision of 8 types of vaccinations for 322,291 children of under one year old equal to 88%.

66. The mortality rate of infants under 1 year old amongst 1,000 infants of survival birth decreased from 95 in 2000 to 66 infants in 2005. The mortality rate of children under 5 years old amongst 1,000 infants of survival birth went down from 124 in 2000 to 83 children in 2005. Therefore, within 5 years from 2000 to 2005, the mortality rate of Cambodian children decreased 30% or about 6% on average per year. The speed of decrease is 4 times quicker than annual average reduction rate compared to other developing countries in the world that were able to decrease roughly 1.3% per year from 1999 to 2005 based on UNICEF's demographical and health observation data 2000 and 2005.

67. The RGC has paid attention to elimination of tuberculosis (TB) through cooperating with the Japan International Cooperation Agency (JICA) and conducted researches to look for people living with HIV among people living with TB throughout the country for the first time in 2003, second time in 2005, third time in 2007 and the fourth time in 2009. The result shows that 11.8% of persons with TB were living with HIV in 2003, 10% in 2005, 7.8% in 2007 and 6.4% in 2009 equal to 4,000 patients out of 700,000 TB patients. These programs were financially and technically supported by organizations, including UNFPA, UNICEF, WHO, AUSAID, UNAIDS, WFP, JICA, etc.

68. Any acts affecting the life of a human being are regarded as crimes. The RGC takes many actions to prevent the arbitrary deprivation of right to life and to prosecute the offenders if such act is committed.

69. The violence provoked by mass population (mob killing) has been reduced consecutively through many actions such as public education, compliment of the competent authorities for protecting the suspects from being attacked by the public and for sending the convicts to the court for sentence. In fact, there were 27 cases in 2003, 21 cases in 2004, 22 cases in 2005, 5 cases in 2006, 3 cases in 2007, 2 cases in 2008 and in 2009 there is no more case of violence committed by the public on the suspects.

70. The RGC regards terrorism as a large threat on peace, stability, security and economic extension for international community as a whole. The terrorists had taken the life of people, destroy social infrastructures and cause severe sufferings and serious damages of facilities, so Cambodia needs to develop the legal framework available for preventing and responding to this terrorism in order to protect the people, national properties and interests.

71. The Kingdom of Cambodia adopted and promulgated the Anti-Terrorism Law on 20 July 2007. This law conforms to 13 United Nations conventions and protocols and some other resolutions of the Security Council to formulate a complete legal framework to combat effectively against terrorists. This law identifies some necessary offences and specifies the freezing and the confiscation of terror assets as well as mechanisms for international cooperation such as extradition and mutual assistance in relation to implementation of Anti-Terrorism Law.

72. The National Committee for Anti-Terrorism established by Cambodia contributes to prevention of terrorism, which is a global issue today. Even though geographical, political, social and economic conditions of Cambodia do not put Cambodia in the first target of terrorism attacks, it is necessary for Cambodia to build its own capacity to be ready for the safety of all Cambodian people as well as to contribute to fighting against terrorism. This is

aimed at building a joint cooperation to eliminate terrorism which is making the people in all nations hostages of fear.

73. In terms of compensation for victims in compliance with the law of Cambodia, every person can file complaints to the courts for justice and claim the compensation for damage occurred due to the offences. The criminal cases and civil cases are two different cases. The criminal cases are aimed at examining the existence of offence in order to demonstrate the guilt of offenders and the conviction is preceded according to the law. The civil cases are aimed at compensating the damage resulting from the offence committed on the victim. The damage shall be rehabilitated through the compensation paid to the victims whose assets are lost or damaged or by returning them to their original condition.

74. The RGC takes actions to eliminate the impunity of killing in the past through an establishment of an Extraordinary Chamber in the Court of Cambodia (ECCC), known as Khmer Rouge Tribunal. The tribunal is actively operating and stepping forward gradually to judge the top Khmer Rouge leaders and the most responsible person for the serious crimes committed during the Khmer Rouge regime. The Case 001 had sentenced Kaing Gek Iv (known as Duch) regarding his role as director of detention center S-21 (Tuol Sleng Prison) during the Pol Pot genocidal regime and the proceedings of the case had completed with a conviction of life imprisonment. The Case 002 is under trial by the Trial Chamber with the prosecution of four top Khmer Rouge leaders who are under pre-trial detention at the tribunal. For further details, please visit the homepage of the tribunal at www.eccc.gov.kh.

Article 7: Torture

75. Article 38 of the Constitution states: “The law guarantees that there shall be no physical abuse against any individual. Every citizen shall enjoy the right to defense through judicial recourse.” Article 39 of the Constitution states, “Khmer citizens shall have the right to denounce, make complaints or file claims against any breach of the law by state and social organs or by members of such organs committed during the course of their duties. The settlement of complaints and claims shall be the competence of the courts”.

76. Torture and acts of cruelty are prosecuted under the Criminal Code 2009 of the Kingdom of Cambodia, in Book 2, title 2, Chapter 2, and Section 1: Torture and Acts of Cruelty from Article 210 to Article 216.

77. The Kingdom of Cambodia has become a state party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1992 and ratified the Optional Protocol of this Convention in 2007. Under the Optional Protocol, the RGC created a national preventive mechanism to ensure the respect for the fundamental right of any individual who is deprived of their liberty. This establishment is to deal with and respond to torture, cruel, inhuman and degrading treatments. This mechanism has roles, duties and rights to inspect/visit all places of detention, detention facilities throughout the Kingdom of Cambodia.

78. Ministry of Education, Youth and Sport issued a ministerial order No. 1258 dated 17 March 2009 and its Article 113 on punishment states that any physical and mental punishment imposed against students shall be absolutely prohibited within educational establishments. The students who committed something wrong shall be examined and determined by a disciplinary board according to their faults. All forms of suppressing against the students for the sake of personal interests shall be absolutely prohibited at every educational establishment and classroom.

79. Code of Criminal Procedure, Paragraph 3 of Article 321 says that the statement given under physical or mental duress shall have no value of evidence. In case of physical abuse or wrongdoing of the state organs, social organs and the employees of these organs,

the victims have the right to file a complaint to subsequent courts such as Provincial/Municipal Court of First Instance, Appellate Court, and finally the Supreme Court (Article 39 of the Constitution).

80. Detainees or prisoners have the right to file complaints against any civil servant who committed torture against them. The offenders shall be punishable in conformity with Criminal Code, and the victims have the right to remedy for damage pursuant to article 14 of the Code of Criminal Procedures.

81. The procedures to be implemented when there is a complaint against the police officers or prison guards are as follows: the complaints regarding the disciplinary performance in duty shall be addressed under the competence of the Ministry of Interior. The complaints related to crime either a felony or a misdemeanor committed during fulfillment of duties shall be under the competence of the courts. The prisons and detention centers in Cambodia are under renovation to conform to the United Nations minimum standards. The relatives are authorized to meet the detainees or the prisoners of their family members without any discrimination.

82. In the Kingdom of Cambodia, no one is subject to a medical or a scientific experiment without the consent of the concerned individual.

83. Currently, with regard to the United Nations Code of Conduct for Law Enforcement Officials, the Kingdom of Cambodia had extracted some main contents of this code and included in our fundamental laws such as Code of Criminal Procedures, stipulated from Article 61 to 66, and Criminal Code which stipulated the offences and punishments. This is to ensure that the law enforcement officials and other persons accused of torture or cruel, inhuman treatment are brought to the court for prosecution in compliance with the applicable law as well as to ensure that the investigation is carried out promptly without bias and conviction is held.

84. On 19 January 2007, Cambodia enacted the law ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. On 22 and 23 January 2009, Ministry of Interior organized a workshop on the implementation of this optional protocol with the participation from United Nations Subcommittee on Prevention, the office of the High Commissioner for Human Rights in Cambodia, and the Denmark-based Rehabilitation and Research Centre for Torture Victims. This demonstrated the official commitment when the RGC ratified this Optional Protocol in 2007 to eliminate torture in Cambodia.

Article 8: Elimination of slavery

85. The Kingdom of Cambodia had signed the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery on 12 June 1957. Pursuant to this Convention, the Constitution of the Kingdom of Cambodia had recognized and respected the rights of all human being without discrimination of race, color, sex, language, religion, beliefs, etc., as well as prohibited the physical abuse and the violation of honor and dignity of any person (Article 31, 38, paras. 1-2-3-4).

86. Pursuant to the Constitution of the Kingdom of Cambodia, Articles 45, 46 and 48 state, “No one shall be detained to be a slave, and every person shall not be subject to exploitation by any means.” The exploitation of women, prostitution, exploitation from child labour or other persons are all prohibited.

87. Cambodia had a tragic experience with Kampuchea Democratic Regime, known as Khmer Rouge regime, during 1975–1979 when the people, youth and children lost their rights as human being and they were forced to work heavily day and night. They suffered from starvation, miserable lives, suffered from torture and arbitrary execution of millions people. After the liberation day of 7 January 1979, the citizens recovered their rights,

particularly the child rights in Cambodia has been taken into account by explicitly enshrining them in the constitution and the political platforms of the RGC.

