



KINGDOM OF CAMBODIA
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**Permanent Mission of the Kingdom of Cambodia
to the United Nations Office and other
International Organisations at Geneva**

No. 2021/05/324

The Permanent Mission of the Kingdom of Cambodia to the United Nations Office and other International Organizations at Geneva presents its compliments to the Office of the High Commissioner for Human Rights and, with reference to the Joint Communication No. AL KHM/1/2021 dated 18 March 2021 from the Special Procedures, has the honour to transmit to the latter herewith a response from the Ministry of Post and Telecommunication of the Kingdom of Cambodia as to the QR Code system "Stop Covid".

The Permanent Mission of the Kingdom of Cambodia would appreciate it if the said reply could be forwarded to its high destinations.

The Permanent Mission of the Kingdom of Cambodia to the United Nations Office and other International Organizations at Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 07 May 2021



Office of the High Commissioner for Human Rights
Geneva

Aide Memoire:

Response letter AL KHM 1/2021, dated 18 March 2021 from the UN Special Rapporteurs Rhona Smith and Tlaleng Mofokeng

The Royal Government of Cambodia expresses appreciation for your letter, Reference: AL KHM 1/2021, dated 18 March 2021 concerning the development of a QR Code system named “Stop COVID-19” to prevent the spread of COVID-19.

Under the leadership of Prime Minister Samdech Akka Moha Sena Padei Techo Hun Sen, the Royal Government of Cambodia and the Inter-Ministerial Committee to Combat COVID-19 (the “Committee”) have taken necessary and proportionate measures in order to prevent and control the transmission of COVID-19, and protect people’s lives. The implementation of QR Code Technology System Stop COVID-19 is among the many public health measures implemented. It only registers the instance when an individual enters an establishment.

Please find below the Royal Government of Cambodia’s observations to the matters the Special Rapporteurs listed in their letter:

Observation 1

The Royal Government of Cambodia first expresses concern regarding the source and credibility of the information the Special Rapporteurs received. The author of the information made baseless assumptions and wrongfully alleged that many rural and poor Cambodians may not have access to services and facilities because of the requirements from the application of Stop COVID-19, and small businesses will further suffer due to requirements which will pose obstacles for clients and customers wishing to buy goods and services. This is not the case.

The Royal Government of Cambodia has constantly *encouraged and requested cooperation* from individuals and all ministries, departments, private and public enterprises, business and restaurant owners, and other premises to participate in the use of Stop COVID-19 for the purpose of protecting public health.¹ There has never been a case at all where an individual or entity has been punished for not cooperating in the use of Stop COVID-19 as its use is not compulsory but voluntary.

The Royal Government of Cambodia notes that data from operators indicate that 77% of 21 million phone subscribers use smartphones. Those who use basic phones constitute only 23%. These phone subscribers are mostly senior citizens, who especially live in rural areas where

¹ See Ministry of Post and Telecommunications, ឯកឧត្តម ជា វ៉ាន់ដេត និងឯកឧត្តម យូង ស្រេង បានដឹកនាំកិច្ចប្រជុំផ្សព្វផ្សាយ អំពីការប្រើប្រាស់ប្រព័ន្ធបច្ចេកវិទ្យា QR Code “ទប់ស្កាត់កូវីដ-១៩ Stop Covid”, 21 February 2021, [https://mptc.gov.kh/news/សកម្មភាពរដ្ឋមន្ត្រី/ឯកឧត្តម-ជា-វ៉ាន់ដេត-និងឯ/](https://mptc.gov.kh/news/សកម្មភាពរដ្ឋមន្ត្រី/ឯកឧត្តម-ជា-វ៉ាន់ដេត-និងឯ/;); Ministry of Post and Telecommunications, ក្រសួងប្រៃសណីយ៍និងទូរគមនាគមន៍ បានចូលរួមបណ្តុះបណ្តាលមន្ត្រីបង្គោល នៅសាលាខណ្ឌទាំង១៤ ក្នុងរាជធានីភ្នំពេញ ក្នុងការប្រើប្រាស់ប្រព័ន្ធ QR Code “ទប់ស្កាត់កូវីដ Stop Covid”, 22 February 2021 <https://mptc.gov.kh/news/សកម្មភាពក្រសួង/ក្រសួងប្រៃសណីយ៍និងទូរ-12/>; Facebook, Ministry of Post and Telecommunications, 8 March 2021, <https://www.facebook.com/www.mptc.gov.kh/photos/pcb.1758931330956556/1758924824290540/>; Facebook, Ministry of Post and Telecommunications, 21 February 2021, <https://www.facebook.com/www.mptc.gov.kh/photos/pcb.1747905308725825/1747904978725858/>; Facebook, Ministry of Post and Telecommunications, 20 February 2021, <https://www.facebook.com/www.mptc.gov.kh/photos/a.260791467437224/1747306108785745/>



