



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

Distr.
GENERAL

CERD/C/KHM/8-13
15 June 2009

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION**

Eighth to thirteenth periodic report of States parties due in 2008*

CAMBODIA

[19 February 2009]

* This document contains the eighth to thirteenth periodic reports of Cambodia, due on 28 December 1998, 2000, 2002, 2004, 2006 and 2008, submitted in one document. For the second to the seventh periodic reports and the summary records of the meetings at which the Committee considered the report, see documents CERD/C/292/Add.2, CERD/C/SR.1266, 1267, 1273.

CONTENTS

| | <i>Paragraphs</i> | <i>Page</i> |
|---|-------------------|-------------|
| Introduction | 1 - 2 | 5 |
| Part I | | |
| UNIVERSAL AND PRACTICAL ISSUES ON RACISM | | |
| I. COUNTRY OVERVIEW | 3 - 10 | 5 |
| A. Geography | 3 | 5 |
| B. Population | 4 | 5 |
| C. Religion | 5 | 5 |
| D. Ethnic groups | 6 | 5 |
| E. Languages | 7 | 6 |
| F. Political tendency | 8 | 6 |
| G. Education | 9 | 6 |
| H. Economy | 10 | 6 |
| II. POLITICAL BACKGROUND SUMMARY | 11 - 16 | 6 |
| III. THE STRUCTURE OF THE STATE | 17 - 20 | 7 |
| IV. THE SUPREME POWERS OF THE STATE | 21 - 24 | 8 |
| V. OVERALL JUDICIAL FRAMEWORK FOR HUMAN RIGHTS PROTECTION | 25 - 38 | 8 |
| A. Judicial institutions | 26 | 8 |
| B. The National Assembly and Senate Commissions for Human Rights and Receipt of Complaints | 27 | 9 |
| C. Cambodian Human Rights Committee | 28 | 9 |
| D. Local and international non-governmental organizations | 29 | 9 |
| E. Human rights protection in judicial affairs | 30 - 36 | 9 |
| F. Implementation of international conventions in the Cambodian context | 37 | 10 |
| G. Information and dissemination | 38 | 10 |

CONTENTS (continued)

| | <i>Paragraphs</i> | <i>Page</i> |
|---|-------------------|-------------|
| Part II | | |
| IMPLEMENTATION OF THE CONVENTION | | |
| Article 1 | 39 - 51 | 11 |
| A. Paragraph 1: Definition of racial discrimination | 39 - 42 | 11 |
| B. Paragraph 2: The implementation of the Convention | 43 - 46 | 11 |
| C. Paragraph 3: National provisions and the provisions of the Convention | 47 - 48 | 12 |
| D. Paragraph 4: Special measures for protection | 49 - 51 | 12 |
| Article 2 | 52 - 71 | 12 |
| A. The policy against racial discrimination | 52 - 69 | 12 |
| B. Legal actions | 70 - 71 | 15 |
| Article 3 | 72 - 73 | 16 |
| Article 4 | 74 - 81 | 16 |
| A. The political platform | 74 | 16 |
| B. Determination of discrimination offences | 75 | 16 |
| C. Measures taken by applicable provisions | 76 - 77 | 16 |
| D. Measures of prohibition | 78 - 81 | 17 |
| Article 5 | 82 - 165 | 17 |
| A. Right to equality before the courts | 83 | 18 |
| B. Right to personal security and safeguard by law | 84 | 18 |
| C. Political rights | 85 - 90 | 18 |
| D. Civil rights | 91 - 114 | 20 |
| E. Economic, social and cultural rights | 115 - 165 | 25 |

CONTENTS (*continued*)

| | <i>Paragraphs</i> | <i>Page</i> |
|---|-------------------|-------------|
| Article 6 | 166 - 173 | 32 |
| A. Universal and practical elements | 166 | 32 |
| B. Legal framework | 167 - 173 | 32 |
| Article 7 | 174 - 185 | 34 |
| A. Education | 175 - 179 | 34 |
| B. Implementation | 180 | 35 |
| C. Commitment to eliminate the remaining problems and challenges | 181 - 185 | 35 |

Introduction

1. The Kingdom of Cambodia ratified the International Convention on the Elimination of All Forms of Racial Discrimination (“the Convention”) in 1983. In 1997, the country submitted its first report to the Committee on the Elimination of Racial Discrimination (CERD/C/292/Add.2). The Committee reviewed it and made some recommendations (CERD/C/304/Add.54).
2. In compliance with article 9 of the Convention together with the given recommendations, and with article 31 of Constitution of the Kingdom of Cambodia, the Royal Government of Cambodia would like to present below its eighth to thirteenth periodic reports [reports on activities the country conducted so far].

PART I

UNIVERSAL AND PRACTICAL ISSUES ON RACISM

I. COUNTRY OVERVIEW

A. Geography

3. Situated in the South-East Asia, Cambodia shares its border with Thailand, Vietnam, and Lao. The country covers an area of 181,035 sq km that is further divided into 24 provinces/ municipalities, which equals to 185 districts/*Khans*, 1,621 communes/*Sangkats*, and 13,706 villages.

B. Population

4. The total population of Cambodia is 13,388,910 (6,495,512 males and 6,893,398 females). Between 1998 and 2008, the country population density is 75 people/km² (based on data from 2008 national census).

C. Religion

5. Buddhism, practiced by the majority of Cambodians, is the religion of the State. Nevertheless other religions remain with their usual activities in the country. Those religions include Christianity, Islam, Caodaism, Animism, and Theravada Buddhism. All Cambodian people have the right to practice a religion based on their belief, tradition, and preference.

D. Ethnic groups

6. Cambodia so far has different types of immigrants such as Vietnamese, Chinese, Muslims, Laotians, Thais, Europeans, Africans, Japanese, Koreans, etc. In addition, there still remain ethnic minority groups that are indigenous to the country. Those groups include *Kroeng*, *Tumpun*, *Kavet*, *Prouv*, *Phnong*, *Koury*, *Pour*, *Javea*, *Treay*, *Tachhork*, *SaOrch*, *Rorbeol*, *Chhrouy*, *Steang*, *La'Morm*, *Khmer Islam*, *KraOrl*, *Rorbel*, *Tha'Morn*, and *Charay*. These groups have been living, working, and organizing their living in a free manner.

E. Languages

7. The Constitution of the Kingdom of Cambodia defines the Khmer language as the official language of the country. However, all types of immigrant in this country can use other non-Khmer languages freely. As a result, both public and private schools usually provide foreign language classes such as English, French, Chinese, Japanese, Korean, Thai, Vietnamese, etc.

F. Political tendency

8. As defined in the Constitution of the Kingdom of Cambodia, the country practices a regime of constitutional monarchy, liberal democracy and pluralism. The country recognizes and respects human rights as stipulated in the Charter of the United Nations, the Universal Declaration of Human Rights, the two Covenants and the conventions related to human rights, and to women's and children's rights. This means that Cambodia nowadays is actively training its civil society in democratic affairs and strengthening actual rights and freedom, by openly allowing the people of Cambodia to run political parties and associations, become members of these associations, and participate in the electoral affairs by choosing their preferred party.

G. Education

9. A necessary nine-year basic education is compulsory, which is provided to all children between 6 and 16 years of age. Both primary and secondary education are provided free of charge. As for tertiary education, some students win the State Scholarship Programme. The total number of students at university level is 92,340 (32,490 females), of whom 14,229 (4,946 females) receive scholarships and 78,111 (27,544 females) are paying tuition.

H. Economy

10. In 2006, the total annual Gross Domestic Product (GDP) per capita was 2,105,000 Riels, a 13.3 per cent increase compared to 2005. Within the last five years, the average increase in GDP is 11.7 per cent. In average, the annual increase in population is 1.9 per cent. In 2006, the fixed GDP per capita is 1,718,000 Riels, representing 8.2 per cent increase compared to 2005. The average annual GDP per capita within the last five years is 7.8 per cent. In 2006 alone, the annual GDP per capita in US Dollars is coming to 7.9 per cent that equals to 419 USD, while in 2004 and 2005 the amount was 7.1 per cent and 9.1 per cent, respectively. Furthermore, the GDP per capita at the current rate increased from 454 USD to 513 USD in 2006. The economic growth of Cambodia has increased dramatically to 10.8 per cent in 2006, comparing to 2005 and 2004 when the rate was 10.5 per cent and 10.0 per cent, respectively. (Data from National Accounting of Cambodia 1993-2008, Ministry of Planning: National Statistics Institute, June 2007, Newsletter No. 11.)

II. POLITICAL BACKGROUND SUMMARY

11. After gaining independence from French colonisation on 9 November 1953, Cambodia became a Constitutional Monarchy; the King both reigns and acts as the Head of State.

12. On 18 March 1970, General Lon Nol together with his subordinators successfully conducted a coup d'État and changed the country system into a republic: the Khmer Republic. Then the civil war started and caused serious tragedy until 17 April 1975 when the Lon Nol

regime fell. Immediately after the fall of this regime, the Khmer Rouge changed the name of the country to Democratic Kampuchea. Under the Khmer Rouge regime, genocide was practiced and millions of Cambodians were killed. Also, the regime destroyed the basis of the economy, culture, society, and other major national factors and led the country to fall to a zero condition.

