



## Asamblea General

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### Consejo de Derechos Humanos

18º período de sesiones

Tema 10 de la agenda

Asistencia técnica y fomento de la capacidad

#### **Nota verbal de fecha 21 de septiembre de 2011 dirigida a la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos por la Misión Permanente de Camboya ante la Oficina de las Naciones Unidas y otras organizaciones internacionales en Ginebra**

La Misión Permanente del Reino de Camboya ante la Oficina de las Naciones Unidas, la Organización Mundial del Comercio y otras organizaciones internacionales en Ginebra saluda atentamente a la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos y tiene el honor de transmitirle las observaciones del Gobierno Real de Camboya al informe del profesor Surya Subedi, Relator Especial sobre la situación de los derechos humanos en Camboya (A/HRC/18/46).

La Misión Permanente agradecería que dichas observaciones\* se incluyeran en la documentación del 18º período de sesiones del Consejo de Derechos Humanos como parte integrante de la posición del Gobierno Real de Camboya.

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\* Se reproducen en el anexo como se recibieron, en el idioma en que se presentaron únicamente.

## Anexo

### **Comments of the Human Rights Committee of Cambodia on the recommendations of Special Rapporteur on the situation of human rights in Cambodia, Prof. Surya Subedi (A/HRC/18/46)**

#### **A. General Situation**

**Point 1:** The term "democracy" is based upon the rule of law. The Royal Government has been enhancing the process of democratization in Cambodia through law-making process, enhancing law enforcement based on the principle of equality before the law without discrimination.

The Royal Government applies the policy of national reconciliation, both political and organizational, through combined efforts, aimed at providing an opportunity for all the people to participate in national construction in all fields.

All Cambodian people are equal before the law, even the parliamentarians who have been accorded parliamentary immunity, shall also be equal before the laws akin to ordinary citizens, regardless of parliamentarians from majority as well as minority parties who carry out their duties-- all being equal before the law.

**Point 2:** The Constitution of the Kingdom of Cambodia provides for the National Congress be held under the chairmanship of the King, meaning that the King provides the people with an opportunity to be directly involved in the meeting and be informed of various matters.

In spite of the fact that a National Congress has not been held, but the Monarch has frequently received people in audience as he wishes and receives information from people from all walks of life. Moreover, the Monarch has, in some occasions, received poor people in audience at his Royal Palace and has frequently visited the people directly at their locality.

#### **B. Strengthening the capacity and the workings of Parliament**

**Point 3:** The First Commission of Parliament has undertaken to promote and protect the fundamental rights of people through mainstreaming all laws adopted by the National Assembly and in compliance with the Cambodian Constitution and in consistency with international human rights standards (such as the covenants, conventions and other legal instruments relating to human rights, civil and political rights, economic, social and cultural rights, women rights, and rights of people belonging to the vulnerable groups).

**Point 4:** The National Assembly has thus far invited the opposition parties to participate in the work of Parliament; and the leadership of the National Assembly has repeatedly notified and announced, in the plenary sessions, all parties that have seats in the National Assembly shall submit their name lists to the National Assembly, but the opposition parties had boycotted the participation since the beginning of its mandate (they only participated in oath allegiance) and the National Assembly President has no position to include their names without prior approval from their Party presidents.

**Point 5:** It was based on Internal Rules of Procedure of the National Assembly adopted on 24 September 2008 at its first session, fourth legislature, supported by 11911 19 votes. Any amendment of the internal procedures of the National Assembly, according to Chapter 16, article 82, provides that this Internal Regulation will be amended unless there is a proposition from at least 1/4 of the overall MPs and is adopted for agreement by absolute majority of the overall MPs.

**Point 6:** The procedure for removing parliamentary immunity and other disciplinary actions against sitting MPs, should be carried in line with the Constitution of the Kingdom of Cambodia, article 80 provides that no Assembly member shall be prosecuted, detained or arrested because of opinions expressed during the exercise of his (her) duties.

**Point 7:** According to the Constitution, article 81, the National Assembly shall have an autonomous budget to conduct its function; and these are the primary resources of the Parliament from one mandate to another to enhance its capacity. In every legislature, the National Assembly has always had its regular programme of actions for regular enhancement of the capacity of Parliament.

**Point 8:** The National Assembly has properly complied with Chapter 7, article 76 to article 98 of the Constitution of the Kingdom of Cambodia and in every interval of the National Assembly session, its specialized commissions conducted visits to the locality to examine the results of the Royal Government programme of actions and the implementation of adopted laws at their specific areas of expertise, listen to the people proposals at the local authorities and convey them to the government.

