



Introductory Statement

by

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Head of the Delegation of Cambodia

for

**Consideration of the Second Periodic Report
of the Kingdom of Cambodia at Forty Fifth Session of the
Committee against Torture and Other Cruel, Inhuman
or Degrading Treatment or Punishment (CAT)**

Palais Wilson, Geneva

09 - 10 November 2010

Mr. Chairperson,

Distinguished Members of the Committee,

Ladies and Gentlemen,

I have the honor to represent the Royal Government of Cambodia at this 45th Session of the Committee against Torture (CAT). The delegation of Cambodia is composed of the delegates from the capital H.E Mr. Kong Chhan, Deputy Director General, General Department of Technical Affairs, Ministry of Social Affairs, Veteran and Youth Rehabilitation, Member of the Committee for National Preventive Mechanism against Torture, Mr. Nouth Savna, Member of Legislation Council and Chief of Secretariat of National Preventive Mechanism against Torture, as well as of 04 members from the Permanent Mission of Cambodia at Geneva.

At the outset, allow me, on behalf of the delegation of Cambodia, to extend our congratulation to you, Mr. Chairperson, on your election to this Committee. I believe that, under your wise and able leadership, this session will be surely conducted to its highly successful conclusion.

My thanks and appreciations are also extended to all distinguished members of the Committee for their review and consideration of Cambodia's Second Periodic Report (CAT/C/KHM/2), submitted under article 19, paragraph 1, of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

We are fully confident that the review of today's session at this Committee will contribute towards Cambodia's efforts in further enhancing the enjoyment of the human rights of its people including in the elimination of torture. In this context, Cambodia stands ready to engage with all the members of Committee to consider constructive suggestions, comments and recommendations we will receive at this session.

I. General Introduction

Mr. Chairperson,

Cambodia is a country known for its traditional and rich cultural heritage. But the country has also emerged from its recent past of tragic history which had plagued its nation with the total destruction of its economic, social and cultural fabric, through the painful experiences of torture, execution, starvation and all other kind of ill treatments during the Khmer Rouge Regime. The loss of qualifications and devaluation of human capital through that regime left Cambodia with untold sufferings and consequences. It has been a long way for the country to recover from its legacy. The people of Cambodia have shown the courage and perseverance as a Nation to overcome all the challenges through the processes of peace building, national reconciliation, reconstruction and development including in the field of human rights. In this context, the assessment of Cambodia's human rights should take into account the retrospective of the past situation.¹

¹ It should be made by looking at the efforts it has then made at the early stage after the Paris Peace Agreements of 1991 toward the process of ensuring peace and stability, of reconstruction and development of Cambodia with the support by the international community and through the evolving process of internal politics of a national reconciliation based on the win-win policy of the Royal Government in late 1990s.

At present, Cambodia has achieved a remarkable progress in many areas toward the development process including in the fields of political, economic, social and cultural rights along with its advance of democratization, after the post-conflict period. Over the past recent years (before the global economic crisis), the economy has grown on the average of 10% per Year. Much of what it has achieved thus so far is attributed to political stability and security of the country. Now Cambodia's economy is starting to recover again with a prediction of 5% GDP growth this year. According to the recent study made by the Overseas Development Institute (ODI) and the UN Millennium Campaigns, Cambodia is listed among 20 countries making the most absolute progress on MDGs and on track to meet the halving of poverty by 2015.

Mr. Chairperson,

Cambodia is a constitutional monarchy that adopts the principles of democracy, multi-party and pluralism in its political system of governance. The basis for the promotion and protection of human rights in Cambodia is enshrined in 1993 Constitution which remains the primary source of law in Cambodia. The Constitution of the Kingdom of Cambodia provides fundamental rights that guarantee the equality of its peoples before the law, including that for the protection of law and the protection of liberty; it prohibits all kind of discrimination, and thus provides for guarantees of other fundamental rights, among others.

The country is further striving for the promotion of the rule of law, good governance, integrity and accountability which have clearly been reflected in the laws and the on-going policies and plans of actions of the Government.

II. Cooperation with the UN for Human Rights

Since the end of peace process of 1993, Cambodia had extended its cooperation with the UN on human rights with the regular extension of the mandate of both-the Special Representatives of the UN Secretary General and the Human Rights Office in Cambodia-. The continued engagement of human rights is a clear evidence of the sustained efforts and commitments of the Royal Government of Cambodia toward the policy on promotion and protection of human rights. Cambodia has cooperated closely with the new Special Rapporteur of the Human Rights Council on the situation of human rights in Cambodia, who has visited the country three times since June 2009 and has submitted his second report to the Human Rights Council in September 2010.