13. On 7 January 1979, the Khmer Rouge regime was overthrown by a group of Khmer forces with assistance from Vietnamese forces. Then, in 1989, Cambodia decided to adopt another system of government, and the People's Republic of Kampuchea was changed to the State of Cambodia.

14. Cambodia's conditions since 1979 remained in a chronic civil war due to the division of the internal forces, which separated into four main groups. They are in dispute in terms of both political and armed forces. The four major groups were the State of Cambodia Party, the National Front for Liberating Khmer Nation, the National Reconciliation Front for Cambodian Independence, and the Democratic Kampuchea Party. Only through the Paris Peace Agreement (23 October 1991) did the four groups join a Supreme National Council in order to restructure and develop the country.

15. With assistance from the United Nations Transitional Authority in Cambodia (UNTAC) and in accordance with the Paris Peace Agreement of 23 October 1991, Cambodia conducted a universal and constitutional election from 23 to 28 May 1993. The resulting Constitutional Assembly held its first full session meeting on 14 June 1993.

16. In addition to selecting the Head and Deputy Head of the Constitutional Assembly at the first and full session meeting, a permanent commission was created for the purpose of drafting the Constitution. The Constitution officially came into effect on 24 September 1993. Only after this did the Constitutional Assembly change to National Assembly, which is the start of the Royal Government of Cambodia.

III. THE STRUCTURE OF THE STATE

17. The King of Cambodia reigns and acts as Head of State. The King does not govern, but guarantees the Constitution and accepts liberal democracy and pluralism. State authority is divided between three bodies: the legislative, executive, and judicial powers.

18. The Kingdom of Cambodia is an independent, sovereign, peaceful, permanently neutral, and non-aligned country. Cambodia has only one legislative, executive, and judicial system.

19. The territorial integrity of Cambodia is divided into provinces/municipalities that are under the power of the provincial/municipal governor. The provinces/municipalities are further divided into districts/*Khans* that are under the control of the governance of the *Khan* governor. *Khans* are divided into communes/*Sangkats* which are under the management and leadership of *Sangkat* councils.

20. The Kingdom of Cambodia has adopted and implements a system of liberal democracy and pluralism. Citizens of the country choose their representatives through national elections conducted in a free, fair, and confidential manner, according to a mandate of five years. The

people of Cambodia use their power through the three top power bodies of the State such as legislative body (senate and assembly), executive body (government), and judicial powers (all-level courts).

IV. THE SUPREME POWERS OF THE STATE

21. According to the Constitution of Kingdom of Cambodia, the three supreme powers, legislative, executive, and judiciary powers, are separate.

22. The legislative powers are exercised by the National Assembly and National Senate. These are the supreme bodies in charge of legislation. Members of Assembly are elected through universal, free and confidential elections. The term of each assembly is five years. Additionally, the Senate is generated through indirect elections. The number of members of the Senate is half that of the Assembly. The term of the Senate lasts six years.

23. The executive power is represented by the Government. The Government is led by one Prime Minister, deputy prime ministers, senior ministers, ministers, and secretaries of State. The Prime Minister leads the Government. He is a member of National Assembly and of the winning party. Other members of the Government are selected from the members of National Assembly or members of the political parties represented at the National Assembly (Constitution, art. 100).

24. Judicial power refers to the all-level courts which have independent authority in ensuring all rights and freedoms of the people of Cambodia (Constitution, arts. 109-116).

V. OVERALL JUDICIAL FRAMEWORK FOR HUMAN RIGHTS PROTECTION

25. Protecting human rights in Cambodia is one of the major duties, among other important duties, undertaken by the Government. In order to demonstrate the effective measures taken in response to the principle of liberal democracy, the Royal Government of Cambodia has formed administrative and judicial institutions and other bodies for the purpose of preventing all forms of violations of human rights. Those institutional frameworks are described below.

A. Judicial institutions

26. The judiciary of Cambodia consists of:

(a) The Courts of First Instance (Provincial/Municipal Level) and the Military Court are the primary courts for the first trial. Each court of first instance is competent in the territory of particular provinces/municipalities nationwide whereas the military court located in Phnom Penh is competent in the whole territory of Kingdom of Cambodia;

(b) The Appeal Court and the Supreme Court are appellate courts located in Phnom Penh and competent in the whole territory of Kingdom of Cambodia. All the above-mentioned courts have a major role in settling/dealing with all cases/lawsuits involving administration or legality. Nevertheless, the military court is competent only on any military-related offences as defined by law.

B. The National Assembly and Senate Commissions for Human Rights and Receipt of Complaints

27. The Human Rights Commission is one of the nine commissions in the National Assembly. Its role is to guard human rights in the country. On behalf of the National Assembly, the Commission deals with any problems and suggestions of the citizens who experienced human rights violation. The Senate Commission acts in a similar way.

C. Cambodian Human Rights Committee

28. The Committee was formed on 18 January 2000, in accordance with the Royal Decree No. SN/RKT/0100/008. The Cambodian Human Rights Committee acts as the Office of secretary to the Government for the purpose of implementing human rights in Cambodia. Also, the Committee is responsible for drafting any human rights-related documents and reports for the United Nations.

D. Local and international non-governmental organizations

29. Apart from the State relevant institutions mentioned above, there are a wide range of local and international non governmental organizations (NGO) that are in charge of human rights and actively involved in the implementation of human rights. Furthermore, those NGOs also provide technical assistance and material support in order to promote human rights in Cambodia.

E. Human rights protection in judicial affairs

30. All Cambodian citizens have equal freedom of access to the judiciary. Thus, they are fully able to lodge any complaints to the court in terms of obtaining protection from the court whenever their physical body, property, honour, and other freedoms are abused.

31. All Cambodian citizens can lodge any complaints either directly to the court or through any other relevant competent institutions of the State. All complaints that have been legally filed are settled by the court and give right to compensation. Besides, the prosecution working at all court levels is responsible for monitoring any violations of human rights. The prosecution representing the plaintiff undertakes criminal actions to ensure the respect of human rights and prevent any violation thereof.

32. Concurrently, there is another supreme institution in Cambodia. It is the Constitutional Council (Constitution, arts. 117-125). The Council has the duty to safeguard respect for the Constitution, to interpret the Constitution and the laws passed by the Assembly. It also has the right to examine and decide on contested cases involving the election of assembly members and on the legality of electoral laws - Laws on Election of the Members of the National Assembly (LEMNA).

33. With the approval from the Royal Government, the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Cambodia has been assisting in monitoring the violations of human rights and implementing any activities related to human rights and women rights in the country. In November 1993 in accordance with Commission on Human Rights resolution 1993/6, the Secretary General of the United Nations appointed a Special Representative for human rights in Cambodia whose mandate had been extended by the

Human Rights Council in its resolution 9/15 in order to work with the Government in improving democracy as well as ensuring the protection and promotion of the human rights of all people in Cambodia.

34. Additionally, there are a large number of NGOs, cooperating and showing their wonderful goodwill in eradicating discrimination against women and further promoting equal rights for women. Moreover, those NGOs also help to enhance citizen awareness of the laws and their own rights and assist victims in lodging complaints with both local authority and judiciary body.

35. Other international organizations such as the United Nations Educational, Scientific, and Cultural Organization (UNESCO), the United Nations High Commissioner for Refugees (UNHCR), the International Labour Organization (ILO), the International Committee of Red Cross (ICRC), International Federation of the Association of Red Cross and Red Crescent, and the European Union have offices in Cambodia and are also actively involved in promoting human rights and cultural peace, and the United Nations Children's Fund (UNICEF) in promoting women and child rights.

36. The Kingdom of Cambodia is party to many international conventions related to human rights. Those include the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of Discrimination against Women; the Convention on the Status of Refugees; Convention on the Rights of the Child; the Protocol on the Status of Refugees; the International Covenant on Economic, Social, and Cultural Rights; the Supplementary Convention on the abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children Child Prostitution and Child Pornography.

F. Implementation of international conventions in the Cambodian context

37. Article 31, paragraph 1, of the Constitution of Cambodia states: "The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women's and children's rights." This means that all rights stipulated in the international treaties on human rights are protected by the Constitution. It should be noted that the principles of those treaties and conventions are the foundation for law-making as well as for other standard document.

G. Information and dissemination

38. The Royal Government of Cambodia publicizes its ratified human rights conventions and other standard documents. At the same time, the Royal Government works closely with OHCHR in Cambodia. Thus, a number of training sessions on human rights are continuously conducted for civil servants, national police, and Royal Cambodian Armed Forces. In addition, local and international NGOs provide similar training courses.

PART II

IMPLEMENTATION OF THE CONVENTION

Article 1

A. Paragraph 1: Definition of racial discrimination

39. Cambodia has ratified the Convention which it recognizes and implements accurately and non-conditionally as it is also stipulated in article 31 of the Constitution of Cambodia (see para. 37 above).

40. In spirit to the above-mentioned provision, it means that the Kingdom of Cambodia accepts the definition of “racial discrimination” contained in article 1 of the Convention. It understands that racial discrimination refers to the prejudice, grouping, separating or limiting on the basis of ethnic, race, origin or nationality for the purpose or in favour of or spoiling a race or nationality, which leads to the failure of the recognition of the interests or the implementation of the other basic rights and freedom with equality in other areas of life aspects.