88. In Kingdom of Cambodia, one is regarded as a slave, and currently Cambodia has taken actions to abolish all worst forms of heavy child labor as the Kingdom of Cambodia ratified the International Labour Organization (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. In 2011, Ministry of Labor and Vocational Trainings protected children from having to work in heavy and hazardous work places and prevented such forms as the following:

- Cooperating with ILO and the International Programme on the Elimination of Child Labour to protect 2,719 children (1,398 girls) and prevented 1,979 children (1,031 girls).
- Cooperating with WINROCK to protect 2,999 children (1,599 girls) and prevented 4,965 children (3,203 girls).

Article 9: Right to freedom from arbitrary detention

89. In response to requirements of investigation, the judicial police can arrest any individuals suspected of involving in the offence. In case of felony, the minor from 14 to less than 16 years of age shall not be detained longer than 36 hours and minor from 16 to less than 18 years of age shall not be detained longer 48 hours. In case of misdemeanors, the minor from 14 to less than 16 years of age shall not be detained longer than 24 hours and minor from 16 to less than 18 shall not be detained longer than 36 hours. The police custody of an adult lasts no longer than 48 hours. The duration is counted from the time when the concerned suspect arrives in the judicial police station.

90. The pre-trial detention can be implemented only in case of prosecuting the felony or misdemeanors determined by law for the imprisonment term ranging from one year onward.

91. The investigating judge decides on the detention of the charged person temporarily with an order providing reasoning. In this order, the investigating judge shall refer to the provision of Article 205 of the Code of Criminal Procedures regarding the reason for temporary detention. The temporary detention order shall be informed immediately to the prosecutor and the charged person.

92. For the adult charged with a felony, the temporary detention cannot exceed 6 months. However, when the first 6 months expires, the investigating judge may delay the detention for another 6 months with good and precise reasoning. The investigating judge can delay the temporary detention only 2 times during its investigation. In case of misdemeanor, the temporary detention cannot exceed 4 months. However, at the end of this duration, the investigating judge can delay temporary detention only one more time and the delay is no longer than 2 months with good and precise reasoning. The duration for temporary detention shall not be beyond half of minimum sentence specified by the law. In case of prosecution for the crime against humanity, genocidal crime or war crime, the temporary detention cannot be longer than 1 year for each crime. Nevertheless, at the end of this duration, the investigating judge can prolong the detention duration for one more year with good and precise reasoning. The investigating judge can order to delay the temporary detention for 2 times only.

93. For minors from 14 to less than 18 years old accused of felony, the pre-trial detention, under article 213 of the criminal procedure code, shall be the following:

- The temporary detention cannot be longer than 4 months if the minor is from 14 to less than 16 years of age.

- The temporary detention cannot be longer than 6 months if the minor is from 16 to less than 18 years of age.
94. For minors from 14 to less than 18 years old accused of misdemeanor, the pre-trial detention, under article 214 of the criminal procedure code, shall be the following:
- The temporary detention cannot be longer than 2 months if the minor is from 14 to less than 16 years of age.
 - The temporary detention cannot be longer than 4 months if the minor is from 16 to less than 18 years of age.
95. The duration for the above pre-trial detention shall not exceed half of minimum sentence specified by the law for the concerned minor.
96. When the investigating judge, who had received requisitioned submission from the prosecutor requesting to detain the charged person temporarily, does not agree with this request for detention, the investigating judge, within 5 days, shall render an order of no-pre-trial detention without providing any reason. This order shall be immediately informed to the complainant. If the judge cannot make decision within 5 days, the prosecutor may appeal to the investigative chamber who will make decision on pre-trial detention on behalf of the investigating judge.
97. Article 39 of the Constitution stipulates that Khmer citizens have the right to denounce, or make a complaint, appeal or insurance claim resulting from illegal acts of the state organs, social organs and of employees working for these organs. Remedy to such appeal and complaint for damages is subject to the court competence.
98. According to Article 530 of Code of Criminal Procedures, the duration of forced physical imprisonment is specified as below:
- Ten days in case the unpaid amount is not more than 250,000 Riel.
 - Twenty days in case the unpaid amount is from 250,001 Riel to 500,000 Riel.
 - One month in case the amount is from 500,001 Riel to 1 million Riel.
 - Two months in case the amount is from 1,000,001 Riel to 2, 500,000 Riel.
 - Three months in case the amount is from 2, 500,001 Riel to 5,000,000 Riel.
 - Six months in case the amount is from 5,000,001 Riel to 10,000,000 Riel.
 - One year in case the amount is from 10,000,001 Riel to 20,500,000 Riel.
 - Two years in case the amount is more than 50,000,000 Riel.
 - If the forced physical imprisonment in lieu of payment is enforced to ensure the payment of various debts, the duration of the imprisonment shall be determined by the total amount due.

Article 10: Prisons

99. The persons who are deprived of their liberty shall be protected by law to maintain the respect of dignity inherent from birth of human being as specified in Article 31 and article 38 of the Constitution that specify the recognition and respect for human rights as specified within the Charter of the United Nations and the Universal Declaration of Human Rights. The law ensures non-existence of physical abuse of any individuals, and the protection of the life, honor, and dignity of citizens. The deprivation of freedom of any person cannot be carried out unless it complies with the law. The coercion, ill-treatment and torture committed against detainees or prisoners are absolutely prohibited.

100. The institution in charge of prisons in Cambodia is Ministry of Interior (General Department of Prison) by applying to the national law (Criminal Code) and administrative provisions of ministerial order No. 217 dated 31 March 1998 of Ministry of Interior.

101. In Cambodia, there are 22 prisons and 4 correctional centers accounting for 26 in total with 13,751 prisoners including 846 female inmates (data 2010), among them:

- 9,465 convicted, including 518 female convicted (as of May 2010).
- 4,286 detainees, including 328 females.

102. At capital/provincial prisons and correctional centers, there are 21 prison-health clinics under the control of Ministry of Health with reference to Letter No. 01 dated 4 January 2010, to establish health posts/offices at prisons and correctional centers. Those health offices have been:

- (a) Supplied with medicines from referral hospitals;
- (b) Strengthened in terms of technical works through training and building capacity of the healthcare staff.

103. Sub-decree No. 86 dated 18 June 2009 on Determination of Living Standard/regime for detainees and convicts demonstrates the attentions of the RGC to respect the rights of people who are deprived of their liberty. The detainees and convicted are provided with daily food fees of 2,800 Riel and children less than 6 years of age who cannot be separated from their mothers who are prisoners shall be provided with half of food ration conferred to a prisoner.

104. Besides the food regime, clothes and materials for daily uses as specified in the aforementioned Sub-decree, the decree-law No. 28 dated 20 June 1988 also stated the grant pardon and punishment mitigation for the convicted who:

- (a) Have tried to correct themselves,
- (b) Paid much attention to regularly fulfill their assigned works and become good person for other convicted, and
- (c) Have strictly and properly complied with the internal regulations of the prison.

105. Any convicted person who has met the specified requirements shall receive a pardon if this convicted had served his prison term at least two thirds (2/3) of the specified imprisonment imposed by court or had completed 15 years of sentence for those whose sentence is an imprisonment to life. The pardon or mitigation of punishment for convicted can be carried out three times a year, including during Khmer New Year, Water Festival and Visaka Bochea day (Buddhist ceremony).

106. The management of convicted is applied in accordance with the ministerial order No. 217 dated 31 March 1998 of Ministry of Interior aiming at providing trainings and education as tools for encouraging them to love and to respect the laws and to enable them to earn a living after having completed their imprisonment term and acknowledged their guilt. The vocational trainings provided include repair of motorbike, radios, televisions computers, tailoring, weaving, construction and cultivation.

107. To ensure the effective operation of prison management, Article 509 of Code of Criminal Procedures states, "The prosecutor general of the appellate court, prosecutors, chief of investigative chamber and investigating judges shall conduct inspection to the prison regularly".

108. The procedure No. 3 in reference to ministerial order No. 217 dated 31 March 1998 on Prison Management of Ministry of Interior, Article 4, point 3 states that male and female prisoners shall be separate. The prisoners under 18 years of age shall be separate from the

adult ones. The prisoners shall be placed separately based on their categories and the detention buildings as appropriately as possible with the following categories:

- The detainees are placed separately from the convicted.
- The serious-sentence prisoners are placed separately from the minor-sentence prisoners or misdemeanor prisoners.

109. The General Department of Prison of Ministry of Interior is planning to reform the prisons by preparing a garment industry and small-scale handicrafts which are a crucial contribution in rehabilitating the prisoners because via the assigned tasks:

- The prisoners have opportunities to get out to the wider open area
- Change the habits and improper mindsets
- The prisoners have opportunities to learn the way struggling in lifetime.
- Promote the vocational trainings
- Increase the incomes
- Obtain the encouragement from family

110. Through this reform program, the RGC provides supports for building a new prison on a plot of land with a size of around 800 hectares in Pursat province where such programs are serving the agriculture sector and it is the best achievement to enable all national correctional centers to implement the rehabilitation programs through full learning and vocational training programs.