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there are not many commercial or public premises and habitually do not access them, unlike those who live in the developed world. In case they wish to access the premises, the owners can assist them to enter by using or without using the QR Code.

Cambodians have not been unable to access services and facilities due to the application of Stop COVID-19, nor have small businesses suffered due to any requirement. The allegation that businesses would suffer is absolutely false. There are currently thousands of businesses who have not participated in the use of Stop COVID-19 – their cooperation is completely voluntarily and not compulsory. If businesses and other entities wish to provide their cooperation and participate in fighting this dangerous disease, all they need to do is follow four simple steps: 1) proceed to stopcovid.gov.kh; 2) click on “Request QR”; 3) provide information regarding the entity’s name, phone number, email, and address, click on “Request QR”, and click on “Download” to receive the QR Code; and 4) print the QR code and place it at an appropriate physical location.² The Royal Government of Cambodia does not believe businesses would be highly burdened from this request to cooperate.

Stop COVID-19 allows the Committee to trace COVID-19 infections and help individuals get tested, quarantined, and treated in order to protect them and the community by preventing further spreads and outbreaks. It does not only help the Royal Government of Cambodia but also individuals and businesses themselves. For example, the Royal Government of Cambodia has received information that even *remorques* or rickshaw taxis have utilized Stop COVID-19 to know the risk levels of their customers before allowing them to hop on into their taxis. It is also beneficial to the individual as they can understand their own risk levels of contracting COVID-19 and take proper personal measures and care.

Had the author of the information properly studied the situation and spoken to, for instance, actual shop owners or restaurants, they would have understood that refusing to participate in Stop COVID-19 does not prevent Cambodians from accessing services and facilities, and does not cause any suffering to businesses. Even with no phones, the people can still enter establishments.

Because the information the Special Rapporteurs received is baseless and inaccurate, the Royal Government of Cambodia questions the credibility of the source and wonders whether the author had relied on their imagination in making these assumptions. The Royal Government of Cambodia finds that the distribution of such misinformation by the author to be irresponsible, especially during these grave times. For this reason and in the interest of transparency, the Royal Government of Cambodia requests from the Special Rapporteurs to provide information regarding 1) the identity and credibility of the source of the information that the Special Rapporteurs received; and 2) the process and methodology that the author of the information adopted that led them to make such baseless allegations.

Observation 2

The Royal Government of Cambodia has taken many steps to ensure that the right to privacy and data of individuals will be protected. First, the data is used for the sole purpose of combating COVID-19 and protecting public health. Second, accessibility is restricted to certain authorized people belonging to the management of the Committee, and granted only when a request has been made and an outbreak or COVID-19 situation has been identified. Third, the data will be automatically deleted after 28 to 90 days. Finally, the Ministry of Post and Telecommunications

² Ministry of Post and Telecommunications, បង្កើត QR Code “ទប់ស្កាត់កូវីដ Stop Covid” ដើម្បីចូលរួមចំណែកទប់ស្កាត់ការរីករាលដាលជំងឺកូវីដ-១៩, 20 February 2021, <https://mptc.gov.kh/featured-km/បង្កើត-qr-code-ទប់ស្កាត់កូវីដ-s/>.