41. In accordance with this principle, the Government of Cambodia accepts this definition to be the foundation of its practice in this field, notwithstanding any other definition. Actually the term “racial discrimination” has not been defined in any other provisions.

42. From a Khmer Dictionary, the term “discrimination” refers to accepting or claiming anything in order to satisfy someone’s wishes. This shows that the meaning is the same as the definition contained in the Convention. Additionally, the term “discrimination” is a simple word that is easily understood and very common in written and spoken form.

B. Paragraph 2: The implementation of the Convention

43. In accordance with the Convention, in Cambodia discrimination has not been used for separating, limiting or giving a better opportunity to Khmer people or foreigner or to minority or endogenous people who are living in Cambodia.

44. The Government of Cambodia has never, under any circumstances, encouraged discrimination against ethnic minorities or foreigners. All people who are living in Cambodia are equal before the law. Article 38, paragraph 1, of the Constitution of Cambodia states: The law guarantees there shall be no physical abuse against any individual. Article 38, paragraph 8, provides that “Every citizen shall enjoy the right to defence through judicial recourse.”

45. It is obvious that, within the Cambodian territory both previously and currently, there are a wide range of ethnicities existing and living as usual. The Royal Government of Cambodia takes the responsibility to broadly provide equal rights and freedoms for them, in making their living, in society and at work, and in the conduct of business under the control of the laws.

46. The way of life, tradition, language and different beliefs of each ethnicity are made from their own preference: by gathering in groups or clans according to their own ethnicity. This means that the Government did not separate or exclude those groups from Cambodian society.

Nor has the Government placed any restrictions on them. On the other hand, the Government helps them in maintaining social order, social security, health care, and it provides them with enough freedom so that they can live happily like the majority citizens.

C. Paragraph 3: National provisions and the provisions of the Convention

47. The Royal Government of Cambodia does not consider the provisions of the Convention to be incompatible with any other provision, principle, measure or law of the country. Hence, the Government regards the provisions of the Convention as the main foundation for facilitating the drafting of national legislation.

48. In regard to nationality, citizenship, or naturalization in Cambodia, there remain no provisions which can lead to discrimination or separation of nationality. Generally, the Royal Government of Cambodia operates a liberal naturalization regime, as long as the conditions required in the law are fulfilled so that the applicant has the right to acquire Cambodian nationality at any time.

D. Paragraph 4: Special measures for protection

49. The Royal Government of Cambodia has taken some administrative and other special measures in order to ensure the development of all races or ethnicities, by providing assistance to disadvantaged individuals and families as well as supporting and encouraging them to access and enjoy human rights and fundamental freedoms equally. The Royal Government of Cambodia does not consider these measures as “racial discrimination” or “racism.” If discrimination on the basis of race, ethnicity or religion occurs, the Government has the duty to seek legal means to end the discrimination.

50. In practice, the Government has taken measures for rural development in order to reduce poverty and help the rural population to lead a prosperous life, meeting the same standards as urban life.

51. All Cambodian citizens enjoy their rights to basic needs, such as the rights to an adequate standard of living, access to health care, to educational services, etc. As a result, the Government makes efforts to build schools, hospitals, streets, and irrigation systems for serving the public needs, regardless of race, ethnicity or religion.

Article 2

A. The policy against racial discrimination

52. The Royal Government of Cambodia regards the elimination of racial discrimination as one of the most important priority in implementing the laws. Thus, as a matter of principle and in implementing any laws, the Government always defines those laws in such a way as to be consistent with the Convention. Citizens, civil servants of all national institutions at all levels, departments, political parties, associations, newspapers, and NGOs are all liable to be punished whenever they permit racism.

1. The fight against racism

53. The Government implements a national policy to unify all people living with different political tendencies both within and outside Cambodia, which is answerable to the Cambodia's motto "Nation, Religion, and King." This implies the idea of working together as a main partner to build and promote all achievements made in Cambodia so as to live in the context of independence, sovereignty, territorial integrity, peace, democracy, development, and prosperity.

54. Cambodia has adopted a free market economy system, liberal democracy and pluralism, which equally and broadly provide opportunities to its people to participate in building the country without any racism, so that all individuals fully possess their rights in promoting economy and culture.

2. Discouraging racism

55. In accordance with the Constitution, Action Plans, National Strategic Plan, and Political Policy of the Government, mechanisms to curb and prevent all forms of discrimination and racism are in place. Thus, the Government does not support any initiatives of an individual or organization that can lead to racial discrimination in the country.

56. Though the Government has taken some measures against racial discrimination, there remain occurrences of certain irregularities of verbal usage of the term "Youn" which is derogatory against Vietnamese like: "Youn invades Cambodian territory"; "Youn is the enemy of Cambodia", and so on.

3. The review of policy and law

57. So far, Cambodia has paid much attention to the review of its national policy programme as well as other fundamental provisions, so that the country can produce, modify, and nullify either the forms or the contents of those provisions. At the same time, they are also supplemented with new and relevant content so that these principles and applicable provisions maintain their adequate essence in accordance with the spirit of the Constitution and international conventions to which Cambodia is a party.

58. The Constitutional Council is the supreme institution which has the competence to review the constitutionality of the laws. The Council is entitled to nullify any laws that are inconsistent with the principle of the Constitution. As stipulated in article 158 of the Constitution, laws and norms in Cambodia that safeguard State property, rights, freedom and legal private property and that are in conformity with the national interests, shall continue to be effective until altered or abrogated by new texts, except those provisions that are contrary to the spirit of the Constitution.

59. Thus, every provision which conforms to the spirit of the Constitution and can be effective remains into force; provisions which do not conform to the Constitution cannot be implemented. As a result, both the authorities and citizens are entitled, through their representatives, to lodge a

complaint or submit a request to the Constitutional Council on the unconstitutionality of any law so that it can be examined or reviewed as to its content and declared unconstitutional, if necessary. Article 141 (new) of the Constitution states that after a law is promulgated, the King, the President of the Senate, the President of the National Assembly, the Prime Minister, one quarter of the Senate or one tenth of the National Assembly members or the courts may ask the Constitutional Council to examine the constitutionality of that law.

60. Regarding administrative measures or other measures or principles which are implemented by any institutions or public authorities based on the provisions of any law that results in the loss of rights, freedoms, responsibilities and duties or that affects any other legal benefits, the citizens are entitled to file complaints on the constitutionality of that law. However the request or the complaint needs to justify the loss and to be filed through their representatives, the President of the Senate, Senators, the President of the National Assembly, or institutions under the Royal Government as stated in article 141 of the Constitution.

61. Regulations, existing in Cambodia, have been reviewed by the Constitutional Council in order to make them consistent with the international conventions to which Cambodia is a party as stated in article 142 of the Constitution, "Provisions in any article ruled by the Constitutional Council as unconstitutional shall not be promulgated or implemented. The decision of the Constitutional Council is final."

4. Taking of appropriate actions

62. The Kingdom of Cambodia had put a definitive end to the political power of the Khmer Rouge military by the end of 1997- the biggest units - which used to implement the policy and activities of racial discrimination in the period of its ruling the country from 1975 to 1979. The win-win policy - DIFID (Divide, Isolate, Finish, Integrate, and Develop) - of Samdech Prime Minister Hun Sen has then been established and it laid out the legal and administrative measures, and many other appropriate measures to prevent the racial discrimination from happening again in Cambodia.

5. Multi-racial integration movement

63. Although the Law on Association has been in the drafting process, the Royal Government of Cambodia has complied with article 42 of the Constitution, which states, "Khmer citizens have the right to form associations and political parties. These rights shall be determined by law. Khmer citizens may take part in mass organizations for mutual assistance to protect national achievement and social order."

64. Based on the above-mentioned provision, the Royal Government allows all races to form associations, such as the Khmer Kampuchea Krom Association, the Association of the North-eastern Indigenous People, Khmer Islam Association, Chinese Association, Vietnamese Association, and so on. Presently, Cambodia has more than 2,000 associations and NGOs, which have been operating as usual.

65. Apart from associations and NGOs, in Cambodia there are many religious groups which unite people regardless of their skin colour, status, or races.

66. Both associations and religious buildings are the meeting places of all races in order for them to celebrate and respect different religious ceremonies, to study, and to take good advice from doctrines and holy scriptures of each religion. The Royal Government of Cambodia has always paid attention to encourage and has never disturbed them from their gathering, meeting, or observance of religious ceremonies.

67. In response to the need and aspiration of the mountainous and highland tribes, the Royal Government has considered human resources development as the priority plan in which the literacy programme and the non-formal education programme have been introduced to expand their knowledge of both culture and language.

68. Text books for the literacy programme are written in two languages: Khmer and tribal languages. The Royal Government respects good communication with the mountainous and highland tribes regarding the use of land and natural resources that have been used by the community so far. The Royal Government ensures the possession and use of traditional land of the tribes in accordance with the law in effect.

