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**KINGDOM OF CAMBODIA**

**NATION RELIGION KING**



**CAMBODIA NATIONAL COUNCIL FOR CHILDREN**

**Report Reply to the List of Issues Raised by  
the Office of the Special Representative of the Secretary General**

**on**

**Violence against Children in Cambodia**

**2006-2011**

**Prepared by: CNCC**



*Signature*

# CONTENTS

	Pages
Introduction .....	1
General question .....	1
Assessment of the implementation of the recommendations of the UN Study.....	1
Recommendation 1: Strengthen national and local commitment and action .....	4
Recommendation 2: Prohibit by law all violence against children .....	13
Recommendation 3: Prioritize prevention .....	26
Recommendation 4: Promote non-violent values and awareness raising .....	27
Recommendation 5: Enhance the capacity of all who work with and for children .....	29
Recommendation 6: Provide recovery and social reintegration services .....	32
Recommendation 7: Ensure the participation of children .....	35
Recommendation 8: Create accessible and child-friendly reporting systems and services .....	37
Recommendation 9: Ensure accountability and end impunity .....	41
<i>Recommendation 10: Address the gender dimension of violence against children .....</i>	<i>43</i>
Recommendation 11: Develop and implement systematic national data collection and research efforts.....	45
Recommendation 12: Strengthen international commitment.....	49
Conclusion .....	51
Bibliography .....	52
Annexes .....	54

# Introduction

The Kingdom of Cambodia ratified the Convention on the Rights of the Child in 1992 and the Optional Protocols in 2002 without reservation. The Convention of the Rights of the Child was incorporated into the Constitution in 1993.

The Kingdom of Cambodia has a population of 13, 395, 682 (6, 879 females and 6, 516,054 males). Of the total population, there are 5,487,708 children, according to the General Population Census of Cambodia 2008. Cambodia has one of the youngest populations in Southeast Asia. The infant mortality rate has decreased significantly, from 95 in 2000 to 66 in 2005 and to 45 in 2010, per 1000 live births. The under-five mortality rates also decreased from 124 in 2000 to 54 in 2010, per 1000 live births.<sup>1</sup>

Documents prepared by the RGC, and an extensive literature review of reports published by the RGC, and civil society. The Cambodia National Council for Children (CNCC) established a working group to write the report, which consists of specialised Ministries and relevant non-governmental organisations. Consultation with stakeholders including child representatives took place on 30 November 2011, organised by CNCC, to obtain further comments on the report. The comments from the children and other stakeholders were considered carefully by CNCC prior to finalising this report.

This report does not duplicate information already submitted to CRC, but seeks to update it and expand on it where there is an overlap. The previous submissions are annexed.

## **General Question**

### ***Assessment of the implementation of the recommendations of the UN Study***

#### ***1. In light of the process of implementation of the recommendations of the UN Study in your country, what do you consider to be the most important developments?***

#### **Answer**

Since 2006, the RGC has made considerable progress in developing mechanisms to protect children against violence, as is evidenced in reports to the relevant bodies of the UN including:

- In 2009, the RGC submitted The 2<sup>nd</sup> and 3<sup>rd</sup> Report on the Implementation of Convention of the Rights of the Children in Cambodia 2000-2007.
- 2010, the RGC submitted The Report on the Implementation of Resolution No. 2009/26 of the Economic and Social Council on Supporting National and International Efforts for Child Justice Reform.
- 2011, the RGC submitted The Reply to the List of Issues raised by the UN Committee on the Rights of the Child (CRC) related to the consideration of the 2<sup>nd</sup> and 3<sup>rd</sup> Report on the Implementation of Convention on the rights of the Child.
- 2011 the RGC submitted The 1<sup>st</sup> and 2<sup>nd</sup> Report on The Implementation of Optional Protocol to the UN Convention on the Rights of the Child on the

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<sup>1</sup> Cambodia Demographic and Health Survey 2010



#### Involvement of Children in Armed Conflicts 2002-2010

- 2011 the RGC submitted The 1<sup>st</sup> and 2<sup>nd</sup> Report on the Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography 2002-2010.

The RGC administration has been radically altered by a Strategic Framework on Decentralised Reform, mandated by the Law on Administrative Management of the Capital, Provinces, Municipalities, Districts and Khans 2008. This established new sub-national administrative and elected bodies with a functional task review of the social welfare sector, including the Commune/Sangkat Committees of Women and Children (CCWC) and the Municipal/Provincial Women and Children Consultative Committee (WCCC).

In 2009, the composition and structure of the CNCC were reformed, under Royal Decree No 1209/1201 dated 21<sup>st</sup> December 2009, in order to reflect the progress made in the implementation of children's rights in Cambodia. The new structure established the CNCC at municipal/provincial level and working groups to focus on child rights, within each ministry and institution. These reforms ensure a child protection network that spreads vertically from national to village level and horizontally across the 24 provinces.

Since 2006, the RGC has completed a large legislative reform programme, responding to recommendations from the CRC. New laws include:

- The Prison Law 2011
- The Law on Control of Strong Acid 2011
- Penal Code 2009
- Tourism Law 2009
- International Adoption Law 2009
- Law on Suppressing Human Trafficking and Sexual Exploitation 2008
- Law on Administrative Management of the Capital, Provinces, Municipalities, Districts and Khans 2008
- Criminal Procedure Code 2007
- Education Law 2007
- Civil Procedure Code 2007
- Civil Code 2006
- Law on the Prevention of Domestic Violence and Protection of Victims 2005

These laws incorporate the principles of the CRC.

The draft Juvenile Justice Law is being finalized by the Technical Working Group of Council of Ministers.

A Gap Analysis of the Child Protection legislation is being undertaken. This will be a significant step forward to prepare legislative reform in Cambodia to ensure an effective child protection system and full implementation of provisions of CRC and other relevant international standards.

Implementation of the new laws was effected by *Prakas*, guidelines and training, led by the Ministries, and in partnership with civil society, local and International NGOs.

The National Strategic Development Plan Update (NSDP), 2009-2013, designated poverty



reduction as the lead vehicle for other development initiatives. This approach will require the Ministry of Agriculture, Ministry of Education and Ministry of Social Affairs, Veterans and Young Persons to coordinate their strategies to fulfil the goals. Operationally, agencies are working together: the anti-trafficking units are working closely both with the Municipal/ Provincial Departments of Social, Veterans and Youth Rehabilitation on reintegration of victims rescued in police operations, and with the criminal justice agencies on evidential standards.<sup>2</sup> The RGC has established multi-agency task forces to lead integrated approaches on all aspects of child protection including anti-trafficking, gender, parenting, orphans and children with HIV, places of detention or alternative residential care and juvenile justice. The RGC has taken this coordinated approach to regional and international levels, signing bi-lateral, regional agreements on anti-trafficking measures.

**2. What are the most serious gaps and persisting challenges? How do you expect to overcome them?**

**Answer**

The RGC is concerned that it still lacks reliable data on violence against children. While many useful studies have been conducted, reliable data on the prevalence of violence against children in Cambodia remains limited. The majority of studies focus on child rape or forced sex, leaving out a range of other abuses. Many studies also presume the victim to be female and the perpetrator to be an adult male, ignoring boy victims and the fact that children and youth can also be perpetrators of sexual abuse. The information is anecdotal, attitudinal and based on small sample groups, with little external validity. The RGC will address this by participating in a regional research project on violence against children to obtain reliable baseline data. The research findings will assist the RGC and its ministries in strategic planning and interventions. It will also assist a regionally coordinated response.

Sexual and gender-based violence remains a significant issue in Cambodia. This also raises concerns about the inter-generational aspects of violence, as a significant number of children are victims of, or witness to, such violence. In 2009, 45 per cent of the total 364 cases of rape and attempted rape reported to the Anti-Human Trafficking and Juvenile Protection Police involved victims under the age of 18, with the majority being female.

Acid attacks are an emerging issue in gender-based violence in Cambodia. They usually take place as an act of revenge due to family disputes or problems with personal relationships. The targets of these attacks are predominantly women, but are carried out by both men and women.<sup>3</sup> Recently the Law on Control of Strong Acid was passed by the Parliament. This law aimed to regulate the use of acid and punish perpetrators of acid attacks and rescue and rehabilitate victims

The RGC successfully reduced poverty from 30 per cent in 2007 to 25.8% in 2010. The recent economic recession has slowed progress in meeting the Millennium Development Goals and reducing poverty.

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<sup>2</sup>Kim, Jane, *An Assessment of the Law Enforcement against Sexual Abuse, Sexual Exploitation and Trafficking of Children (LEASETC) Project*, July 2010.

<sup>3</sup> Avon Global Center for Women and Justice at Cornell Law School and the New York City Bar Association, *Combating Acid Violence in Bangladesh, India and Cambodia*, 2011.



This is likely to affect children from the poorest families, those most vulnerable to exploitation in child labour, unsafe migration and trafficking. The RGC has identified 16 categories of hazardous labour in which children should not work and which constitute the worst forms of child labour in the country.

Two decades of civil war and internal conflict left Cambodia in the mid-1990s with a de-skilled work force. There are still few trained judges, prosecutors and lawyers. The justice system in Cambodia is still not equipped to respond to the needs of children who come into contact with the law as victims, witnesses or offenders. With only 298 judges and prosecutors and 640 lawyers for the entire country, progress is a challenge.

There is a similar shortage of social workers to cover the needs of the country, and social work training is still in its infancy, resulting in mixed abilities to respond to the complex requirements of their work. Services are often provided by NGOs, which have been vital to Cambodia's regeneration but these services do not fully meet the actual need. To increase numbers of trained staff and support the Ministries to take the lead in providing services, the RGC has requested that capacity building be at the heart of UNICEF's Country Programme 2011-2015. The MoSVY established a National Institute of Social Affairs to train officials and students.

Partnerships will be formed with universities to increase the numbers of professionally skilled social workers able to provide welfare support at local levels. Additionally, support will be offered to the ministries to develop and implement work plans with welfare services, as well as law enforcement and justice officials.

Children during the Democracy of Kampuchea (Pol Pot's regime) suffered violence and those children are now parents and grandparents. The RGC will continue to uphold traditional Khmer values that place nurturing the family at the heart of the community. At the local level, the new administrative structures are tasked with providing education, with oversight responsibilities for children in alternative care, and with positive obligations to intervene and prevent domestic violence.

## ***Recommendation 1: Strengthen national and local commitment and action***

### ***General questions***

#### ***1. Please provide your country's policy framework to prevent and respond to incidents of violence against children.***

### **Answer**

The RGC has a policy framework for Cambodia, contained in the National Strategic Development Plan Update (NSDP) 2009-2013. The NSDP displays the RGC's strong commitment to combating violence against children with an analysis of children's rights in many sections of the document, thereby highlighting it as a crosscutting issue of concern.

Each Ministry drafts its own strategy and work plan. There is some overlap in areas of operation





and several plans apply to different settings. Current and operational strategic plans relevant to the protection of children include:

- National Plan on Education for All 2003-2015
- Strategic Plan of CNCC 2011-2013
- Gender Mainstreaming Strategic Plan for Education 2006-2010
- Child Friendly School Policy and Master Plan 2007
- Guidelines 09 Reintegration/Follow Up of Victims Residing in state and NGO Residential Centres 2007
- Strategic Plan on the Promotion of Child-Safe Tourism to Prevent Trafficking in Children and Women for Labour and Sexual Exploitation in the Tourism Industry in Cambodia 2007-2009
- Policy on Education for Children with Disabilities 2008
- Strategic Plan of Commissariat General of National Police 2008-2013
- National Plan of Action on Elimination of the Worst Forms of Child Labour 2008-2012
- Work Platform of the Ministry of Social Affairs, Veterans and Youth Rehabilitation 2008-2013
- The Policy 2006 and Minimum Standards 2008 on Alternative Care for Children
- National Plan of Action for Persons with Disabilities 2009
- The Action Plan for Solving the Issue of Vagabonds 2009
- The National Action Plan to Prevent Violence Against Women 2009-2013
- The Guidelines on Protection of Child Victims of Trafficking in Cambodia 2007
- Policy and Minimum Standards for Protection of Rights of Victims of Human Trafficking 2009
- Law Enforcement Advancing Protection of Children and Vulnerable Persons (LEAP): A Strategic Framework 2011-2015
- National Plan of Action for Orphans and Vulnerable Children 2011-2015
- National Social Protection Strategy for the Poor and Vulnerable 2011-2015

In particular, in MoSVY's work plan, the second of its six goals is strengthening and expanding child welfare and youth rehabilitation services.

**2. Please describe the main initiatives promoted and in what way they address violence against children.**

**Answer**

The RGC has prioritized updating the legislative child protection framework and establishing service provision across the country. The gap between rural and urban development has been noted and the RGC strategy is to establish mechanisms to reach all children. The de-centralised administration, together with the new Commune networks, allow for more effective delivery of educational services, monitoring the placement of children in alternative care and interventions in cases of domestic violence against children.

Since 2006, the RGC has extensively reformed its legislative programme, addressing violence in most key settings. It was a significant achievement. Drafting and reviewing the



legislation, and drafting implementing guidelines, required extensive inter-Ministerial cooperation and collaboration, in line with the NSDP and NSPSPV good governance goals. It provided Cambodia's executive and professional agencies opportunities to develop cross-sectorial practices, such as the initiative to combat trafficking and sexual exploitation of children. This initiative included establishing a national task force, increased operational coordination of police, prosecutors and social workers, bi-lateral and regional agreements and joint preventative action. This multi-sectorial approach included the Ministry of Tourism obtaining commitment from the Cambodian Associations of Hotels, travel agents and tour operators to report trafficking and sexual exploitation of children.

**3. Please include information on coordination with significant civil society initiatives addressing violence against children in your country, including the types of institutions involved, and whether your Government provided support for such activities.**

**Answer**

The RGC has established new bodies to coordinate the elimination of violence against children. These bodies bring together a multi-agency government team and provide formal links between government and civil society activity. These are deliberately single-issue in focus and include the:

- National Task Force to Lead the Suppression of Human Trafficking, Smuggling, Sexual and Labour Exploitation on Women and Children which has six working groups
- National Multi-Sectorial Taskforce on Orphans and Vulnerable Children
- Technical Working Group on Gender
- National Committee on Social Morality, Khmer Women and Family Values
- National Mechanism to Prevent Torture and Other Cruel, Inhuman Treatment or Punishment to ensure the respect for the basic rights of people deprived of liberty in detention centres
- National Committee for Solving the Issue of Vagabonds
- Inter-ministerial Child Justice Working Group
- Child Safe Tourism Committees
- Cambodian National Council for Children
- Municipality/ Provincial Cambodian National Council for Children and Working Groups for Children in all Ministries
- The Commune/Sangkat Committee for Women and Children and Municipal/Provincial Women and Children Consultative Committees

**4. Please provide information on any existing obstacles to the adoption and implementation of measures to respond to violence against children, and on measures taken or envisaged to overcome them.**

**Answer**

In 2007, in Kingdom of Cambodia, there were 196 orphanages including 20 state run orphanages housing 2,240 children, and 176 centres housing 6,383 children, run by the national or international NGOs. A recent study showed an increase of 76 per cent over five





years, in the number of residential care facilities, and an increase in the number of children in residential care to a total of 11,945 (as of November 2010). This was despite 62 per cent of children having at least one living parent. This increase is contrary to the Government's Policy on Alternative Care, which favours family and community-based care as a first option. This policy is implemented in part however has not completely filtered down to residential centres, which are the gatekeepers to children entering alternative care, or to the communities who believe it is in the child's best interests to leave their family and community. In 2011 the MoSVY required 70 NGO run centres to change their practices to support children in the community rather running residential services.

