



**International Convention for
the Protection of All Persons
from Enforced Disappearance**

Distr.: General
15 October 2021

Original: English
English, French and Spanish only

Committee on Enforced Disappearances

**Report submitted by Cambodia under article 29
(1) of the Convention, due in 2015***

[Date received: 15 July 2021]

* The present document is being issued without formal editing.



I. Introduction

1. The Kingdom of Cambodia has accepted the international human rights principles as one of the foundations of the peaceful living for its people, as stated in Article 31 of the Constitution of the Kingdom of Cambodia that the Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations (UN) 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 such rights and freedom shall be in accordance with the law.

2. The Kingdom of Cambodia adopted the International Convention for the Protection of All Persons from Enforced Disappearance on 27 June 2013. Under Article 29 of this Convention, the Kingdom of Cambodia shall have submitted its first report on the implementation of the Convention in 2015. The Kingdom of Cambodia has so far had the opportunity and a good possibility to prepare its first report and submit it to the Committee on Enforced Disappearance.

II. Provision Enforcement

Article 1: Prohibition against Enforced Disappearance

3. In the Kingdom of Cambodia, no one is under circumstances of enforced disappearance. Without exception, under no circumstances may war situations or threats of war, internal political instability or public emergencies be used as justification for enforced disappearance. The Constitution of the Kingdom of Cambodia, paragraph 1 of Article 32, stipulates that every Khmer citizen shall have the right to life, personal freedom and security.

Article 2: Definition of Enforced Disappearance

4. As a State Party to the International Convention for the Protection of All Persons from Enforced Disappearance, the Kingdom of Cambodia uses the definition of enforced disappearance with reference to Article 2 of this International Convention. In this sense, the law of the Kingdom of Cambodia protects all persons from enforced disappearance as stipulated in Article 38 of the Constitution that the law guarantees there shall be no physical abuse against any individual. The law shall protect life, honour and dignity of the citizens. The prosecution, arrest, or detention of any person shall not be done except in accordance with the law. Every citizen shall enjoy the right to defense through judicial recourse.

5. According to this International Convention, the law of the Kingdom of Cambodia opposes certain acts that affect the security of individuals. Article 588 of the Criminal Code states that the arbitrary act of violation of personal freedom committed by a public official or a holder of public elected office, acting in the exercise or on the occasion of his or her function, shall be punishable by imprisonment from 2 (two) to 5 (five) years and a fine from 4,000,000 (four million) to 10,000,000 (ten million) Riels.

Article 3: Competent Authority Investigation

6. Pursuant to Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance and Article 38 of the Constitution of the Kingdom of Cambodia mentioned above, enforced disappearance is a criminal offence which is the subject of investigation as defined in the Criminal Procedure Code of the Kingdom of Cambodia.

7. Investigation of offences, including cases of enforced disappearance, shall be conducted by judicial police as provided for in Article 56 of the Criminal Procedure Code that the judicial police shall have the duty to watch felony, misdemeanour and petty crime,

identify and arrest offenders and collect evidence. Under this Article, in the event that there is probable evidence that a crime has occurred, judicial police officers will arrest those persons suspected of committing the crime and send them to court for trial.

Article 4: Determination of Criminal Offences within the National Legal Framework

8. According to the definition of enforced disappearance as stated in Article 2 of this International Convention, in the Kingdom of Cambodia, enforced disappearance is an offence against a person under the criminal law as provided for in Articles 253 to 255 of the Criminal Code on Illegal Arrest, Detention or Confinement and in Articles 588 to 591 on Abuse of Power Against Individuals. In addition, the Law on Suppression of Human Trafficking and Sexual Exploitation and the Prison Law also define offences and protect all persons from enforced disappearance.

Article 5: Crimes Against Humanity

9. In the Kingdom of Cambodia, the widespread or systematic practice of enforced disappearance is considered a crime against humanity as defined in Article 188 of the Criminal Code that each of the acts prescribed below when committed within the framework of a generalized or systematic attack carried out against civilian population, constitutes a crime against the humanity: murder; extermination; induction into slavery; forced deportation or transfer of the population; imprisonment or any other form of serious deprivation of freedom in violation of the fundamental provisions of the international laws; torture; rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization and all other form of sexual violence of the same seriousness; persecution of a group or a community under the political, racial, national, ethnic, cultural, religious or sexual motives; forced disappearance; apartheid; and all other inhuman acts which cause great sufferings or serious attack on physical integrity.

Article 6: Criminal Responsibility

10. In the Kingdom of Cambodia, offenders of enforced disappearance including perpetrators, co-perpetrators, instigators and accomplices bear criminal responsibility, which is consistent with point (a), paragraph 1 of Article 6 of this International Convention. Article 32.2 and 32.3 of the Criminal Code of the Kingdom of Cambodia states a person shall not be criminally responsible if he or she performs an act ordered by a lawful authority, unless the act was manifestly unlawful. The perpetrator, coperpetrator, instigator or accomplice of a crime against humanity, a crime of genocide, or a war crime shall not, under any circumstances, be excused from his or her criminal responsibility on the following grounds: 1. he or she committed an act prescribed, authorised or not prohibited by the law in force; 2. he or she acted by order of a lawful authority.