69. The Royal Government has recognized and protected the right to use traditional land of the indigenous people and the demarcation of the existing village borders with the consent of the local community and the local authority. The provincial development commission has monitored the use of land and drafted measures to ensure the methods of using the natural resources sustainably. The Royal Government has recognized the methods of cultivation and collection of subsidiary products of forest, which the tribal people have used for their traditional livelihood. The Council of Land Policy Making has drafted the policy concerning land registration and rights to access land of the community of the indigenous people in Cambodia and will submit it to the Council of Ministers for approval.

B. Legal actions

70. The draft Penal Code contains a definition of offenses relating to racial discrimination and sanctions thereof. According to this definition, racial discrimination refers to the activity of a person or a group of persons who encourage, persuade, incite, or promote discrimination, division, exclusion, restriction, or forgiveness on grounds of race, skin colour, origin, ethnicity, religion and so on, in an attempt to cause elimination, danger to mentality, to physical integrity or property, or to damage to the recognition, the enjoyment and the exercise of rights and fundamental freedoms.

71. A person found to have committed intentionally an offense with fact and evidence of racial discrimination by any competent authority will be punished according to the type of offence, even though he/she is an ordinary citizen, an official, public authority, the State public institution, or non-governmental units.

Article 3

72. In Cambodia, *apartheid* and racial discrimination do not exist. The Kingdom of Cambodia is a party to the International Convention on the Suppression and punishment of the Crime of Apartheid, ratified on 8 July 1981. Today, in Cambodia there is no monitoring system of racial segregation by classifying citizens living far from their community into groups and Cambodia has never classified its indigenous peoples into groups.

73. Furthermore, the Royal Government and the Cambodian citizens have always denounced the regime of apartheid, especially as all the people still remember in their hearts the totalitarian regime of Democratic Kampuchea from 1975 to 1979, which killed millions of its own people.

Article 4

A. The political platform

74. In the political platform of the fourth legislature of the National Assembly, the Royal Government has made strong commitment to prevent and absolutely combat all forms of discrimination, which is the action of violating the law and abuse the human rights, guaranteed by the international conventions and treaties as stipulated in the Constitution.

B. Determination of discrimination offences

75. The Royal Government of Cambodia has regarded all forms of discrimination as the action of breaching the criminal law. All kinds of instigation - such as inculcation of superiority-based ideas, hatred, violence, or incitement to discrimination or classification of any group of people of different skin colour or origins - are considered as offences and shall be punished according to the law in effect.

C. Measures taken by applicable provisions

76. Article 61 of the UNTAC Transitional Criminal Provisions states, “Any person who, by one of the means listed in article 59, provokes national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be punished by imprisonment of one month to one year, a fine of one million to ten million Riels, or both.”¹

77. Article 7, paragraph 6, of the 1995 Law on the Press states that the media “shall avoid publishing information which incites discrimination on the basis of race, colour, ethnicity, sex, language, belief, religion, political opinion or tendency, birth, origin, property, or other status.” Article 11 of the same Law stipulates, “The press shall not publish anything which may affect public order by directly inciting one or more persons to commit violence. Commitment of the offence mentioned above shall be penalized by a fine of 1,000,000 to 5,000,000 Riels. Victims of the above acts have the right to file a civil suit in the court as a plaintiff.”

¹ Provisions relating to the judiciary and criminal law and procedure applicable in Cambodia during the transitional period (Unofficial English translation available at <http://www.cdpcambodia.org/untac.asp>).

D. Measures of prohibition

78. Cambodia does not allow any organized body to carry out the activities of promotion and incitement to racial discrimination in its jurisdiction. The Royal Government of Cambodia shall regard all these acts as acts against humanity and criminal offence, which shall be punished by law.

79. Today in Cambodia besides the State institutions, NGOs, international agencies and many other associations are free to work in all the sectors. However, they have to comply with the principles and laws of the Kingdom of Cambodia by not allowing acts against humanity on their property at all. Article 36 of the UNTAC Criminal Provisions states, “ Any individual who has taken part in a formal or informal association set up for the purpose of planning one or more crimes or misdemeanours against persons or property, if specific acts of preparation of these offences have taken place, shall be liable to a term of imprisonment of from three to fifteen years.”¹

80. In the political platform, action plans, key strategies, and the layout of the legal and administrative actions and other formulas of implementation have prohibited, for the authority or both local and national institutions, encouraging any activities that may lead to or incite to racial discrimination. Article 121 of the Constitution of Cambodia states: “Members of the Royal Government shall be collectively responsible before the National Assembly for the overall policy of the Royal Government. Each member of the Royal Government shall be individually responsible before the Prime Minister and the National Assembly for his/her own conduct.”

81. The Royal Government of Cambodia adopted a policy against all forms of discrimination. Members of the Royal Government who are presidents of institutions, including the local authority, shall not foster discrimination. If any member or local authority acts against this national policy or the laws of the country, he/she shall be responsible and liable to disciplinary action, as stated in detail in articles 33 to 50 of the Law on Co-Statute of Civil Servants. Article 126 of the Constitution states that “Each member of the Royal Government shall be liable to punishment for any crime or misdemeanour that he/she has committed in the course of his/her duty. In such cases and when he/she has committed serious offenses in the course of his/her duty, the National Assembly may decide to sue him/her to the competent court.” Provisions as described above reaffirm that civil servants of all grades and echelons, all departments, and all sectors throughout the country shall avoid any treatments leading to racial discrimination.

Article 5

82. The Royal Government of Cambodia has committed itself to eliminating all forms of discrimination and guaranteeing equal right before the law for each person as article 31, paragraph 2, of the Constitution stipulates: “Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, colour, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status.”

A. Right to equality before the courts

83. Article 38, paragraph 9, of the Constitution states, “Every citizen shall enjoy the rights to defence through judicial recourse.” All these rights shall be exercised in the court proceeding considering the case or offence from the start to the successful finalization. All the persons have full right to file a complaint to the court at any time to claim compensation or claim for damages. Article 3 of the Code of Criminal Procedure states, “Criminal actions apply to all natural persons or legal entities regardless of race, colour, sex, language, belief, religion, political tendency, birth origin, social status, property or other status.” Article 6 of the Code of Criminal Procedure (submission of complaints by victims) states: “Any person who claims to be victim of an offence can file a complaint. An ordinary complaint does not automatically initiate criminal proceedings. In case the complaint stays silent without the response from the prosecutor or is filed without proceedings, the victim may lodge the complaint further to the General Prosecutor attached to the Court of Appeal in accordance with article 41 (File without Proceedings) of this Code.”

B. Right to personal security and safeguard by law

84. The Kingdom of Cambodia has ensured and protected the personal security of all races within its jurisdiction in compliance with article 32 of the Constitution, which states, “Everyone shall have the right to life, freedom, and personal security. There shall be no capital punishment.” According to article 38 “The law guarantees there shall be no physical abuse against any individual. The law shall protect the life, honour and dignity of the citizens. The prosecution, arrest, police custody or detention of any person shall not be done except in accordance with the law. Coercion, physical ill-treatment or any other mistreatment that imposes additional punishment on a detainee or prisoner shall be prohibited. Persons who commit, participate or conspire in such acts shall be punished according to the law. Confessions obtained by physical or mental force shall not be admissible as evidence of guilt. Any case of doubt shall be resolved in favour of the accused. The accused shall be considered innocent until the court has judged finally on the case. Every citizen shall enjoy the right to defence through judicial recourse.”

C. Political rights

85. Political rights are generally being exercised openly and freely in Cambodia. The Royal Government has implemented key formulas of seven challenged strategies and made efforts of strong commitment to increase the enjoyment of the right to free expression (including right to freedom of information, as long as it does not affect the rights and freedoms of other people), right to free assembly, right to free establishment of associations, right to stand for election, right to take part in politics, right to vote freely and fairly, and right to have equal access to public services.

86. The Kingdom of Cambodia adheres to a system of liberal democracy and pluralism, which has provided every citizen with freedom and rights to take part in politics. This right is guaranteed and protected by article 35 of the Constitution, which states, “Khmer citizens of either sex shall have the right to participate actively in the political, economic, social, and cultural life of the nation.” The right to vote and to stand as a candidate for election is guaranteed

and protected by article 34 of the Constitution, which states: “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. Khmer Citizens of either sex of at least 25 years old, have the right to stand as candidates for the election. ...”

87. Khmer citizens of either sex of at least 40 years old, have the right to stand as candidates for the election as members the Senate.

88. The Organization of elections in Cambodia was as follows:

(a) The First Legislature was constituted by the general election under the organization and monitoring of UNTAC on 23 May 1993, with 58 parties taking part and 120 seats to be elected; as a result, four parties won the election: the United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC Party) with 58 seats, the Cambodian People’s Party with 51 seats, the Buddhist Liberal Democracy Party with 10 seats and the Molinaka Party with 1 seat;

(b) The Second Legislature was established through the general election under the organization and monitoring of Cambodia itself, through an established National Election Committee (NEC), on 26 July 1998, with the participation of 39 parties for 122 seats; three political parties won the election: the Cambodian People’s Party with 64 seats; the FUNCINPEC Party with 43 seats; and the Sam Rainsy Party with 15 seats;

(c) The Third Legislature was organized and monitored by NEC and the election held on 26 July 2003; there were 22 parties taking part and 123 seats to be won; three parties were elected: the Cambodian People’s Party with 73 seats, the FUNCINPEC Party with 26 seats and the Sam Rainsy Party with 24 seats;

(d) The Fourth Legislature was organized and monitored by the NEC on 27 July 2008; there were 11 parties for 123 seats. Five parties were elected: the Cambodian People’s Party with 90 seats; the Sam Rainsy Party with 26 seats; the Human Rights Party with 3 seats, the FUNCINPEC Party with 2 seats; and the Norodom Ranariddh Party with 2 seats.