111. The RGC issued Sub-decree No. 122 dated 07 August 2009 to establish the national preventive mechanism against torture and other cruel, inhuman or degrading treatment or punishment. This mechanism is led by H.E. Deputy-Prime Minister and Minister of Interior, Mr. SAR Kheng, and is composed of 12 members from the concerned institutions tasked with competence to inspect/visit the places of detention at any time without prior notice.

112. The Code of Ethics and Disciplines of Prison Guards No. 1 dated 29 September 2005 issued by Ministry of Interior, article 8 imposed the punishment onto the prison guards who breach the procedural regulations and the ministerial order of the Ministry of Interior.

113. To ensure the management of prison functioning in accordance with basic principles of the United Nations Minimum Standard, the RGC had adopted the law on prison and promulgated it on 21 December 2011.

Article 11: Right to non-detention

114. Article 11 of the Covenant stipulates, “No one shall be imprisoned as a result of failing to fulfill the obligations within the contract.” The contract reflects willful agreement entered into by and between two or more persons to create, to modify, or to terminate one or more obligations related to them such as the contracts of sales, purchase, loan, pawnshop, enterprise, transportation, bailment, borrowing, or lease, etc.

115. Article 396 of Civil Code 2007 states that in case debtors fail to voluntarily abide by the contract, the creditors can force the debtors to implement the contract except in cases the fulfillment of the obligation cannot be forced. The procedures for forceful compliance shall conform to the Code of Civil Procedures.

116. Article 398 on Conditions of Responsibilities for paying the damages states that:

(1) In case the debtors fail to fulfill its obligation, the creditors can demand the damages resulting from incompleteness of such obligations. In case the debtor has appropriate reason claiming that he/she has no fault of incompleteness of such obligation, the debtor shall be free from responsibility for such damages.

(2) In case the debtor assigns someone to help fulfill his/her obligation, that debtor cannot be free from bearing the responsibility for damages unless that debtor has appropriate assertion that he/she has no fault of assigning and controlling that assistive person and that assistive person also has no fault. These articles do not stipulate about the case of imprisonment of the debtor at all.

Article 12: Freedom of movement

117. The freedom of movement is a crucial right for daily life and social interactions. This right is guaranteed by the Constitution as article 40 says, "The freedom of movement and settlement of the citizens under lawful conditions is respected. Khmer citizens can settle overseas or return." Cambodian citizens can travel freely throughout the country.

118. Cambodian citizens can travel overseas freely wherever that country permits in accordance with its law. Regarding Khmer citizens who are currently living abroad, the embassy or consular of Cambodia overseas helps facilitate the preparation of any documents for those who are living overseas to have a passport of Khmer Nationality to facilitate the travel back to Cambodia all times.

119. The foreigners can come to do investment or tourism in Cambodia freely by subjecting to the Law on Immigration of the Kingdom of Cambodia.

120. Currently, the RGC had integrated into the region with other neighboring countries of ASEAN, which facilitates the travel without visa with a specified term. This is also an attention of the RGC in exercising the rights to travel of Cambodian citizens.

Article 13: Expulsion of foreigners

121. Kingdom of Cambodia has no principle of gathering or expelling foreigners in groups or in large number from the country. Any foreigner breaching the Law on Immigration can be expelled from Cambodia. The cause of expelling the foreigner from Cambodia are listed in the Law on Immigration as the following:

(a) Any foreigners who engage in behavior or activities dangerous to the national security of the Kingdom of Cambodia (Article 36);

(b) Competent ministry/institutions have specific evidence demonstrating that such person is resisting against the national security of the Kingdom of Cambodia (Article 36);

(c) Any foreigners entering Cambodia to work without work permit (Article 36);

(d) Any foreigners who sneak into Cambodia without permitted visa (Article 37).

122. In accordance with the law, the Minister of Interior (Article 35) shall approve the expulsion of foreigners from the country. Such expulsion shall be implemented within a period of not more than 7 days after the issuance of an official decision by the Ministry of Interior unless there is a judgment on suspension of expulsion from the court (Article 39). The foreigners being expelled from Cambodia are entitled to bring the case to a court within the period of 2 months (Article 38 of the Law on Immigration).

Article 14: Equality before the court

123. Article 38 of the Constitution stipulates that every person has the right to protection through the court. The right to protection through the court provides any person with equal right before the law. The RGC has strong commitment to eliminate racial discrimination and guarantees that all people have equal right before the law as stated in Article 31-32 of the Constitution. This article provided that Cambodian citizens have equal right before the law as well as the same freedom and obligations without discrimination regardless of race, color, sex, religions, beliefs, national origin, political tendency, social status, resource or other status.

1. Right to equity before the law

124. Every person has the right to file complaint to the court all time to claim the damage or compensation. Articles 38 of the Constitution states that every person has the right to protection through the court. These rights are implemented in the court from the date of case or the beginning of the offence until the final settlement.

125. Article 6 of Code of Criminal Procedures (filing the damage claim by the victim) states: “Any person who declares that he/she is a victim of an offence is entitled to file a legal complaint. A simple complaint is not valid to make an accusation of criminal offence. In case no response is made to the complaint or the complaint is filed without processing by the prosecution, the victim can appeal his/her complaint to the general prosecutor of the appellate court as per the procedure stipulated in Article 41 (filing the case without processing) of this Code.”

126. Article 3 of Code of Criminal Procedures states, “The criminal complaint is applicable for every person both natural person and legal person regardless of race, color, sex, language, beliefs, religion, political tendency, national origin, social status, resource or other status.” The equal right before the court is conforming to two fundamental principles, including presumption of innocence and principle of fair trial.

2. Presumption of innocence

127. During criminal proceedings and hearings in the Kingdom of Cambodia, the conduct of courts on the accused reflects the principle of presumption of innocence as long as the final decision of the court on the case is issued as specified in article 38 of the Constitution. The article states that “any accused shall be regarded as innocent as long as the court has made final decision”. The presumption of innocence is reflected through the following proceedings.

128. Any person shall have the right to protection through the court until the court finds out that he/she has committed offence. In this case, the accused shall be punished in compliance with the law. The presumption of innocence for the accused whose guilt is found, the prosecution who handles the criminal case has duty to clearly demonstrate the wrongdoings of the accused. Related to evidence of accusation, the prosecution shall prove each element of the accusation beyond reasonable doubt. Article 38, paragraph 6 of the Constitution stipulates, “cases of doubt shall be resolved interesting favor of the accused.” In the process of the implementation, the prosecution shall collect evidence and call the witness who can inculpate the accusation during the hearing. If the prosecution cannot do this or does not prove any evidence, the accused shall be acquitted (thus considered innocent), under article 127 of Code of Criminal Procedures.

129. Regarding the principle presuming that every person is innocent until found guilty by the court, no one is forced to provide evidence by confessing the guilt by his/herself which can be used as the ground to sentence him/her. The accused is not duty born to assist the prosecution in proving that he/she is guilty. In Cambodia, the confession obtained by using physical and mental violence cannot be used as valid proof for punishing in the court,

as in article 38 of the Constitution says, “The confession obtained by using physical and mental violence cannot be used as valid proof of guilt”.

130. Moreover, the confession of the accused cannot be used as a ground for conviction unless there are incorporated evidences. In practice, the prosecution provides independent evidence to clarify the confession of the accused. Only in this case that the accused can be sentenced based upon the whole evidence.

131. The accused cannot be forced to testify against themselves during trial. The accused has the right to choose the answers to the questions and has the right to remain silent when there is any question on the offence alleged. For the reason that the accused is not required by the law to answer all questions and failing to answer is not regarded as an offence, the accused, therefore, has the right to remain silent. Right to remain silent is part of presumption of innocence.

3. Principle of fair trial

132. Article 129 of the Constitution stipulated, “Trials shall be conducted in the name of the Khmer citizens in accordance with the legal procedures and laws in force. Only judges shall have the right to adjudicate. A judge shall fulfill this duty with strict respect for the laws, wholeheartedly and conscientiously.” Article 128 (2) of the Constitution stipulated, “the judiciary shall guarantee and uphold impartiality and protect the rights and freedoms of the citizens.” The principle of fair trial provides the accused with the right to be tried publicly through a protection and guarantee of fundamental right. As aforementioned, the accused during the trial is presumed as innocent until the court issues a final decision. The accused is not required to assist the prosecution through the evidence of innocence or be forced to defend or to denounce him/her. The right to remain silent is a reason helping to protect innocent accused and the accused who have never been questioned and who is vulnerable and sensitive to terror.

133. Article 360 to Article 364 of Code of Criminal Procedures specifies the trial procedures without presence of the accused known as “trial in absentia.” If the accused does not respond to the summons, the court can go ahead with a hearing by sentencing the accused in absentia. In general, the court carries out such hearing the same as the one in front of the accused by listening to all answers from the witness(es) and examining all documents and information. The accused can file an opposition against the court decision within a period of 15 days after being informed of default judgment (Article 368 of Code of Criminal Procedures: duration of filing an opposition complaint).