11. A superior who knew, or consciously disregarded information which clearly indicated, that subordinates under his or her effective authority and control were committing or about to commit a crime of enforced disappearance is considered having committed an offence as provided for in Article 529 of the Criminal Code concerning Omission to File Complaint against a Felony and Exceptions that any person who, having knowledge of a felony the consequences of which is still possible to prevent or limit, omits to inform the judicial authority or other competent authorities, shall be punishable by imprisonment from 1 (one) month to 1 (one) year and a fine from 100,000 (one hundred thousand) to 2,000,000 (two million) Riels. However, the following persons are exempted from penalty: the ascendant and descendant, and the brothers and sisters, spouse, or persons bound by a legal obligation of professional secrecy.

12. A superior who exercised effective responsibility for and control over activities which were concerned with the crime of enforced disappearance is [considered] an instigator;

therefore, [he or she] shall bear criminal responsibility as stipulated in Article 28 of the Criminal Code of the Kingdom of Cambodia.

13. A superior who failed to take all necessary and reasonable measures within his or her power to prevent or repress the commission of an enforced disappearance or to submit the matter to the competent authorities for investigation and prosecution is [considered] an accomplice; therefore, [he or she] shall bear criminal responsibility as stipulated in Article 29 of the Criminal Code of the Kingdom of Cambodia.

14. In the Kingdom of Cambodia, no order or instruction from any public authority, civilian, military or other, may be invoked to justify an offence of enforced disappearance as stipulated in Article 32 of the Criminal Code of the Kingdom of Cambodia, mentioned above (point 8).

Article 7: Conviction

15. In the Kingdom of Cambodia, enforced disappearance is a crime punishable under the Criminal Law in accordance with acts committed, aggravating circumstances as set out in Articles 77 to 92 and mitigating circumstances as stated in Articles 93 to 95 of the Criminal Code.

Article 8: Statute of Limitations of Enforced Disappearance Crime

16. With regard to a statute of limitations of a crime, the law of the Kingdom of Cambodia determines various types of offences. Article 10 of the Criminal Procedure Code of the Kingdom of Cambodia stipulates that the time limitation for bringing a criminal action is as follows: 15 (fifteen) years for a felony; 5 (five) years for a misdemeanour; and 1 (one) year for a petty offence. In particular, an offence of enforced disappearance which is a crime against humanity has no statute of limitations as set out in Article 9 of the Criminal Procedure Code that a crime of genocide, a crime against humanity and war crime has no statute of limitations.

17. In the Kingdom of Cambodia, the right of victims of enforced disappearance is guaranteed and protected by law. In this respect, any criminal, civil or administrative actions filed by a victim or legal representative shall be resolved by the competent authorities.

18. Article 5 of the Criminal Procedure Code of the Kingdom of Cambodia states that the victims of a felony or misdemeanour can file a complaint as plaintiffs of a civil action before the investigating judge. The complaint of plaintiffs in a civil action has the power to file suit with an investigating judge assigned to a criminal action under conditions stipulated in Article 139 (Forwarding of a Complaint to Prosecutor) and Article 140 (Payment of Deposits) of this Code. Criminal jurisdictions can also receive complaints from government officials or other public agents who are authorized to file complaints under separate laws.

19. Article 6 of the Criminal Procedure Code of the Kingdom of Cambodia states that any person who claims to be a victim of an offence can file a complaint. An ordinary complaint has no effect to bring a criminal charge. In case the Prosecutor does not respond to the claim or keeps the file without processing, the victim may bring a petition to the Prosecutor General at the Court of Appeal in accordance with Article 41 (File without Processing) of this Code.

20. Article 13 of the Criminal Procedure Code of the Kingdom of Cambodia states that a civil action shall be brought by the victim of an offence. In order to be compensated, the injury must be: a direct consequence of an offense; a complainant's personal damage; occurred and current. Any injury can be a property or physical or emotional damage.

Article 9: Territory under the Jurisdiction

21. In the Kingdom of Cambodia, the determination of the jurisdiction over offences is set out in the Criminal Code as follows:

- Article 12 states that in criminal matters, Cambodian law is applicable to all offences committed in the territory of the Kingdom of Cambodia. The territory of the Kingdom of Cambodia includes its corresponding air and maritime spaces;
- Article 13 states that an offence shall be deemed to have been committed in the territory of the Kingdom of Cambodia if one of the ingredients of the offence was committed in the territory of the Kingdom of Cambodia;
- Article 14 states that in criminal matters, Cambodian law is applicable to offences committed on board vessels flying the Cambodian flag, regardless of where they are.
- Article 15 states that in criminal matters, Cambodian law is applicable on board foreign vessels which Cambodian authorities are authorised to inspect or board by international agreement;
- Article 16 states that in criminal matters, Cambodian law is applicable to offences committed on board an aircraft registered in the Kingdom of Cambodia, regardless of where it is;
- Article 19 states that in criminal matters, Cambodian law is applicable to any felony committed by a Cambodian national outside the territory of the Kingdom of Cambodia. Cambodian law is applicable to misdemeanours committed by Cambodian nationals in a foreign country if the conduct is also punishable under the law of that country. These provisions shall be applicable even if the accused acquired Cambodian nationality after the acts which he or she is alleged to have committed;
- Article 20 states that in criminal matters, Cambodian law is applicable to any felony committed by a Cambodian or foreign national outside the territory of the Kingdom of Cambodia if the victim is a Cambodian national at the time of the offence committed.