89. In early March 1999, the National Assembly amended the Constitution by founding another legislative institution: “the Senate.”

90. On 22 January 2006, the Kingdom of Cambodia organized indirect elections to select the members of the Senate through election by the National Assembly and Commune Council members with the participation of four parties - the Cambodian People’s Party, the FUNCINPEC Party, the Sam Rainsy Party, and the Khmer Democracy Party.²

² “The members of the Senate, the second Chamber, are indirectly elected by the National Assembly and Commune Council members, with two members being appointed by the King.”

D. Civil rights

1. Freedom of movement and residence

91. The freedom to travel and to reside in Cambodia is guaranteed. Every person has the right to travel and to reside freely within the territory of the Kingdom of Cambodia. This right is protected and guaranteed by article 40, paragraph 1, of the Constitution, which stipulates that “Citizens’ freedom to travel, far and near and legal settlement shall be respected.” Foreigners, who travel and settle in the jurisdiction of the Kingdom of Cambodia, shall have entry visas in accordance with Immigration Law, which determines the forms of entry-exit and residence properly. Regarding the constructions of settlements for residence, there shall be allowed by the competent authority. Citizens have the right to settle down freely but must avoid affecting the ownership, management, or occupation of the State or others.

2. Right to travel abroad and return to the country

92. The Kingdom of Cambodia provides citizens with full right to travel abroad and return without discrimination. This right is guaranteed and protected by article 40, paragraph 2, of the Constitution, which states, “Khmer citizens shall have the right to travel and settle abroad and return to the country.” These days some Cambodian citizens have left the country legally to live abroad, such as the United States, Australia, Canada, France, etc. because the Royal Government has allowed the citizens to have the right to use legal passports, which enable them to travel from one country to another through the visa issued by each country.

93. After 1979, many Khmer citizens have fled to overseas, and some also have returned to the country. Khmer citizens of both sexes who have returned to the country have been allowed and welcomed by the Royal Government as usual. Foreigners can travel in and out of Cambodia but shall respect the Law on Immigration. Today many foreigners have come to stay, live, work, and do business in the Kingdom of Cambodia.

3. Right to nationality

94. The Royal Government of Cambodia has provided every citizen with full freedom to enjoy a nationality without discrimination. Article 33 of the Constitution states “Khmer citizens shall not be deprived of their nationality, exiled or arrested and deported to any foreign country unless there is a mutual agreement on extradition. Khmer citizens residing abroad enjoy the protection of the State. Acquiring Khmer nationality shall be determined by law.”

95. Khmer citizens, no matter which country they reside in, shall not lose their own nationality. Their original nationality shall be protected by the Law on nationality which stipulates:

- **Article 3:** Khmer citizens, who are living in foreign countries, shall:
 1. be protected by the State through all diplomatic means
 2. not lose their nationality spontaneously

Khmer citizens who have foreign spouses can also retain their nationality.

- **Article 5:** Any foreign woman or man who married a Khmer national may file a request for Khmer nationality/citizenship only if s/he has been living with his/her spouse for a period of three years after registration of the marriage and/or issuance of the marriage certificate.
- **Article 6:** Khmer citizens shall not lose their Khmer nationality because they married foreigners.

96. In cases mentioned above, the Law on nationality of the Kingdom of Cambodia also protects children who may acquire the nationality without discrimination as stated in article 4:

- (1) Shall obtain Khmer nationality/citizenship, regardless of the place of birth for:
 - (a) Any legitimate child who is born from a parent (a mother or father) who has Khmer nationality/citizenship; or
 - (b) Any illegitimate child who is born from and recognized by a parent (a mother or father) who has Khmer nationality; or
 - (c) Any child who is not recognized by the mother and father (parents), when upon the court passed a judgment stating that such child was really born from a parent (a mother or father) who has Khmer nationality/citizenship;
- (2) Shall obtain Khmer nationality/citizenship, by having been born in the Kingdom of Cambodia:
 - (a) Any child who is born from a foreign mother or father (parents) who were born and living legally in the Kingdom of Cambodia;
 - (b) Any child who is born from an unknown mother or father (parent), and a newly born child who is found in the Kingdom of Cambodia shall also be considered as having been born in the Kingdom of Cambodia.

4. Right to marriage and to select partners

97. In the Kingdom of Cambodia, marriage and selection of partners is every person's right which shall be respected and exercised traditionally as well as in accordance with the national law. For instance:

- (a) Article 948 of the Civil Code states, "For legal age of marriage, men and women under required age cannot get married. But in case one party has reached the legal age and the other remains a minor over the age of 16 can get married with the consent of either parents or guardians of the minor."
- (b) Article 45, paragraphs 3 and 4, of the Constitution stipulates, "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 based on the principle of mutual consent between one husband and one wife."

(c) Chapter 3 of the new Civil Code also contains detailed provisions on marriage in articles 948 to 1006.

5. Right to ownership and co-ownership

98. The Kingdom of Cambodia has also provided every race with full right to ownership or co-ownership of property, except foreigners who do not have Khmer nationality and shall not be allowed to own land. According to article 44 of the Constitution, “All persons, individually or collectively, shall have the right to ownership. Only Khmer legal entities and citizens of Khmer nationality shall have the right to own land. Legal private ownership shall be protected by law. The right to confiscate properties from any person shall be exercised only in the public interest as provided for under the law and shall require fair and just compensation in advance.”

6. Right to inheritance

99. The provision and the acquisition of inheritance is the freedom of all persons. Practically, the Royal Government of Cambodia supports the division and the acquisition of inheritance without racial discrimination and any person has sufficient right to divide and acquire his or her legal inheritance. The Royal Kram No. NS/RKM 1207/030, dated on 8 December 2007, promulgated the use of the Civil Code which contains detailed provisions on succession in Book 8, including a definition of persons who are entitled to inheritance and of those who are not.

7. Freedom of expression, conscience, and religion

(a) Buddhism related affairs

100. Up to the present, there are 4,237 pagodas throughout the country, out of which 131 are new. There are 4,102 pagodas of Mohanikay, 135 pagodas of Thammayut, and 80 religious concentration places. The total number of monks across the Kingdom of Cambodia is 57,350, which represents a decrease by 1,478. There are 56,130 monks under Mohanikay sect (31,740 novice monks) and 1,220 monks under Thammayut (681 novice monks).

(b) Establishments of Buddhist education

101. Buddhist education is organized as follows:

- 549 Buddhist primary schools with 12,174 monk students currently enrolled
- 26 Buddhist junior high schools with 6,200 monk students currently enrolled
- 8 Buddhist senior high schools with 425 monk students currently enrolled
- 149 official teachers, 293 contractual teachers, and 703 voluntary teachers
- 107 monk students are currently enrolled in the Buddhist Faculty of Philosophy and Religious Studies

- 138 monks are currently studying at the Buddhist Faculty of Education and Information Technology
- 49 monk students are studying at the Buddhist Faculty of Languages
- 20 monk students are studying at the Buddhist Centre of Pedagogy

(c) The other religious groups

102. There are many other religions represented in Cambodia, including:

- Christianity with 170 churches, 809 buildings for worship, 136 religious schools and 63,111 followers
- Islam with 232 mosques, 310 buildings for worship, 147 religious schools, and 328,444 followers
- Chinese Mahayana with 80 temples, 37 buildings for worship, 6 religious schools, and 102,371 followers
- Caodaism with 2 sites and 1,702 followers
- Baha'i with 7 sites and 5,166 followers

103. Freedom of expression and conscience has been granted to all races by the Royal Government; any person can also use his or her opinions and conscience to contribute to the development of his or her country, but shall not affect the rights, freedoms, and ownership of others.

104. Presently, Cambodia does not have laws to guarantee and protect the freedom of opinions and conscience, but the Royal Government has never laid out any order or administrative measure to prohibit the use of such freedom and stated in its political platform, "All public forums shall be encouraged to collect opinions from citizens of all levels and all political tendencies, in the purpose of contributing to the construction and development of the nation."

105. All citizens have the right to practice any religion. Freedom of religious belief is also guaranteed and protected by article 43 of the Constitution which stipulates "Khmer citizens of either sex shall have the right to freedom of belief. Freedom of religious belief and worship shall be guaranteed by the State on the condition that such enjoyment of freedom does not affect other religious beliefs or public order and security. Buddhism shall be the religion of the State."

106. Besides education to eliminate spite/revenge and mutual hatred, the Royal Government has also focused its attention on promoting human rights broadly, and especially education through the preaching of monks who always provide deeper knowledge and understanding of Dharma and human rights issues to the citizens who practice Buddhism and to citizens in general without discrimination of race, religion, birth origin, sex, or political tendency.