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(MPTC) has applied encryption methods with security levels in accordance with international standards to protect the data.

The Royal Government of Cambodia reiterates that it respects the individual's right to privacy and protection of personal data enshrined in laws in the Kingdom of Cambodia, including the Constitution, ratified international human rights treaties, the Civil Code, the Criminal Code, Press Law, and the Law on Telecommunications, as the Special Rapporteurs listed in pages 2 and 3 of their letter. Individuals who wish to raise concerns about any misuse of the data or regarding violations of their right to privacy, may exercise their right to complain under Article 39 of the Constitution, and can report to the Committee, the MPTC, or the Telecommunication Regulator of Cambodia. The MPTC also notes that it is also in the process of drafting a Personal Data Protection Law that will further ensure the protection of the Cambodian people's right to privacy and personal data.

Observation 3

Stop COVID-19 is necessary and proportionate to the pursuance of legitimate aims, which include the protection of public health as well as public safety, economic wellbeing of the country, and the rights and freedoms of others.

Legitimacy

The Royal Government of Cambodia recognizes the importance of the right to privacy. The application of Stop COVID-19 does not violate article 17 of the International Covenant on Civil and Political Rights (ICCPR). It is both necessary and proportionate to the pursuance of legitimate aims. These legitimate aims are the protection of public health as well as public safety, economic wellbeing of the country, and the rights and freedoms of others.³ The protection of the Cambodian people's health consequently ensures public safety, economic development, and guarantees rights and freedoms such as the fundamental right to life, right to education, right to work, and the right to the enjoyment of the highest attainable standard of physical and mental health enshrined under article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The protection of health is fundamental and serves as the foundation for the people's enjoyment of other fundamental rights and the functioning and survival of society.

Furthermore, according to Article 3 of the Law on Preventive Measures against the Spread of COVID-19 and Other Severe and Dangerous Contagious Diseases, in order to combat and prevent the spread of COVID-19, the Royal Government of Cambodia may impose necessary health measures including health declarations in response to prevent the spread of COVID-19.⁴

Necessity

It is critically important for Cambodia to adopt effective health measures to combat the COVID-19 pandemic. Stop COVID-19 is proven to be absolutely necessary for the achievement of these aims, especially when taking into account the successful containment of previous community

³ These aims have been recognized as legitimate aims in many jurisdictions, especially in the European Union and the European Court of Human Rights. See European Convention of Human Rights, art. 8. See also Guide on Article 8 of the European Convention on Human Rights, European Court of Human Rights, 31 August 2020, paras 21-22, https://www.echr.coe.int/Documents/Guide_Art_8_ENG.pdf.

⁴ Press Office of the Council of Ministers, ROYAL KRAM: Law on Preventive Measures against the Spread of COVID19 and Other Severe and Dangerous Contagious Diseases, art. 3, <https://pressocm.gov.kh/en/archives/70015>.



outbreaks and the seriousness of the recent situation. On 20 February 2021, Cambodia experienced a community outbreak of COVID-19 as 32 locally acquired COVID-19 cases were reported in Phnom Penh after a breach in quarantine.⁵ The Royal Government of Cambodia has responded with a series of measures including restrictions on movements and gathering, as well as initiating a mass vaccination campaign in which over one million people have already been vaccinated.⁶

The situation is severe and Stop COVID-19 is absolutely necessary in Cambodia's fight against COVID-19: On 19 March, the WHO Representative to Cambodia said, "The country is at a critical stage of fighting against COVID-19, but we have a window of opportunity to stop virus spread if we all act together with solidarity."⁷ On 10 April, the WHO Representative to Cambodia warned, "We stand on the brink of a national tragedy because of COVID-19. Despite our best efforts, we are struggling to control the virus. New cases occur every day and we are racing against the virus. Unless we can stop the outbreak, Cambodia's health system is at high risk of being overwhelmed, which would have disastrous consequences." She further emphasized, "Cambodia stands at a crossroads – what we all do in the coming days and weeks will dictate our future. The country must work as one, towards a common goal - together we can control the outbreak. If we don't, I fear the consequences will be catastrophic."⁸