22. In line with the aforementioned jurisdiction, the Kingdom of Cambodia shall take the same action when necessary to determine its jurisdiction in order to exercise it over offences of enforced disappearance when alleged offenders are present in a territory under its jurisdiction. Otherwise, the Kingdom of Cambodia shall extradite or deliver that offender to another State in accordance with its international obligations as stated in Article 566 of the Criminal Procedure Code that the Kingdom of Cambodia may agree to deliver to a foreign state a foreign resident who is residing in the territory of Cambodia who is subject to a judicial charge in this state; or sentenced to imprisonment by the court of this state.

23. [Arrangements of] the handover (extradition) of an offender in the case of enforced disappearance to a foreign state, in the Kingdom of Cambodia, shall be made in accordance with the conditions set forth in the law from Articles 569 to 580 of the Criminal Procedure Code of the Kingdom Cambodia.

Article 10: Detention during Extradition

24. Upon receipt of information and application for arrest of a suspect of enforced disappearance being present in the territory of the Kingdom of Cambodia, Cambodian competent authorities shall follow the following procedures of the Criminal Procedure Code of the Kingdom of Cambodia:

- Article 581 states that the requesting state may request for the pre-trial arrest of the wanted person. In case of emergency, the request for pre-trial arrest may be made prior to the extradition request provided in Article 579 (Certification of Extradition Request) of this Code. The pre-trial arrest, which aims to prevent the wanted person from escaping, does not require the compliance of any other separate proceeding. The person who is the subject of pre-trial arrest procedures shall be released automatically if the Royal Government of Cambodia does not receive the documents specified in Article 579 (Certification of Extradition Request) within 2 (two) months from the date of arrest;

- Article 582 states that the Prosecutor General of the Court of Appeal in Phnom Penh may order the arrest and detention against the wanted person. The warrant shall mention the following information: the identity of the wanted person; a reference to the request for pre-trial arrest made by the foreign state; the full name and title of the judge who issued such order. The order shall be dated and signed by the Prosecutor General and sealed. The order of arrest and detention shall be enforceable within the entire territory of the Kingdom of Cambodia.

25. Following the detention of a suspect, as provided for in paragraph 1 of Article 10 of this International Convention, the competent authorities shall take further measures as defined in Articles 583 to 589 of the Criminal Procedure Code of the Kingdom of Cambodia.

Article 11: Obligations to Prosecute

26. In the event that a person is charged with committing an offence of enforced disappearance in the territory under the jurisdiction of the Kingdom of Cambodia, and the Kingdom of Cambodia cannot extradite him or her, the Cambodian competent authorities shall arrest and prosecute him or her in accordance with the national law.

27. With regard to arrest of an offender of enforced disappearance for prosecution under the law, the authorities of the Kingdom of Cambodia shall apply rules of mutual assistance in criminal matters (Treaty on Mutual Legal Assistance in Criminal Matters). Currently, the Kingdom of Cambodia is a State Party to the Treaty on Mutual Legal Assistance in Criminal Matters among ASEAN members and a bilateral party to Vietnam. To ensure the implementation of the mutual assistance in criminal matters, the Kingdom of Cambodia promulgated the Law on Mutual Legal Assistance in Criminal Matters on 27 June 2020.

28. With regard to the decision to prosecute an offender of enforced disappearance, the competent authorities shall apply the same procedures as other criminal cases as set out in the Criminal Procedure Code of the Kingdom of Cambodia. The heavier or lighter penalties depend on aggravating or mitigating circumstances, based on the nature of acts committed by that offender.

29. In the Kingdom of Cambodia, offenders of enforced disappearances are guaranteed and protected by law as those of other criminal offences at every stage of the proceedings, including exemption from torture, etc.

30. In the Kingdom of Cambodia, trials of offences of enforced disappearance, as well as other offences, are conducted in accordance with the principles of fair trial, with the following specific procedures:

- Courts are established by law (Law on the Organization of the Judiciary);
- Courts are legally competent and independent (Article 128 new and Article 129 new of the Constitution of the Kingdom of Cambodia);
- Offenders are entitled to have lawyers of their choices or appointed at every stage of the proceedings (Articles 98, 101, 143 and 145 of the Criminal Procedure Code of the Kingdom of Cambodia);
- Public hearings.