107. Cambodia has taken Buddhism as the State religion, which 90 per cent of the population follows. The Royal Government has broadened the policy of raising awareness of human rights through religion and requested monks who are skilful in religious themes to conduct researches and seek ways to include human rights issues into their Buddhist teachings, and to improve the dissemination to all Buddhists through preaching.

8. Freedom of expression

108. Freedom of expression is the basis of liberal pluralistic democracy to which the Kingdom of Cambodia adheres. This freedom is protected by the article 41 of the Constitution, “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, the public order and national security.”

109. In Chapter 1, point B-7 of its political programme for the fourth legislature of the National Assembly, it is stated that the Royal Government protects the freedom of press and expression as stated in the Constitution and the Laws on the press. In the meantime, the Royal Government encourages capacity-building of the journalists and advocates the respect of a code of ethics by extending and improving the quality and the effectiveness of the media both public and private. The Government also implements an open policy for the contribution of the private sector to the development of information technology.

110. Every public forum is encouraged in order to collect opinions from all levels of citizens and from all political tendencies for the participation in restoring and developing the country. The exercise of this right shall be applied in accordance with the Constitution and applicable laws with honour and dignity.

111. The Royal Government continues the principles of consolidating and building the professional competence of journalists to enable them to contribute even more actively in providing information professionally, effectively, truly, and transparently to the society.

112. In accordance with the political platform and laws, the Royal Government has allowed civil society to set up public forum through which the citizens may express their opinions freely. The freedom of expression through public forums has received good outcome by broadcasting through radios, televisions and other press in both national and foreign languages which are as follows:

| | |
|--------------------|------------|
| National press | 327 bodies |
| Journals/bulletins | 36 bodies |
| Magazines | 129 bodies |
| Foreign press | 27 bodies |
| TV stations | 11 bodies |
| Radio stations | 23 bodies |
| Total | 553 bodies |

9. Right to establish associations and freedom of assembly

113. The right to establish association and the right of assembly are enjoyed freely in the Kingdom of Cambodia. Even though the Royal Government has not adopted laws on the establishment of associations and organizations, it has permitted all persons to form freely associations or organizations by submitting their application to the Ministry of Interior or the Office of the Council of Ministers.

114. In Cambodia, there are around 2,000 NGOs and international agencies active in all fields and sectors. There are also large associations such as the Khmer Krom Association, Chinese Association, Vietnamese Association, Indigenous People Association (highland Khmer), and so on. These organizations and associations may organize meetings with their own members freely.

E. Economic, social and cultural rights

115. The Royal Government has supported and allowed all ethnicities under its jurisdiction to enjoy their economic, social, and cultural rights. The Royal Government has been strengthening all its institutions to ensure that important rights are routinely implemented.

1. Rights to employment and jobs selection

116. In the Kingdom of Cambodia, the rights to employment and to jobs selection are open to all persons and shall be protected and guaranteed by article 36, paragraph 1, of the Constitution, “Khmer citizens of either sex shall enjoy the right to choose any employment according to their ability and the needs of the society.”

117. Foreigners who come to work in the Kingdom of Cambodia shall comply with the principles protected and guaranteed by the Labour Law, article 261, “No foreigner can work or run a business unless s/he possesses a work permit or an employment book issued by the Ministry in charge of labour. These foreigners must also meet the following requirements:

- (a) Employers must beforehand have a legal work permit to run a business in the Kingdom of Cambodia;
- (b) These foreigners must have legally entered the Kingdom of Cambodia;
- (c) These foreigners must possess a valid passport;
- (d) These foreigners must possess a valid residency permit;
- (e) These foreigners must be fit for their jobs and have no contagious diseases.

118. The rights to work and to choose a job in the Kingdom of Cambodia is exercised without any discrimination and protected by article 12 of the labour law. According to this article, Except for the provisions fully expressed under this law or any other legislative text or regulation protecting women and children, as well as provisions relating to the entry and stay of foreigners explicitly, no employer may take the account of race, colour, sex, belief, religion, political opinion, birth, social origin, membership of trade union or taking part in trade union activities as a pretence to make a decision on hiring, determining and assigning work or vocational training;

advancement, promotion, remuneration, granting of social benefits; discipline measures or termination of employment contract. The same article provides also that distinctions, rejections, or acceptances based on qualification required for a specific job shall not be considered as discrimination.

119. Rights to work and to choose a job without discrimination, to receive the same wage or salary in the same work conditions are also guaranteed without distinction. This point is protected by article 36, paragraph 2, of the Constitution, “Khmer citizens of either sex shall receive equal wage for the same work.” and article 106 of the Labour Law, “For work of equal conditions, professional skill and output, the wage shall be equal for all workers subject to this law, regardless of their origins, sex, or age.”

2. Rights to establish and participate in trade unions

120. The Kingdom of Cambodia has supported the establishment and participation in trade unions of all persons both Cambodians and foreigners. This right is protected by article 36, paragraph 5, of the Constitution, “Khmer citizens of either sex shall have the right to form and to be member of trade unions.”

121. Besides the Constitution, the rights to form trade union is guaranteed and protected by article 266 of the Labour Law: “Workers-employees and employers have, without distinction whatsoever and prior authorization, the right to form professional organizations of their own choice for the exclusive purposes of studying, promoting the interests, and protecting the rights, as well as the moral and material interests, both collectively and individually, of the person determined by the organization’s statutes:

(a) Professional organizations of workers-employees are called ‘Trade Union of Workers-employees’;

(b) Professional organizations of employers are called ‘Employers’ Associations’.

In the light of this law, trade unions or associations that include employers and workers in one are forbidden.”

122. As guaranteed and protected by the provisions of law above, all races have the right to form trade unions. As far as foreigners are concerned, they also enjoy the same right, provided they meet the requirements contained in article 270, paragraph 2, of the labour law: “Foreigners who are eligible to be candidates for the election of a leader of a professional organization for employers must meet the following requirements:

- (1) be at least 25 years of age;
- (2) be able to read and write Khmer;
- (3) have the right to a permanent residence in accordance with the Immigration Laws of the Kingdom of Cambodia;
- (4) have worked for at least two consecutive years in the Kingdom of Cambodia.

123. Every person has full right to form and to join a trade union. This right is guaranteed and protected by article 271 of the Labour Law, “All workers-employees regardless of sex, age, and nationality are free to be a member of a trade union of their free choice.” Today all factories and enterprises have professional trade union organizations. These trade union organizations also form themselves into confederation.

3. Rights to housing

124. Article 36, paragraph 4, of the Constitution states that “Every Khmer citizen shall have the right to obtain social security and other social benefits as determined by law.” The Royal Government has issued land policy in the fourth legislature which focuses on distribution, management, and supervision of land in order to improve the security of land possession, and to eliminate the anarchy of illegal land grabbing of all kinds (lakes, forest land, flooded land, coastal land, mountainous land, and islands), and to develop the land management system in order to assure that all citizens can have access to land for their residence and farming.

125. For employees in particular, the right to have a residence is determined by the article 204 of the Labour Law: “Regular and permanent workers shall be entitled to free housing (main housing and sub-housing) provided by the employers under the conditions set by a *Prakas* (Ministerial order) of the Ministry in Charge of Labour.”

126. Article 209 of the same law points out that, “if the farm owners cannot furnish housing to regular and permanent workers, the employer is required to pay them monthly housing allowance under the conditions set by a *Prakas* of the Ministry in charge of Labour in accordance with the recommendation of the Labour Advisory Committee. For instance in large industrial farms such as palm oil plantation and rubber plantations, the owners of the company have built home for regular employees to live with their families appropriately.

4. Right to health and public health services

127. Public health facilities comprise of 8 national hospitals, 77 Operational Districts, 73 referral hospitals, 949 health centres, 105 health posts, all of which make up a total of 9,661 beds for patients treatment.

128. Up to 2007, across the Kingdom of Cambodia, there were 2,162 medical doctors, 1,267 medical assistants, 42 medical professors, 5 doctors in pharmacy, 429 pharmacists, 110 secondary pharmacists, 33 primary pharmacists, 175 doctors in dentistry, 67 dentists, 23 primary dentists, 84 massage therapists, 3,464 secondary nurses, 1,845 secondary midwives, 33 primary midwives, 409 secondary laboratory technicians, 23 primary laboratory technicians, 6 scientists, 3 anaesthetists, 1,223 other personnel, and 414 non-medical skilled staff.

129. Within this one year period, it is estimated that there had been total of 8,745,641 clients for disease consultation, among which 6,607,178 new cases were found. There had been 495,690 in-patients out of which 72,820 received surgery. The mortality rate in hospital is 1.76 per cent.

130. In 2007, 20 provinces/municipalities throughout the country, excluding Phnom Penh municipality, Prey Veng, Stoeung Treng, and Odor Meanchay Provinces, had carried out the national vaccination programme of six injections for infants under 1 year old for a total number of 1,129,342; TB vaccination for 239,487 children; and polio vaccination for 57,660 children.

131. Dengue fever has spread within several provinces such as Banteay Mean Chey, Siem Reap, Pursat, Preah Vihea, Ratanak Kiri, Kampong Cham, Kampot and Sihanouk Ville infecting 39,851 cases with 1.2 per cent deaths.