134. Article 38(8) of the Constitution states, “Every citizen shall enjoy the right to defense through judicial recourse.” The accused has the right to submit the facts, evidence and elaboration of law to the court in an effort to protect himself/herself or through legal aids at their own choice. The rights to protect themselves include the right to be informed of accusation, right to examine the case-file, right to be protected by law and the right to have witness(es).

135. The accused has the right to obtain assistance from the lawyer at all stages of criminal proceedings stipulated within the code, which mentions in article 301 regarding the assistance from lawyer and article 149 regarding the defense in front of the court by the accused himself.

136. In Kingdom of Cambodia, there is a Judge School for training judges and prosecutors. Those who are eligible to take entrance exam of this school must have at least bachelor’s degree of law, and the training period is 1 year and another 1 year is for practicum. Therefore, the judges and prosecutors are capable in law in handling their duties.

Article 15: Retroaction of criminal law

137. The temporal application of Criminal Law, article 9 on the application of less severe law states, “a new provision which abolishes an offence shall be applicable immediately. An act committed before the new provision came into force shall no longer be subject to prosecution. Any ongoing prosecution shall be terminated. If the final judgment has been passed, the resulting punishment shall not be enforced or shall cease to be enforced.”

138. Application of lighter or heavier penalties of the criminal law, article 10 states, “a new provision which prescribes a lighter punishment shall be applicable immediately. However, the final judgment shall be enforced regardless of severity of the relevant punishment. A new provision which prescribes a heavier punishment shall be implemented only to acts committed after the provisions came into force.”

Article 16: Right to recognition as a person before the law

139. Every person has his/her own identity after birth through birth certificate registration. Ministry of Interior and local authorities always inform the people to have civil registry (birth certificate, marriage certificate, and death certificate) to register for a family book, residential book, and identification card of Khmer nationality.

140. The identity of individuals is certified by civil registry specified by Sub-Decree No. 103 dated 29 December 2000 on civil registry. Article 17 states, “When an infant is born, the parent is obliged to report and register for a birth certificate of the newborn baby in front of the registrar at the commune/sangkat where the permanent residence of infant’s parents is located, within the period of not later than 30 days by precisely certifying that the parents of the infant are in either a documented or non-documented marriage. If they are documented parents, they shall prove this with their marriage certificate. If the parents are too busy to obtain their infant’s birth certificate, they can call on their relatives or neighbors who know or are aware of the infant’s birth to help register the birth certificate before the due date by bringing the marriage certificate of the parents along.

141. Article 18 on the surname of the infant shall follow what their family has practiced from their ancestors or the surname of the infant’s grandfather or name of the father. The parents or guardians are the ones who name the baby.

142. Article 19 provided that, if any person picks up a neglected infant, he/she has to hand over that infant to the registrar in sangkat or commune where the infant is found. The registrar has to make a record and register birth certificate by giving a name to the infant, and in case of necessity, the registrar shall consult with the health official in order to put the date of birth of infant above by estimation, and giving the name of father and mother unidentified. If any person requests for this neglected infant to be adopted, the surname of infant shall be taken from the family name of the adoptive parent.

143. Article 27 on immigrants and foreigners who have been living lawfully in the territory of the Kingdom of Cambodia and give birth to a baby in Cambodia, the parents can register their infant for birth certificate at the commune or sangkat where they are currently residing or register for a birth certificate at their embassy, consulate or office mission of their country to the Kingdom of Cambodia. If birth registration is done at commune or sangkat, the surname and given name, and name of infant’s parents shall be written in the Latin alphabet accompanied by Khmer scripts. The nationality of the infant shall be in compliance with the Law on Nationality of the Kingdom of Cambodia.

Article 17: Right to privacy, family and reputation

144. The RGC recognizes and respects the article 17 of the Covenant. Right to protect the honor and dignity of all races who are living in the territory of the Kingdom of Cambodia is protected by the Constitution which is the supreme law as provided in article 38 that, “the law guarantees that nobody is subjected to physical abuse. The law protects the life, honor and dignity of the citizens.”

145. Article 40, paras. 3 and 4 of the Constitution reserves the right to non-violation of the residence and secret of letters, telegram, facsimile, fax, and telephone correspondence. The search of residence, materials, objects and any individual’s body shall be in conformity with the law.

146. Article 39 of the Constitution also states that in case of illegal interference, the citizens have the right to file complaint to the court or file a claim for damages resulting from the illegal acts of state organs, social organs and of the officials of these organs.

147. Criminal Code 2009, Chapter 6 also specifies the punishment over relevant offenses, with regard to “violation of personal liberty, violation of privacy as stipulated in from article 299 to 304.” For instance, article 299 on the violation of the domicile stipulated that, “any act of entering the domicile of another person by acts of violence, or by coercion, threat or manoeuvres, except where authorized by law, shall be convicted from 1 month to 1 year imprisonment with a fine from 100,000 Riel to 2,000,000 Riel.

148. Article 300 on aggravating circumstances related to perpetrators said that, “entering a domicile of another person against the person’s will by a public official in the performance of his/her duty or in connection therewith, except where authorized by law, shall be convicted from one year to two years imprisonment with a fine from 2,000,000 Riel to 4,000,000 Riel.

149. Article 301 on intercepting or recording private conversation said that intercepting or recording words uttered in private or confidential circumstances without the consent of the person concerned, except where authorized by law, shall be punished from 1 month to 1 year with a fine from 100,000 Riel to 2,000,000 Riel. Consent shall be presumed if the person concerned was notified of the interception or recording, but did not object to it.

150. Article 302 on violation of privacy and recording of a personal image mentioned that recording the image of a person who is in a private place, without the person’s consent, except where authorized by law, shall be convicted from to 1 month to 1 year imprisonment and a fine from 100,000 Riel to 2,000,000 Riel. Consent shall be presumed if the person concerned was notified of the interception or recording, but did not object to it.

151. Related to search under article 91 of the Code of Criminal Procedures says that judicial police officers can carry out the search. In such case, the police shall first obtain the authorization from the prosecutor. The search shall be carried out in the presence of the premises occupant or in case of absence the occupant, the search shall be carried out in presence of two witnesses. This search cannot be conducted before 6:00 AM and after 18:00. Besides the Constitution, there are some existing laws and legislations guaranteeing the rights, honor and dignity of all human beings from illegal violation of the private life of any individuals, families or harm to the honor and dignity of others.

Article 18: Freedom of religion and belief

152. In the Kingdom of Cambodia, all people have full freedom of thoughts, and religion. To ensure the freedom of religion and belief, the RGC has permitted many religions to do activities responding to the needs in beliefs of all people which includes so far the following religions:

<i>No.</i>	<i>Name of Religion</i>	<i>Number of Temple/Churches</i>	<i>Number of Monks</i>
1	Buddhism	Mahayana: 4,340 pagodas Thammayut: 174 pagodas Total: 4,514 pagodas	Mahayana: 55,345 Thammayut: 1,475 Total: 56,820
2	Christianity	Catholic: 40 churches : 39 offices : 30 schools Protestant: 465 churches : 783 offices : 318 schools	Followers: 8,623 Followers: 85,065
3	Muslim	Mosques: 392 mosques Sourao: 420 places School: 233 school	Followers: 320, 419

153. The Kingdom of Cambodia adopts Buddhism as the state religion, but the RGC does not have any regulation or provision to prohibit or enforce any provision to follow Buddhism. Every person has freedom to choose the religion according to his or her personal belief.

154. To ensure a better development of religious sector, the RGC established Ministry of Cults and Religion with the following roles:

- Set up measures to lead and administer all religions that are located and doing activities in the territory of the Kingdom of Cambodia, especially paying more attention to Buddhism, which is the state religion.
- Instruct and monitor subordinate religious organizations, pagodas and religious sects, centers for religious research and all organizations, associations with religious characteristic to operate and do religious activities in accordance with the laws of the state.
- Coordinate the followers of all religions for a religious harmonization and encourage all followers to observe the religious norm and disciplines of each religion, to have solidarity within its religious framework and with the followers of other religions.
- Coordinate the Buddhist studies aimed at developing human resources among the monks.
- Communicate and cooperate closely with the two Supreme Patriarchs, Venerable Buddhist Monks Director and leaders of other religions in charge of religious affairs.
- Develop policy for management and structures of religions of all sects in the Kingdom of Cambodia.
- Examine, study, research, translate, compile, maintain, publish and distribute widely books, norms, rules, Dhamma books, literature, culture, arts, tradition, Buddhism and other religions.
- Give recommendations and take appropriate actions for art play/performance, which may affect the religious sector.
- Examine the dissemination of religious books and all kinds of documents, including pictures, audio-visual materials related to religious sector in cooperation with relevant ministries and institutions.