**5. Please describe any progress made in implementing the three time-bound goals adopted in the Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents, namely the establishment by 2013 of:**

**a) An effective and accessible system for reporting, follow up and support for child victims of suspected or actual incidents of sexual exploitation**

**Answer**

The RGC welcomed the Rio de Janeiro Declaration, and adopted its definition of trafficking. Recognizing the need for an effective and accessible reporting system, in 2000, Mol established a 24-hour telephone line in Phnom Penh. Between 2005 and 2008, seven additional hotlines were set up and numbers widely advertised and used.<sup>4</sup> The Anti-Human Trafficking and Juvenile Protection departments took referrals and either investigated directly or sent information to local police forces. Child welfare officers, through MoSVY, provincial offices and local NGOs, formed partnerships to ensure child welfare concerns and law enforcement responses were met. The hotlines remain the most accessible mechanism available across a wide geographical area, and the RGC proposes to establish them in all 24 provinces.<sup>5</sup>

**b) Concrete mechanisms and/or processes to facilitate coordination at national, regional and international levels for enhanced cooperation among government ministries, funding bodies, UN agencies, NGOs, the private sector, workers' and employers' organizations, the media, children's organizations and other representatives of civil society, with a view to enabling and supporting concrete action to prevent and stop the sexual exploitation of children and adolescents**

**Answer**

The CNCC was established in 1995 to coordinate and provide comment to the government on matters relating to survival, development, protection and promotion of welfare and participation of children.

The RGC issued a sub decree no 162 dated 25<sup>th</sup> September 2009 on establishment of National Committee to Lead the Suppression of Human Trafficking, Smuggling, Sexual and

<sup>4</sup> DRAFT LEASETEC Evaluation of AHTJP Hotlines, June 2009 Kim, Jane, Op. cit. p. 27.

<sup>5</sup> LEAP Strategic Plan 2011-2015 p. 29.



Labour Exploitation on Women and Children which has six working groups to implement the national action plan.

The RGC issued decision 71 dated 20 November 2009 establishing the regional Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) Task Force. This Task Force consists of UNIAP Secretariat to coordinate national and regional activities on human trafficking and migration, especially cooperating with the National Task Force to Lead the Suppression of Human Trafficking, Smuggling, Sexual and Labour Exploitation on Women and Children.

***c) Independent children's rights institutions, such as children's ombudspersons or equivalents, or focal points on children's rights in existing human rights institutions***

**Answer**

The RGC established the CNCC as a Secretariat to monitor and implement child rights. The general Secretariat of CNCC has a specialised unit called the Child Protection and Monitoring Unit, whose mandate is to report on the implementation of national policies and programs and international legal instruments relating to children.

The Cambodian Human Rights Committee monitors and implements the human rights in general including implementation of child rights.

RGC issued a sub decree 122 dated 07 August 2009 on establishment of National Mechanism to Prevent Torture and Other Cruel, Inhuman Treatment or Punishment to ensure the respect for the basic rights of people deprived of liberty in detention centres.

MoJ issued a *Prakas* Number 58 dated 09 October 2006 on establishment of a Child Justice Working Group, which consists of five ministries to prepare the child friendly justice system and to draft law and regulation related to child justice.

In June 2008, the Council for Legal and Judicial Reform approved a project to develop a conceptual framework for establishing an Ombudsman.

***Specific questions (please attach any relevant information that supports your replies)***

***The five key settings are:***

- ***the family and home environment***
- ***educational settings***
- ***institutional care and juvenile justice institutions***
- ***workplaces***
- ***the community***

***6. Does your country have a comprehensive policy, strategy or plan of action on violence against children?***

**Answer**

The Kingdom has a Strategic Policy and Action Plan on Violence Against Children. Please see Answer 1 to recommendation 1.



**7. Are there sectorial policies or plans dealing with violence against children in the five key settings identified by the UN study?**

**Answer**

**Family and Home**

There is no single Ministerial lead overseeing matters relating to the family, and no sectorial plan specifically focused on countering violence against children in the home. All Ministries and NGOs are closely involved in implementing the Law on Prevention of Domestic Violence and Protection of Victims, particularly through the National Action Plan to Prevent Violence against Women 2009-2013, which includes girls. The Commune / Sangkat Committees on Women and Children have a role to reduce domestic violence, abuse, trafficking, sexual exploitation, child labour.<sup>6</sup>

Other relevant plans include the National Social Protection Strategy 2011-2015, which seeks to provide food and other support to the poorest families, The Action Plan for Solving the Issue of Vagabonds 2009, which covers homeless families and street children and the National Plan of Action for Orphans and Vulnerable Children 2011-2015.

**Education**

The Ministry of Education, Youth and Sport (MoEYS) has issued an overarching policy framework, the National Plan on Education for All 2003-2015, as well as the Gender Mainstreaming Strategic Plan for Education 2006-2010, the Child Friendly School Policy and Master Plan 2007 and the Policy on Education for Children with Disabilities 2008.

The Education Law 2007 and the Codes of Conduct 2008 issued to educational personnel, prohibit physical or mental violence or any form of corporal punishment, within educational settings. The Policy on Child Friendly Schools 2007 encourages participatory learning and non-violent approaches. By 2011, this Child Friendly Schools Policy had been implemented almost 100% in all schools.

**Institutional Care**

The National Plan of Action for Orphans, Children Affected by HIV and Other Vulnerable Children in Cambodia 2008-2010, and the National Plan of Action for Orphans and Vulnerable Children 2011-2015 were formulated by MOSVY.

A Policy on Alternative Care for Children was issued in 2006. It aims “to ensure that children grow up in a family and in a community” and promotes the principle that “institutional care should be a last resort and a temporary solution”. After trialling the Policy, in 2011 MoSVY adopted a *Prakas* and guidelines on caring, supporting and protecting orphans and vulnerable children, thus implementing the policy that residential care should be a last resort.

MoSVY issued *Prakas*, the Minimum Standards on Residential Care for Children 2006 and Minimum Standards of Alternative Care 2008 aimed at setting standards, which exclude violence and ill treatment. These Standards also apply to Youth Rehabilitation and Drug

<sup>6</sup> Guidelines for Commune Committee for Women and Children 2007.



Rehabilitation Centres, the Poipet Transit Centre and to psychiatric hospitals. Centres are inspected by officers from the MoSVY Alternative Care Inspection Office. This office may direct inspections of each centre, and provide guidance, protocols, forms and supervision to inspection teams in the provinces. When there is concern about a centre not responding to requests to comply with Minimum Standards, the office can request the Minister of MoSVY take action.

MoSVY is currently drafting Codes of Conduct for all staff members working in public /state residential settings for children, with responses to complaints and disciplinary action. This Code of Conduct will not cover staff working in prisons but will cover orphanages, psychiatric hospitals, drug rehabilitation centres and the Poipet Transit Centre. The draft includes a mandatory reporting obligation for staff members who suspect other staff members of compromising the safety of any child.

### **Prisons**

Prisons and judicial police detention is managed by the Ministry of Interior. The MoSVY-managed Youth Rehabilitation Centre is not a juvenile detention centre. The draft law on Juvenile Justice provides that children in conflict with the law should be placed in the Youth Rehabilitation centre which is managed by MoSVY. The new Prison Law was adopted by the National Assembly on 8 November 2011.

### **The Workplace**

The Ministry of Labour and Vocational Training (MoLVT) issued the National Plan of Action on Elimination of the Worst Forms of Child Labour 2008-2012, which aims to reach the Twin Goals on Child Labour: to reduce all forms of child labour to 8 per cent by 2015 and to eliminate the worst forms of child labour by 2016.

The National Plan of Action on Trafficking and Commercial Sexual Exploitation, 2005-2013, is a cross-sectorial policy, which specifically addresses forced labour and sexual exploitation of children.

### **The Community**

Mol issued The Guideline number 051 dated 14 July 2010 on the Implementation of Role of the Committee of the Commune/ Sangkat for Developing Society relating to maternal health, community preschool, sanitation, gender equity and child protection in the Commune/ Sangkat. Additional instruction was issued in the Safety Village Commune/Sangkat Policy 2010, which deals with prevention of:

- eliminate crimes such as stealing, snatching and robbery using “legal, administrative and popular action”
- eliminate the production, dealing and use of illegal drugs
- eliminate prostitution, trafficking of women and children, domestic violence
- prevent and suppress the acts of gangsters
- eliminate gambling, use of weapons

According to MoSVY achievement report 2010, the residential centres for homeless in PP reintegrated 46 homeless families, total 150 people including children, and accepted a further 150 persons voluntarily seeking state accommodation including children. The Phnom





Penh DoSVY centre provided accommodated and training for 563 vulnerable persons and referred to partner organisation for long term support

**8. Is there a lead Government institution or authority tasked with the coordination of action addressing violence against children, including cross-departmental cooperation and coordination between central and sub-national authorities?**

**Answer**

CNCC expanded and reformed its structure. The new structure now exists from Municipal/ Provincial level and Child Working Groups now exist in every Ministry and institution. This restructure and reform aimed to follow the progress of the CRC implementation in Cambodia. CNCC have a Strategic Plan 2011-2013. The Strategic Plan includes:

1. Coordination and Capacity building of the CNCC Organizational structure
2. Awareness Raising and Advocacy on child rights.
3. UNCRC Reporting, Monitoring and Evaluation on the implementation of child rights
4. Law and Policy for Children

There are now social workers and members of CNCC at Municipal/Provincial level to ensure that child protection network will stretch vertically from national to provincial, district, Sangkat, village and commune level and horizontally across all 24 provinces.

The National Task Force to Lead the Suppression of Human Trafficking, Smuggling, Sexual and Labour Exploitation on Women and Children has six working groups.

The Commune/Sangkat Committee for Women and Children (CCWC) advises Commune Council on matters relating to women and children. The Municipal/ Provincial Women and Children Consultative Committee (WCCC) advises and makes recommendations to the Municipal\ Provincial Council and other Committees of the Council on matters related to gender equity, women, youth, children and vulnerable persons for whom the Council have special responsibilities.

**9. Are there any other governmental authorities, structures and mechanisms, at federal, state/provincial, municipal and local level which are currently responsible for addressing violence against children? Which, and at what level?**

**Answer**

- The Commune/Sangkat Committee for Women and Children (CCWC) and Municipal/ Provincial Women and Children Consultative Committee (WCCC) are the key structures responsible for monitoring the welfare of children at a local / commune /sangkat level.
- The *Prakas* on Procedures to implement the Policy on Alternative Care for Children also gives roles and responsibilities to the Commune/Sangkat Council and CCWC to monitor the placement of children. The draft Juvenile Justice Law also proposes that the CCWC suggests diversion measures for each minor in conflict with the law who is subject to a diversion order.





- At provincial levels, ministries have departmental offices responsible for providing services, in particular DoE, DoWA and DoSVY, which manage a growing network of social workers, inspectors for local residential centres and administrative staff.

**10. *Has there been an evaluation of the impact of policies and programmes directed towards violence against children? Please indicate relevant monitoring mechanisms to assess progress in this area.***

**Answer**

There is currently no baseline data on violence against children encompassing all forms of violence across the country. A baseline study collaborated by MOWA and MOSVY supported by UNICEF will take place in 2012, with findings expected in 2013.

Data on violence against children is collected through the Communes who report instances of violence to the provincial Departments of Planning, the results of which are published annually by the Ministry of Planning. However, the data collection is not nuanced to include all instances of violence against children. MoWA undertook research to test the efficacy of the mechanisms for collecting data on violence against women and found that the Commune reports were reliable.<sup>7</sup>

**11. *Are there specific financial and/or human resources allocated to address violence against children?***

**Answer**

There is not a fund allocated for addressing violence against children, but funding is provided to the Ministries to implement their social protection functions.

**12. *Are there any particular parliamentary structures (for example special committees) or initiatives to address violence against children?***

**Answer**

The legislative branch debates all draft legislation. This legislative branch has two referral Commissions: The Commission One in Charge of Human Rights, Receiving Complaints, Undertakes Investigations, Coordinates Between National Assembly and Senate, and The Commission Eight in Charge of Health, Social Issues, Youth Rehabilitation, Labour, Vocational Training and Women's Affairs.

**13. *Is there an independent national institution on children's rights dealing with incidents of violence?***

**Answer**

Please see Answer in recommendation 1 question 5 ( c ).

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<sup>7</sup>RGC, MOWA, *Report on the Data Collection and Monitoring of Violence against Women in Cambodia*, 2010.



## ***Recommendation 2: Prohibit by law all violence against children***

### ***General questions***

***1. Please describe how violence against children is addressed in your country's legal framework, including in the constitution, legislation and subsidiary legislation, and where appropriate, religious and customary law. Please include any information on challenges identified to the adoption of a comprehensive legal ban of all forms of violence against children and measures taken or envisaged to overcome them.***

### ***Answer***

The Kingdom of Cambodia ratified the CRC in 1992. It was incorporated into the Constitution of Cambodia 1993, both implicitly and explicitly stating that “Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter and the Universal Declaration of Human Rights, as well as the covenants and conventions related to human rights, women’s and children’s rights”. Article 48, paragraph 1 of The Constitution states that “the State shall protect the rights of children as stipulated in the Convention on the Rights of the Child, in particular the right to life, education, protection during wartime, and from economic or sexual exploitation”.

The Kingdom of Cambodia implementing legislative framework on child protection is divided across various laws and regulations, rather than being contained in a single piece of child protection legislation. Since 2006 the RGC has overseen a rapid adoption of law reform that seeks to implement CRC principles, with the adoption of the core codes. Please see paragraph 3 of the Answer to General Question 1.

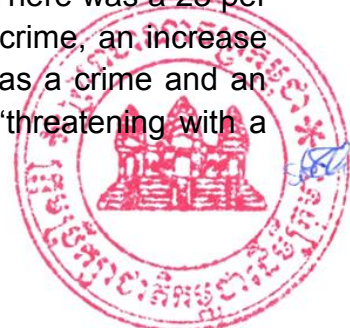
The draft Juvenile Justice Law is being finalized by the Technical Working Group of Council of Ministers.

CNCC has undertaken a comprehensive gap analysis of the legislative framework for child protection in Cambodia.

***2. Please provide information on any studies and surveys which have been undertaken to assess the impact of legal measures to address violence against children.***

### ***Answer***

Passing legal measures impacts at multiple levels. MOWA’s 2005 Baseline Survey on Domestic Violence and the Follow-Up Survey of 2009 indicated an increased understanding of what constitutes an assault within a domestic context. This was attributed to awareness campaigns on the Law on Domestic Violence. There was a 23 per cent increase in the number of people who categorized ‘cursing’ as a crime, an increase from 57 per cent to 80 per cent of people who categorised ‘throwing’ as a crime and an increase from 88 per cent to 97 per cent of people who categorized ‘threatening with a knife’ a crime.