At the time of this writing, Phnom Penh has been placed under strict lockdown extended to 5 May, with the capital being divided into three zones (Red, Orange, and Yellow Zones).⁹ The Red Zones are where there has been a severe outbreak of the virus – they are the most restrictive areas. The streets of Phnom Penh are quiet, and the Cambodian people are doing their best to stay home to help combat this deadly disease. On 27 April, the total number of COVID-19 cases in Cambodia increased by triple digits again to 11,063 with the death toll being 82.¹⁰

Despite the Royal Government of Cambodia's best efforts and its implementation of a broad range of measures, including Stop COVID-19, Cambodia continues to severely suffer from the outbreak of this dangerous disease. The Royal Government of Cambodia needs all the assistance it can get, requires the cooperation of the people, and must use any available measures to combat COVID-19, including Stop COVID-19.

Furthermore, the obligations imposed under article 12 of the ICESCR makes it even more necessary for the Government to implement Stop COVID-19. The Government agrees with the Special Rapporteurs of its importance. Article 12 states:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

⁵ World Health Organization, Cambodia at a critical point in the fight against COVID-19, 19 March 2021, <https://www.who.int/cambodia/news/detail/19-03-2021-cambodia-at-a-critical-point-in-the-fight-against-covid-19>.

⁶ Khmer Times, Cambodia successfully vaccinates one million people nationwide, 12 April 2021, <https://www.khmertimeskh.com/50837407/cambodia-successfully-vaccinates-one-million-people-nationwide/>.

⁷ World Health Organization, Cambodia at a critical point in the fight against COVID-19, 19 March 2021, <https://www.who.int/cambodia/news/detail/19-03-2021-cambodia-at-a-critical-point-in-the-fight-against-covid-19>.

⁸ World Health Organization, WHO warns of impending disaster, unless people act responsibly this Khmer New Year and beyond, <https://www.who.int/cambodia/news/detail/10-04-2021-who-warns-of-impending-disaster-unless-people-act-responsibly-this-khmer-new-year-and-beyond>.

⁹ Khmer Times, LOCKDOWN EXTENDED: Three-zone system introduced according to severity of virus, 27 April 2021, <https://www.khmertimeskh.com/50845936/lockdown-extended-three-zone-system-introduced-according-to-severity-of-virus/>.

¹⁰ Khmer Times, Cambodia found 508 new COVID-19 cases; tally now 11,063, 27 April 2021, <https://www.khmertimeskh.com/50846538/cambodia-found-508-new-covid-19-cases-tally-now-11063/>.



2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

[...]

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; [...].

The Royal Government of Cambodia has the obligation to take measures that prevent, treat, and control the COVID-19 pandemic in order to achieve the full realization of the Cambodian people's right to the enjoyment of the highest attainable standard of physical and mental health. Stop COVID-19 is one of the necessary measures the Committee has taken to respect, protect, and fulfill this right. The protection of public health and the fulfillment of the right to the enjoyment of the highest attainable standard of physical and mental health are foundational to the survival of the people and the nation.

Proportionality

The implementation of Stop COVID-19 is proportionate to protecting Cambodia's public health, combating the transmission of the disease, and addressing the current situation in which human lives have been lost. The Royal Government of Cambodia had extensively studied best practices in the world regarding contact tracing before adopting Stop COVID-19. The United Nations Department of Economics and Social Affairs has praised a long list of countries, including many from Southeast Asia for leveraging digitalization in response to the COVID-19 pandemic.¹¹ Stop COVID-19 is not only similar to the practices of these countries, but is also one of the least intrusive. It is not compulsory as there is no requirement that it must be turned on at all times, and it does not trace the individual's movement. Stop COVID-19 was designed to only register the individual's phone number the instance when the individual voluntarily scans their entrance to an establishment that cooperatively printed the QR code.