- Examine and authorize the establishment or the closure of Buddhist activities at the request of Monks Board of Directors.
- Examine and authorize the establishment or the closure of activities of other religious offices.
- Examine and give advice in authorizing to open or close religious education institutions.
- Promote and encourage Dhamma lectures/dialogues and Buddhism programs connected to the society.
- Recognize the appointment of monk officers at all hierarchies as the Monks Board of Directors had proposed.
- Develop international cooperation on cults and religious sector, facilitate and promote the initial trainings and on-going training of Buddhism teachers, professors, laypersons and pagoda commissions.
- Participate in inspection of religious affairs, religious education sector and solve disputes.
- Examine and give instruction about construction, demolition or resettle of religious buildings in cooperation with relevant institutions.
- Promote the establishment of libraries in pagodas for interest of the public and monks and laypersons in the Kingdom of Cambodia.
- Encourage all religions to participate in economic and social development and enable all pagodas and religious temples to become centers for mental, moral, cultural and social education.
- Maintain harmonization and freedom of all religions.
- Research and make statistics of beliefs and number of indigenous groups for development and conservation.
- Fulfill other duties as provided by the RGC.

155. Articles 508 to 516 of Criminal Code specified the offences affecting Buddhism, however; the RGC does not separate or discriminate any religion and puts no restriction that may affect the freedom of other beliefs and religions.

156. The Kingdom of Cambodia has no pattern of coercion with regard to the management or administration imposed on individuals who follow any specific religion or belief. There is a certain amount of education on Buddhism at general education schools in the Kingdom of Cambodia because Cambodia celebrates several traditional ceremonies by Buddhism rituals, and Buddhism is the state religion in accordance with paragraph 3, article 68 of the Constitution.

157. The RGC as well as the local competent authorities in Cambodia does not force the followers of any religion to follow Buddhism, so every person has full freedom in holding and exercising their own religion at anytime without caring that anyone or other have to adhere to Buddhism. (Paragraph 3, article 31 and paragraph 2, article 43 of the Constitution)

158. The Kingdom of Cambodia does not have any law forcing any person to follow any religion. Father, mother or guardian shall have no right to force his/her children to follow any religion. Article 47 of the Constitution says, "Parent shall have duty to take care of and educate their children to become good citizens."

159. Buddhism education is carried out through "Buddhism-society connection program", and it has been produced in DVD, VCD and broadcasted on the radios and

televisions on a daily basis. Other religions do these activities in groups and religious organizations, as mentioned above in paragraph 1, every day according to their own religion without any form of coercion or restriction.

160. No religion is being taught at the public schools, but it is broadcasted on radios and televisions through Buddhism education program every holy day.

Article 19: Freedom of expression

161. Article 41 of the Constitution says, “Khmer citizens shall have freedom of expression, press, publication and assembly. No one shall exercise this right to infringe upon the rights of others, to affect the good traditions of the society, to violate public law and order and national security.”

162. Freedom of expression through writing includes writing of press, magazines, bulletins, etc., in all about 600 agencies are registered with Ministry of Information for their operation, in Khmer, English, French, Chinese and Vietnamese without prior examination.

163. In the Kingdom of Cambodia, there are 64 television stations (15 stations based in Phnom Penh and 59 stations based at provinces) which are broadcasting nationwide using national and international languages. Those television networks also contribute to freedom of expression of Khmer citizens.

164. There are 166 radio stations broadcasting throughout the Kingdom of Cambodia (53 radio stations based in Phnom Penh, and 113 stations based at the provinces). The freedom of expression via radios in Cambodia is remarkably active. These radio stations had served the expression services of the people in all sectors.

165. There are around 3,000 civil society organizations performing activities in Cambodia. Those civil society organizations have fulfilled their works from urban to remote areas in order to contribute to social development.

166. Cambodia adopts liberal and pluralism regime by having political parties competing with each other on democratic basis, specifically in each legislature. The parties that win the election have their own representatives in the National Assembly.

167. To ensure convenience and public order and safety, the RGC has created a freedom park to give people, groups, organizations or associations a location to express and demonstrate their wills and opinions. The freedom park shall be created in the capital and each province across the country pursuant to the law on the peaceful demonstration promulgated by the king on 5-12-2009.

Article 20: Racial hatred

168. Cambodia lives in peaceful co-existence with the neighboring countries and all other countries in the world. The Kingdom of Cambodia does not invade any country at all and the Kingdom of Cambodia has the right to self defend when there is an invasion from outside.

169. The RGC has tried to build friendship, solidarity and a better cooperation among other countries and various international partners to boost the national developments. The RGC implements the international policy based upon neutral, peaceful coexistence and non-alliance principles to build friendship and cooperative relationship with all countries in the world based on the ground of equality, respect for independence, sovereignty and territorial integrity. The RGC has also strived to strengthen bilateral and multilateral relationships with amicable countries, international organizations, regional organizations and sub-regional organizations to develop the country and to join in addressing key

international problems, including combating terrorism and crimes across the borders, protection of environment to keep and strengthen peace, security stability, cooperation and development of the sub-regions and the world as well as to ensure protection of rights and interests of all people.

170. The RGC adheres strictly to unity policy of all Khmer citizens under a single constitution without separation of political tendency, past, sex, race, religion, beliefs and social status in order to mobilize the labor forces to develop the country, to protect the nation and to strengthen social harmonization.

171. According to Article 31 of the Constitution, the RGC accepts the definition of the term (racial discrimination) as stipulated in the International Convention on the Elimination of All Forms of Racial Discrimination for the ground of real practice without any interpretation in other way besides this convention. The Criminal Code 2009 regulates the punishment on incitement to racial discrimination or hatred as clearly stipulated in Articles 494, 496 and 497. Article 494 on existence of incitement shall be punishable when it is committed by:

1. Speech of any form made in a public place or meeting.
2. Writing or picture of any forms, either displayed or distributed to the public.
3. Any audio-visual communication to the public.

172. Article 495 on incitement to commit a felony: the direct incitement to commit a felony or to disturb social security by employing one of the means stipulated in Article 494 (existence of incitement) of this Code shall be punishable by imprisonment from 6 months to 2 years and a fine from 1,000,000 Riel to 4,000,000 Riel, if the incitement was ineffective.

173. Article 496 on incitement to discriminate: the direct incitement, by one of the means stipulated in Article 494 (existence of incitement) of this code, to discriminate, to be malicious or violent against a person or a group of persons because of their membership or non-membership of a particular ethnicity, nationality, race or religion shall be punishable by imprisonment from 1 year to 3 years and a fine from 2,000,000 Riel to 6,000,000 Riel if the incitement was ineffective.

174. Article 497 on incitement through the print media: the offences defined in this section when committed through the print media are subject to the provisions of the Law on Press.

Article 21: Freedom of assembly (freedom of expression)

175. The RGC has supported the exercise of freedom of press, freedom of expression, right to strike, right to peaceful demonstration and freedom of assembly. These freedoms are guaranteed by laws.

176. Article 37 of the Constitution says, “The right to strike and peaceful demonstration shall be exercised within the legal framework.”

177. Article 41 of the Constitution states that, “Khmer citizens shall have freedom of expression, press, publication and assembly. No one shall exercise this right to infringe upon the rights of others, to affect the good traditions of the society and to violate public law and order and national security”.

178. Article 2 of Law on Peaceful Demonstration: This law is aimed at ensuring the protection of freedom of expression of Khmer citizens through peaceful demonstration, but this right shall not be used to violate the freedoms and honor of others, good tradition of the society, public order and national security.

179. In order to ensure the participation in public expression, the RGC has assigned all capital and provincial authorities nationwide to improve immediately the previous public spaces and gardens to be the places for peaceful demonstration or public expression (freedom park).

180. Article 10 of the Law on Peaceful Demonstration says, “The competent capital or provincial authorities shall examine and respond within a maximum period of three working days starting from the date when the notification has been submitted. If the competent capital or provincial authorities fail to respond until the due date when the peaceful demonstration must be held, it is regarded that the competent capital or provincial authorities have approved.”

181. Article 11 of this law also says, “In case the competent capital or provincial authorities have got clear information that the demonstration may cause danger or would seriously jeopardize the security, safety and public order, the competent capital or provincial authorities must immediately respond to and inform the submitter(s) of notification letter in order that they will have time to meet with local authorities and other relevant authorities to discuss the solutions.

182. Article 17 states, “The competent authorities shall take measures to protect the peaceful demonstration to ensure security, safety and public order and shall not interfere in the peaceful demonstration process.”

183. Article 18 states, “Upon request for assistance by the leaders of a peaceful demonstration, the competent authorities shall endeavor to respond with full attention to appropriate requests in accordance with the legal basis in order to ensure the exercise of their right to freedom of peaceful demonstration and the exercise of their right to freedom of public expression with dignity.”

184. Article 19 states, “The competent authorities designated to maintain security, safety, public order at the avenue of peaceful demonstration shall wear their uniforms and shall adhere to the attitude of absolute patience.

185. Article 28 says, “Within six months after the entry into force of this law, each capital and province shall create public expression sites by choosing appropriate space or center where the public can hear and see clearly within its respective jurisdictions for holding peaceful demonstration or public expression as set forth in Article 14 of this law.”

186. So far, there have been people gathering in small groups to protest for the solutions of the problems. In this case, the competent authorities always tried to seek appropriate solutions in compliance with the policy of the RGC.