On institutional Building, Cambodian has established many relevant institutions/committees at the executive and legislative bodies to help promote and protect human rights of its people. In the country, thousand of NGOs are registered to work along side with the Government in various areas, including in the field of human rights. Our national institutions have cooperated with relevant stakeholders, including the civil societies in Cambodia with relevant initiatives, in the course of their development, that aim at bringing the country closer to human rights standards.

To address the atrocities committed during the period of Khmer Rouge regime, the Royal Government of Cambodia has agreed with the United Nations on the establishment of the Extraordinary Chambers in the Courts in Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea (Extraordinary Chambers or ECCC). The ECCC has started its operation in 2007. There is important progress toward addressing impunity for crimes of the former Khmer Rouge, following the completion of the Trial Chamber for the

first case (001 case) on 26 July 2010. The ECCC is now advancing the process in closer cooperation with the United Nations to proceed with trials of next cases (002) under the Extraordinary Chambers in the Courts of Cambodia. Cambodia believes in justice that shall be done in line with a context of national reconciliation thus ensuring a long term peace, and stability and promoting democracy for the sake of prosperity of the country.

III. Implementation of International Human Rights Instruments

Cambodia is a State Party to most major international instruments of human rights and humanitarian law. The country is also a State Party to the Rome Statute. The Government had made efforts to demonstrate its commitments by submitting a number of reports to the treaty bodies,² thus contributing to the government efforts at clearing the remaining pending reports to the United Nations Human Rights Treaty Bodies. We are pleased that today we stay before you to engage in the dialogue for the implementation of the Convention against Torture and its Optional Protocol.

Cambodia attaches high importance to the work of the Human Rights Council, including the establishment of the UPR and other mechanisms to promote and protect human rights worldwide. The delegation of Cambodia has presented its human rights record before the Universal Periodic Review (01st December 2009) of the Human Rights Council and accepted all the recommendations resulting from the review process.

Mr. Chairperson,

Since the fourth mandates of its legislature, the Royal Government of Cambodia has subsequently adopted and implemented various national plans and policies including the Rectangular Strategy to build and develop the country in all sectors in order to promote and improve the living conditions of all Cambodian citizens. Over the past years, progress has been made in the area of legal and judicial reform under the Council of Legal and Justice Reform. Just in the Third Legislature, a total number of 140 laws were promulgated and enforced. A large number of legal texts and other regulations adopted in the past decade are largely related to political, economic, social and cultural sectors which have contributed to the realization of the enjoyment of basic human rights of relevant fields, including the UN Convention against torture to which Cambodia is a State Party.

Important steps have been taken, since June 2009, to strengthen the country's legal and institutional framework that will have impact upon human rights, including on the fight against torture and all other kinds of ill treatments by the adoption of important laws such as the Penal Code and Penal Procedure Code, the Anti-Corruption Law, among others. A step is being in progress towards the process of drafting of a new correctional law, juvenile justice law and a law on a national human rights institution, (including of developing an enhanced national mechanism to prevent torture). Cambodia's efforts in combating trafficking in person are being known through bilateral, regional and global cooperation and partnership, including the enforcement of the law of the Anti-human trafficking and commercial sexual exploitation.

On others measures, the Government has incorporated the relevant concepts of the Conventions into a number of Laws it has adopted for implementation (namely Labor Law,

² namely to the Committee on Civil and Political Rights, Committee on the rights of the Child and the Committee on the Elimination of Racial Discrimination, the Committee on Economic, Social and Cultural Rights, Committee on elimination of racial discrimination,.

Criminal Law in Transitional Period, Crime Procedure Code, Civil Code, Law on the suspension of human trafficking and commercial sexual exploitation etc.). The Department of Anti-Human Trafficking and Juvenile Protection of the Ministry of Interior has worked cooperatively with the coordination committee of UNICEF, World Vision, Save the Children Norway, and UNOHCHR to implement the Program called the implementation of law against sex abuse, sex trade, women and child trafficking (LEASETC).

The Ministry of Social Affairs Veteran and Youth Rehabilitation has provided rehabilitation and reintegration services for children in conflict with the law in cooperation with UNICEF from 2006.