**Point 9:** Since 2006, when **Samdech Akka Moha Ponhea Chakrei Heng Samrin** was appointed as the President of the National Assembly, the General Secretariat of the National Assembly which represents the public function Unit provides services to parliamentarians of all political parties that have seats in the National Assembly without bias or discrimination. The General Secretariat as well as the whole National Assembly has always maintained their utmost strict integrity toward the work and other related functions including the adoption of relevant applicable laws by the MPs.

**Point 10:** It should be recalled that before **Samdech Akka Moha Ponhea Chakrei Heng Samrin** assuming the position as the President of the National Assembly, he always attaches to the spirit of national reconciliation, which was the real needs of the society then. Since 2006, no more recruitment was made for officials working in the General Secretariat of the National Assembly except for the recruitment of 120 cleaners/workers, which was done properly and in a just and transparent manner.

**Point 11-12:** We have thus far published in the Official Gazette all laws, Royal decree, Sub decrees and other legal standards; and the Ministry of Justice and the Ministry of National Assembly-Senate Relations and Inspection for all relevant institutions have also raised awareness of people about those publications at local level and have aired on different TV channels, through radios, newspapers, magazines organized by the Ministry of Information at the forums in order to inform of the laws and regulations.

**Point 13:** Regarding this recommendation, the National Assembly has already implemented the provisions of the Constitution of the Kingdom of Cambodia, Chapter 4 on Political Regime, article 51 (new). Paragraph 3 states a clear separation of powers between the Legislative, Executive, and the Judiciary.

**Point 14:** In this regard, any proposed amendment of Internal Rules of Procedure of the National Assembly, based on Chapter 16, article 82 (new) will be made unless there is a proposition from at least 1/4 of the overall MPs and is adopted through an agreement by an absolute majority of the overall MPs.

**Point 15:** The Kingdom of Cambodia is a sovereign State, all organizational structures and legal standards in Cambodia safeguard individual rights and freedoms for the sake of the national interests applicable and continue having its force and effects until they are amended or repealed by a new piece of legislation, except for any provisions that are contrary to the spirit of the Constitution.

**Point 16:** In this matter, every country has its own rights to apply, while Cambodia adheres to the principles of liberal democracy whereby the party that won a landslide election victory must pursue to fulfill the will and the desire of the voters.

### **C. Enhancing the effectiveness of the Constitutional Council**

**Point 18-22:** Regarding the recommendations, point 18 to point 22, of Prof. Surya Subedi, the General Secretariat of the Constitutional Council is of view that they are not practically consistent at this stage, as the recommendations are bias and tend to review the 1993 Constitution of the Kingdom of Cambodia adopted by the Constitutional Assembly and derived from the general election under the supervision and the auspice of the United Nations Transitional Authority in Cambodia (UNTAC). Moreover, these recommendations have its nature of addressing the work of the supreme institutions of the Kingdom of Cambodia, including the institution of the Monarchy.

- The Constitutional Council is the institution that has independent and neutral competence as provided for in the 1993 Constitution of the Kingdom of Cambodia. This is the first time in the history that Cambodia has this institution. The Constitutional Council has been effectively functioning since June 15, 1998 pursuant to the Law on the Organization and Functioning of the Constitutional Council promulgated by Royal Decree No. CS/RKM/0498/06 on 8 April 1998.
- For more than 13 years now since its creation, the Constitutional Council has always maintained its impartiality which based on laws with a high consideration of ethics.
- Within the competence provided for in the Constitution and laws, the Constitutional Council has issued 89 major decisions to safeguard the respect for the Constitution in general and the respect of human rights, civil and political rights, women's rights, rights of the child, rights, right to freedom of religious belief, non-discrimination, etc ... The most particular cases are related to:
  - Decision N° 09, dated 28 July 1999 on the creation the Ministry of Women's and Veteran's Affairs,
  - Decision N° 040/002/2001 on the law on the establishment of extraordinary chambers for the prosecution of crimes committed during the period of Democratic Kampuchea;
  - Decision N° 092/003/2007, dated 10 July 2007 on the protection of the child's rights;
  - Decision N° I 05/001/2009 CC.D of February 25, 2009 on the right of every citizen to stand as a candidate for the elections of the Capital Council, Provincial Councils, Municipality Councils, District Councils and Khan Councils.
  - 8 Decisions of the Constitutional Council declares that some provisions and articles of the Organic laws, some provisions and articles of Internal Rules of Procedure of the National Assembly and the Senate are unconstitutional, etc .....
- Besides the performance of duties within the institution, in order to provide education and dissemination of information about human rights, as provided for in article 31 to article