31. Article 128 *new* of the Constitution of the Kingdom of Cambodia states that the judicial power shall be an independent power. The Judiciary shall guarantee and uphold impartiality and protect the rights and freedoms of the citizens. The Judiciary power shall cover all lawsuits including administrative ones. The authority of the Judiciary shall be granted to the Supreme Court and to the lower courts of all sectors and levels. Article 129 *new* states that trials shall be conducted in the name of the Khmer citizens in accordance with the legal procedures and laws in force. Only judges shall have the right to adjudicate. A judge shall fulfil this duty with strict respect for the laws, wholeheartedly and conscientiously. Article 132 *new* states that the King shall be the guarantor of the independence of the Judiciary. The Supreme Council of the Magistracy shall assist the King in this matter.

Article 12: Investigation

32. In the Kingdom of Cambodia, any person who charges a person with enforced disappearance has the right to report the facts to the competent authorities as stated in Article 6 of the Criminal Procedure Code that any person who claims to be a victim of an offence can file a complaint.

33. Meanwhile, every one also has the right to report the facts to the competent authorities as stated in Article 39 of the Constitution that Khmer citizens shall have the right to denounce, make complaints or file claims against any breach of the law by state and social organs or by members of such organs.

34. The competent authorities who received reports on facts of enforced disappearance shall make inquiry of charges respectively as stated in Article 72 of the Criminal Procedure Code that every complaint received by judicial police officers is required to be recorded. The record shall properly include the statement of the complainant. Thereafter, judicial police officers shall conduct the investigation according to the written record as stated in Article 71 of the Criminal Procedure Code that judicial police officers shall receive complaints or denunciations, make inquiry of all offenses, undertake investigation on flagrant crimes and conduct primary investigation under the conditions stipulated in Article 84 (Different Powers of Judicial Police Officers in the Investigation) to Article 101 (Powers to Make Appreciations by the Judges) of this Code.

35. Plaintiffs, witnesses, lawyers, and anyone involved in the investigation into offences of enforced disappearance are protected by law against any malice or intimidation caused by lawsuits or by provision of evidence as stated in Article 220 of the Criminal Code that intentional acts of violence shall be punishable by imprisonment from 2 (two) to 5 (five) years and a fine from 4,000,000 (four million) to 10,000,000 (ten million) Riels if they are committed:

- Against a victim or a civil party, either to prevent him or her from reporting an offence or seeking reparation for harm suffered;
- Against a witness, to prevent him or her from testifying at an investigation, a judicial investigation, a trial or in the proceedings of other complaints;
- Against a victim or a civil party who reported an offence or for seeking reparation for harm suffered;
- Against a witness for testifying at an investigation, a judicial investigation, a trial or in the proceedings of other complaints.

36. If there is a compelling reason to believe that someone is disappearing, the competent authorities of the Kingdom of Cambodia shall conduct an investigation even if there is no formal complaint as stated in Article 111 of the Criminal Procedure Code that when learning about the act that can be an act of a felony, a misdemeanour or a petty offense, judicial police officers may conduct a primary investigation at their own discretion or at the request of a prosecutor.

37. In the Kingdom of Cambodia, the judicial police have the power and resources to conduct investigations, including the right to use documents and other information in relation to their investigations, which is given by the law, as mentioned in the following articles of the Criminal Procedure Code:

- Article 56: The judicial police act as an auxiliary of the judiciary's power. The judicial police shall have the duty to watch felony, misdemeanour and petty crime, identify and arrest offenders and collect evidence;
- Article 89: In the case of a flagrant felony or misdemeanour, judicial police officers shall report it immediately to the prosecutor. Judicial police officers shall go to the site to examine the crime scene. Judicial police officers shall protect all leads of evidence that may disappear. Judicial police officers may order people not to leave the crime scene until their operations are completed.

38. With the prior consent of the judicial authorities to decide on this matter immediately, the judicial police have the right to enter all detention facilities or any other locations where there is a compelling reason to believe that disappeared persons are present there. In such a case, if there are good grounds for suspicion of offences, the judicial police may enter and search all locations with the permission of all courts, as stated in Article 113 of the Criminal Procedure Code of the Kingdom of Cambodia that when the primary investigation involves a felony or misdemeanour, judicial police officers may conduct a search and seize relevant exhibits. Judicial police officers shall seek an expressed and real consent from the owner of the premises. The consent shall be hand-written by the owner of the premises. If the owner is illiterate, the judicial police officer shall state clearly in the record that the owner of the premises is illiterate and approves the search. Where the owner of the premises is absent or denies the search, the president of the court of the first instance who has territorial jurisdiction may issue authorized search order upon request from the prosecutor. The prosecutor shall personally direct the search. The search shall be conducted with the presence of the owner of the premises, or with the presence of two witnesses if the owner is absent. The witnesses shall be selected by the prosecutor. The witnesses cannot be judicial police or Royal Gendarmeries who are in the joint operating forces in the search. The search cannot be conducted before 6 (six) o'clock in the morning and after 6 (six) o'clock in the evening. The provisions of Article 92 (Affixation of Stamp on Exhibits) of this Code shall apply to the seized objects.