IV. The Implementation of the Convention against Torture and its Optional Protocol

Mr. Chairperson,

Cambodia recognizes the rights to life and the freedom of Cambodian people, because we are mindful of our own tragic experience in the past as a survival society free from the Khmer Rouge regime. The Royal Government has therefore strived to take practical steps to guarantee and protect human rights and all other fundamental freedoms of the citizens as enshrined in the Constitution of the Kingdom, and in the Universal Declaration on Human Rights, and other international legal instruments on Human Rights. In Cambodia the death penalty was abolished under the 1993 Constitution.

In this context, Cambodia has made its political commitment toward the policy against torture and other ill-treatments. “The Kingdom of Cambodia was the first country in ASEAN to accede to the Convention against Torture (CAT) on 15 October 1992. It ratified the OPCAT on 30 March 2007, and officially became a State Party to it (OPCAT) on 29 April 2007.”

Since the very beginning of its accession to CAT, the Ministry of Justice issued a letter No.509 RBV 6106 dated 13 September 1993 giving instructions to prosecutors at all provinces/municipalities to inspect the prisons and detention centers and any forms of punishment on those who commit cruel acts in compliance with the relevant instruments. Further, the Ministry of Interior has issued a Circular Number 006, of 26 November 1995 on discipline in the national police, which states that “anyone who tortures by all forms during interrogation in order to force making any statement” shall be subject to demotion or expulsion from the police force.³

Under the Optional Protocol’s outline, the Government of the Kingdom of Cambodia established on 07 August 2009 a National Preventive Mechanism (NPM). This new mechanism is mandated to deal with all acts of Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment. In August 2009, a body was established by sub-decree. It is an inter-ministerial committee consisting of senior officials, chaired by the Deputy Prime Minister and Minister of Interior. This was a practical step forward toward the progress in compliance with the provisions OPCAT.

The Government extended its cooperation with the Subcommittee on the Prevention of Torture (SPT), which carried out its first mission in the country in December 2009. The delegation spent ten days visiting prisons, police stations, and drug and rehabilitation centers

³ So far, 26 prisons staff/officials were punished and warned by Ministry of Interior for having physical abuse and degrading/insulting prisoners.

and meeting key Government officials. The Government granted the SPT unfettered access to detention facilities and demonstrated an exemplary openness to the discussion of its findings.

The delegation of OHCHR was invited to participate in the end-of-mission discussions with the Government. The visit has provided a wider lesson that can be drawn from it in terms of the value of opening up government activities to scrutiny by independent professional bodies. As mentioned in the Annual Report of the UN Human Rights Office, the SPT methodology, which includes unfettered access to places of detention and detainees, together with confidential interviews and reporting, has been promoted through the OHCHR prison programme in the past two years.

Mr. Chairperson,

The adoptions of new legislations such as the Penal Code and Criminal Procedural Code have greater impact on the conduct of work relevant to the CAT provisions. In spite of fact that there is no detailed definition of term of "torture " in the Code, Cambodia is bound by the definition of the Convention, which is consistent with Article 31 of the Constitution of Cambodia stating that it recognizes 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.

Cambodia refers to the term "torture" in a general context as any acts of causing injury on individual and set "torture" as the criminal offenses. The Penal Code imposes punishment on perpetrating the crime of torture, inciting its exercise, or approval or acquiescence thereof by any official acting in an official capacity.⁴ The new Procedure Code introduces new procedures and guidelines in investigating processes of Justice Police, in interrogating and trying processes, and the ways prosecutors deal with criminal cases, including the adoption of punishment record principles.

The government has taken steps and measures to enhance the capacity of correction supporting system. A Sub-degree regulating prisoner's rations and cell equipment, was revised and issued with the purpose of improving the living condition, such as to double the daily food allocation per detainee, along with funds being disbursed from September last year onwards. The Ministries of Interior and the Ministry of Health also agreed in early 2010 that healthcare in prison fell under the Ministry of Health. Prison dispensaries are supported by relevant public health structures in terms of supply of medicine and medical training for prison health-staff.

The draft Minimum Design Standards for Prison Construction is now jointly developed by OHCHR, the ICRC, CCJAP and GDP are to be adopted as an official document of the Ministry of Interior to guide its construction and renovation of prisons.

Mr. Chairperson,

To ensure the effectiveness and the independence of the prison management and the functioning of the police stations, the Royal Government has taken steps to monitor the relevant entities through the process of identification of the roles of the authorities in

⁴ The penalties imposed on the perpetrator of this crime set for 7 years in minimum and for 30 years in maximum of imprisonment and at the same time the compensation is required to pay to the victim based on the situation, circumstances, and objective of the offenses (Article 39 of the Constitution of the Kingdom of Cambodia entitles citizens to claim for damage caused by state organs, social organs, and the staff of these concerned organs).

accordance with the law. For example, article 509 of the Criminal Procedure Code specifies that “the Prosecutor-General attached to the Court of Appeal, the Prosecutor, the President of the Investigation Chamber, and investigating judges shall perform regular inspection of prisons.”