132. Malaria cases have declined approximately by 47 per cent comparing to 53,127 cases declared in 2006. For the activities fighting against malaria, Cambodian health staff had been conducting promotions and trainings on general public health by all means and had distributed of total 277,278 insecticide mosquito nets, and had re-insecticide 299,901 old mosquito nets.

133. Up to now, there are 1,066 places providing in-patients TB treatment services by using the DOTS programme including 70 referral hospitals, 942 health centres, and 49 health posts. The figure of new case treatment shows 90 per cent cured, with a mortality rate of 3 per cent, and 2 per cent of abandoned treatment. The TB recovery rates have remained high for the last three years that is to say 85 per cent, which is the highest rate among the regional countries.

134. In 2007, private health services consisted of polyclinics, medical cabinets, health-care clinics, dental clinics, medical laboratories, pharmacy, sub-pharmacy (A), sub-pharmacy (B), maternity clinic, clinics for ears, nose, throat, and eyes treatments, and traditional herbs practitioners. Nationwide it amounted in total to 4,563 places of which 1,736 legal and 2,827 illegal (most of them are just out-patient consultation rooms, sub-pharmacy (B), eye labs, and traditional herb practitioners).

135. In Phnom Penh particularly, in 2007, private health services (medical cabinets, dental cabinets, massage therapy room, health-care clinics, laboratories, maternity clinic, in-patient clinics, and polyclinics) constitute a total of 869 places among which 413 are legal and 455 are illegal and most of them are dental cabinets.

136. It is estimated that in Cambodia there are 67,200 people living with HIV/AIDS and the joint efforts to combat HIV/AIDS epidemics have yielded a notable result. The rate prevalence has declined from 2.8 per cent in 2004 to 0.9 per cent in 2007 among people aged between 15 and 49. This decline is explained by (a) the fact that new infection cases have dropped gradually as the public become more aware of the means to protect oneself from infection (condom use 100 per cent); and (b) a number of people who had been long living with HIV/AIDS have died.

137. Military hospitals and clinics have also provided consultation and treatment for soldiers and their families which amount to 242,995 clients. They also received 36,102 in-patients out of which 35,135 have recovered, 59 died, and 908 are under further treatment.

138. Groups of doctors have been in missions to provide direct access to the health sector in schools for active soldiers and at bridge and road construction sites where they have checked and provided treatment to 10,947 soldiers and ordinary citizens. Furthermore, volunteer doctors have gone on missions to provide treatments to ordinary citizens in Kean Svay District, Kandal provinces where they saw a total number of 3,316 patients.

139. There has been also an increase of public funds and international aid as well as a continued action to encourage the private sector to increase their investment in public health sector. The priorities that would go further are to focus on additional construction of the referral hospitals and health centres throughout the country to provide an effective, equal and constant basic healthcare to every citizen, especially the poor and vulnerable people.

140. The Government intends to maintain its focus on vaccination programmes, and treatment of infectious diseases, mother and child support in order to reduce the mortality rate of mother and infant through emergency care as well as education and broad dissemination of information concerning health and sanitation as far as the most remote areas. Poor people shall receive medical check up free of charge in referral hospitals and health centres.

141. The Ministry of Health has been implementing some necessary health care programmes such as reproductive health programme, nutrition programme, programme combating HIV/AIDS, mental health programme, medically assisted birth programme, and maternal and infant care programmes. All these programs receive financial and technical supports from various organizations, including the United Nations Population Fund (UNFPA), UNICEF, WHO, Australian Agency for International Development (AusAID), UNAIDS, World Food Programme (WFP), and JICA.

5. Rights to education and vocational training

Education

142. Article 68 of the Constitution of Cambodia reads “The State shall provide free primary and secondary education to all citizens in public schools. Citizens shall receive education for at least 9 years ...”.

143. The Royal Government of Cambodia has set up many necessary plans to enable children, youths, and every individual to receive education of all levels, as well as literacy courses, vocational training, scholarships, and healthcare services, and to prevent early dropout of female students by building dormitories for female students. The Royal Government has also allocated a separate expense for implementing priority actions which the Ministry of Education Youth and Sports has carried out since 2002.

Kindergarten

144. There are now 2,641 kindergartens in Cambodia, which represents an increase of 1,017 since 2007. The total number of classrooms is 4,061, an increase of 41 classrooms, for a total number of 130,288 pupils, among whom there are 65,768 girls. The total number of girls has increased by 10, 190. There are 4,923 education personnel, with an increase of 95.

Primary schools

145. The number of primary schools is of 6,364, an increase of 91 from 2007. The number of classrooms makes up a total of 60,809, with a decrease of 593 (because of dropouts). The total number of students amounts to 2,461,065, with 1,619,58 girls, and the total number of personnel amounts to 64,148, of whom teachers make up 48,852, with 20,694 female.

146. The annual result of academic year 2006/07 showed that 2,064,563 students passed to the next levels, constituting 84.16 per cent. 205,054 students repeated, constituting 11.98 per cent and 101,448 students dropped out, constituting 4.4 per cent.

Secondary schools

147. The total number of secondary institutions amounts to 1,325 schools, adding 194 schools to that of last year, among those, Lower Secondary schools amount to 1,013, increasing by 165 and Upper Secondary schools make up 312, increasing by 29. Number of classrooms amounts to 17,358, an increase of 3,409 classrooms. The number of classes is of 18,115, increasing by 1,081 classes.

148. The total number of students amounts to 894,021, with 400,790 females, an increase of 43,966 students. Among those, lower secondary students consist of 636,693, with 296,075 girls, increasing by 9,095 and upper secondary students comprise of 257,328, with 9,706 girls.

149. Educational personnel make up 34,560, with 10,866 females. Among those, teaching staff consists of 28,881.

Non-formal education

150. Literacy classes make up 2,300. Total number of students is 54,694, with 37,136 females, decreasing by 32,314; students who overcome illiteracy amount to 37,287, with 27,028 females.

151. Literacy teachers make up a total of 2,293, with 714 females. Among those, 1,593 teachers including 454 females are contractual teachers with the Government. Controllers make up 1,470, with 81 females.

Tertiary education

152. Higher educational institutions both state- and private-owned consist of 66 in which 26 are state-owned and 40 are private-owned. There are 32 branches, 4 of them belong to state and 24 belong to private institutions.

Academic year 2006-2007

- Undergraduate students: 92,340 (32,490 females). Among those, 14,229 are scholarship students, and tuitions paying students constituted 78,111 (27,544 females).
- Students who have completed their Bachelor's Degree in 2006-2007: 14,397, with 4,482 females, among which 2,364 (744 females) are scholarship students while students paying tuitions were 12,022, of whom 3,738 females.

- Master's and Doctoral candidates doing their studies in private universities make up 8,352, with 1,154 females. Among them, Master candidates consist of 7,905, with 1,125 females, and Doctoral candidates comprise of 447, with 29 females.

Teacher and pedagogic training

153. In 2007, teachers having passed the final examinations for teachers of all levels were 4,741, with 1,927 females, which account for 9.822 per cent of what was planned. (Kindergarten teachers: 100 (97 females), Primary school teachers 2,171 (977 females), lower secondary teachers 1,939 (749 females), upper secondary teachers account for 531 (149 females).

154. Year Two teacher trainees undergoing in academic year 2007-2008 account for 3,975 (1,892 females). The levels: a) kindergarten teacher trainees (12+2 and 9+2) account for 99; b) primary school teacher trainees (12+2 and 9+2) make up 2,183; c) lower secondary school teacher trainees amount to 1,693.

Challenges and solutions in education

155. There were positive results for allocating budget resources for school operations across the nation, and the abolition of financial contribution at the start of the academic year or the payment of the school fee has boosted the increase in number of students at all levels.

156. Improving the citizens' capacities through education to strengthen human resource with technical, experimental and scientific skills and higher awareness thereof responds to the needs of the labour market. Education will also reinforce entrepreneurship, creativity, sense of responsibility, discipline, morality, ethics, professional conscience and good personality, which in turn would help develop our country at a faster speed.

157. Continuous efforts have been made in order to achieve the goals (Education for All) to ensure the equality in education for all children and provide favourable condition for the children of the poor to access schooling, especially through the strengthening and expanding of the public educational institutions and increase the number of scholarships for poor students.

158. Efforts have also been made to strengthen partnership with private sectors, national and international communities in order to improve the quality of education services, including secondary education, vocational training and higher education, to meet international standards and the needs for developing the country.

159. The Government has also made efforts to increase the budget by seeking more foreign aids, so as to increase the salary and incentive for teachers, ensure the quality of instructions, develop study materials and supplies, libraries, laboratories, and build dormitories for students, especially female students.

160. Measures have been taken to boost the reforms of the education sector by giving scholarships to poor students, providing fund to build new school in rural areas, educational institutions, and literacy and non formal education programmes.

161. In conclusion, the Government has liberalized education and vocational training and improved access to education to every individual without discrimination. All races may receive education and vocational training according to their abilities and preferences.

162. The Government intends to implement educational and administrative reforms with a view to lifting the livelihood of citizen out of the poverty, fright, and unemployment by putting into action many key strategic plans so that every citizen will have better living standards.

6. Rights to participate in cultural activities

163. Article 35 of the Constitution states, “Khmer citizens of either sex shall have the right to participate actively in the political, economic, social and cultural life of the nation.” To achieve this, the Government has encouraged the participation of citizens in cultural activities and people of any races and nationality also have full right to take part in their cultural activities.