Article 22: Freedom of association

187. The Constitution and laws of the Kingdom of Cambodia guarantee the freedom of association. As of July 2012, there are 1,320 associations and 1,968 NGOs in Cambodia. These NGOs and associations contribute to educating people about rights and obligations in accordance with liberal democracy and pluralism policy.

188. According to the Constitution of the Kingdom of Cambodia, the freedom set forth in paragraph above is limited in order to prevent violation freedom of others. Article 31, paragraph 3: “The exercise of rights and freedom shall not affect the rights and freedom of others. The exercise of such rights and freedom shall be in accordance with the law.”

189. Article 41: “Khmer citizens shall have freedom of expression, press, publication and assembly. No one shall exercise this right to infringe upon the rights of others, to affect the good traditions of the society and to violate public law and order and national security. The press regime shall be determined by law”.

190. Article 42: “Khmer citizens shall have the right to establish associations and political parties. This right shall be determined by law.”

191. Khmer citizens may take part in mass organizations for mutual benefit to protect national achievement and social order.

192. Paragraph 1 of Article 9 of the Law on Political Parties states, “Khmer citizens of at least 80 persons of 18 years old or more and who have permanent residence in the Kingdom of Cambodia may have right to form a political party by submitting a letter of notice to Ministry of Interior. The Ministry of Interior must respond in writing within fifteen (15) days after having received the notice. After 15 days, it shall be considered that the notice has already been received.”

193. With regard to the trade unions and professional association, workers and employees are equally entitled to establish professional association they prefer and they also have the right to participate as members.

194. In the Kingdom of Cambodia, right to trade union under article 266 of Labor Law states that, “without any requirement and prior permission, the workers and employers have the right to form professional organizations of their own choice for the exclusive purpose of studying, promoting the interests and protecting the rights as well as the moral and material interests, both collectively and individually.”

195. Article 270 of the Labor Law says, “The foreigners who are eligible to be candidates for the election of the management of a professional organization of employers must meet the following requirements:

- Be at least 25 years of age
- Be able to read and write Khmer,
- Have the right to permanent residence in accordance with the Immigration Law of the Kingdom of Cambodia, and
- Have worked at least two consecutive years in the Kingdom of Cambodia

196. Article 271 of the Labor Law states, “All workers, regardless of sex, age and nationality, are free to be a member of the trade union of their choice.”

197. In Kingdom of Cambodia, regarding the protection of freedom of the trade union, Article 279 states, “it is prohibited for the employers to take into consideration of trade union membership or participation in trade union activities when making decisions concerning recruitment, management and assignment of work, promotion, remuneration and grating of benefits, disciplinary measures and dismissal.”

198. Currently, the RGC is drafting the law on associations and NGOs to protect their rights. The RGC still has open policy to encourage people to establish associations and NGOs according to their own ability.

199. The RGC still recognizes and protects the interests of associations, and organization established before or after May 1992, especially the recognition and protection of interests of the associations and human right organizations.

Article 23: Right to marriage and family

200. In Kingdom of Cambodia, men or women of legal age have full rights to make decision about their marriage. One party cannot force another party against his or her will.

201. The law also determines certain circumstances in which marriage is not allowed as in Articles 951 and article 952 of the civil code. The code prohibited marriage between persons who are relative by blood or who are relative by marriage in direct line of all levels,

whether or not legitimate or adoptive. The code also prohibited marriage between homosexuals, the incapable persons, or persons living with leprosy, tuberculosis, cancer or STDs that are not completely cured, a mentally ill person, and a person who has mental disorder and a person whose marriage is still legally valid (Article 6 of the law on marriage).

202. In Cambodia, the minimum age for contracting marriage shall be determined by article 948 of the 2007 Civil Code, which states that men and women who do not yet reach the legal age could not get married. However, in case one of the parties reaches legal age and the other party is a minor whose age is not less than 16 years old, they may get married with the authorization from those who have parental power or from the guardian of the concerned minor.

203. The family in Cambodia is built through getting married in accordance with the Law on Marriage and Family.

204. Article 29 determined that in a family, husband and wife are equal in all aspects.

205. Article 73: For the best interest of children, the decision to give any party custody of the children shall be determined with the consent of the divorced husband and wife. According to general principles, a baby who is still breastfeeding shall remain under the custody of the mother. In case no agreement is reached between the parties regarding the custody of children, the custody shall be determined by the court, based on the best interest of the child.

206. Article 74: The divorced father or mother must support, take care of, bring up and provide their children alimony for children's education and schooling as much as they can. The amount of alimony shall be determined according to an agreement between the divorced spouses. In case no agreement is reached between the spouses, the people's court shall determine according to the ability of each spouses. The alimony shall be given to children until they become adults.

207. In protection of family under the Law on Adultery adopted by the National Assembly on 1 September 2006, article 1 stipulated that, the purpose of this law is to protect dignity and foster the harmony and happiness in families and to ensure the rights and respect between a husband and a wife in accordance with Article 45 of the Constitution in addition to the applicable laws.

208. A Khmer citizen of either sex who is married must sincerely respect the principles of monogamy, one husband and one wife, by registering their marriage in front of members of commune council pursuant to the Law on Marriage and Family. However, Article 4 states, "Bigamy is the act of a person who is already married contracting another marriage. A person will commit the offence of bigamy if he/she registers his/her new marriages to another person while his or her previous marriage has not been dissolved. An accomplice shall be equally liable for conviction and punishment." Especially, in the Law on Monogamy, Article 9 states, "Anyone convicted of the offence in Article 4 of this law will be sentenced to a term of imprisonment of between 6 months and 1 year or a fine of between 200,000 Riels to 1,000,000 Riels or both."

209. In protecting family, the RGC set out the Law on Prevention of Domestic Violence and Protection of Victims adopted on 16 September 2005 and its purpose is to prevent domestic violence, to protect the victims and to strengthen the culture of non-violence and the harmony within the households in the Kingdom of Cambodia.

210. This law is aimed at establishing a legal mechanism to prevent domestic violence, to protect the victims and to maintain harmony within the households in line with the Nation's good custom and tradition and in accordance with Article 45 of the Constitution of the Kingdom of Cambodia, and in addition to the regulations in effect. Article 19 of this law says, "Any domestic violence, which has criminal characteristics, felonies or severe

misdemeanors, shall be subject to criminal complaint despite the violence was already over. The criminal complaint shall be made in the form as stated in this law and in accordance with the Law on Criminal Procedures in effect.”

Article 24: Child rights

211. The Kingdom of Cambodia recognizes and protects the four fundamental rights of children without discrimination of race, color, sex, language, origin or society.

212. Article 48 of the Constitution says, “The state shall protect the rights of children as stipulated in the Convention on Children and, in particular, the right to life, to education, to protection during wartime and from economic or sexual exploitation. The state shall protect children from acts that are injurious to their educational opportunities, health and welfare.”

213. Paragraph 2 of Article 68 of the Constitution says, “Every citizen shall receive basic education for at least 9 years”.

214. Article 38 of the Criminal Code states, “The age of criminal responsibility shall be 18 years old and over”.

215. However, the court can announce criminal punishment on the minors from 14 (fourteen) years old if the circumstance of the offense or characteristics of the minor require.

216. Article 212 of the Code of Criminal Procedures states, “A minor under 14 years old may not be temporarily detained. The investigating judge may decide to send the minor to his parent or guardian or if there is no guardian, the minor will be sent to stay temporarily at a childcare center pending the court’s decision.”

217. In helping the helpless children, the RGC has 23 centers for taking care of children. There are 2,314 children staying in the centers in 2012, and besides this, the RGC had allowed NGOs to open centers and there are 193 centers in 2012. Most of children living in the state centers and NGOs centers are poor children, street children, orphans and abandoned children. In addition, there are children who have suffered from violence, trafficking and exploitation, and small number of them was taken care in a short time in the rehabilitation centers.

218. Ministry of Education, Youth and Sport has issued guidance on disciplinary actions to children by oral warning or punishing the children by getting them to write many sentences or by writing types of punishment in the student’s study record books. Only the disciplinary councils shall have right to punish children, but physical/corporal punishment is not allowed.

219. Draft Law on Tobacco Control prohibits the selling of cigarettes to children less than 18.

220. The Labor Law determines the protection of children who are able to work, such as:
- Article 177 stipulates, “The minimum age of the children who can work shall be 15 years old”
 - Chapter 6, Section 8 specifies the special protection for female working children
 - Minors under 18 years old cannot be employed to work in open cast mining, underground mining or quarries (Article 174)
 - Children, employees, laborers or apprentices aged less than 18 years old cannot be employed to work at night in any enterprise (Article 175)
 - The nighttime rest for children of either sex must be a minimum of eleven consecutive hours (Article 176)

- The allowable minimum age for wage employment is set at fifteen years of age (Article 177-1)
- Regardless of the provisions in paragraph 1 (Article 171) above, children aged from twelve to fifteen years old are allowed to do only light work in the conditions as follows:
 - These works do not jeopardize health or physiological and physical development of the children
 - Those works do not affect regular study, participation in orientation program or vocational training program determined by competent authorities

221. The RGC issued the Sub-Decree on Civil Registry No. 103 dated 29 December 2000. This Sub-Decree requires father or mother to make report on a birth of a baby within 30 days to the registrar at the commune/sangkat of the permanent residence of the parents (Article 17.)