**3. Does the legal framework contain any specific legislative provisions on:**

**a) Prohibition of all forms of violence, including physical, mental and sexual violence, injury or abuse, neglect or negligent treatment and exploitation?**

**Answer**

Article 38 of the Constitution states: 'The law prohibits all physical abuse of any individual. The law protects the life, honour and dignity of citizens. The prosecution, arrest, 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. Confession obtained by physical mental force shall not be admissible as evidence of guilt. Khmer citizens of either sex shall respect public and legally acquired private properties. Any case of doubt shall be resolved in favor 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 defense through judicial recourse.'

Article 48 states, "The State shall protect the rights of the children as stipulated in the Convention on Children especially the right to life, the right to education, special protection in times of war and from economic or sexual exploitation. The State shall protect children from acts that are injurious to their education opportunities, health and welfare".

Article 219 of The Penal Code 2009 defines the status of the victims:

'The intentional violence is punishable by an imprisonment of between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) Riels and 10,000,000 (ten million) Riels when it is committed:

1. on a person particularly vulnerable due to his/her age;
2. on a woman with pregnancy where this pregnancy is apparent or known to the offender.
3. on a person particularly vulnerable due to his/her sickness or disability while his/her conditions are apparent or known to the perpetrator; '

Article 21 deals with the Aggravating Circumstances in relation to Perpetrators

'The intentional violence is punishable by an imprisonment of between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) Riels and 10,000,000 (ten million) Riels when it is committed by a government official, as civilian or military, in carrying out his/her functions or during the performance of his/her functions.'

Article 213 deals with the Aggravating Circumstances in relation to Perpetrator

'The crime described in Article 210 (Tortures and Barbarous Acts) is punishable by an imprisonment from between 10 (ten) and 20 (twenty) years when it is committed by a government official, as civilian or military, in carrying out his/her functions or during the performance of his/her functions.'

The Penal Code Chapter 5, Endangerment of Minors, Section 2, Inciting Minors to Commit Unlawful or Dangerous Acts, Articles 343–346,



'Article 343: Inciting Minors to Consume Habitually and Excessively Alcoholic Drinks  
The act of directly inciting a minor to consume habitually and excessively the alcoholic drinks is punishable by an imprisonment from 6 (six) months to 2 (two) years and a fine from 1,000,000 (one million) Riels to 4,000,000 (four million) Riels.

Article 344: Incitement of a Minor to Beg

The act of directly inciting a minor to beg is punishable by an imprisonment from 1 (one) month to 1 (one) year and a fine from 100,000 (one hundred thousand) Riels to 2,000,000 (two million) Riels.

Article 345: Count of Inciting a Minor to Commit Felonies or Misdemeanors

The act of directly inciting a minor to commit felonies or misdemeanors is punishable by an imprisonment from 2 (two) years to 5 (five) years and a fine from 4,000,000 (four million) Riels to 10,000,000 (ten million) Riels.

Article 346: Count of Arranging for Sexual Exhibitions or Sexual Relations with Involvement of Minors

The act of, by an adult person, gathering that includes sexual exhibitions or sexual relations at which a minor has seen or participated is punishable by an imprisonment from 1 (one) year to 5 (five) years and a fine from 2,000,000 (two million) Riels to 10,000,000 (ten million) Riels.'

The law specifies behaviours as criminal offences prosecutable under the Penal Code as contained in the Domestic Violence law, it directly criminalizes behaviour and sets penalties, as contained in the LSHTSE, and it provides for fines or other civil remedies.

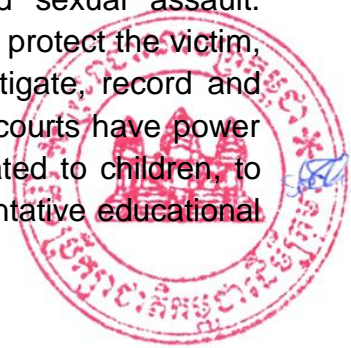
***b) Prevention of all forms of physical, sexual and mental violence, injury or abuse, neglect or negligent treatment and exploitation?***

**Answer**

National legislation deals primarily with prohibition, prosecution or inspection, imposing penalties or ordering compensation. Inspectorates are established by the Labour Law for employment locations, with mandatory registration of names of workers under 18 years of age. The MoSVY *Prakas* established an Inspectorate mandated to inspect and require changes of all residential centres falling under its mandate. The Mol issued Decision 001 on Codes of Conduct and Disciplinary Procedure for prison guards in 2005, and issued a manual on good practice. Inspections and any disciplinary procedures are carried out by the General Department of Prisons, in the Mol.

Article 1 paragraph 1 of Law on Prevention of Domestic Violence and the Protection of Victims states: 'This law has the objective to prevent domestic violence, protect the victims and strengthen the culture of non-violence and harmony within the households in society in the Kingdom of Cambodia'.

Domestic violence includes physical violence, mental violence and sexual assault. Competent authorities are required to intervene to prevent violence and protect the victim, by removing the victim to a place of safety if necessary and to investigate, record and report instances of domestic violence to the competent authority. The courts have power to issue protection orders, order mediation, and where violence is related to children, to assign a person to investigate. The state is also required to take preventative educational



measures to disseminate the law, to provide training to officials and to offer education to the public on alternative means of dispute resolution.

***c) Protection of children from all forms of violence, including child victims and witnesses?***

**Answer**

In 2008, MoJ issued a *Prakas* No. 62 on the Use of Court Screens and TV-Linked Testimony from Child/Vulnerable Victims or Witnesses, and appropriate equipment was installed in five courts (Battambang, Siem Reap, Banteay Meanchey, and Preah Sihanouk).

CNCC issued Decision 107 dated 20 December 2007 on the Principle of the Rights of Child Victims of Trafficking, stated all actions taken related to child victims, whether implemented by state or private welfare institutions, police, court, administrative authority or executive body, the best interests of the child should be paramount. Article 49 of the LSHTSE seeks to protect the identity of victims of sexual exploitation by prohibiting publication of any identifying feature of a victim.

In 2009, MoSVY adopted the Policy and Minimum Standards for Protection of the Rights of Victims of Human Trafficking.<sup>8</sup> This Policy sets out the rights and entitlements of victims and the aims and objectives of the RGC in its policy for their protection, with the focus on rehabilitation and protection from secondary victimization through societal attitudes or insensitivity of institutional agencies.

***d) Redress, including compensation, for child victims of violence?***

**Answer**

Redress to a victim is available through criminal prosecution of the perpetrator, protection orders if the violence occurred in the home, financial compensation to the victim decided by the court and payable by the perpetrator (or his or her family), or separation from the person with care and control and placement in alternative care.

The Civil Code 2007 allows for a victim of crime to institute proceedings for compensation at any time, even where there are no criminal proceedings or where criminal proceedings are stayed or dismissed (by order of non suit).

The Criminal Procedure Code 2007 requires a trial judge to decide on the issue of civil compensation for the victim at the same time as deciding on conviction or acquittal.

Article 46 of LSHTSE 2008 states:

‘ A person who obtains enrichment without a legal cause knowing that the enrichment has been obtained from the act of buying/selling or exchanging a person or sexual exploitation

<sup>8</sup> CNCC, Report on the Implementation of Resolution No. 2009/26 of the Economic and Social Council On Supporting National and International Efforts for Child Justice Reform, July 2010.





shall be liable for the restitution of the whole unjust enrichment along with accrued interests.

An aggrieved person (a person being exploited) may claim damages in addition to the restitution of such unjust enrichment.

A person who has made a contract of loan or any other provision to another person for the purpose of committing the act of selling/buying or exchanging of a person or sexual exploitation may not claim for restitution of the provision. ‘

There is no age restriction for making a legal claim for financial compensation. The legislation does not provide special assistance to children to access this legal mechanism, but some NGOs and the Bar Association provide legal advice and representation for children, including in civil compensation cases.

The draft Juvenile Justice Law proposes alternative means of redress for victims.

#### ***e) Penalties for perpetrators of violence against children?***

##### **Answer**

Under the Penal Code, if the victim is vulnerable because of his or her age, the perpetrator is liable to an additional penalty when convicted of intentional homicide, torture or acts of cruelty, intentional acts of violence, sexual assaults, unlawful confinement, making threats, or procurement.

The Penal Code penalties vary from offence to offence, but follow the principles laid out in Chapter 1 and usually include alternatives of imprisonment and fines. Under chapter 1, section 2, Article 53-71, perpetrators are liable to additional penalties at the discretion of the court, for example an exclusion order, withdrawal of a driving licence, prohibition on working in a specific profession for a period, or confiscation orders. There are lesser alternative penalties, including community penalties, provided for under section 3.

LSHTSE renders perpetrators liable to provide restitution of earnings as well as financial compensation for damage.

#### ***f) Recovery and reintegration of child victims of violence?***

##### **Answer**

In 2007, MoSVY adopted the Policy and Minimum Standards for the Protection of the Rights of Victims of Human Trafficking.<sup>9</sup> This sets out rights, guidelines on case management, monitoring and follow up for victims of trafficking, and includes special provisions for child victims. The Policy includes a Concept of Protection of the Rights of Victims of Human Trafficking, a Model of Protection, as well as Principles, General Policies

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<sup>9</sup> CNCC, Report on the Implementation of Resolution No. 2009/26 of the Economic and Social Council On Supporting National and International Efforts for Child Justice Reform, July 2010.



and Objectives. These will feed into proposed legislation on protecting the rights of victims included in the Work Platform of MoSVY 2008-2013.

**4. Does the legal framework contain any specific legislative provisions which address all forms of violence including physical, sexual and psychological violence, injury or abuse, neglect or negligent treatment and sexual exploitation against children which take place in:**

**a) The family and home environment?**

**Answer**

The Law on the Prevention of Domestic Violence and Protections of the Victims (2005) seeks to prevent domestic physical and mental violence towards any member of the family including children, but defines physical harm as that which “exceeds morality and the boundaries of the law”. The law permits the act of disciplining and teaching family members, as long as they are conducted with “noble nature and in accordance with the principles of the UN Declarations and Conventions on Human Rights and Children’s rights”.<sup>10</sup>

Title 3 of The Penal Code 2010, Offences against Minors and the Family, criminalizes ill treatment, imprisonment, abandon men and neglect of a minor by a parent or guardian where it leads to a negative impact on the health or development of the child. The Penal Code also provides that some crimes by an ascendant of a child against the child attract an aggravated penalty, for example Article 351 provides for additional penalties of convictions for sexual intercourse with a descendent child.

**b) Schools, including pre-school care and education, formal and non-formal, state and private, and including sexual violence and bullying?**

**Answer**

The Education Law<sup>11</sup> provides that students have the right to be free from torture or physical or mental punishment and requires all educational personnel to observe the code of conduct which states “teachers shall not physically and spiritually torment the learners”.

**c) Residential care institutions, including health and mental health?**

**Answer**

The MoSVY Minimum Guidelines on Residential care for Children 2006 states that “discipline should not affect physical, emotional and social development”. Section 5 on Discipline prohibits corporal punishment and lists other disciplines that must be avoided including, corporal punishment, threats and scoldings, using other children to discipline them, tying children up, denial of food, drink or medical treatment, preventing children from

<sup>10</sup> Domestic Violence Law Article 8, Explanatory Notes on the Law on the Prevention of Domestic Violence and the Protection of the Victims: Backgrounds, Concepts and Guidelines for Interpretation, Ministry of Women’s Affairs, 2007, p. 74.

<sup>11</sup> Ibid. Article 35



going to school, and carrying weights too heavy for them. It also states that “children are only to be disciplined when they disobey the rules”.

The Penal Code imposes additional penalties for any assault or abuse carried out by persons in the course of their duties, which applies to staff in residential centres. Codes of Conduct are currently being drafted by MoSVY for all staff working in state residential centres for children.

***d) Juvenile justice institutions and other detention centres, or centres where migrant, asylum seeking and refugee children may be placed?***

**Answer**

Article 38 of the Constitution prohibits the “coercion, physical ill treatment or any mistreatment which imposes additional punishment on a detainee or prisoner”.

The Prison Law incorporates the prohibition against torture, humiliating and degrading treatment, and prohibits specific disciplinary practices including the use of a fellow prisoner to administer punishment, corporal punishment and confinement in a dark cell.

The draft Juvenile Justice Law contains provisions, which incorporate international law on detention of juveniles.

***e) The community, including in neighbourhoods, rural areas, and including armed violence?***

**Answer**

The MoSVY Minimum Standards on Community Based Care 2008 mirrors the Minimum Standards on Residential Care 2006 in its prohibitions on excessive disciplinary measures. The same Section 5 on Discipline prohibits corporal punishment, and lists prohibited punishments as threats and scoldings, using other children to discipline a child, tying up a child, denial of food, drink or medical treatment, preventing a child from going to school, carrying weights too heavy for them and “other disciplines which affect the physical, emotional and social development of the child”. To reduce instances of arbitrary or random violence, it states that “children are only to be disciplined when they disobey the rules”.

The Constitution offers protection to children in wartime. This has been addressed in more detail in the RGC, CNCC, 1<sup>st</sup> and 2<sup>nd</sup> Report on The Implementation of Optional Protocol to the UN Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts 2002-2010 (annexed).

The Safety Village Commune/Sangkat Policy was issued by the Ministry of Interior in August 2010. Local authorities are mandated to:

- eliminate crimes such as stealing, snatching and robbery using “legal, administrative and popular action”
- eliminate the production, dealing and use of illegal drugs
- eliminate prostitution, trafficking of women and children, domestic violence



- prevent and suppress the acts of gangsters
- eliminate gambling, use of weapons

In practice this Safety Policy is used to refer street children to residential care, and to arrest drug users.

***f) The workplace (informal and formal, both concerning child labour and legitimate work by children above the legal minimum working age)?***

**Answer**

Article 339 of the Penal Code creates an offence placing a minor in dangerous working conditions to the detriment of the minor's health or physical well being, and Article 340 states that the death of a minor as a result is an aggravating circumstance of the offence. The age of the minor is not specified and the prohibition is not limited to the formal workplace. The Penal Code provides for sanctions of imprisonment, fines or other measures, including restriction on an individual's working in a particular profession and punishments to a legal entity, including closure of an office or operation.

Article 177 of the Labour Law 1997 prohibits ill treatment of employees and establishes a minimum age of 15 for full time employees. MoLVT issued seven *Prakas*<sup>12</sup> regulating the most dangerous industries, with *Prakas* No. 002 in 2008, defining types of employment suitable for children aged between 12 and 15 years.

To monitor compliance, the RGC has established an inspectorate<sup>13</sup> to carry out physical inspections, and to inspect records of employees. The Labour Law requires all employers to submit to the Inspectorate annually, details of all employees under 18 years of age.<sup>14</sup>

The Labour Law provides for sanctions of imprisonment and fines for employers in breach of the Law<sup>15</sup>(see **Answer** to Recommendation 8 for detail on inspections and reporting). However, the Labour Law does not apply to domestic workers, and research indicates that there is a large number of predominantly female child domestic servants in Cambodia. This is an area on which there is limited data but the lack of data will be addressed by the proposed 2012 Baseline survey on violence against children.