164. People of all races can preserve and celebrate their cultural ceremonies freely according to their customs and traditions without any restrictions or prohibitions, including the uses of languages, costumes, arrangement of the events, and art performances.

165. In Cambodia, access to and usage of public places such as transportations, restaurants, theatres, and public parks are open to all without any restriction. All races can have access to and use public services equally according to their preferences and affordability.

Article 6

A. Universal and practical elements

166. The Government takes into account the respect for the rights of all races; for instance, the rights to be present equally, the respect for national and cultural identities, right to autonomy, right to self-determination, right to be free from genocide, right to consume the assets and natural resources, right to enjoy the developments of both national and international technologies, right to enjoy one’s own culture, including one’s language, cultural freedoms, rights to participate in national and natural environment protection, rights to be free from distinction, division, exclusion, or racial discrimination.

B. Legal framework

167. Article 31 of the Constitution of Cambodia states, “The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women’s and children’s rights. Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, colour, sex, language, belief, religion, political tendency, birth origin, social status, wealth or other status. The exercise of personal rights and freedom by any individual shall not adversely affect the rights and freedom of others. The exercise of such rights and freedom shall be in accordance with the law.”

168. Within the mechanism used to eliminate all forms of discrimination, Cambodia has adopted the necessary measures to receive and resolve all complaints made by people who are not happy with any violations of laws over their rights and freedoms and their private property.

169. Cambodia has established two law enforcement institutions - Judicial Body which has been organized at all levels for all kinds of cases, and the Executive Body to implement the duties hereunder:

(a) Educate, disseminate, inform, rectify, protect, promote, develop, and gradually improve the respect for the rights and freedoms of all people equally without prejudices on the basis of races, religions, sex, etc.;

(b) Prohibit, protect, prevent, suppress, and sentence, in accordance with the laws, all forms of racial discrimination, tortures, discrimination against women, cruel, inhuman and degrading punishment, trafficking in children and women, terrorism, and other crimes against the human rights and criminal laws.

170. Within the Kingdom of Cambodia, all crimes are entirely sort out by competent courts as stated in the Constitution of Cambodia, article 109, "The Judicial power shall be an independent power. The Judiciary shall guarantee and uphold the impartiality and protect the rights and freedoms of the citizens. The Judicial power shall cover all kinds of lawsuits including administrative ones. This power shall be granted to the Supreme Court and to the adjudicate courts of all sectors and levels."

171. Judicial system is divided into two levels - the Lower Courts and the Upper Courts. The lower courts are located in all municipalities and provinces with the Military Court based in Phnom Penh. The Upper Courts consist of the Court of Appeals and the Supreme Court located in Phnom Penh.

172. Anyone has the rights to file a complaint to a court to seek for justice and claim for compensation to damages caused by offenses. Article 2 of the Criminal Procedure Code dated 10 August 2007 states, "criminal and civil actions are two separate kinds of legal actions. The purpose of a criminal action is to examine the existence of a criminal offence, to prove the guilt of an offender and to punish this person in accordance with the law. The purpose of the civil action is to seek compensation for injuries to victims of an offence, and with this purpose to allow victims to receive compensation corresponding with the injuries they suffered." Article 14 of the Criminal Procedure Code states: "injuries can be repaired by paying damages, by giving back to the victim the property that has been lost or by restoring damaged or destroyed property to its original state."

173. Although there is no particular provision to define the offense of discrimination, no one in Cambodia has ever suffered from acts of discrimination. However, if there are any, the victim has full right to file a complaint to a court to claim for damages and seek compensation on the basis of applicable laws.

Article 7

174. In implementing measures to eliminate racial discrimination, Cambodia set up main objectives with two formulas:

(a) Education sector: Efforts have been made in strengthening capacities of human resources with the view to broadening their conscience, promoting the senses of racial pluralism, respecting the rights and freedoms of all races, enhancing the sense of responsibilities, ethics and clean morality, polite attitude, good virtue, education with equity, friendships, and raising awareness of the concept of humanitarianism in order to unite all national forces and strengths to construct Cambodia and ensure its development in all sectors;

(b) Pledge to implement regularly both the national and international regulations.

A. Education

175. The Government has taken all measures, especially regarding the objective of education for all and promoting the notion of loving one another among all persons of all ethnicities so that they can eliminate the ambition of egoism and promoting the notion of internationalism to stop acts of revenges and ensure the elimination of all forms of racial discrimination as well.

176. To that end, the Ministry of Education Youths and Sports has incorporated human rights topics into the curriculum of Primary schools, Secondary Schools, and Higher Education along with the prior training of teachers on human rights so that they can teach what they have learned to students.

177. In line with the above measures, the Government has cooperated with OHCHR Cambodia Country Office to conduct training courses on human rights to civil servants, especially police officers, gendarmerie officers, and Royal Armed Forces. Moreover, training of trainers has been made in order that the trained trainers can conduct their teaching to other units.

178. Principles and other measures of the Constitution and international conventions, including the Universal Declaration of Human Rights and all United Nations instruments, have been taught to the youth at educational institutions in all cycles. At all vocational training courses, especially training for legal professions like lawyers, judges, prosecutors, and judicial police officials, the human rights are also included.

179. State and private medias have also included the awareness programme of human rights in their broadcasting or publication, that is why Cambodian people can keep good relationships with other indigenous people and overcome the stigma emotion and end completely the ideas, will and acts of discrimination. They are especially actively involved in the mechanism to eliminate all forms of discrimination against races, religions, sex, ethnicities, etc., from the territory of the Kingdom of Cambodia.

B. Implementation

180. For the last 20 years, the Kingdom of Cambodia has incorporated the international norms and standards on human rights to be the principles, measures and master plans and serve as references in law-making, political platform making, strategic action plans, administrative measures taking, and other appropriate measures. Moreover, the Government has integrated human rights as a subject in the school curricula at all levels.

C. Commitment to eliminate the remaining problems and challenges

181. Although Cambodia had not been able to present its reports on the situation of elimination of all forms of discrimination at the time set by the Committee, it does not mean Cambodia has ignored or does not respect or follow the principles set out in the Convention. In fact, Cambodia has been actively implementing the laws and administrative rules, and other appropriate measures which achieve these objectives and boldly protect public and private interests in line with the common will of people who wish to live peacefully in Cambodia as well as in the world as a whole.

182. The efforts to implement the principles and measures mentioned above do not mean that the situation of implementation of laws in Cambodia is better than in other countries or one 100 per cent successful in promoting human rights. Challenges persist. Fighting against these challenges continues. We try to seek new formulas and declare publicly that we will reform our old systems consistently to ensure improvement and development in all sectors.

183. The Royal Government will continue to promote human rights and freedoms of belief and religion, and to promote the role of religions in cultivating morality, ethics, and a culture of peace within the people so that they will live harmoniously in society.

184. Cambodia promotes Buddhism, the State religion, through development of Pali schools of all levels and permits all legal research in religions and supports other religions aiming at the elimination of racial prejudices of all kinds.

185. Learning from our major experiences from various development plans, the Royal Government will pursue its commitments to establish a development plan which better reflects the economic growth in strategies of poverty reduction and other key complement strategies, both in politics and national legislation, in order to successfully achieve the implementation of the Convention and eliminate all forms of religious discrimination all over the country. The Royal Government sincerely hopes to achieve the goal planned if nothing serious happens in the stage of implementation.

References

- Constitution of the Kingdom of Cambodia (1993)
- UNTAC Criminal Law and Procedure (1992)
- New Criminal Procedure Code (10 August 2007)
- Civil Code (08 December 2007)
- Labour Law (1997)
- Land Law (2001)
- Law on Social Security for Civil Servants under Labour Law (2002)
- Law on the Organization and Functioning of the Constitutional Council (1998)
- Law on Political Parties (1997)
- Law on the Election of the Members of the National Assembly (1997) and amendment (2002)
- Law on the Election of Commune Councils (2001)
- Law on the Press (1995)
- Law on Immigration (1994)
- Law on Nationality (1996)
- Law on Marriage and Family (1989)
- Law on Co-statute of Civil Servants of the Kingdom of Cambodia (1994)
- Draft of New Criminal Code
- Royal Decree NS/RKT/0100/008 on Establishment of the Cambodian National Human Rights Committee (2000)
- Sub-decree No. 30/ANKR/BK on Applicable Forms of Authorisation for the Foreigners Emigrants to Entry-Exit and Stay in Cambodia
- Sub-decree No. 36/ ANKR/BK on Identity Card of Khmer Nationality (1996)
- Sub-decree No. 75/ ANKR/BK on Applicable Forms of Authorisation for the Foreigners Non-Emigrants to Entry-Exit and Stay in Cambodia (1999)
- The Rectangular Strategic Plan of Royal Government of Cambodia for the 4th Legislature of the National Assembly
- The Political Platforms of the Royal Government of Cambodia for the 4th Legislature of the National Assembly
- National Census in Cambodia 2008 by Institute of Statistics of Ministry of Planning
- Cambodia National Accounting 1993-2006, issue No. 11, Ministry of Planning, National Institute of Statistics (May 2007)