Along with the competency of the above authorities, the Human Rights Committee of the Royal Government of Cambodia and the National Assembly Human Rights Commission has the rights and power to conduct the inspection and address the human rights issues in prisons management. On the other hand, the Royal Government also allows relevant NGOs to visit prison and provide support to the prisons. Tortures in Prisons in Municipality/provinces are monitored and investigated, on a regular basis by LICADHO, ADHOC, the ICRC International, and the Prison Friendship Alliance and by other relevant organizations.

While practical steps are being taken, the government acknowledges the challenges associated with a long term perspective to further strengthen the correctional supporting system, including the management capacity and an improved infrastructure. The consideration of drafting a law for NPM is taken with the aim at further enhancing an effective supporting Secretariat. The authority concerned is now working closely with other stakeholders to consider this process through the on-going training programs being undertaken as the first step toward that end. The Prison Reform Support Programme (PRSP) has been consequently undertaken with the aim at supporting the transformation of prisons from a system of confinement to one of rehabilitation, consistent with the international human rights norms.⁵

Mr. Chairperson,

Capacity building remains one of top priorities at the forefront policy of the Government toward the endeavoring of reform process, especially in judiciary. To raise the public awareness, the subject or discipline of human rights has begun to be integrated in the curricular in the public high schools and public institutions including in all professional schools in the country.

Other practical steps have also been taken in this regard. For example, the Ministry of Justice has conducted training courses for law enforcement Officials, including judges, prosecutors, and judicial police in six separated regions throughout the country. The Royal Academy for Judicial Professions has also subsequently conducted on-going training courses to the judges and prosecutors. By the same token, the Royal Academy for National Police has also conducted training courses on the new Penal Procedure Code to the police officials at all levels.

Mr. Chairperson,

Domestic violence is one of the serious concerns of the Royal Government. Law on Marriage and Family has been adopted to prevent children from being harmed or abused by their parents. Law on the prevention of domestic violence and victims' protection prohibits all form of domestic violence that includes any act of torture resulting in physical and mental sufferings. Those who commit torture shall be punished in compliance with the Penal Code (article 35).

⁵ Support is provided in four areas: (a) legal reform, (b) training of prison personnel, (c) assessment of prison conditions and prisoners' treatment, and (d) water and sanitation.

V. Constraints and Challenges

Mr. Chairperson,

We acknowledged that while progress achieved, much works remain to be done. The Government is aware of its shortcomings, mainly due to the adaptations to new challenges, especially those associated with financial and human resources constraint, and others dimensions. Prison overcrowding owing to the lack of appropriate facilities remain one of the challenges to be addressed ahead for a better management. We shall also bear in mind that the implementation of CAT and its Optional Protocol is a new legal instrument framework that require further support and cooperation, despite sustained efforts and willingness of the Government to further address the issues including the enactment and enforcement of legislations in the country. To this end, practical consideration is needed in the overall assessment of the Cambodia's judiciary and correctional system, including its implementation of the relevant instruments.

Cambodia continues to take measures both in the legislative and institutional framework to effectively deliver on its commitments with respect to the promotion and protection of human rights and fundamental freedoms. For these purposes, the Council of Legal and Judicial Reform has set 07 strategic priorities in order to ensure the goals as set above by accelerating the legislative process in a number of areas designed to strengthen the judiciary including the correction supporting system in the country. The delegation of Cambodia appreciates the support and assistance extended by the international community to this endeavor. We believe that through a good partnership and constructive cooperation with all relevant actors, further progress will be made by the Government in order to address the continued challenges and thereby to join the global efforts in preventing and eradicating the scourge of torture and other kinds of ill-treatments.

Mr. Chairperson,

Once again, the delegation of Cambodia underscores the importance of CAT instruments. We therefore trust that the outcome of this meeting will better guide us to achieve further our quest to improve the Government's implementation of the Convention and its Optional Protocol.

On behalf of the Cambodia's delegation, I would like to take this opportunity to express our high appreciation to the staff of the Secretariat of the Committee for all their diligent work and good cooperation extended to us.

The Cambodia's delegation looks forward to a frank, constructive and meaningful dialogue with all distinguished members of the Committee.

Thank you Mr. Chairperson.