***5. Is corporal punishment of children in some or all settings, including in the home, explicitly prohibited by law?***

**Answer**

There is no definition of corporal punishment in Cambodian law.

Article 1045 Civil Code 2007 allows a "parental power holder to personally discipline the child to the extent necessary". The Law on Prevention of Domestic Violence and Protection of Victims permits disciplining and teaching, as long as it is conducted with

<sup>12</sup> *Prakas* No. 306, 14 December 2007, Working and Living Conditions on the Farm, *Prakas* No. 307, 14 December 2007, Sanitation and Employment Safety Conditions in the Garment and Footwear Factories; *Prakas* No. 308, 14 December 2007, Working and Living Condition in the Salt Industry; *Prakas* No. 309, 14 December 2007, Working and Living Condition in the Brick Making Industry.

<sup>13</sup> Labour Law 1997, Articles 233- 237.

<sup>14</sup> Labour Law, 1997, Article 179 and 180.

<sup>15</sup> Labour Law, 1997, Article 359.



“noble nature and in accordance with the principles of the UN Declarations and Conventions on Human Rights and Children’s rights.”<sup>16</sup>

Violence within the home is defined, and provides some limits as to what is acceptable as corporal punishment. Article 4 of The Law on Prevention of Domestic Violence and Protection of Victims defines domestic violence as including acts affecting life, acts affecting physical integrity, torture or cruel acts and sexual aggression,<sup>17</sup> and Article 8 extends the definition to include threats aimed at frightening and shocking victims, and acts affecting individuality and property. Acts of domestic violence are criminalized with imprisonment under the Penal Code.

Corporal punishment is prohibited in most settings outside the home: in schools and educational establishments (Education Law 2007, and *Prakas* 922 Relating to Problems of Posing Penalties on Pupils issued by MoEYS), the penal system (Penal Code, 2009) and in alternative care settings (Minimum Standards on Residential Care for Children, 2006 and Minimum Standards on Community-based Care for Children, 2008).

The Prison Law specifically prohibits corporal punishment for all prisoners. The draft Juvenile Justice Law incorporates intentional standards for detention for juveniles and also prohibits corporal punishment.

***6. Does the penal code permit corporal punishment, life imprisonment and/or capital punishment as a sentence for crimes committed by children under 18 years of age?***

**Answer**

Article 38 of the Constitution prohibits “all physical abuse of any individual” and states “the coercion, physical ill treatment or any other mistreatment which imposes additional punishment on a detainee or prisoner is prohibited”.

Penal Code Articles 38-41 set out criminal responsibility of minors.

**‘Article 38: Legal Age of Criminal Responsibility**

The criminal legal age is set at 18 (eighteen) years of age.

**Article 39: Measures to Apply against Minors**

The minors who committed an offence are subject to the measures of surveillance, education, protection and assistance.

However, the court may pronounce a criminal conviction against a minor of 14 (fourteen) years of age or more, if the circumstances of the offence or the personality of the minor justify in doing so.

**Article 40: Types of Measures**

The educational measures, the surveillance measures, the protection measures and the assistance measures are the following:

<sup>16</sup> Domestic Violence Law Article 8; Explanatory Notes on the Law on the Prevention of Domestic Violence and the Protection of the Victims: Backgrounds, Concepts and Guidelines for Interpretation, Ministry of Women’s Affairs, 2007, p. 74.

<sup>17</sup> Article 3 The Law on Prevention of Domestic Violence and Protection of Victims





1. handing-over of the minor to his/her parents; his/her guardian; to a person who has guardianship role or to another person who is trustworthy.
2. handing-over of the minor to a social service agency charged with handling of minors;
3. handing-over of the minor to a private organization who has the qualification to receive them;
4. handing-over of the minor to a specialized hospital or institution;
5. placement of the minor under the judicial protection.

**Article 41: Placement under Judicial Protection**

In case of placement under judicial protection, the court designates a person to be in charge of surveillance of the minor. This person submits regularly to the prosecutor a report on the conduct of the minor. This person informs the prosecutor of all relevant events that would entail a modification of this measure.'

Sentences for minors convicted of crimes are set out in the Penal Code chapter six. The Criminal Procedure Code also sets minimum and maximum sentences for each crime. But under Article 160 Penal Code, in no case are juveniles liable for a prison sentence of more than 20 years in a case where the maximum penalty would be life imprisonment.

The draft Juvenile Justice Law provides for diversion measures, where restitution can be made under measures proposed by the Commune Committee of Women and Children, as an alternative to trial.

**7. Does the legal framework address or prohibit harmful/violent traditional practices including, but not limited to, female genital mutilation, early or forced marriage, witchcraft rituals or honour crimes?**

**Answer**

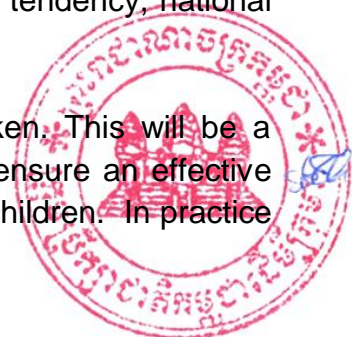
The traditional codes of conduct for women and men (*Chabap Srey* and *Chabap Proh*) have been fundamental to Cambodian culture for centuries, formalizing unequal gender relations. The Codes were banned under the Democracy of Kampuchea (Pol Pot's regime). Today, the codes have no legal status in Cambodia, and are not promulgated by the state as desirable aspects of traditional heritage. They are not included in the school curriculum. However the ethos of these codes remains embedded throughout Cambodian society.

**8. Does the law apply equally to all children, including non-citizens and stateless children?**

**Answer**

Article 31 of the Constitution states that: "every Khmer citizen should be equal before the law, regardless of race, colour, sex, language, religious belief, political tendency, national origin, social status, wealth or other status".

A Gap Analysis of the Child Protection legislation is being undertaken. This will be a significant step forward to prepare legislative reform in Cambodia to ensure an effective child protection system and this will address the situation of non-state children. In practice



the RGC seeks to accommodate the needs of children of different nationality for example although the language for education is Khmer, MoSYS has organised bilingual education in preschools and primary education.<sup>18</sup>

**9. Does the law prohibit the sexual exploitation of children, including through prostitution and other unlawful sexual activities?**

**Answer**

Article 31 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, religious belief, 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 law.’

Article 48 states, ‘The State shall protect the rights of the children as stipulated in the Convention on Children especially the right to life, the right to education, special protection in times of war and from economic or sexual exploitation. The State shall protect children from acts that are injurious to their education opportunities, health and welfare.’

Articles 236–252 cover rape and sexual assault, which are penalized by the Penal Code, with penalties being increased where the victim is vulnerable because of age or disability. There is a separate offence of an ascendant having sexual relations with his or her child under articles 351-352.

Article 327 Penal Code criminalizes the removal of a child from the person with lawful care. Articles 253-260 Penal Code criminalises arbitrary detention or imprisonment is criminalized.

Article 274 Penal Code criminalizes exploiting a person’s “vulnerability or dependence” by subjecting them to working conditions incompatible with human dignity.

Procurement is criminalized under articles 284-296 Penal Code, which cover procurement for prostitution including protecting, organizing or concealing the proceeds of crime and obstructing measures designed to prevent prostitution. Aggravating circumstances are where the victim is a minor, the perpetrator is an ascendant of the victim, or the perpetrator abuses his/her official authority, uses coercion or inflicts torture or acts of cruelty. Operating or acquiescing in the operation of a brothel is prohibited.

The Law on Suppression of Human Trafficking and Sexual Exploitation 2008 (LSHTSE) criminalizes and sets penalties for kidnapping and trafficking for purposes of exploitation, and for exploitation including prostitution and pornography.

<sup>18</sup> This program applies to grades 1-3 and was implemented in 27 schools over three provinces with high numbers of non Khmer speaking population, impacting on 2,359 students (1054 girls) in total.



The Law on Tourism 2009 prohibits all tourists from using child prostitutes and pornography, and sets reporting obligations on tour operators for suspected abuse.

The MoJ provided guidance with the following implementing provisions:

- Guideline No. 001 on the Implementation of the Law on Suppression of Human Trafficking and Sexual Exploitation (2008)
- Guideline No. 01 on the Application of article 42 and 43 of the Law on Suppression of Human Trafficking and Sexual Exploitation (2009)
- *Prakas* No 62 on the Use of Court Screen and TV-Linked Testimony from Child/Vulnerable Victims or Witnesses (2008)<sup>19</sup>
- Instruction on Implementation of national and International Principles Applicable to Victim Protection 19<sup>th</sup> August 2005
- Instruction on Prosecution and Punishment of Perpetrators of Crimes of Human Trafficking or Sexual Exploitation.

#### **10. Does the law prohibit the use of children in criminal activities?**

##### **Answer**

In the Kingdom of Cambodia the law prohibits the using of children in criminal activity. Any person using child in criminal activity shall be punishable under the Penal Code, under articles 343 -347.

**Article 343: Inciting Minors to Consume Habitually and Excessively Alcoholic Drinks**  
The act of directly inciting a minor to consume habitually and excessively the alcoholic drinks is punishable by an imprisonment from 6 (six) months to 2 (two) years and a fine from 1,000,000 (one million) Riels to 4,000,000 (four million) Riels.

**Article 344: Incitement of a Minor to Beg**  
The act of directly inciting a minor to beg is punishable by an imprisonment from 1 (one) month to 1 (one) year and a fine from 100,000 (one hundred thousand) Riels to 2,000,000 (two million) Riels.

**Article 345: Count of Inciting a Minor to Commit Felonies or Misdemeanors**  
The act of directly inciting a minor to commit felonies or misdemeanors is punishable by an imprisonment from 2 (two) years to 5 (five) years and a fine from 4,000,000 (four million) Riels to 10,000,000 (ten million) Riels.

**Article 346: Count of Arranging for Sexual Exhibitions or Sexual Relations with Involvement of Minors**  
The act of, by an adult person, gathering that includes sexual exhibitions or sexual relations at which a minor has seen or participated is punishable by an imprisonment from 1 (one) year to 5 (five) years and a fine from 2,000,000 (two million) Riels to 10,000,000 (ten million) Riels'

Article 36 Penal Code provides for no criminal responsibility in the case of "irresistible force". The draft Juvenile Justice Law proposes an amendment that "irresistible force" includes the instructions of a parent or a person with care and control of a child, in order to avoid the child being criminalized for acts undertaken by force, inducement, or through instruction from a person with de facto authority over the child. A minor is not punishable

<sup>19</sup> CNCC, Report on the Implementation of Resolution No. 2009/26 of the Economic and Social Council On Supporting National and International Efforts for Child Justice Reform, July 2010.



for soliciting for the purposes of prostituting him or herself in a public place.<sup>20</sup>

### **11. Does the law prohibit all forms of sale or trafficking in children?**

#### **Answer**

The Law Suppressing the Trafficking and Sexual Exploitation was passed in 2008. It implements the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons.

LSHTSE prohibits unlawful removal for cross-border transfer, unlawful recruitment for exploitation, the act of selling<sup>21</sup>, buying or exchanging a person with a purpose such as profit making or production of pornography<sup>22</sup>, the act of selling, buying or exchanging a person for cross-border transfer, (cross-border) transportation with a purpose, receipt of a person with purpose and receipt of a person for the purpose of assisting the offender. The offences are aggravated where the victim is a minor.

The Law on Inter-Country Adoption 2009 and the Penal Code both provide for sanctions for parents who sell a born or unborn child.<sup>23</sup>

*Prakas*No. 190 2011, relates to Control of Sending Cambodians to work in Foreign Countries, through private selection agencies, to protect exploitation of Cambodian workers who leave voluntarily.

### **12. Does the law prohibit the use, procuring or offering of a child for the production of pornography or for pornographic performances?**

#### **Answer**

There is no direct prohibition on procurement of a child for the purposes of pornography but the making of child pornography is a criminal offence. (Please see detailed information in the RGC submission, the 1<sup>st</sup> and 2<sup>nd</sup> Report on the Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography 2002-2010 annexed)

### **13. Does the law prohibit the possession and dissemination of child pornography, including via the internet?**

#### **Answer**

Article 40 of LSHTSE defines Child Pornography as “a visible material such as a photograph or video-tape, including material in electronic form, depicting a minor’s naked figure, which excites or stimulates sexual desire”.<sup>24</sup> Article 41 of LSHTSE criminalizes those who distribute, sell, lease, display, project or present child pornography in a public place, and prohibits the possession, transportation or exportation or dissemination of pornographic material for the commission of those offences.

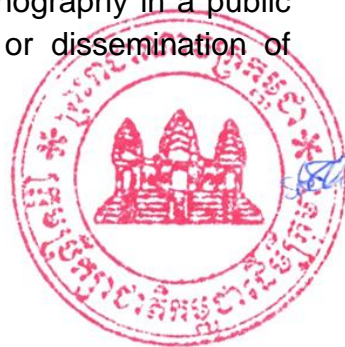
<sup>20</sup> LSHTSE, Article 24

<sup>21</sup> LSHTSE, Article 8

<sup>22</sup> LSHTSE, Article 10

<sup>23</sup> Penal Code, Articles 331 and 332; ICA Law, Article 54(2),(3).

<sup>24</sup> LSHTSE, Article 40.



The provisions do not extend to private spaces, and it is not an offence to possess child pornography or to display it in a private setting, or to download material from the internet for private possession and viewing.

Together with the criminal sanction, the law also provides civil sanctions against tourists involved in sexual exploitation and publication of pornographic photos and materials<sup>25</sup> including visa retraction. The LSHTSE criminalizes advertising child prostitution.<sup>26</sup>

### ***Recommendation 3: Prioritize prevention***

***1. Please provide an overview of programmes delivered by your Government, aimed at preventing violence against children and focusing on the risks and factors identified in this Recommendation. Also, an overview for programmes directly supported by the Government for delivery by other agencies. Please provide details, including on resource allocation (in national currency), to ensure universal access to basic social services of quality, and targeted social protection for those at risk.***

#### **Answer**

The SRSG's 2006 Report on Violence against Children coincided with the Cambodia Poverty Assessment 2006, and the World Bank Report *Managing Risk and Vulnerability in Cambodia: An Assessment and strategy for Social Protection, June 2006*. The RGC National Strategic Development Plan (NDSP) 2009-2013 adopts a Rectangular Strategy with poverty reduction and governance at its heart, and child protection as a crosscutting issue.

The RGC recognises that poverty and lack of resilience within families constitute a risk crisis for children, exacerbating vulnerability to separation from families, exploitation in dangerous workplaces and vulnerability to commercial sexual exploitation. Isolated communities with limited travel or telecommunications options are less able to access routine government services, or benefit from emergency relief, or other support mechanisms.

Currently the RGC has constructed, repaired and maintained infrastructure systems, to link the remote regions to urban areas, providing access to schools, health care facilities, markets and cities, cutting down travel time. Clean water has been provided to remote areas. The roads and better infrastructure have also helped RGC, NGOs and development partners to disseminate material on domestic violence in families, sexual exploitation, exploitation of child labour in the workplace, awareness raising on use of clean water and hygiene.