In addition, the Royal Government of Cambodia has taken a number of measures to control, protect, and limit access to the data as mentioned in Observation 2. First, the information gathered is used for the sole purpose of combating COVID-19, and not for any other purposes. Second, accessibility is restricted to certain authorized people belonging to the management of the Committee, and granted only when a request has been made and an outbreak or COVID-19 situation has been identified. Third, the data will be automatically deleted after 28 to 90 days depending on the significance of the information. Finally, the data is securely stored and encrypted by the MPTC. Different security levels are applied in accordance with international standards.

Observation 4

a. Name of the authorized Government institution that will have access to the data collected

The Committee to Combat COVID-19 is the authorized institution. The data is restricted to certain authorized people belonging to the management of the Committee, and

¹¹ UNDESA, Compendium of Digital Government 2020, <https://publicadministration.un.org/egovkb/Portals/egovkb/Documents/un/2020-Survey/UNDESA%20Compendium%20of%20Digital%20Government%20Initiatives%20in%20Response%20to%20the%20COVID-19%20Pandemic.pdf>.



granted only when a request has been made and an outbreak or COVID-19 situation has been identified.

b. Timeframe for the storage of the data

The data will be automatically deleted after 28 to 90 days depending on the significance of the information.

c. Where and how the data will be stored and what data protection mechanism is in place

The data is securely stored and encrypted by the MPTC. Different security levels are applied in accordance with international standards.

d. Applicable legal measures that concern the obtaining, disposing, and retaining of data

The data is collected voluntarily from individuals with the cooperation from establishments. As mentioned above, it will be automatically deleted after 28 to 90 days depending on the significance of the information.

e. What mechanism is in place that will consider grievances and complaints of individuals who may fall victims as result of the data collection process?

In case individuals wish to raise their concerns about any misuse of the data or regarding violations of their right to privacy, they can report to the Committee, the MPTC, or the Telecommunication Regulator of Cambodia.

Observation 5

There have been no instances of discrimination or denial of basic public services, including health care services, linked or dependent on the use of Stop COVID-19. Only those who are at the highest risk level of having contracted COVID-19 are denied entry into an establishment. At this risk level, these individuals are extremely likely to be infected. In such cases, the individual is denied entry in order to protect those inside the establishment and the public. Basic public services will still be provided to the individual, especially health care services. This individual will be immediately contacted, tested, and taken to the hospital – if COVID-19 positive – to be provided with the health care they need.

With regard to public services, the Royal Government of Cambodia has been working tirelessly to secure and import vaccines for the Cambodian people, and vaccinate as many as possible, especially the vulnerable and the essential workers. On 6 April, the United Nations Educational, Scientific and Cultural Organization (UNESCO) placed Cambodia among the 17 countries in the world to prioritize vaccination for teachers.¹² As of 11 April, Cambodia has vaccinated 1 million civil servants, civilians, and armed forces nationwide.¹³ The Royal Government of Cambodia is striving to serve and protect the public, ensuring the survival of our nation. The Royal Government of Cambodia notes again that it respects human rights. Cambodia's Constitution is one of the few in the world that explicitly mentions the United Nations Charter, the Universal Declaration of Human Rights, and covenants and conventions related to human

¹² UNESCO, Cambodia is among 17 countries in the world to prioritize vaccination for teachers, 6 April 2021, <https://en.unesco.org/news/cambodia-among-17-countries-world-prioritize-vaccination-teachers>.

¹³ Khmer Times, Cambodia successfully vaccinates one million people nationwide, 12 April 2021, <https://www.khmertimeskh.com/50837407/cambodia-successfully-vaccinates-one-million-people-nationwide/>.



rights.¹⁴ Stop COVID-19 complies with international human rights law and Cambodian laws as it is an absolutely necessary and proportionate measure to protect our people.

¹⁴ Constitution of the Kingdom of Cambodia, art. 31.