50 of the Constitution, from 1998 to 2009, the Constitutional Council has designated delegates to conduct missions at various public higher education Institutions at all 23 provinces/ municipalities to civil servants, students, school children and people ( for 67 times) with a total of 13.441 peoples in their participation. From 2009 to 2011, the Constitutional Council has conducted education campaigns of dissemination on information for 29 times, in collaboration with the Konrad Adenauer Foundation (Conrad-Adenauer-Stiftung e.V.) (KAS), and with participation by a total of 24,094 people. In disseminating information, the Constitutional Council had distributed to each participant a book of Constitution and a handout with one extra copy in the library for research purpose. A total of 8. 703 copies of the Constitution and a number of handouts were distributed. During the dissemination, the Constitutional Council had created the agenda for questions and answers, and throughout the process, there were 1.444 people in total asking the questions and had answered all questions posted, especially those relating to human rights issues.

#### **D. Parliament and the Freedom of Expression.**

**Point 23:** The Penal Code is one of the important legal instruments in which it combines all criminal provisions dividing into proper structures on sociality, consistency and harmony. It also explicitly stipulates about the rights and scopes of application of rights and provides for the general principles and unequivocally states about each type of offense. The Penal Code was prepared and elaborated on the basis of major principles directly and indirectly related to criminal procedures as enshrined in the Constitution of the Kingdom of Cambodia and in consistency with other legal standards accepted and ratified by Cambodia. Based on the Constitution of the Kingdom of Cambodia, some rights and freedom are limited by law to ensure that it does not affect the rights and freedom of others.

- **Article 3 I, para. 2** states that Every Khmer citizens shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, color, 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 the law.
- **Article 38, para. 2** states that "The law guarantees there shall be no physical abuse against any individual. The law shall protect life, honor, and dignity of the citizens".
- **Article 41** states that "Khmer citizens shall have freedom of expression, press, publication and assembly. No one shall exercise this right to infringe upon the rights of others, to affect the good traditions of the society, to violate public law and order and national security. The regime of the media shall be determined by law.

**Point 24:** The Cambodian parliament has thus far strictly protected the rights and freedom of its MPs whereby until now there has not been any disciplinary action, removing or lifting parliamentary immunity of any MP because of opinions expressed. However, the removing or lifting of parliamentary immunities of some MPs is not within point 24 above.

#### **E. Freedom of Expression.**

**Point 25:** The judiciary (the Courts) should interpret the provisions of the Penal Code in line with international human rights standards of freedom of expression. The Ministry of Justice has requested for partnership of the international community, including Office of the United Nations High Commissioner for Human Rights, to provide training to judges, prosecutors and lawyers in this regard.

Regarding the interpretation of the provisions of the Penal Code concerning the freedom of expression, the Ministry of Justice would like to respond that: Referring to Cambodian Constitution, the Kingdom of Cambodia recognizes and respects human rights as provided for in the United Nations Universal Declaration of Human Rights and the related Covenants and Conventions as well as other international legal instruments relating to human rights, including women rights and rights of the child.

The freedom of expression is protected mainly by two principal instruments: The Universal Declaration of Human Rights and the Covenant on Civil and Political Rights; these legal instruments are recognized by the Constitution of the Kingdom of Cambodia. Although in fact that even other document (for example ) that has no legal effects like declarations adopted by the United Nations General Assembly, the Kingdom of Cambodia consider as important instrument of sources to incorporate it in the Constitution --which signifies that it recognizes it in good faith.

The Kingdom of Cambodia commits itself to this instrument in 1992, as an official international treaty, showing willingness to be bound by this written agreement. According to part 2 of that Covenant, the Kingdom of Cambodia has obligations to create legal standards as necessary to give legal effect to the rights that Cambodia recognizes under this Covenant as well as legal remedy when those rights are violated.

The Universal Declaration of Human Rights, article 19 provided that: everyone has the right to freedom of opinion express; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

In this regard, the Covenant on Civil and Political Rights, article 19 states that:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally or in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with its special duties and responsibilities. It may therefore be subject to certain restrictions, but shall only be such as provided by law and are necessary:
  - For respect of the rights or reputations of others;
  - For the protection of national security or of public order (order public), or of public health or morals.