National Social Protection Strategy for the Poor and Vulnerable 2011-2015 is mandated to intervene with emergency packages in times of crisis and the Policy on Education for All 2003-2015 offers grant and scholarship schemes to poor families, with a high quota for girls.

The establishment of the Commune structure and de-centralization of services should see

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<sup>25</sup> Law on Tourism, Article 68.

<sup>26</sup> LSHTSE, Articles 35-37.





the most vulnerable geographical regions less isolated, through vertical and horizontal reporting networks. Commune members have special intervention and reporting obligations in cases of domestic violence, sexual or labour exploitation, which will bring new input and support into communities and families.<sup>27</sup> The RGC recognizes that traditional societal attitudes towards gender<sup>28</sup> are restricting development of both the male and female child.

The RGC has overseen a new legal framework that seeks to minimize risk through regulation and inspection of the work place, to intervene to prevent domestic violence, to affect change in cultural attitudes to domestic violence, to take active steps to prevent trafficking and sexual exploitation and to protect children from harm.

***2. Please provide information on any policy, legislation or guidelines to protect children from injurious information and material transmitted through the media, internet, videos or electronic games, and to empower children to prevent such risks.***

**Answer**

The measures taken to control the availability of pornography and other material injurious to children are detailed in the RGC, CNCC, 1<sup>st</sup> and 2<sup>nd</sup> Report on the Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography 2002-2010, submitted in 2011. A further *Prakas* 220 was issued in September 2011 on Control over Business and Services of Sale and Rent of Movie and Video.

The RGC is concerned at the use of pornography is of particular concern, as it has been linked to sexual violence against women and girls, with increased numbers of rapes and gang rapes,<sup>29</sup> and an increased number of perpetrators recorded as being under 18 years of age.

***Recommendation 4: Promote non-violent values and awareness raising***

***1. Has your Government conducted or commissioned any campaigns for raising awareness of children's right to freedom from violence, and preventing violence against children? If YES, please describe any recent campaigns, the settings and types of violence covered and the target audience (general public, caregivers, teachers, etc.), including specific initiatives for children, as well as the impact measured.***

**Answer**

The CNCC Strategic Plan 2011-2013 contains Awareness Raising and Advocacy as a strategic goal.

The RGC has ensured this duty is integrated into government obligations at all levels in

<sup>27</sup>Guidelines for Commune Committee for Women and Children 2007.

<sup>28</sup>*Chabap Srey and Chabap Proh.*

<sup>29</sup>UNICEF, *Situational Analysis of Women and Children*, p.193, and *A Fair Share for Women, Cambodia Gender Assessment* p.133, World Vision Cambodia, *As if they were watching my body: pornography and the development of attitudes towards sex and sexual behavior amongst Cambodian Youth*, 2006 p. 51.



the state administration. The Commune/Sangkat Committees for Women and Children and Municipal / Provincial Women and Children Consultative Committee have roles and responsibilities to “raise awareness on laws and other policies related to women and children’s rights to the people in the Commune/Sangkat and to mobilize the respective communities on health, education, protection and child development including registration of new born babies and children”.

The RGC ensures a two-way exchange of information from the national level to the commune and village level. Firstly, the media campaign by the Ministry of Tourism 2005-2009, through its Child Safe Tourist Committees, using television, radio and billboards to reduce exploitation of children in tourist industries. This included extensive cross-sectorial training of ministry and tourist industry staff (see Answer to Recommendation 5), and also included the distribution of 2,200 Khmer and English language copies of the Strategic Plan and the Operational Guidelines. There were 2,200 copies of the training manual distributed to government ministries, the private sector, trade unions, UN agencies, international and non-government organizations, trainers, community development workers and organizers, facilitators and teachers. Twenty thousand stickers (half in Khmer, half in English) on child-safe tourism were posted at bus and train stations, hotels, guesthouses, restaurants and other tourist areas.

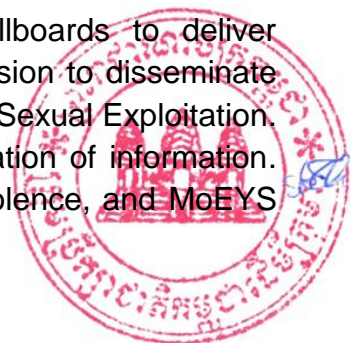
Secondly, there was a successful birth registration campaign coordinated by Mol through Communes, workshops and the media. In the first semester of 2011, the Secretariat of the National Task Force to Lead the Suppression of Human Trafficking, Smuggling, Sexual and Labour Exploitation on Women and Children co-organised at national and sub national level a media campaign on the LSHTSE, Law on Prevention of Domestic Violence and Protection of Victims, and impact of migration, Commune Safety Law to commune authorities, village level and authorities responsible for border checkpoints, reaching a total of 119, 128 persons (including 65, 383 women) across 12 provinces. In the first semester of 2011 the General Commissariat of Secretariat National Police held follow-up meetings in villages on the Law on Suppression of Human Trafficking and Sexual Exploitation, reaching 36,350 people.

***2. Please indicate how the campaign messages and information were disseminated (printed media, radio and television, theatre, schools). Describe the role played by the media in addressing violence against children.***

**Answer**

Please refer to the 2<sup>nd</sup> and 3<sup>rd</sup> report on The Convention on the Implementation of Convention on the Rights of the Child in Cambodia 2000-2007 and Reply to List of Issues raised by the UN Committee on the Rights of the Child related to the consideration of the 2<sup>nd</sup> and 3<sup>rd</sup> Report on the Implementation of the Convention on the Rights of the Child (annexed) for updated data on recent activities.

All Ministries used television, radio, newspapers, leaflets and billboards to deliver messages on children’s rights. In 2009, MOWA used radio and television to disseminate information on the new Law on Suppression of Human Trafficking and Sexual Exploitation. Use of the media is usually complemented by training and dissemination of information. MOWA ran training in schools and to school directors on domestic violence, and MoEYS



conducted an education campaign for students and the community on the risks of human trafficking. These were done directly in schools and through dissemination of manuals with training materials on the Convention on the Rights of the Child and the elimination of trafficking and sexual exploitation.

**3. Please provide any information on programmes aimed at parents and other direct caregivers designed to promote parenting skills and non-violent child rearing, and where available, information on impacts and results. Please provide copies of evaluations if conducted.**

#### **Answer**

The Law on Prevention of Domestic Violence and the Protections of the Victims<sup>30</sup> states that the State will undertake to provide information to the population on the law and “ways to solve conflicts through non violent and peaceful means”, which commits the RGC to providing parenting skills on non-violent child rearing. The duties of the permanent members of the Commune Committees on Women and Children include “monitoring and evaluating activities in early childhood education – i.e. community pre-school and parenting education”.<sup>31</sup>

The MoSVY Minimum Standards on Residential Care 2006 and Minimum Standards on Alternative Care 2008 provide guidelines and set standards on parenting to non-parental caregivers.

#### **Recommendation 5: Enhance the capacity of all who work with and for children**

**1. Please indicate and describe efforts made to improve the capacity of professionals who work with and for children to detect, refer and follow up on incidents of violence against children. Please also indicate any measures taken to build capacity to ensure child-sensitive support to children in the context of counselling, complaint and reporting mechanisms, including through the adoption of codes of conduct and standards of practice.**

**2. Please indicate whether your Government has commissioned or sponsored training programmes in the area of violence against children? If YES, indicate which provider groups were targeted by training programmes and received training (check all that apply).**

#### **Answer (1+2)**

There is on going training of professionals, through bi-lateral arrangements, at the district and provincial levels, as well as on going training programmes planned at the national level.

**Medical professionals including paediatricians, nurses, psychiatrists and dentists**

#### **Answer**

The MoI, MoH and MoJ organized joint and separate trainings for judicial police, medical doctors and court officials on forensic and medical investigation of child sexual abuse

<sup>30</sup> Law on Prevention of Domestic Violence and the Protections of the Victims, Article 33.

<sup>31</sup> Guidelines to Commune Committee Women and Children 2007.



cases. The first training on “Forensic Medical and Welfare Aspects of Child Sexual Abuse Investigations ” was held in 2008. The follow-up training on “Forensic Medical and Legal Aspects of Child Sexual Abuse Investigation” was held in 2010. The Ministry of Health includes training on medical responses to violence against children as part of its national curriculum.

### ***Public health practitioners***

#### ***- Social workers and psychologists***

#### **Answer**

A new Department of Social Work has been created at the Royal University of Phnom Penh, and is working towards membership of the International Association of Social Work.

In 2009, 54 % of state social workers at the national, capital and provincial levels and 83% of district social workers completed basic and professional social services training. Lessons on the Roles of Social Workers in the Child Justice System were incorporated into MoSVY’s basic training curriculum for professional social services.

In 2011, RGC issued sub-decree on the Establishment of National Institute of Social Work in order to provide training and research on social work. The National Institute is under the supervision of Ministry of Social Affairs, Veterans and Youth Rehabilitation.

The MoJ organized a Multi-sectoral Training Workshop on Child Justice for 35 focal point trainers, made up of court officials, social workers and NGO workers.<sup>32</sup>

#### ***- Teachers and other educators, other school staff***

#### **Answer**

Between 2007-2009 MoWA and MoEYS provided training on domestic violence for 129 school directors and teachers in Phnom Penh and three provincial capitals. It covered a total of 22,355 school children. Some NGOs provide mentoring and support to district departments and schools.

#### ***- Court officials, including judges***

#### **Answer**

In 2006, training on the Children’s Rights Law was integrated into the training curriculum of the Royal Academy for Judicial Profession for students, incumbent judges and prosecutors, as well as the Centre for Legal training for students of law. The Royal Academy for Judicial Profession produced two training videos for court officials on interviewing both child victims and children in conflict with the law.

#### ***- Law enforcement officials, including police***

#### **Answer**

- In 2009, judicial police officials from the AHTJP Department and the 10 provincial

<sup>32</sup> CNCC, Report on the Implementation of Resolution No. 2009/26 of the Economic and Social Council On Supporting National and International Efforts for Child Justice Reform, July 2010.





and capital Offices of Anti-Human Trafficking and Juvenile Protection were given on-the-job training on case management, and follow up in the investigation and referral of cases of trafficking, sexual abuse, exploitation and domestic violence.

- Police training manuals were updated by incorporating relevant provisions related to the Criminal Procedure Code and Law on Suppression of Human Trafficking and Sexual Exploitation.
- Two national workshops were organized. Representatives of the AHTJP Department and units from 24 capitals and provinces took part.
- Advanced training on legal procedures and investigation skills and cooperation with other local authorities was given to 950 police inspectors, deputy police inspectors, chiefs of police administrative post and deputy chiefs of police administrative post from 10 capitals and provinces.
- More than 1,700 judicial police officials were trained at the Police Academy and its five regional police training schools, to sensitize them to child sexual abuse, trafficking and sexual exploitation issues, and to teach procedures for handling such cases.
- In 2010-2011, LEASETC conducted 19 trainings for 524 police at municipal and provincial levels, on the implementation of the laws against human trafficking and domestic violence. It conducted on-the-job training in interview techniques and the application of the Criminal Procedure Code.
- In 2011, eight AHTJP officers attended a regional ASEAN training programme on cross-border crime prevention, trafficking for forced labour and sexual exploitation, child sexual tourism and rehabilitation and reintegration of victims.
- IN 2011, LEAP trained 165 (21 female) AHTJP police officers from nine provinces on case management, with follow-up training on investigation and referral of cases of violence, trafficking, sexual abuse and exploitation of children. LEAP conducted refresher training for nine provincial police officials on dealing with callers on hotlines. It provided training to regional police training schools for 704 police officials (37 female) on drafting a manual for Train the Trainer programmes, and conducted training for officers from more than nine provinces.
- A new juvenile justice training manual is being drafted for police, covering all stages of the process, from taking details of the reported offence, through to investigation, arrest, diversion / trial and sentence.

**- *Prison officers and juvenile offenders personnel***

**Answer**

In 2009, social workers, prison officers and NGO workers from seven capitals and provinces received refresher training on case management of, and reintegration planning for, children in conflict with the law. In 2011, the Cambodian Criminal Justice Assistance Project Phase 111 held training on management, and training of prisons and prisoners including security classification of prisoners, use of force for prison guards, issue of materials on health care of prisoners, and developing a draft law on the status of prison officers. A total of 160 prison officers were trained across eight provinces on prisoner management, case file management and case tracking.

**- *Residential care personnel***





## Answer

In 2011, training was provided to 18 State Shelter Directors on behalf of MoSVY, as a preliminary step to drafting Codes of Conduct. More than 110 teachers, commune staff, police and village leaders in five communes across three provinces, were trained on multi-agency responses to child protection, as an example of on going ad hoc and bi-lateral training provided by NGOs at the commune and provincial level.

- **Migration officers**
- **Families and caregivers**
- **Border control and migration personnel**
- **Other (please specify), please provide details**

## Answer

The Ministry of Tourism ran a campaign as part of its Strategic Plan on the Promotion of Child Safe Tourism to Prevent Trafficking in Children and Women for Labour and Sexual Exploitation in the Tourism Industry in Cambodia 2007-2009, including a training programme for:

- 268 government officials/staff at national and provincial departments of four ministries (MoT, MoEVT, MoSVY, MoWA)
- 100 managers/staff from employers associations, trade unions and NGOs
- 4,500 young workers in hotels, guesthouses and restaurants have received awareness information on human trafficking, how to improve their working situation and where to go for help
- 1,700 students and teachers at universities have received awareness information on human trafficking and how to promote child-safe tourism
- 60,000 people, including tourists (domestic and international), government agencies, employers, workers, civil societies and tourism communities have received general awareness information
- 800 workers in guest houses and restaurants and unemployed migrant workers have received training on guest house and restaurant management as well as awareness information on human trafficking

## **Recommendation 6: Provide recovery and social reintegration services**

**1. Please describe any initiatives, programmes and services to provide support for children who have been victims of violence, whether these programmes and services are delivered by governmental services, non-governmental organizations or national independent institutions, and whether these services are available throughout the country, or only in certain cities or regions. Where available, please provide relevant reports and internet links to these programmes and services.**

## Answer

MoSVY published the Policy and Minimum Standards for Protection of Rights of Victims of Human Trafficking 2009 and at the same time, created a Rehabilitation Department. The main providers of State support are MoSVY and DoSVY social workers, however most rehabilitative services in Cambodia are still provided by NGOs. In 2010, MoSVY published



a free Khmer-language Directory of Services for Vulnerable People, which maps services available by province, listing the contact details for government and non-government service providers, with village and commune chiefs, health workers, social workers, police, schools, all levels of Government offices and NGOs. This provides a common understanding of referral networks and makes accessing services easier. Key providers of services for victims of violence produce annual reports with data on service users. This data is included in the Joint Statistics of NGOs (annexed).