222. If anyone has picked up an abandoned baby, that person shall hand over him/her to the registrar of the commune/sangkat where the baby is found to register the name (Article 19). The Sub-Decree also facilitates birth registration and provides birth certificate to A baby or child whose account has not been registered or does not have birth certificate or who is living in the secured center or children center (Article 20).

223. In 2002 and 2004, the RGC issued Sub-Decree No. 60 and 17 to amend some articles of the Sub-Decree No. 103. Article 8 of the Sub-Decree No. 60 outlined responsibilities of the commune/sangkat councils on registration affairs. Article 25 of the Sub-Decree No. 17 facilitated the birth registration procedures (Guidance of Ministry of Interior No. 495 dated 20 April 2006.)

224. Ministry of Interior has promoted the dissemination works via radios and televisions forwarding to improve awareness and effective implementation of registration affairs. At the same time, the report system has been created at district/khan levels in order to record the statistics of people and results of registration affairs of each trimester and semester of the year.

225. According to the Law, Khmer nationality is provided to a baby born in the Kingdom of Cambodia and a baby born abroad to a parent having Khmer nationality at birth or having recognized as Khmer citizen. The Constitution of the Kingdom of Cambodia specifies the prohibition of deprivation of Khmer nationality from Khmer citizen inclusive of children. Article 19 of Sub-Decree 103 requires the authorities to register birth of an abandoned child.

226. Special actions in addition to the existing actions have been created to ensure that the children receive protection of their rights as stipulated in this covenant. Ministry of Education, Youth and Sport has created 6 components of education policies for children with disabilities in a child-friendly school program (see para. 48 above).

Article 25: Right to participation in political life

227. The Constitution of the Kingdom of Cambodia says, “Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, color, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status.”

228. Khmer citizens of either sex shall have the right to participate actively in the political, economic, social and cultural lives of the nation. Khmer citizens of either sex shall enjoy the right to vote and to stand as candidates for the election. Khmer citizens of either sex of at least eighteen years old, have the right to vote. Khmer citizens of either sex of at

least 25 years old, have the right to stand as candidates for the election to be members of the National Assembly. Khmer citizens of either sex of at least 40 years old, have the right to stand as candidates for the election to be members the Senate. Provisions restricting the right to vote and to stand for the election shall be defined in the Electoral Law.

229. The laws governing elections include Law on the Election of Members of the National Assembly, Law on the Election of Commune/Sangkat Councils, Law on the Election of the Senators, and Law on Election of Capital, Provincial/Municipal, District/Khan Councils. These laws defined some similar key provisions and conditions such as nationality, age, residence, requirement and key qualifications which one person must actually have.

230. In order to have the right to register for the election, the people of either sex shall have Khmer nationality, at least 18 years old to the date of election, have the residence in the commune/sangkat hall they vote and are not in the condition prohibited by law (prisoners, people with mental defectiveness or under guardianship by the letter from the competent ministry/institution.)

231. A voter with disability who is unable to vote personally has the right to choose someone who is a minor to help him/her or has the right to ask for assistance from chief of the constituency. National Election Committee “NEC” is obliged to compose order to protect the right of voters with physical disabilities and is unable to dip in non-removable ink.

232. In order to have the right to stand as candidates for election, the people of either sex shall have Khmer nationality at birth, be at least 25 years of age to the date of election and be people who have the right to vote in the area or the constituency at which they stand as candidates for election.

233. Law which prohibits standing as candidates for election; for example, Law on the Election of Commune/Sangkat Councils, which prohibits standing as candidates for election:

- Members of National Assembly, senators, members of constitutional council, members of the Royal Government and judges.
- Royal Government delegates, Governor or Deputy Governor of provinces, municipality, district, Khan.
- Members of NEC, Provincial/municipal Election Commissions, Commune/Sangkat Election Commissions, polling station commissions, staff working with NEC and with any levels of Election Commissions.
- Civil servants, court officials, Royal Cambodian Armed Forces or national police officers in positions.
- Monks, clergymen of any religion
- Any commune/sangkat clerks.

234. Although the law prohibits as above, the law specifies the exceptions by submitting requests in accordance with conditions as follows: Civil servants, court officials, national police, Royal Cambodian Armed Forces, members of Constitutional Council, members of Supreme Council of Magistracy and clergymen, who wish to stand as candidates for the election, shall submit requests for resignation in advance, especially 7 days before the election campaign until the date of official issuance of election result.

235. Khmer citizens of either sex shall enjoy the right to choose any employment according to their ability and to the needs of the society. Khmer citizens of either sex shall receive equal pay for equal work. Every Khmer citizen shall have the right to obtain social security and other social benefits as determined by law.

236. Foreigners who seek work in the Kingdom of Cambodia shall obey the principles and guaranteed by Labor Law, which states, “No foreigner can do any work without work permit and the labour book issued by the ministry in charge of labour.” That foreigner shall fulfill other requirements:

- Employer shall have proper employment certificate in advance to do his/her own business.
- That foreigner shall enter Cambodia legally.
- That foreigner shall have passport.
- That foreigner shall have proper residential certificate.
- That foreigner shall have proper physical condition suitable for any business and shall not have any communicable diseases.

237. Right to employment and selection of employment is protected by Article 12 of the Labor Law, “No employer shall consider on account of race, skin color, sex, creed, religion, political opinion, birth, social origin, membership of workers’ union or the exercise of union activities to be the invocation in order to make a decision on hiring, defining and assigning of work, vocational training, advancement, promotion, remuneration, granting of social benefits, discipline or termination of employment contract. Distinctions, rejection or acceptances based on qualifications required for specific job shall not be considered as discrimination.”

238. The principles of recruitment of a candidate to work in the civil servants framework shall be made through the competition unless determined by the RGC. The recruitment shall meet the requirements as stated in Article 11 of the Co-Statute for the Civil Servants of the Kingdom of Cambodia such as nationality, age, education, etc.

239. The RGC has policies to prioritize and facilitate the endogenous groups and the people living in remote areas and women to compete for work in the civil servant framework.

240. The promotion of rank or position of the civil servants shall be exercised in accordance with the turn of selection alone or together with seniority. Generally, the minimum duration of rank promotion shall be two years. According to the selection, there shall be names registered in the rank promotion list. In case any civil servant is working with special achievement, he or she shall be automatically promoted regardless of seniority. For all promotion conditions, the promotion shall be approved by the competent institution for appropriate appointment in response to vacancy in each rank and the level of budget expense.

Article 26: Right to legal protection

241. Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, skin color, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status.

242. Internal Regulations of the National Assembly, internal regulations of the senate and other Organic Law shall be submitted to the Constitutional Council for review before being promulgated. The Constitutional Council shall decide within a period of not more than 30 days for the examination whether these above laws and regulations are consistent or inconsistent with the Constitution.

Article 27: Rights of indigenous peoples

243. According to the research, the indigenous groups in the Kingdom of Cambodia include Phnong, Kuoy, Tumpoun, Charay, Kreung, Preuv, Kavet, Stieng, Kroal, Mil, Kachak, Por, Khoagn, Chornng, Suoy, Thmon, Lun, Sa-och, Rodel, Khe, Ro Ang, Spung, Lo-eun, Samre.

244. All indigenous groups comprise more than 1 (one) percent of the total population resided in some provinces such as Ratanakiri, Mondulkiri, Kratie, Preah Vihear, Kampong Thom, Stung Treng, OdorMeanchey, Kampong Cham, Pursat, Kampong Speu, Koh Kong, Battambang, Preah Sihanouk, Banteay Meanchey, Siem Reap and other areas.

245. Those indigenous groups practice different cultures, traditions, customs, beliefs and languages respectively. The important job for these indigenous groups to earn their livings is traditional shifting cultivation by cutting forest and burns it to take land for shifting plantation, collecting forestry-by products, hunting, fishing and raising animals. The ethnic groups who use Khmer language and their mother tongues include Muslims, Chinese, Lao, Vietnamese and separate language of each ethnic group.

246. The state has ensured harmonized and equal life between each group and all religious followers who are present in the territory of the Kingdom of Cambodia in compliance with the spirit of international covenant. Actually, many laws and legal instruments have been made for the purpose to protect rights and freedom of the indigenous groups such as language, belief, religion, culture, tradition and custom and tradition use of natural resources of the indigenous groups.

247. Paragraph 2 of Article 31 of the Constitution of the Kingdom of Cambodia says, "Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, color, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status."

248. The Sub-Decree No. 83 dated 09 June 2009 on the Registration of Community Land of Indigenous Groups is aimed at determining principles, procedures and mechanism for registering the land of indigenous people as a collective ownership, providing legal rights to land occupation to the indigenous communities, ensuring occupation safety of land and protecting collective ownership by maintaining identity of good culture, tradition and custom of the indigenous groups.

249. The policy on land registration and right to uses of community land of the indigenous groups is being piloted in the two provinces, including Mondulkiri and Ratanakiri.