**The Constitution of the Kingdom of Cambodia, article 42 states that:**

Khmer citizens shall have freedom of expression, press, publication and assembly. No one shall exercise this right to infringe upon the rights of others, to affect the good traditions of the society, to violate public law and order and national security. The regime of the media shall be determined by law.

There is no difference in definitions both in international legal standards and in the Constitution of the Kingdom of Cambodia for determining the restrictions on the exercise of rights in terms of good social practice. There is a minor discrepancy in defining the restrictions on rights when it comes to the interests of individual persons between the Constitution of the Kingdom of Cambodia and the International Covenant on Civil and Political Rights as this international Covenant has focused the restrictions on the rights based on the rights or reputation of other individual persons. Nonetheless, this discrepancy does not cause any controversy over the application of law. Based on the Dictionary, the

word "reputation" defined as having a good name (reputation) or being well-known for some particular people. The Penal Code of the Kingdom of Cambodia has added the use of this word whereby the discrepancy does not intend to create certain subjective effects, as it is the international obligations of Cambodia to respect the freedom of expression through the provision stating that any allegation or slanderous charge that undermines the honor or the reputation of a person or an institution constitutes a defamation.

Therefore, the Kingdom of Cambodia has incorporated it into national legal instruments such as the Constitution of the Kingdom of Cambodia, Penal Code and the Cambodian Law on the Press. Regarding the restrictions of the freedom of expression, the Kingdom of Cambodia has applied the international standards by incorporating the restriction aspect over the rights and freedom into the Penal Code based on the protection of national security, public order, and respect of the dignity or reputations of others and also on good social practice. Therefore, the imposition of sanctions against those who exercise this right beyond the limits is deemed to be fair for those who are the victims due to the rights or reputation of the latter's being undermined and /or abused.

Through the past practice, the court of the Kingdom of Cambodia has also applied this provision based on the press law regarding the dissemination of information which adversely affects the rights of others or public order.

Regarding the training of judges, prosecutors and lawyers, the ministry of Justice would like to respond that: the Ministry of Justice has thus far applied the international obligations and developed the training programs for judges and prosecutors. The Ministry of Justice has welcomed the partners, international communities for reviewing this training program as necessary to focus attention on incorporating the freedom of expression. Moreover, the Ministry will also issue a circular to provide guidance for implementing the provisions of the Constitution and the Penal Code relating to the freedom of expression. However, the Ministry of Justice encounters the challenges and shortcomings, including budget constraints, which have impact on the implementation of the basic rules, the enhancement of the effectiveness of monitoring and follow-up of implementation of the court proceedings as well as the efforts of bringing the court decisions to be rationally consistent with the legality.

## **F. Land Rights**

**Point 26:** The political platform of the Royal Government of the fourth legislature of the National Assembly provides for matters relating to land policy of the Government. The Khmer Rouge regime had abolished and overturned the private ownership. Since land constitutes a wealth of natural resource for growth and economic and social development and poverty reduction, especially in the rural areas, the Royal Government of Cambodia has been successively undertaking program of reform on the land management and administration and it is continuing to do so as at present.

In implementing its Land Law and land policy, the Royal Government has focused on measures to strengthen land management, land distribution and land use in equitable manner by ensuring economy through land registration to ascertain the security of land ownership, to eradicate anarchic illegal land holding and to take appropriate measures to prevent concentration of unused land in a few hands. The Royal Government has been reviewing the utilization of state-owned unused land or land held by private individuals not in conformity with the existing legal norms and standards. The Royal Government gives high priority to the strengthening of land tenure security for the people to build houses, making business and family agriculture in the form of social land concessions based on the principles of helping the poor and vulnerable people.

The evaluation of the above principles is divided into 3 parts relating to land management, land preparation and land distribution at the provincial/municipal levels.

1. **Land administration:** the primary aim is to strengthen security of private tenure as well as to strengthen management of state land through land registration, land dispute resolution, abolishment of anarchic incidents relating to illegal land occupation, prevention of unproductive land holding to effect land market and land use throughout the municipality and provinces.

Municipal/provincial halls have contributed to strengthen security of land tenure via the cadastral committees at all levels by resorting to alternative dispute resolution in addressing and solving disputes relating to unregistered land.

2. **Land management:** this approach is aimed at developing effective land-use plans to ensure equilibrium of development between urban and rural areas, and to ensure effective and sustainable land use and natural resource exploitation. Developing procedure and land management and urban planning at local levels (Khan/Krong/district, commune/Sangkat) has been prioritized for tourism areas, urban areas and certain important roads.