**2. Indicate whether these services cover the settings and forms of violence listed below:**

***Type of Violence: Physical, Sexual, Psychological, Neglect, HTP<sup>33</sup> and Other***

**Answer**

The RGC recognizes the need for reintegration and rehabilitation into communities for children who might otherwise be excluded from mainstream Cambodian society. As a result, it is now mandatory for rehabilitation services to be offered to prisoners,<sup>34</sup> victims of trafficking<sup>35</sup> and children in alternative care.<sup>36</sup>

Rehabilitation and support services do not usually differentiate between sources or types of violence or trauma in users. There is insufficient data on the range of needs of users, and instead services can be best categorized from the point of view of the provider, for example, medical care and physical convalescence, counselling/emotional support, vocational training/education and family/community reintegration.

***Family / Home***

**Answer**

There are follow-up visits by a social worker, after initial integration either with the biological family or placement with foster or extended families, or with faith-based centres such as pagodas, as established under the Minimum Standards Alternative Care 2008.

***Schools***

**Answer**

The MoEYS has a policy on Non Formal Education and a Policy on Re-entry which is designed to support students re-entering education.

***Institutions***

**Answer**

The MoSVY Minimum Standards on Alternative Care 2008 identifies three caregivers in the community: family-based care which includes relatives, child headed households and foster families, pagoda and other faith-based care and Group Home Care which is defined as “care given to a limited number of children in a family environment under the supervision of a small group of caregivers not related to the children”. There is a separate set of standards for each category, as well as overarching standards. Social Workers are obliged to follow up and meet with children at least quarterly for the first two years, and in all categories there is an annual obligation for the care giver to consider resettlement of

<sup>33</sup> Harmful traditional practice

<sup>34</sup> Prison Law Article 74.

<sup>35</sup> Guidelines for Implementation and Cooperation between Relevant Government Institutions and Victim-Support Agencies in Cases of Human Trafficking in 2007.

<sup>36</sup> MoSVY has sought to extend common standards across the country and across all providers by issuing Minimum Standards of Alternative Care, which require the providers of alternative care to seek to ultimately reintegrate the child back to his or her community.



the child back with the biological or an adoptive family.

A child who has gone through a traumatic experience has a right to meet with a trained counsellor, as well as having rights to education, vocational training, healthcare and social development opportunities. Article 3 of the Minimum Standards on Alternative Care in the Community requires all residential centres to register with MoSVY, and Articles 11 and 12 states that MoSVY will assess the centre, with inspections being carried out annually. The Minimum Standards applies to Youth Rehabilitation and Drug Rehabilitation Centres and the Poipet Transit Centre.

MOSVY/DOSVY liaises with prisons in four provinces, particularly on case management and reintegration support, to support children in conflict with the law. DOSVY staff in five provinces has been provided with additional resources in anticipation of the Juvenile Justice Law, currently being drafted, as there is an expectation that social workers will be in demand. MoI Instructions on Treatment of Persons in Detention advises correction centres on the separation of adults and minors and in 2011, issued instructions on the provision of vocational and education training for classes 1-11 to all minors in detention.

### ***Neighbourhood / Community***

#### **Answer**

Rape is the highest reported crime against children, often from persons within communities. Rape victims are vulnerable to commercial sexual exploitation, as social stigma for the victim and impunity for perpetrators can reduce other work options for women. Commune members can be very helpful in facilitating community support and making referrals to residential centres with a package of care.

### ***Workplace***

#### **Answer**

The MoSVY Policy and Minimum Standards for Protection of Rights of Victims of Human Trafficking 2009, establishes the range of services to which victims are entitled. Services are not offered within most workplace locations, but the MoLVT refers children rescued from forced labour or dangerous workplaces to rehabilitative services, and provides financial compensation and vocational training or re-entry into education. In 2010-2011 in cooperation of ILO and IPEC, the MoLVT rescued 2719 children including 1398 girls, and in the first semester of 2011 rescued 7964 children including 4802 girls through inspections and raids by MoLVT inspection teams.

### ***Law enforcement***

#### **Answer**

Rehabilitation services are not offered within police stations, although the draft prison law establishes that rehabilitation services are available within prisons. The government cannot sufficiently effort to offer this service. There is no data on services accessed by complainants of violence from law enforcement officers.

### ***3. Please indicate whether there are data on the percentage of children using these services, if possible disaggregated by sex.***

#### **Answer**

Data is not always collated centrally, disaggregated into gender or age, or services used. While there is no formal data, anecdotally users seem to be referred by a court order, a local authority, or more usually by police, MoSVY or DoSVY officials, or directly by a



Commune worker. There seems to be little self-referral, partly perhaps because services are often provided as part of a residential package, rather than as a drop-in service.

For cross-border repatriation and reintegration, a transit mechanism was established in 2007 at Poipet, the main transit point between Cambodia and Thailand. A multi-disciplinary Child Protection Border Team operates at the Poipet border crossing to intercept unaccompanied children and to refer them to a Transit Centre for assistance. This is governed by the Minimum Standards of MoSVY. The Team is composed of staff of the MoSVY, provincial AHTJP police, the Thai-Cambodian Border Coordination Office and NGO staff. In 2009, 992 persons were repatriated: 215 from Thailand, 773 from Vietnam, and four from Malaysia. Among those repatriated, 515 were children. The data is not disaggregated by gender.

In 2009, 469 women and children were rescued from sexual exploitation within Cambodia and 1,474 victims were reintegrated. Ninety percent (705) children detained in prisons and rehabilitation centres received rehabilitation services including management, counselling, non-formal education, vocational training, family tracing, follow-up and post-care services. In 2010, of a total of 1,768 victims rescued from sexual exploitation, 351 were referred to MoSVY and PoSVY, 13 to NGOs and 404 were rehabilitated with their families.<sup>37</sup>

## ***Recommendation 7: Ensure the participation of children***

***1. Please provide information on the involvement and consultation of children in advocacy, and in designing and implementing laws and activities, programmes and policies to prevent and respond to violence against them. Is consultation of children mandatory in such cases? Please provide details, including age groups and other details of the children involved and contexts within which such activities have been promoted (for example, schools, the community, regional or national levels).***

### **Answer**

Children are traditionally expected to obey their elders in Cambodian society, rather than formulating or expressing opinions or needs. Seen within this context, considerable progress has been made by the RGC in encouraging participation by children. The research study Child Participation Research 2008 done by Save the Children Norway indicates that children are more participatory and confident in expressing their views than their parents' generation.

Public policy takes children's opinions into account. CNCC, in partnership with NGOs, organized children's consultative forums in both the development of Cambodia's 2nd and 3rd periodic report on implementation of the CRC, and also the reports on the implementation of the two Optional Protocols to the CRC. The CNCC also sought the opinions of children during the drafting of the National Plan of Action on Trafficking and Commercial Sexual Exploitation. The 2009 Strategic Plan specifically includes children's participation as a cross-cutting issue.<sup>38</sup>

<sup>37</sup> RGC, *Report on the Implementation of Resolution No. 2009/26 of the Economic and Social Council On Supporting National and International Efforts for Child Justice Reform*, July 2010 p. 13.

<sup>38</sup> CNCC, *Strategic Plan 2009-2013*, p.13.





The legislation dealing with children involved in formal procedures increasingly encourages children to express their opinion. The Inter-Country Adoption Law requires the views of the child throughout the adoption process be considered. The court and other competent authorities involved in the inter-country adoption process shall ensure that during the adoption process “the child who is capable of forming his or her own views has been counselled and duly informed of the effects of the adoption, taking into account the willingness of the child and giving due weight to the child’s views for the best interests of the child”.<sup>39</sup> The draft Juvenile Justice Law provides for diversion from trial, with the minor being given the opportunity to express his or her views at planning meetings for diversion proposals, and on redress for the victim.

Institutions in Cambodia have incorporated child participatory policies. The Child Friendly School Policy was issued in 2007 to create child-centred and participatory learning in schools. The Minimum Standards on Residential Care 2006 lists 19 ways in which children must be allowed to participate in the life, policy and decision making processes of the residential centre, and the Minimum Standards on Alternative Care in the Community lists 18 ways in which a child will be able to participate in decision making, and day-to-day life with the caregivers.

There is no mandatory requirement to consult with children on strategy or programme design in the public or private sector.

***2. Describe any public or official support given to the creation and maintenance of special children’s organizations and forums for the protection of children’s rights.***

**Answer**

The Cambodia Children and Young People Movement for Child Rights is a network of 20 child- and youth-led groups or organizations working in 16 provinces. The Movement was established in 2002 and submitted alternative reports to the UN Committee on the Rights of the Child in 2004 and 2010. The reports were collated through national workshops and surveys of children’s opinions, and were drafted by the membership. CNCC members and senior MoSVY staff attended the launch.

***3. Describe the amount and type of resources made available to support children’s participation in activities to address violence against children.***

**Answer**

There is no data on NGO allocation of resources within their planning, monitoring or evaluation processes.

***4. Describe the involvement, if any, of children in the development of child-friendly materials to raise awareness on violence against children and to provide information on counselling, reporting and complaint mechanisms, including court proceedings.***

**Answer**

There is no data on child involvement on media strategy. Children are involved on an ad hoc basis, for example they were involved in drafting the MoJ’s materials aimed at reducing the fear of giving evidence in court.<sup>40</sup>

<sup>39</sup> ICA Law, Articles 5(5) and 30.

<sup>40</sup> RGC, CNCC, Report on the Implementation of Resolution No. 2009/26 of the Economic and Social Council on Supporting National





## ***Recommendation 8: Create accessible and child-friendly reporting systems and services***

- 1. Please describe the legal, policy and institutional arrangements in place for providing child- sensitive counselling, complaint and reporting mechanisms, including in confined spaces such as orphanages, residential care institutions and prisons. Provide details or references, or attach.***

### **Answer**

*Prakas* No. 616 on Minimum Standards on Residential Care for Children and *Prakas* No.198 on Minimum Standards on Alternative Care for Children in the Community require that residential care facilities have an effective and meaningful complaints mechanisms in place, and that resident children must be informed of their right to, and procedure for, making a complaint.<sup>41</sup>

The Draft Prison Law requires each prison to establish a complaints procedure whereby prisoners can make confidential complaints to the Prison Chief or the Prison Director about acts committed by a fellow prisoner or by the prison staff in breach of the Prison Rules or Prison Policy.<sup>42</sup>

- 2. Has there been any guidance issued on reporting mechanisms to professionals involved in counselling? Have any complaints procedures, reporting procedures or counselling programmes been evaluated for effectiveness and/or child-sensitivity? If YES, provide details or references, or attach.***

### **Answer**

There is an increasing requirement for procedures and environments to be child sensitive. The Minimum Standards on Alternative Care and Minimum Standards on Community Based Care contain provisions on a child-sensitive atmosphere and the draft Juvenile Justice Law requires that all professional interviews by police, prosecutors, investigating judges, trial judges and any community committee engaged on diversion planning, do the interviews in a child-friendly manner, in a child-friendly environment.

Hotline staff are trained in communication techniques, although this area has not been researched and numbers of reported callers have kept rising. Child Helpline Cambodia figures for July-September 2011 showed a total of 2,894 communications: 1108 female and 901 male (remainder not recorded). This was a 33 per cent increase from the preceding quarter,<sup>43</sup> and was attributed to ease of access as well as being responsive to children and young people. The fact that calls are free might affect the findings.

In 2011, the General Department of Prisons in Mol instructed all correction centres to prepare a complaint box for prisoners and their families visiting the compound. The

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and International Efforts for Child Justice Reform July 2010, p.5.

<sup>41</sup> *Prakas* No. 616 on Minimum Standards on Residential Care for Children, Article 7 and *Prakas* No. 198 on Minimum Standards on Alternative Care for Children in the Community, Article 8.

<sup>42</sup> Prison Law, Article 60.

<sup>43</sup> Child Helpline Cambodia, quarterly Newsletter September 2011, <http://childhelpline.org.kh>



Director of each centre has personal responsibility for either responding to the complaint, or forwarding it to the General Department of Prisons for advice.

In 2009, 648 cases of human trafficking, sexual abuse and domestic violence were reported and 456 suspects were arrested. There were 773 child victims rescued, of which 14 per cent were referred to state social workers and NGO workers.<sup>44</sup>

### ***Reporting of violence by third persons (not the victim)***

***3. Is mandatory reporting of violence against children foreseen in the law? If YES indicate for whom mandatory reporting is foreseen (teachers, health workers, social or child welfare workers, law enforcement officers, the public) and provide relevant documentation. Please also indicate which types of violence are subject to mandatory reporting (sexual abuse, physical violence or other).***

### **Answer**

There is an obligation for social workers to report sexual abuse, labour exploitation, child abandonment, domestic violence resulting in physical injury and children in conflict with the law,<sup>45</sup> but there is no similar professional obligation on health care staff, educators, prison staff or justice officials. Codes of Conduct for staff working in state residential centres, currently being drafted, will include mandatory reporting requirements.

Commune Councils for Women and Children have a duty to collate and report information on violence primarily for data collection purposes, although it can be reported to police or other child protection services, or can be acted on by the Commune members.<sup>46</sup>

The Law on Prevention of Domestic Violence and the Protection of Victims of Domestic Violence both establishes mandatory reporting of suspected violence, and assumes that other agencies, such as the courts, will react. However, there is not a general obligation on the population to report but only on “nearest authorities” to investigate, and in severe cases to report to the court.<sup>47</sup> An application can be made to the court for a protection order by a victim, a representative of the victim, the authorities in charge within the victim’s residential area or “any person who has learned about the incident of domestic violence, if the victim is a child”, but this is not mandatory.

The law on Marriage and Family 1989<sup>48</sup> gives authority to the People’s Court to revoke parental responsibility if abuse takes place, but there is no mandatory obligation on any community leader to instigate the proceedings.

Article 48 (e) of the Tourism Law imposes reporting requirements on “All tourism business operators and their agents, employees and contractors” to “Instantly complain or report to the nearest Tourist Police, authorities in-competence or tourist authority, in case of having known or suspected the offences of drug trafficking and usage, human trafficking and confinement, child trafficking and sexual exploitation/prostitution, disseminations of

<sup>44</sup> CNCC, Report on the Implementation of Resolution No. 2009/26 of the Economic and Social Council On Supporting National and International Efforts for Child Justice Reform, July 2010.

<sup>45</sup> MoSVY and DOSVY Social Workers’ Role in Criminal Cases, reported in UNICEF 2007 *Sound the Alarm: reporting Violence against Children in Cambodia* p. 20.

<sup>46</sup> The Guideline on the Organization and Establishment of the Committee for Women and Children for all Commune/sangkat in country 2007.

<sup>47</sup> Article 9 The Law on Prevention of Domestic Violence and the Protection of Victims 2006.

<sup>48</sup> The law on Marriage and Family, 1989, Article 120.



pornographic pictures and materials or other criminal offences”. Inspectors have the function of judicial police, which gives them the power to record and investigate suspected criminal offences. They have an obligation to report to the police both in their role as judicial police and under article 59 and 60 of the Tourism Law. Failure to comply with codes of conduct or obligations in the Tourism Law can result in refusal or revocation of a licence.

The workplace is regulated through inspections established under the Labour Law, and inspectors have a duty to ensure the employers are complying with the Laws of Cambodia. The inspectors have considerable power to inspect premises, records and carry out technical inspections including medical examinations of staff. Article 347 gives the inspectors power to order changes where there is an imminent threat to staff health or safety. Penalties for violation of rules include fines imposable by inspectors and imprisonment. Article 368 sets a fine for employers employing staff under 18 years of age in conditions not complying with the law, however it is a draft conclusion of the draft Gap Analysis of Child Protection Legislation, and is insufficient to act as a deterrent.