250. Ministry of Rural Development issued Circular No. 0974/09 dated 22 July 2009 on Procedures for implementing national policy on development and identification of community land of indigenous groups. The Ministry of Rural Development issued declaration on recognition of identity of 43 communities of indigenous groups, including 15 communities in Mondulkiri, 2 communities in Kratie and 26 communities in Ratanakiri.

251. The policies and legal frameworks are all developed with wide participation in discussion from relevant partners and indigenous representatives, from core representatives to the representatives in the communities at the national level and community levels. This is a positive measure of the RGC in protecting languages, belief, religion, culture and traditional use of natural resources of the indigenous groups.

252. Seeing the real condition that the indigenous groups are in vulnerability, the RGC has tried to improve the development in the areas where indigenous groups are living in terms of social economy and livelihoods in accordance with overall improvement of the nation.

253. The RGC established Inter-Ministerial Committee to work with the United Nations Development Fund to improve the indigenous groups under the leadership of the Ministry

of Rural Development as the implementing agent. Department of Indigenous Development subordinate to Ministry Rural Development has the commission to promote livelihoods and to maintain culture, good custom, tradition and beliefs of the indigenous groups. The RGC set out policy on development of indigenous groups with the purposes as follows:

- “All indigenous groups shall have livelihood which is free from hunger and serious poverty.”
- “All indigenous groups are provided with at least 9 years of basic education and vocational training services in response to the requirements and based on the their geographical locations.”
- “Health of the indigenous groups shall be kept in good condition.”
- “Culture of the indigenous groups is well protected and maintained.”

254. In order to achieve the above goals and to manage the development well, the RGC has general policy and sector policy for indigenous groups and those important sectors include culture, education, vocational training, health, environment, land, agriculture, water resources, infrastructure, tourism, mines, and power industry.

255. Besides policy, there are also laws and many legal instruments for ensuring rights of the indigenous communities in using natural resources and rights to land as stated in Land Law 2001 and Law on Forestry 2002, as well as the Sub-Decree No. 83 dated 09 June 2009 on the Registration of Land of Indigenous Communities.

256. In order to register land of indigenous community, 43 communities of indigenous groups have been formed.

257. According to Land Law 2001, there are only two collective ownerships, collective ownership of the pagoda and collective ownership of the indigenous communities. Therefore, to be able to register land as the collective ownership of a community, each community shall be clearly formed with terms and conditions recognized by competent authorities. Actually, as there has not been Law on Association or NGOs or Law on Terms and Conditions of Indigenous Groups, the Royal Government temporarily determined only the registration with the Ministry of Interior to enable those organizations and indigenous communities to perform their activities. This community cluster has been made based on the respect of rights to decision of each indigenous person properly, to avoid coercion of people to participate in the community blindly.

258. Based upon this spirit and in order to help indigenous groups to form communities on time, a project named “Project on Registration of Indigenous Groups as Legal Entities” operated by Ministry of Interior with budget support from DANIDA and ILO is in process.

259. In order to promote this enforcement, the National Committee for Sub-National Democratic Development (NCDD) issued a Decision No. 009 dated 06 March 2009 on application of registration of areas under environmental vulnerability and registration of indigenous groups for implementation of commune/sangkat fund project.

260. From this project, Ministry of Interior carried out primary quotation of information related to numbers of the indigenous communities qualified to be formed as an applicable community. The rural development projects which have focused mainly on all beneficial sectors for indigenous groups to live such as paths, water supplies, primary health care and sanitation, education and vocational training, community development, household agriculture, rural credit, small scale enterprise establishment, rural market establishment, improvement of information dissemination program to the indigenous groups, etc.

261. In order to develop indigenous groups, the RGC has taken the following measures:

- Train the indigenous trainers to prepare and strengthen the village development committee, train the members of village development committee, etc.

- Train indigenous groups in knowledge and skills to protect health and sanitation and protect against diseases, domestic violence, etc.
- Extend the cooperation of relevant institutions and all development partners to participate in coalition development planning at all indigenous communities enabling them to live in better livelihoods through improvement of all kinds of rural infrastructures, promote education on health care, sanitation and clean water supplies, education to make dramatic change of habit to make agriculture to become extensive agriculture, provision of rights to collective occupation of land and protection of right to traditional land uses.
- Respect their rights to protection of their culture, custom, languages, belief and promote implementation of full rights to expression in development planning as well as participation in decision on creation of national policy related to development of indigenous groups.
- Create dissemination of voices in ethnic languages through radios such as Muslim, Chinese, Vietnamese and indigenous languages (Tumpoun, Phnorn) in Ratanak Kiri, etc.

262. Education sector and vocational training have been focused through bilingual education with bridge program to meet education needs of the children and adults of indigenous groups and to ensure basic education of at least 9 years and provide vocational training services in accordance with their requirements and geographical locations.

263. At the primary education level, 16 community schools have been built in the 10 districts of 5 provinces, namely Kratie, Stung Treng, Preah Vihear, Ratanak Kiri, Mondul Kiri. Since the academic year 2006-2007, the bilingual education at grade 1 and grade 3 has been implemented for indigenous children with the support from UNICEF, ICC, CARE and SCN.

264. Together with this, the integrated education has been conducted between ethnic children and now some indigenous groups become teachers and state school principles, such as:

- Preah Vihear Province has 30 teachers and teacher pedagogical students who are from the Kuoy people (7 are female).
- Ratanakiri Province has 47 teachers (18 are Chary, 18 are Kreung, 3 are Preuv), 4 Tumpoun pedagogical and 16 Laos ethnic groups (12 are female).
- Mondulkiri Province has 61 indigenous teachers and pedagogical students who are from the Kuoy people (22 are female).
- Kampong Cham Province has 20 Muslim teachers and pedagogical students (12 are female).

265. Non-formal education applies the same illiteracy program used for members of the general population who are illiterate and promotes bilingual education in both national language and mother tongues for indigenous and ethnic illiterate adults.

266. Moreover, the bilingual education program has been created for adults at indigenous communities throughout the country and has cooperated with relevant organizations to write bilingual education books of the indigenous groups, including Kreung, Tumpoun, Preuv, Kaven, Phnorn and Khmer syllables are allowed to use as a writing system to record those indigenous languages since 2003 to study and compile personal histories.

267. Besides this, it is widely opened for private schools of international languages and ethnic language such as French, English, Japanese, Korean, Chinese, Vietnamese, Muslim, etc.

268. Health affairs provide health care with high quality and effectiveness and equality throughout the country, especially for rural poor people inclusive of ethnic groups. Train ethnic groups who are able to speak Khmer to study in order to be local health staff and use those staff to communicate with ethnic groups.

269. Stung Treng regional health secondary school undertakes to strengthen and train indigenous groups in the northeast region, including Ratanak Kiri, Mondul Kiri, Preah Vihear, Stung Treng, and other regional health secondary schools. At the same time, the indigenous groups have been selected as volunteers to serve village health affairs to facilitate health education services and provide them with information related to health, etc.

270. Religious sector had prevented discrimination and distinction in the society caused by differences of religious beliefs and set up positive measures to harmonize all ethnic groups who are living in Cambodian territory without discrimination through conducting workshops to call for meeting and communication meeting between religious leaders for many times, etc.

271. Every project or case related to legal land occupation of the community or indigenous individuals who need to be recognized and witnessed by local authorities, especially commune council who always negotiate to seek agreement with community in advance. According to the spirit of Sub-Decree on Procedures of Indigenous Community Land Registration, it is aimed at providing collective ownership to indigenous groups who have legal community.

272. The RGC highly cares about all aspects of dignity of indigenous groups and development to promote their livelihood from poverty, vulnerability based on insurance of security, safety, unity and equality in the whole society, which have been lost for many decades.

273. In spite of this effort, the impact and abuses have happened due to large gaps of the relevant competent authorities at all levels inclusive of non-separation between ideology of the conservers in the purpose of research and the conservers in the purpose of development of the indigenous areas. For this reason, the RGC still needs cooperative duties from development partners, NGOs and civil society, which have actual wills to reflect shortages and measures which should be focused to settle with dialectics.

274. In development of indigenous groups, the RGC set out measures as follows:

- Abolish discrimination and increase participation from indigenous groups in development planning at the grassroots level and national level.
- Promote full and effective participation from indigenous groups in making decisions.
- Determine development policy in accordance with equality, custom, belief, religion and religion of the ethnic groups.
- Encourage to have language translators during the solution in the court.
- Promote education for ethnic groups on health care, sanitation and maintenance or community infrastructure, improve awareness of laws and policies of the RGC.
- Recognize collective land uses, encourage local custom authorities to solve disputes in ethnic community.
- Promote tourism services in ethnic community.
- Try to seek assistance from all partners to develop ethnic groups, especially women, children to improve law implementation to ethnic groups.

Annex

References

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- International Covenant on Civil and Political Rights (1992)
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- Law on Nationality (1996)
- Labor Law (1997)
- Law on Political Parties (1997)
- Land Law (2001)
- Law on Commune/Sangkat Election (2002)
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