39. In the event of interference in the investigation process by means of suppression or intimidation or retaliation against plaintiffs, witnesses, relatives of disappeared persons or lawyers or persons participating in the investigation, offenders shall be punishable under the Criminal Code as stated in Article 220, mentioned above in point 33.

Article 13: Extradition

40. For the purpose of making an extradition between the States Parties, the Kingdom of Cambodia does not consider offences of enforced disappearance as political offences, or offences pertinent to political matters, or any offences committed for political purposes. In principle, the procedures for the implementation of the extradition in the Kingdom of Cambodia are set forth in the Criminal Procedure Code as stated in Articles 566 to 589.

41. Currently, the Kingdom of Cambodia has bilateral extradition treaty with Thailand (1999), China (2000), Laos (2005), South Korea (2010), Vietnam (2014), and Russia (2018). Regarding the extradition in relation to enforced disappearance, the Kingdom of Cambodia implements the bilateral treaty as defined in Article 567 of the Criminal Procedure Code that the extradition of a foreign resident who is arrested in the territory of the Kingdom of Cambodia shall be governed by provisions of international conventions and treaties ratified by the Kingdom of Cambodia. In case that there is no international convention or treaty ratified by the Kingdom of Cambodia, the provisions of this Chapter (Book 9, Title I, Chapter II of the Criminal Code) shall apply, unless otherwise provided in a separate law.

42. For the States Parties to this Convention that have not had an extradition treaty with the Kingdom of Cambodia, the extradition for offences of enforced disappearance shall be applied in accordance with the provisions of the Criminal Procedure Code.

Article 14: Mutual Legal Assistance

43. As an offence of enforced disappearance may be extradited, the Kingdom of Cambodia considers mutual legal assistance most effective in the criminal proceedings, especially when giving all kinds of evidence for the judicial proceedings. In the event that a mutual legal assistance in a criminal case is requested, the Kingdom of Cambodia shall comply with its applicable national law.

Article 15: International Cooperation

44. As a State Party to this Convention, the Kingdom of Cambodia will collaborate with other States Parties, in exchange for various measures, for the purpose of assisting victims of enforced disappearance and searching them. In the event that a victim of enforced disappearance passes away, the Kingdom of Cambodia will collaborate with his or her State Party to identify, search and return his or her remains to his or her country as what the Kingdom of Cambodia has implemented with the United States of America and Vietnam so far, in search of remains of soldiers who died in the war.

Article 16: Non-Transfer Policy

45. The Kingdom of Cambodia shall comply with its own national law, including the Law on Immigration and the Criminal Procedure Code in the exercise of the deportation, transfer, handover or extradition of any person to another state.

46. The Kingdom of Cambodia is a Signatory to International Human Rights Treaties. Therefore, the Kingdom of Cambodia shall base upon the principles of respect for human rights and international humanitarian law in the exercise of the deportation, transfer, handover or extradition of any person to another state.

Article 17: Prohibition against Secret Detention

47. Secret detention facilities shall not be permitted in the Kingdom of Cambodia. Hence no one shall be held in secret detention. Detaining any person in secret is unlawful confinement, which is defined as a crime and shall be punishable under Articles 253 to 255 of the Criminal Code.

48. In the Kingdom of Cambodia, the principles and conditions of the deprivation of liberty of individuals are set out in specific law, including the Criminal Procedure Code:

- Article 203: In principle, an accused shall have freedom. In special cases, the accused person can be temporarily detained under the conditions stated in this Section;
- Article 204: Pre-trial detention can be applied only in the case of felony or misdemeanour charges in which the law sets the punishment of imprisonment for 1 (one) year or more;
- Article 205: Pre-trial detention may be imposed when the detention is necessary to:
 1. Stop the offense or prevent the offense from happening again;
 2. Prevent any interferences on witnesses or victims or prevent any collusion between the accused person and the accomplice;
 3. Maintain evidence or material leads;
 4. Ensure the accused is kept for the court to decide according to its procedures;
 5. Protect the security of the accused;
 6. Maintain public order to avoid any chaos caused by the offense.

49. Judges have jurisdiction over the issuance of orders to deprive a person of liberty, which is permitted by law as stated in Article 195 of the Criminal Procedure Code that an investigating judge shall be entitled to issue an arrest warrant.

50. The detention of any person deprived of liberty is applied, in accordance with a detention warrant issued by a judge, to an officially recognised and controlled location as defined in Article 220 of the Criminal Procedure Code that a detention warrant is an order to the chief of a prison or a detention center to admit and detain an accused person. An investigating judge can issue a detention warrant only if the accused person is the subject of pre-trial detention order.

51. Persons deprived of liberty shall be authorised to communicate with and receive visits from families, lawyers and others of their choices as set out in Article 55 of the Law on Prisons. Foreign nationals deprived of liberty may contact their consular authorities in accordance with the law as defined in paragraph 2, Article 20 of the Law on Prisons.