### **Complaints mechanisms**

**4. Please indicate any existing mechanisms or institutions specifically designed to receive complaints about acts of violence against children and whether children, or persons acting on their behalf, can access these procedures. Please indicate whether legal aid is available to facilitate submission of complaints, and the circumstances in which legal aid will be available.**

### **Answer**

The Ministry of Interior and AHTJP set up seven telephone hotlines from 2005-2008 as the primary mode by which complaints can be made and suspected cases of sexual exploitation of children can be reported.

There is coordination between these and general crime reporting hotlines run by the Mol. NGOs also run hotlines, all designed to mobilize responses to suspected violence or exploitation against children, and in some cases, women. Children, relatives or witnesses can and do call the numbers and the status of the caller does not affect the triage, emergency response protocols or data recording. There is a new National Child Helpline where calls are free, after the Ministry for Post and Telecommunications negotiated arrangements with private telecommunication companies. This is more user-friendly for children. Complaints boxes will be installed in prisons for use by prisoners, their families or any person visiting.

The Ministry of Education has drafted a Procedure for Complaint of Students, Education staff and Parents, in November 2011, which will be finalized in 2012.

There are some free legal services available to assist child complainants. The Bar Association of the Kingdom of Cambodia (BAKC) was established by The Law on the Bar Association 1995. Articles 29 and 30 require part of the BAKC funds be used for free legal services to those people with no property, no income or insufficient income to live on, as determined by the Chief Clerk of the Court. The request for free legal representation is made by the Chief Clerk and Chief Judge of the relevant court to the President of the BAKC, and regulations require that a lawyer be provided within 15 days.



The BAKC is the sole issuer of licences to practice law in Cambodia. The BAKC estimates that there is one lawyer per 19,600 persons. BAKC intends to increase its recruitment of lawyers to meet demand. The RGC does provide some funds to BAKC, and other donors support BAKC to provide legal services in rural areas, however there are not sufficient human or financial resources to meet the obligations to provide free legal services to the Cambodian population, as committed by the Constitution, the Law of the BAKC and other national laws such as the draft Juvenile Justice Law. The registration fee is \$10 per month, per registered lawyer.

In 2006, legal aid NGOs provided the majority of legal services for children.<sup>49</sup> There were eight NGOs covering more than 13 provinces. Eighty per cent of respondents to a survey carried out in 2006<sup>50</sup> had not heard of free legal services being available. The same survey identified referrals coming mainly through the chief of the commune, followed by other organisations, monks and teachers.

### ***Counselling of child victims***

***5. Do children who have experienced physical, sexual, psychological or other violence have a legal right to counselling? Have any changes to the law or operational protocols been made with a view to making investigations by relevant institutions, including social workers, law enforcement officers or forensic specialists child-sensitive? Please provide relevant information, including whether these mechanisms exist at the national level and/or in specific departments, how they can be assessed and how these mechanisms are funded.***

### **Answer**

Counselling is not a traditional response to trauma in Cambodia, and suffering calamity in silence has long been a survival mechanism for many Cambodians. The professions of psychologist, psychiatrist or counsellor are not formally established in Cambodia. There is no right to free counselling services for victims contained in current Cambodian legislation. However, the RGC encourages the use of counselling and other empathetic mechanisms to assist in building Cambodia's future. MoSVY Minimum Standards on Residential Care for Children 2006 lists minimum provision for social and cultural development which includes "opportunities to meet with a trained counsellor for children who have gone through traumatic experiences, death of parents, violence, abuse etc".<sup>51</sup>

The Minimum Standards on Alternative Care in the Community does not refer to counselling but does specifically mention the right to self expression, to be provided with "a caring, attentive and supportive environment in which they are free to express their emotions, thoughts, ideas and creativity".<sup>52</sup>

Child-friendly communication techniques are now being used in professional services. The education sector's Child Friendly School Policy 2007 incorporates a child-centred and participatory approach, and in the courtroom, work has been done to make the procedure and court environment more child friendly. In 2004, the MoI equipped designated interview

<sup>49</sup> CNCC, Report on the Implementation of Resolution No. 2009/26 of the Economic and Social Council On Supporting National and International Efforts for Child Justice Reform, July 2010.

<sup>50</sup> RGC, Council for Legal and Judicial Reform, *Legal Aid in Cambodia: Practices, Perceptions and Needs*, 2006.

<sup>51</sup> RGC, MoSVY Minimum Standards on Residential Care for Children, 2006, p. 4.

<sup>52</sup> RGC, MoSVY Minimum Standards on Alternative Care in the Community p.3.





rooms to interview child victims at the AHTJP unit and in other provincial capitals.<sup>53</sup> The Ministry of Justice set up court screens in provincial and capital courtrooms, and TV-linked courtrooms were installed in five courts to reduce the trauma of giving evidence by child and vulnerable witnesses. The MoJ also produced instructional videos for child victims, child witnesses and children in conflict with the law, explaining the role of different criminal justice actors.<sup>54</sup>

In the sections relating to the police, prosecutors, investigating and trial judges, the draft Juvenile Justice Law proposes child-friendly interviews and communication techniques as well as child-friendly environments, including in the court room, in prison environments and commune meetings participating in diversion mechanisms.

## ***Recommendation 9: Ensure accountability and end impunity***

### ***1. Are regular (e.g. annual) reports published providing statistical and analytical information on reported cases of violence against children? If YES, please provide details or references, or attach.***

#### **Answer**

The Ministry of Planning collects national data annually. The Socio-Economic Survey of Cambodia 2009 includes data on reported violent incidents and data on living standards, employment and institutions. Some but not all the data is disaggregated by the age of the victim. The report is disseminated in hard copy and on the website of the National Institute of Statistics <http://www.nis.gov.kh/>. The 2011 Survey is underway.

The Anti Human Trafficking and Juvenile Protection Police Department issues annual statistics, and copies of reports from 2005-2010 formed part of the National Report on the Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography 2002-2010, submitted in October 2011. Data is not yet available for 2010 or 2011.

An annual report containing data from NGO sources is published, although it does not form part of government statistics. The NGO Joint Statistics Report: Database Report on Sexual Trafficking, Exploitation and Rape in Cambodia project, collates data from four networks: End Child Prostitution and Abuse in Cambodia (ECPAT), NGO Committee on the Rights of the Child (NGOCRC), the Coalition to Address Sexual Exploitation of Children in Cambodia (COSECAM) and Cambodia Against Child Trafficking (Cambodia ACTs). This data has been collated since 2003, and the most recent report was published in 2010.

### ***2. Please provide the total number of reported cases and conviction of crimes of violence recorded against children since 2009. Where possible, provide a breakdown by types of crime or by setting (home, community, school, workplace, institutions), and by age and gender of the victim.***

<sup>53</sup> RGC, CNCC, Report on the Implementation of Resolution No. 2009/26 of the Economic and Social Council On Supporting National and International Efforts for Child Justice Reform July 2010, p. 6.

<sup>54</sup> RGC, CNCC, Report on the Implementation of Resolution No. 2009/26 of the Economic and Social Council On Supporting National and International Efforts for Child Justice Reform July 2010, p. 5.





## Answer

The most recent data on reported prosecutions and convictions for offences against children is for 2009, (information supplied in the National Report on the Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography 2002-2010, submitted October 2011). In 2009, 45 per cent of the total 364 cases of rape and attempted rape reported to the AHTJP police unit involved victims under 18 years of age, with the majority being female (96 per cent). Sexual offences were the highest recorded cases at 64 per cent, with domestic violence at 20 per cent, sexual exploitation and pornography 11 per cent, and human trafficking 5 per cent.<sup>55</sup>

### Categories of sexual exploitation cases recorded, October 2009 - October 2010

Categories of Offences	Number of Cases	Number of Victims	Number of Perpetrators
Unlawful Removal, inter alia, of Minor	6	5	7
Unlawful Removal with Purpose	6	22	10
Unlawful Removal for Cross-border Transfer	24	195	34
Unlawful Recruitment for Exploitation	0	0	0
The Act of Selling, Buying or Exchanging a Human Being	5	4	9
The Act of Selling, Buying or Exchanging a Human Being with Purpose	3	4	6
The Act of Selling, Buying or Exchanging a Human Being for Cross-border Transfer	2	2	2
Transportation with Purpose	0	0	0
Cross-border Transportation (The Act of Bringing a Person Cross-border)	3	20	3
Abduction (Arrest), Detention or Confinement	3	64	4
Purchase of Child Prostitution	15	43	22
Procurement with regard to Child Prostitution	3	5	9
Procurement of Prostitution	19	121	34
Procurement of Prostitution (minors)	2	6	6
Procurement of Prostitution (aggravating circumstances)	8	32	9
Procurement with regard to Child Prostitution	6	55	9
Provision of Premise for Prostitution	15	111	20
Pornography	6	44	18
Child Pornography	2	1	2
Sexual Intercourse with Minors under 15 Years	26	25	27
Indecent Act against Minors under 15 Years	7	9	10
<b>TOTAL</b>	<b>161</b>	<b>768</b>	<b>241</b>

Figure 1: Source: RGC, CNCC, Report on the Implementation of Resolution No. 2009/26 of the Economic and Social Council on Supporting National and International Efforts for Child Justice Reform, July 2010

<sup>55</sup> Summary Report, Anti Human Trafficking and Juvenile Protection Police Department, Ministry of Interior, 2009.



Statistics on profiles of offences and perpetrators, including prosecutions, have been collated by the Ministry of Interior for 2004-2011 (see figures 2 and 3 annexed). Comparing these to the figures collated for the first ten months of 2011, it seems there has been considerable improvement in reporting and data collection in recent years.

Not all criminal cases are processed by the criminal justice system. A 2006 study by the Ministry of Justice and UNDP estimated that every year more than 40,000 disputes were heard and resolved by the 1,621 Commune Councils across Cambodia, mandated by the Sub Decree on De-centralisation of Roles, Functions and Power to Commune Councils 2002. This entitles the commune council to “conciliate disputes between citizens and encourage tolerance and compromise”, and the district governors to be qualified as judicial police competent to record complaints and investigate criminal offences. However, under Article 75 Criminal Procedure Code 2007, the judicial police must refer a criminal case to the prosecutor, even if there is agreement to resolve through financial compensation or a withdrawal of the complaint. There is no data on the number of cases that are not processed through the criminal justice system. In practice, financial settlements are facilitated by police between the families of victims and perpetrators in criminal cases. In remote areas with large indigenous populations, disputes are usually resolved through village elders.

***3. Please indicate measures taken or envisaged to prevent persons convicted of violent offences and sexual abuse of children from working with children.***

**Answer**

Article 17 the Penal Code 2010 provides for additional penalties, which includes prohibition from practicing a profession connected with the commission of the offence, either permanently or temporarily. Other penalties include local exclusions and ejection from Cambodia. Article 168 of the Penal Code provides for additional penalties including dissolution, closure of offices and prohibition on certain activities.

***Recommendation 10: Address the gender dimension of violence against children***

***1. Please indicate any gender-specific provisions included in national initiatives, e.g. laws, policies and advocacy efforts, concerning violence against children, and any special measures taken to address violence against girls.***

**Answer**

Article 45 of the Constitution prohibits discrimination against women, with legislation in Cambodia usually drafted to be gender neutral. However there are parts of the Constitution, and legislation, which are not gender neutral. Article 46 of the Constitution specifically prohibits the exploitation of prostitution and obscenity “which affects the reputation of women”. This prioritises the value of a woman’s reputation over her physical integrity, and also assumes that women are the primary victims. Additionally, Article 46 provides for extra support to women “to obtain employment, medical care send their children to school and have decent living conditions”, thereby recognizing the disadvantages that women must overcome to access their rights under the law.



Gender mainstreaming action groups have been established in 25 ministries and institutions. In 2009, the Ministry of Justice produced an Action Plan for Gender Mainstreaming 2009-2013, to ensure gender equality within the staff of the justice system, including law enforcers, judges and court personnel.

**2. Indicate whether these policies address harmful traditional practices affecting girls such as FGM/C, forced and/or early marriage and/or other harmful traditional practices.**

**Answer**

The gender mainstreaming initiative directly challenges the traditional concepts of *Chhabb Srey*, the traditional code of conduct for women in Cambodia, which teaches gender inequality and inferiority of women.

**3. Indicate whether, since 2009, there has been any change in the following:**

***Minimum age of marriage for women and men, to prevent early and/or forced marriage and overcome discrimination on the basis of gender?***

**Answer**

Marriage age is governed by the Civil Code 2007, which supersedes the Law on Marriage and Family on this matter. The current age for marriage is 18 for both man and woman, although one party can be 16 years or over, as long as the families consent.

***Minimum age required for valid consent to sexual activity. Is this age different for girls and boys?***

**Answer**

The age of consent to sexual activity is 15 years and does not distinguish between boys and girls. Article 42 and 43 of the LSHTSE criminalizes all sexual intercourse or indecent acts against any child under 15 years of age, except where the perpetrator is also under 15 years of age.

**4. Please provide any existing data on violence against children disaggregated by sex, and attach relevant documentation.**

**Answer**

There is limited data on child victims of violence that is disaggregated into gender. Most reports on sexual abuse and sexual exploitation refer to victims as predominately female. However there is evidence that sexual abuse of boys is not captured in the research methodologies. A Baseline Study on Violence against Children will be carried out in 2012 and will cover violence in the key settings disaggregated into gender and age groups.

**5. Please provide information on research released since 2009 on violence against children, taking into account the special characteristics and vulnerabilities of girls and boys, and attach relevant documentation.**

**Answer**

There have been numerous reports on violence against children in Cambodia, most of



which focus on sexual violence. There are fewer studies on violence sustained in other contexts, such as in the labour industry, in prison or other violence experienced by boys. Recent studies have covered these areas, most notably the Human Rights Watch report on experiences of inmates in Drug Rehabilitation Centres. Some studies which differentiate between vulnerability of girls and boys include:

- The Ministry of Planning Socio-Economic Survey 2009, released in 2010. It provides data on victims of violence disaggregated by gender (although not age), including repeat victimisation, percentages of reporting, to whom a report was made.
- MOWA Domestic Violence Follow-Up Report, 2009 (follow up to Baseline Study Report 2005)
- UNICEF Situational Analysis of Women and Children in Cambodia, 2009
- Plan International, OVC in Cambodia: A Situational Analysis in Four Provinces, May 2011

### ***Recommendation 11: Develop and implement systematic national data collection and research efforts***

#### ***1. Does your country maintain any national, regional or local data system on violence against children? How, and how often, is information made public? What kind of information can be obtained in these systems?***

#### **Answer**

According to The Statistics Law 2005 the National Institute of Statistics (NIS), is responsible for data collection, analysis, publication and dissemination. The NIS website provides information on what data is available and links to the relevant ministry <http://nis.gov.kh/index.php/nss/official-statistics/581>

In 2002, village and commune data books were introduced to collect socio-economic information on population, education, occupation, natural resources, transportation, vulnerable groups, administration and security. In 2005, information on domestic violence, sexual abuse and trafficking were added as new categories to the commune books. Data is passed to the Ministry of Planning and to the Ministry of Interior.

