

**CONFERENCE ON THE IMPLEMENTATION OF THE PENAL CODE**  
**5 AND 6 NOVEMBER 2012**  
**Cambodiana Hotel, Phnom Penh**  
**Co-organised by OHCHR-Cambodia and the Ministry of Justice**

**Opening remarks by Mr. James Heenan, OHCHR-Cambodia, Representative a.i.**

Excellency Ang Vong Vathana, Minister of Justice,  
Excellencies, Distinguished guests, ladies and gentlemen,

First of all, let me say that I am very encouraged to see so many people here this morning. I know that you all have important work to do, whether in Phnom Penh or in the provinces. And still you have taken the time to come to attend today's meeting, which shows your interest and also your commitment to improving the implementation of the Criminal Code in Cambodia. Of course, I also want to express my heartfelt thanks to the Ministry of Justice for co-organising this conference with us, and in particular His Excellency Ang Vong Vathana and His Excellency Phov Samphy for their support in making this conference happen. I know that they and their colleagues at the Ministry have worked very closely with our colleagues in the Human Rights Office over the last few months to prepare for this meeting.

As some of you may remember, we already had the opportunity to work with the Ministry of Justice earlier this year to organize a conference on the implementation of the Code of Criminal Procedure. This conference took place last June and many of you attended it. I just want to let you know that the conference report has been approved by the Minister of Justice and will be disseminated shortly. Following the success of that conference on the Procedure Code, the Ministry of Justice suggested that we co-organise a similar event on the Penal Code. And we were pleased to have this new opportunity to work together with the Ministry.

In December 2009, Cambodia adopted a new Penal Code. The Code establishes which actions or omissions constitute crimes in Cambodia. The Penal Code also determines what appropriate sanction or punishment should be given for the commission of such

crimes. When talking about the rule of law or the protection of human rights, the Penal Code is an extremely important document. Cases of misinterpretation or misapplication of the Penal Code can lead to people being unfairly punished or unfairly left unpunished, and to possible violations of human rights. It is therefore essential that we all have a clear understanding of the provisions of the Penal Code and that these provisions are interpreted in accordance with international human rights standards. Again, the mandate of the Office of the United Nations High Commissioner for Human Rights is to assist the authorities in meeting their human rights obligations. That is why we are assisting the Ministry of Justice in organising this meeting on the Penal Code.

In accordance with article 31 of the Cambodian Constitution as well as the decision of the Constitutional Council of 10 July 2007, the Penal Code of the Kingdom of Cambodia must be interpreted and applied in compliance with international human rights obligations. In this regard, I would like to recall that Cambodia is a State party to the International Covenant on Civil and Political Rights. This international treaty contains important provisions which are relevant to the implementation of the articles of the Criminal Code. For instance, the Covenant contains one provision (article 19) which should be taken into account when applying provisions of the Penal Code to matters which may have an impact on freedom of expression. The UN Human Rights Committee which is a body that is in charge of monitoring the implementation of the Covenant by States parties has adopted a General Comment, a piece of guidance, which provides detailed and useful guidance on the implementation of Article 19. We have translated this General Comment into Khmer and it is available in your folders. We'll be looking at this General Comment during the meeting.

We are very grateful and honoured to have a member of the Human Rights Committee with us today, Judge Krister Thelin from Sweden. He will present to us in more detail the provisions of Article 19 later today and the content of the General Comment on Article 19. It is worth noting that Cambodia is about to submit its periodic report to the UN Human Rights Committee in Geneva. We are therefore very pleased that Judge Thelin will have the opportunity to meet as many of you as possible in order to gain first-hand insights into the Cambodian criminal justice system.

This conference is a unique opportunity for all of you to discuss in more detail any challenges you have encountered when applying the Penal Code since it came into force. We have once again gathered more than 100 participants from all over the country, including presidents from all first instance courts, chief prosecutors, judicial police officers and lawyers. We are also honoured to have the presence of judges and prosecutors from the Court of Appeal and the Supreme Court.

As you know, the Penal Code is a very long document and we would never have enough time to go over every provision of the Code. That is why, in consultation with the Ministry of Justice, we have selected three main topics for discussions. The first topic is on the consistent application of provisions of the Penal Code dealing with offences against property. The second topic is on freedom of expression and the Penal Code. We have chosen this topic as there are a number of provisions in the Penal Code which can impact on freedom of expression. Some of these provisions are completely new, they did not appear in the former UNTAC Code. It is therefore important that we all understand clearly how to apply them in accordance with international standards on freedom of expression. Judge Thelin will help us in this endeavour by making a presentation on these international standards. Finally, the third topic will deal with alternative sentencing. Again, the Penal Code contains a few provisions on this which are new in Cambodia and have not really been applied so far. We are grateful to His Excellency Ith Rady, Co-Chair of the Working Group on Alternative Sentencing, who is with us today to introduce this important topic and report on the activities of the Working Group tomorrow morning.

For each topic, we have organised group discussions, followed by a plenary session with a panel of experts. It might be ambitious to expect the entire group to interactive the discussions. Nevertheless, we are very keen to ensure that every participant who comes to this meeting is given the opportunity to speak and to participate in discussions. I encourage you all to take advantage of this opportunity. The group discussions will allow you to exchange experiences between provinces, but also between the various professions which you represent. You will have the opportunity to identify what you think are the main challenges which require more attention. The plenary sessions will allow you to share the results of your group discussions with the other groups and ask questions to a panel of experts.

We are very much looking forward to the discussions today and tomorrow. All the main actors of the Cambodian criminal justice system are gathered here today and I am sure that your discussions will be as lively as they are interesting. I would like to finish by thanking once again the Ministry of Justice, our partner, for our joint efforts on today's conference. The Office of the United Nations High Commissioner for Human Rights greatly appreciates its long-standing cooperation with the Ministry of Justice. As always, we stand ready to assist the Royal Government of Cambodia in its endeavour to provide justice to all in Cambodia.

Thank you.