52. Competent authorities shall be allowed by law to inspect detention facilities as defined in Article 509 of the Criminal Procedure Code that the Prosecutor General of the Court of Appeal, the Prosecutor, the President of the Investigation Chamber and the Investigating Judge shall inspect prisons regularly.

53. When it is suspected that enforced disappearance may occur in persons deprived of liberty, those who are of legitimate interests such as their relatives, representatives or lawyers have the right to take legal action before the court in order that it decides upon the legality of the deprivation of liberty as defined in Article 507 of the Criminal Procedure Code that any judge who has received a complaint regarding illegal detention shall make an immediate examination.

54. All detention facilities are required by law to compile and maintain updated official lists of persons deprived of liberty as stated in Article 505 of the Criminal Procedure Code that all prisons and detention centers shall have a register in which a detainee's identity, date of detention, and date of release shall be recorded. The register shall be inspected frequently by a prosecutor's department. Visa shall be granted by the prosecutor's department on each page. All agents of the prison and detention centers administrations shall submit this register to a judge upon his/her request and shall show judicial police officers who perform their duties through a delegation of power by the court authority.

Article 18: Information on Persons Deprived of Liberty

55. Those who are of legitimate interests such as relatives, representatives or lawyers of persons deprived of liberty may receive information about authorities who ordered to deprive them of liberty, dates, time, locations of persons deprived of liberty, responsible authorities, management, deprivation of liberty, locations and health conditions of persons deprived of liberty. In the event that a person deprived of liberty passes away, experts are to perform an autopsy, confirming the cause of death, all of which is provided to families of the deceased. Article 64 of the Law on Prisons states that any prisoner's death in prison shall be deemed suspicious. Prison officers shall preserve the place of death and the body and keep the prisoners who can witness. The Prison Chief shall inform the Royal Prosecutor to take investigative measures. If a prisoner dies at the hospital, the Prison Chief shall inform the Royal Prosecutor. If the death is deemed suspicious, the Royal Prosecutor shall assign the forensic police to conduct an autopsy. In addition, Article 65 of the Law on Prisons states that the Prison Chief shall inform promptly the family, Embassy, Consulate, or official representative of the deceased to arrange for the removal of the body. In case there is no family or relatives, the Prison Chief shall report in writing about the condition of the body to the Royal Prosecutor, the General Director of Prisons and the Birth and Death Registration Office of the deceased prisoner's usual residence. The cost of the funeral arrangements shall be borne by the State, as determined by sub-decree.

Article 19: Protection of Personal Data

56. Personal information, including medical data, genes, and the framework for searching any disappeared person shall be kept confidential for the investigation and judicial investigation as set out in Articles 83 and 121 of the Criminal Procedure Code. Any person who breaches professional confidentiality shall be punishable under Article 314 of the Criminal Code. The use of such information is solely for the purpose of searching the disappeared person, or in the criminal proceedings in relation to enforced disappearance, or exercising the right to seek compensation.

Article 20: Restrictions on the Right of Access to Information

57. In the Kingdom of Cambodia, criminal investigations are considered confidential; therefore, any information related to the investigations may be restricted if such information may affect the privacy or safety of individuals and present obstacles to criminal investigations as stipulated in Article 83 of the Criminal Procedure Code that the investigation must be confidential. All persons who participate in an investigation especially the prosecutors, lawyers, court clerks, police, Royal Gendarmeries, civil servants, experts, translators, medical physicians and other competent persons as mentioned in Article 95 (Technical or Scientific Examination) of this Code, must maintain professional confidentiality. However, the respect of professional confidentiality cannot be an obstacle for an exercise of the right to self-defense. Moreover, prosecutors may make a declaration in public if he or she thinks that the information disseminated in any case is false information. A breach of confidentiality with regard to the investigation is an offense punishable according to the Criminal Law in force.

58. With regard to some of the information indicated in paragraph 1, Article 18 of this Convention, relatives of the person deprived of liberty, representatives or counsel may have access to this information through the court where the case is being held, as stated in Article 129.4 of the Criminal Procedure Code that the lawyer or lawyer's secretary may be allowed by the investigating judge to copy the record at his/her own cost under the supervision of the court clerk.

Article 21: Release

59. In the Kingdom of Cambodia, the deprivation of liberty of individuals shall be complied with the law as stated in Article 38.2 of the Constitution that the prosecution, arrest, or detention of any person shall not be done except in accordance with the law. Therefore, the deprivation of liberty on the conditions of enforced disappearance is an illegal act, which shall be released unconditionally. The released person will enjoy the same rights and legal protection as other citizens. Refusal to release a person of enforced disappearance shall be punishable under Article 589 of the Criminal Code on refusal to release unlawfully detained person.