In 2004, NIS developed a database, CAMInfo, using commune data to monitor progress towards Cambodia's Millennium Development Goals.

In 2009, the Ministry of Planning conducted a national survey to test the quality of commune-based data and found that both survey and commune-based data correlated quite highly, indicating the commune-based data system was of good quality. The RGC was pleased to report in 2010, that the commune-based data on domestic violence was of "sufficient quality to use in a national monitoring system to inform policies".<sup>56</sup>

The Situational Analysis of Commercial Exploitation of Children<sup>57</sup> comments, "To date many reports have been based on empirical evidence including victim's stories. The lack of systematic and scientific research means that interventions have been taking place without the benefit of reliable and comprehensive data". The RGC agrees with this conclusion, and plans a detailed research study into violence against children. Led by

<sup>56</sup> RGC, The Report on Data Collection and Monitoring of Violence Against Women in Cambodia, p. 28.

<sup>57</sup> Situational Analysis Women and Children in Cambodia, 2009.





MOVA and MoSVY, the study will be done in 2012, and will provide baseline evidence to support targeted interventions and impact assessments.

**2. Is the available information disaggregated by sex, age, ethnicity, nature of injury or death, cause of injury or death, geographical location of incidents, context of incident, relationship between victim and perpetrator:**

**Answer**

Data is variable.

**3. Please indicate whether your country maintains any of the following:**

***Registries for births, deaths and marriages***

**Answer**

Sub-Decree No.103 on Civil Status was created in 2000. It required a parent to report any new birth within 30 days to the civil registrar at the commune/ Sangkat office of the parent's permanent residence. A campaign was launched to increase registration, and when the campaign ended in 2006, birth registration was at more than 90 per cent of the population, from a 5 per cent estimated start.<sup>58</sup>

Birth registration is now governed by Article 985 of the Civil Code, which allows a fine to be imposed for failure to register the birth without reasonable excuse within 30 days. Compliance with birth registration has slowed again in recent years and by 2010 it was estimated at being around 66 per cent. Responding to this, the Ministry of Interior issued the Instruction No 029 in November 2010, advising registrars, (the Boards of Governors of the Capital and Province, Districts and Khans, and chiefs of Commune and Sangkats), to improve registration figures.<sup>59</sup> Registers of marriages and deaths are also kept.

***Systems to capture data on children without parental care***

**Answer**

In 1999, MoSVY created a Management Information System on women and children victims of trafficking repatriated and deported from other countries. In 2007, MoSVY developed a separate database of children living in alternative care.

Institutions providing residential care to children can register with the Ministry of Interior, Ministry of Rural Development, Ministry of Cults and Religion or Ministry of Foreign Affairs and International Cooperation. Local NGOs require prior approval from the Ministry of Interior and international NGOs require prior approval from the Ministry of Foreign Affairs and International Cooperation to run residential centres. Registration with MoSVY is not mandatory, although it is required by the Minimum Standards of Alternative Care 2009. In 2010, only 212 of the 269 centres in Cambodia had signed an MoU with MoSVY.<sup>60</sup> It is the institution's responsibility to inform MoSVY of children living in residential care, so details of children living in these centres are not included in the database. MoSVY is responsible for monitoring,

<sup>58</sup> UNICEF information 2010.

<sup>59</sup> National Report on the Implementation of the Optional protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict 2002-2010.

<sup>60</sup> UNICEF Situational Analysis Women and Children 2009, p. 181.





managing and inspecting the institutions, and monitors all known centres regularly.<sup>61</sup>

Systems to capture data on children deprived of liberty, including in the criminal justice system, administrative detention and pre-trial detention.

In 2006, the Ministry of Justice developed a database to collate information on juveniles, integrating data from all the relevant agencies within the criminal justice system. It piloted the database in six provincial capitals. The database is intended to link to the computer systems at the model juvenile courts.<sup>62</sup>

The LEASETEC database contains trafficking, domestic violence and rape cases that have been or are proceeding through the legal system.

Systems to capture data on specific forms of violence against children.

The MoI collates statistics on criminal cases and investigations done by the Cambodian National Police. Standard forms for taking complaints were instituted into police procedure in 2010, and are currently being piloted. Ages and gender are included.

In 2004, MoI developed a national database on convictions for sexual and human trafficking offences. Data on reports and convictions for domestic violence were included in 2005. In 2006, general responsibility for criminal investigations into domestic and sexual violence moved to the Department of Anti-Human Trafficking and Juvenile Protection, which used a standard form for taking complaints. Victims' date of birth is included in the standardized forms.

In 2004, CNCC developed TSECInfo, a database on trafficking and sexual exploitation of children based on a regional database on CSEC (CSECInfo). It does not include data on other forms of violence inflicted on children. The MoLVT maintains a database of migrant workers, employers, employees and types of contracts, including children under 18 years of age.

**4. Please indicate whether, since 2009, any of the following data collection and research activities have been carried out on violence against children:**

**Answer**

*Population-based surveys of any form*

- Population Census 2008
- Cambodia Demographic and Health Survey (CDHS) 2010
- Economic Census of Cambodia 2011 (underway)

*Qualitative studies or surveys based on interviews with parents/caregivers and children*

- Save the Children Norway, Child participation research: values beliefs and cultural practices which effect child participation in the life of Cambodian children, 2008
- DRAFT MoSVY, *Special Centres: Assessment of the policies, procedures and practices in the referral, placement, management, rehabilitation and reintegration of children, women and vulnerable persons at social affairs, youth rehabilitation and drug rehabilitation centres under the authority of MoSVY*, September 2011

<sup>61</sup>RGC, *Reply to the List of Issues raised by the UN Committee on the Rights of the Child related to the consideration of the combined second and third report of the Kingdom of Cambodia on the Implementation of the Convention on the Rights of the Child*, April 2011.

<sup>62</sup>RGC, CNCC, *Report on the Implementation of Resolution No. 2009/26 of the Economic and Social Council On Supporting National and International Efforts for Child Justice Reform*, July 2010.



### *Studies or surveys to assess the impact of legal measures*

The LSHTSE legislation has attracted considerable attention and the general impact on trafficking has been under regular review by a number of bodies. The Cambodian Human Rights Centre did a four-month trial monitoring project from August to December 2010 on trials on charges under the LSHTSE, as part of a wider trial monitoring project to review the way legal provisions were implemented in court, and the impact they had on prosecutions.

Any other scientific research on violence against children, including on particularly vulnerable groups? If YES, indicate the subject of this research and where the findings of these projects may be consulted in more detail.

The RGC carried out a Most At Risk Young People Survey (MARYPS) in 2010, which provided valuable data on the vulnerability of children and young people to drug and alcohol use, high-risk sexual behaviour and associated risks of violence from predators and peer groups.

- 5. Are regular (e.g. annual) reports published providing statistical information on violence against children? If YES, provide details or references, or attach.**
- 6. Please indicate any measures taken since 2009, or envisaged, to implement the use of indicators based on internationally agreed standards on violence against children, and the responsible agency.**

### **Answer (5+6)**

MOSVY has been developing a methodology for collecting data relating to children. In 2011, it issued the National Monitoring & Evaluation for Orphans and Vulnerable Children Framework and Tools after a workshop presided over by the Minister of MoSVY. There were also representatives from the National Multi-Sectorial Orphans and Vulnerable Children Task Force, the Ministry of Information, the Ministry of Planning, SCA, UNICEF, UNAIDS and other stakeholders. The pilot aimed to define indicators to update all MoSVY data collection systems.

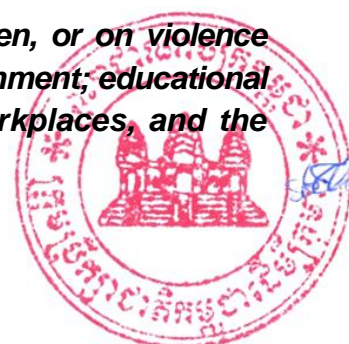
- 7. Is there a research agenda on violence against children, across settings? How are vulnerable children addressed?**

### **Answer**

Ministries and CNCC include research agendas and research priorities in their strategic plans, and some ministries do their own research for example, the MoEYS has its own Department of Pedagogical Research.<sup>63</sup> There is limited capacity and funding for research in Cambodian institutions. Research is usually done under an agreement between the RGC and a development partner, such as UNICEF or ILO, who provide both the funding and technical expertise, or through ad hoc research or drafting of materials done by NGOs.

- 8. Have national studies been developed on violence against children, or on violence against children in a particular setting (the family and home environment; educational settings; institutional care and juvenile justice institutions; workplaces, and the community)?**

<sup>63</sup>UNICEF, Situational Analysis for Women and Children 2009, p. 169, footnote 483.



## **Answer**

See **Answer** to question 6 above

## **Recommendation 12: Strengthen international commitment**

**1. In as far as your country has not already ratified the instruments below, please indicate any steps taken or envisaged towards ratifying the following instruments:**

- ***Instrument Convention on the Rights of the Child***
- ***Optional Protocol on the sale of children, child prostitution and child pornography***
- ***Optional Protocol on the involvement of children in armed conflict***
- ***Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol Signed in 1992***
- ***Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol***
- ***ILO Convention No. 138 on the Minimum Age for Admission to Employment***
- ***ILO Convention No. 182 on the Worst Forms of Child Labour***
- ***Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime***
- ***Rome Statute of the International Criminal Court***

**2. Please indicate if any reservations made at the time of the ratification of the Convention on the Rights of the Child and the Optional Protocols have since been withdrawn, or whether any steps have been taken, or are envisaged, to withdraw such reservations.**

## **Answer**

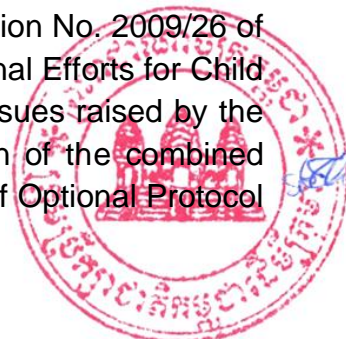
The Kingdom of Cambodia has ratified all the listed instruments and ratified the Convention on the Rights of the Child and all the Optional Protocols without reservation.

**3. Please indicate any activities undertaken in cooperation with treaty bodies listed below, and any responses given to their recommendations, with concrete examples of how these affect the elimination at the national level of violence against children.**

**Committee on the Rights of the Child (CRC)**

## **Answer**

Since the Study was issued in 2006, RGC has worked with UNICEF and other partners to respond to CRC recommendations, and has produced regular reports detailing the work that has been done. In 2009, the RGC submitted the 2<sup>nd</sup> and 3<sup>rd</sup> Report on CRC 2000-2007. In 2010, it submitted the Report on the Implementation of Resolution No. 2009/26 of the Economic and Social Council on Supporting National and International Efforts for Child Justice Reform. In 2011, the RGC submitted the Reply to the List of Issues raised by the UN Committee on the Rights of the Child related to the consideration of the combined second and third report, the 1<sup>st</sup> and 2<sup>nd</sup> Report on The Implementation of Optional Protocol



to the UN Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts 2002-2010, and the 1<sup>st</sup> and 2<sup>nd</sup> Report on the Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography 2002-2010.

***Human Rights Committee (OHCHR)***

***Committee on Economic, Social and Cultural Rights (CESCR)***

**Answer**

The initial report was submitted in 2008

***Committee against Torture (CAT)***

**Answer**

In 2003, the RGC submitted its initial report and received the Committee's observations and recommendations. The second periodic report was submitted in 2010.

***Committee on the Elimination of Racial Discrimination (CERD)***

**Answer**

The initial report was submitted in 1985, and a combined second to seventh period report was submitted in 1997. The eighth to thirteenth period report was submitted in 2009 and next report is scheduled for 2012.

***Committee on the Elimination of Discrimination against Women (CEDAW)***

**Answer**

The combined initial, second and third periodic report was submitted in 2004. The RGC Reply to the List of Issues was submitted in 2006 and the fourth periodic report was due in 2009.

***Committee on Migrant Workers (CMW)***

***Committee on the Rights of Persons with Disabilities (CRPD)***

***ILO Committee of Experts, overseeing the implementation of ILO Conventions Nos.138 and 182.***

***4. Please indicate any activities undertaken or envisaged to promote the implementation of the recommendations of the UN Study, including allocated resources, through cooperation with other partner(s) at the international level, regional level, and bilateral level.***

**Answer**

The UNICEF Regional research into Violence Against Children is due to start in 2012 with findings available in 2013. Other countries involved include China, Vietnam, Thailand, Laos and Myanmar. Cambodia, led by MoSVY and MoWA, is an eager participant in this study. RGC has signed agreements bilaterally and regionally (see below) to eliminate trafficking in humans and has allocated human and financial resources into policing the borders and supporting the return and reintegration of victims.

***5. Please indicate whether any multilateral, regional or bilateral arrangements have been developed to prevent and address violence against children.***





## Answer

The RGC has been active in building regional and bi-lateral relationships to prevent human trafficking in Southeast Asia and in Cambodia. It has signed:

- The Convention on Extradition with Lao PDR, Thailand and China
- The ASEAN Cooperation Agreement in Tourism, at the 8<sup>th</sup> ASEAN Summit in Phnom Penh, 2002, which works to prevent misuse of the cultural heritage and natural resources of the region
- An MoU between RGC and Australia in 2003 on combating trafficking
- An MoU between RGC and Thailand in 2003 to Eliminate Trafficking in Children and Women and to Assist Victims of Trafficking. The Government also established a national working group in 2004 to implement the MoU with Thailand.
- The Treaty on Mutual Legal Assistance in Criminal Matters 2004 within the ASEAN framework
- An MoU between RGC and Vietnam 2005 to Eliminate Trafficking in Children and Women and to Assist Victims of Trafficking, and a Cooperation Agreement between the RGC and Vietnam on Operational Procedures in Identifying Victims of Trafficking
- An MoU between RGC and the countries of the Greater Mekong Sub-Region (GMS) on Cooperation against Trafficking in Persons 2004. A Cambodian working group was established to implement this MoU in 2005. The working group developed an action plan (2004-2007). In 2007 the working groups from six countries in the GMS adopted the second three-year action plan and ministers of those countries signed a joint declaration on the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT).

An MoU to Eliminate Trafficking in Children and Women and to Assist Victims of Trafficking is being negotiated between RGC and Malaysia.

## Conclusion

The RGC agrees with the principles articulated in the Study on Violence Against Children, that violence against children is never justified and is always preventable, and that it is the responsibility of the RGC, as representative of the state, to provide services to children to ensure they access their rights, to protect children from violence and to hold perpetrators of violence accountable for their actions. The RGC recognizes the special vulnerability of some children and the extra protections required. The RGC accepts children have the right to express their views.

This report details a mosaic of law and guidance that works together to cover all settings and all permutations of violence that children face. Implementation is underway to make the law and guidance a real force in the lives of children in the communes and streets of Cambodia, and the Royal Government of Cambodia looks forward to continuing this work.





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## Annexes

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