Article 22: Disruption and Failure to Access Justice

60. In the Kingdom of Cambodia, obstructing law enforcement is a punishable offence as stated in Article 586 of the Criminal Code that the taking of measures designed to obstruct law enforcement, committed by a public official or a holder of public elected office, in the discharge or on the occasion of his or her function, shall be punishable by imprisonment from 2 (two) to 5 (five) years and a fine from 4,000,000 (four million) to 10,000,000 (ten million) Riels. It shall be punishable by imprisonment from 5 (five) to 10 (ten) years where the act was effective.

61. Failure to record the deprivation of liberty of any person or any information held by an official responsible for official listing is an administrative error, which is subject to administrative discipline in accordance with institutional rules.

62. Refusal to provide information on the deprivation of liberty of a person or giving false information is an offence which shall be punishable under the following provisions of the Criminal Code:

- Article 537 (refusal to respond to questions): A person who, having publicly declared that he or she knows the perpetrator, coperpetrator, instigator or accomplice of a felony or a misdemeanour, refuses to respond to questions put to him or her in this respect by a judge shall be punishable by imprisonment from 1 (one) month to 1 (one) year and a fine from 100,000 (one hundred thousand) to 2,000,000 (two million) Riels;
- Article 545 (providing false testimony and exceptions): False testimony made under oath before any court of law or before a judicial police officer acting under the

authority of a rogatory letter shall be punishable by imprisonment from 2 (two) to 5 (five) years and a fine from 4,000,000 (four million) to 10,000,000 (ten million) Riels. However, such witness is exempted from penalty where he or she retracts his or her testimony spontaneously and only speaks the truth before the decision terminating the investigating or trial procedure has been made.

Article 23: Human Rights Training

63. In the Kingdom of Cambodia, law enforcement officials in charge of overseeing or treating persons deprived of liberty are trained in professionalism, code of conduct and human rights. So far, the General Department of Prisons, which oversees the detention of those who have been deprived of liberty throughout the country, has collaborated with the Office of the UN High Commissioner for Human Rights in Cambodia to conduct a series of training courses on rules for the management of those whose liberty is deprived.

64. The Constitution of the Kingdom of Cambodia protects all persons from unlawful deprivation of liberty, so any order or instruction permits or encourages enforced disappearance is contrary to the principles of the Constitution and is not applicable.

65. In the Kingdom of Cambodia, all public officials always receive law related education and training and additional skill training. Public officials involved in law and human rights related matters have been highly encouraged to attend educational training courses, seminars, lectures, seminars on key topics related to legal and human rights awareness.

66. In order to promote and protect human rights, the Royal Government of Cambodia established a Cambodian Human Rights Committee as a division to assist in providing education of and training in international human rights law to all educational levels, including civil servants, law enforcement officials and armed forces.

67. The Cambodian Human Rights Committee has collaborated with ministries, departments involved, local authorities and other parties to organise human rights seminars in various provinces throughout the country for the purpose of mainstreaming and disseminating the principles of key national and international laws and human rights principles as stated in human rights treaties, which Cambodia has ratified, for law enforcement officials, local authorities, students, workers, citizens and indigenous peoples. The content of Article 23 of this International Convention is also mentioned in the aforementioned educational programme.

68. From January 2017 to July 2020, the Cambodian Human Rights Committee made 107 field visits in order to raise public human rights awareness, and according to each target, to 9,687 (5,595 women) high school students and trainees of teacher training schools, the general population and sub-national officials of communes-Sangkats. From 2017 to 2019, His Excellency President of the Cambodian Human Rights Committee in person provided human rights related lectures 18 times to 5,760 civil servants (2,940 women), armed forces, judges, prosecutors and students in various provinces.

69. From 2017 to 2019, the Cambodian Human Rights Committee collaborated with the Office of the UN High Commissioner for Human Rights in Cambodia to organise seven seminars and training on human rights law, treaties, covenants and international conventions, which Cambodia has ratified, for civil servants.

70. The Royal Academy of Judicial Professions has incorporated lessons on international human rights law into the training programme of judges, prosecutors, court clerks and bailiffs. The Lawyer Training Centre also incorporates lessons on international human rights law into its training programme.

Article 24: Victims' Rights

71. Article 4 of this Convention defines that enforced disappearance constitutes an offence under its criminal law; therefore, any person who is the subject of an enforced disappearance is a victim of a criminal offence.

72. Each victim of enforced disappearance has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate. In this case, in principle, the victim's lawyer may request a copy of the investigation file from the judge, through which the lawyer may inform the victim about the progress and results of the investigation.

73. In the event that an offence of enforced disappearance occurs, the competent authorities shall seek to locate and release disappeared persons because the judicial police have jurisdiction over the case, as Article 56 of the Criminal Procedure Code states that, "The judicial police act as an auxiliary of the judiciary's power. The judicial police shall have the duty to watch felony, misdemeanour and petty crime, identify and arrest offenders and collect evidence." In the event that a victim of enforced disappearance passes away, the competent authorities shall take action in accordance with the applicable legal proceedings.

74. Within Cambodian legal systems, victims of criminal offences have the right to sue for damages, for example:

- Article 39 of the Constitution of the Kingdom of Cambodia states that, "Khmer citizens shall have the right to denounce, make complaints or file claims against any breach of the law by state and social organs or by members of such organs. The settlement of complaints and claims shall be the competence of the courts";
- Article 14 of the Criminal Procedure Code states that, "An injury can be compensated by paying damages, by giving back to the victim the property that has been taken or by restoring the damaged or destroyed property to its original state. The damages must be proportionate to the injury suffered";
- Reparations include restitution, rehabilitation, honour and dignity restoration.

75. Although the fate of persons of enforced disappearance is not clearly indicated, victims are entitled to legal protection in the interests of society as Article 36.4 of the Constitution states that every Khmer citizen shall have the right to obtain social security and other social benefits as determined by law.

76. The right to participate in organisations or associations is protected by law as Article 42 of the Constitution states that Khmer Citizens shall have the right to establish associations and political parties. These rights shall be determined by law. Khmer citizens may take part in mass organizations for mutual benefit to protect national achievement and social order.

Article 25: Child Protection

77. As a State Party to the Convention on the Rights of the Child, the Kingdom of Cambodia has taken a keen interest in the protection of children by introducing all measures to promote the rights and interests of children. Article 48 of the Constitution of the Kingdom of Cambodia states that the State shall protect the rights of children as stipulated in the Convention on Children, in particular, the right to life, education, protection during wartime, and from economic or sexual exploitation. The State shall protect children from acts that are injurious to their educational opportunities, health and welfare.

78. In the Kingdom of Cambodia, under any circumstances, taking away a minor from the person who has legal custody is an offence which shall be punishable under the criminal law, for example:

- Article 327 of the Criminal Code states that taking away a minor from the person who has legal custody shall be punishable by imprisonment from 1 (one) month to 1 (one) year and a fine from 100,000 (one hundred thousand) to 2,000,000 (two million) Riels. The offence shall be punishable by imprisonment from 1 (one) year to 3 (three) years and a fine from 2,000,000 (two million) to 6,000,000 (six million) Riels if the minor is kept outside the territory of the Kingdom of Cambodia;
- In particular, the removal intended to make profits and exploit shall be punishable under the Law on Suppression of Human Trafficking and Sexual Exploitation, as Article 10 states a person who unlawfully removes another for the purpose of profit

making, sexual aggression, production of pornography, marriage against will of the victim, adoption or any form of exploitation shall be punished with imprisonment from 15 (fifteen) to 20 (twenty) years when the victim is a minor.

79. False representation, concealment or destruction of documents that show the true identity of a child in connection with enforced disappearance situations, which is concealment of the existence of a child, shall be punishable under Article 333 of the Criminal Code. As mentioned in paragraph 1 of this article, taking away a child is a criminal offence. In the event that such an offence occurs, the competent authorities are to search, investigate, and identify the child who has been taken away unlawfully so that he or she can be returned to his or her original family.

80. In the Kingdom of Cambodia, clear procedures for various adoption systems and forms of child custody are defined in law such as Articles 1012 to 1023 of the Civil Code and Law on Intercountry Adoption.

81. In the Civil Code, adoption is divided into two categories:

- Full adoption: The procedures for adoption are defined from Articles 1007 to 1019;
- Simple adoption: The procedures for adoption are defined from Articles 1020 to 1033.

82. Particularly, the procedures for intercountry adoption is defined from Articles 5 to 53 of the Law on Intercountry Adoption.

83. To promote child protection, the Royal Government has released the National Policy for the Child Protection System 2019-2029. This National Policy identifies three key strategic pillars, focusing on the prevention and control of interventions and the provision of response services, and sets out four key rules in a systematic manner, including legal and regulatory systems, health, education and welfare systems. Meanwhile, [it] also identifies specific actions for ministries and institutions working to promote children's rights to ensure its effective and successful implementation. The Royal Government of Cambodia has urged relevant institutions to develop Child Protection Law, which is currently being drafted by the Ministry of Social Affairs, Veterans and Youth Rehabilitation and supported and sponsored by the UNICEF in Cambodia.

III. Conclusion

84. The Kingdom of Cambodia has adopted a number of legal, judicial, and administrative measures, as well as various policies so as to ensure timely, consistent and comprehensive responses to enforced disappearance related issues. The measures and policies adopted as described in the report are introduced in line with the international obligations that the Kingdom of Cambodia applies to persons of enforced disappearance and their families, both within international human rights law and international humanitarian law.

85. The Kingdom of Cambodia does not currently have any official cases or statistical data in relation to enforced disappearance. The Kingdom of Cambodia maintains its position to fulfil the obligations stipulated in the International Convention, with the aim of protecting all persons from enforced disappearance.

86. Following the submission of the initial national report, the Kingdom of Cambodia is to participate in discussions with the UN Committee on Enforced Disappearances and hopes to receive constructive input and reflection for improving the existing legal institutions and legal norms in Cambodia, in the spirit of contributing to, preventing, combating, and eliminating enforced disappearance related crimes specified in the purposes of the International Convention.