3. **Land distribution:** this work bases on land distribution for the sole purpose of social affair aiming at distributing lands with equity and promoting economy by putting uncultivated land and inactive labour forces to work effectively. Land distribution also enhances social interaction at local levels. Apart from distributing lands, the Royal Government has also granted lands and builds houses for impoverished citizens and communities continually for social purpose within framework of legal settlement.

**Point 27:** The Royal Government always pays attention to, and involve in consultation process with citizens on land dispute with 3 principles for citizens who settled on state-registered land, roads, garden, and riverbank:

1. **On-site development:** this method is a measure of distributing land on-site meaning the Royal Government examines ability to grant concession on a piece of land to citizens for settlement by issuing legal land title to them.

2. **Voluntary relocation:** in the case that certain areas did not fit with the first method, thus the Royal Government has facilitated the relocation for the citizens to settle in new locations where the Royal Government is responsible for in developing a new infrastructure for them or providing them with policy compensation.

3. **With regard to people living on land owned by private individuals,** the relevant territorial authorities of all levels have always consulted with concerned people and the Company representatives to find a proper solution acceptable by both parties for any relocation.

**Point 28:** Regarding economic land concessions, the Ministry of Agriculture, Forestry and Fisheries has not yet had a policy to grant a land legally occupied by the people to the Companies for investment. According the procedures for granting economic land concessions, the Ministry of Agriculture, Forestry and Fisheries has constantly designated a number of mixed working groups consisting of officials from the Technical Secretariat for economic land concessions, relevant experts under the Ministry of Agriculture, Forestry and Fisheries, in collaboration with territorial authorities to conduct on-ground assessments as proposed for information and data collection. If the study found that parts of the proposed land are legally occupied by the people, those parts must be cut away from the area and be maintained for the people.

The Ministry has engaged with territorial authorities to ensure participation by indigenous people to be aware of social, cultural and environmental impact assessments and other

studies prior to granting both economic and social concessions. According to Sub-decree No. 146 ANK/BK dated 27 December 2005 on Economic Land Concessions, the proposal for land concessions by a private company, requires the latter to conduct an initial environmental and social impact assessment of the proposed economic land concession project and the report of findings also mentioned the consultations with relevant stakeholders and actors such as the local residents, relevant provincial offices showing that the process was already participated by the people.

- The Royal Government has delegated powers to the Ministry of Agriculture, Forestry and Fisheries to grant economic land concessions.
- All economic land concessions has been granted according to applicable legal procedures, such as 2011 Land Law, Sub-decree No. 146 ANK/BK dated 27 December 2005 on Economic Land Concessions as well as in compliance with all relevant legislation and other applicable standards.
- Furthermore, the Land Law of 2011 and Sub-decree No. 146 ANK/BK have explicitly stated the transparent procedures to these matters.

**Point 29:** The Royal Government has given particular attention to the traditional ways of life of Cambodian indigenous communities and provides protection and recognition of their rights to get access to land natural resources as follows:

- The Royal Government of Cambodia has its legal policies and standards which fully protect and recognize the land right of indigenous communities;
- Those legal policies and standards have been formulated in participatory and consultative processes from all relevant stakeholders and actors, especially with the representatives of indigenous communities themselves.
- The preparation of Sub-decree No. 83, dated 9 June 2009, on the Procedures of Registration of Land of Indigenous Communities made 100 percent in compliance with 20 II Land Law as well as in line with other relevant international instruments on land rights of indigenous communities.
- The preparation of this Sub-decree was based also on the land registration pilot project for three indigenous communities (two communities in Rattanakiri and one in Mondulakiri) and had conducted wide consultations with national and international lawyers, relevant Ministries/Institutions, development partners and civil society organizations, especially with indigenous communities themselves.
- The essential substance of this Sub-decree is related to the process of registration of land of indigenous communities which is participatory, consultative and transparent requiring all relevant stakeholders and actors (including state institutions with the mandate to occupy state land, private individuals and neighbors) to participate to determine and identify communal land by allowing the communities themselves show their land parcels.
- The essential substance of this policies and legal standards are in line with the international norms (legal instruments or standards).
- This clearly reflected good faith commitments of the Royal Government in fulfilling its international obligations. The Royal Government has never used or supported the armed law enforcement officials to carry out an unlawful eviction which is not its policy, -- in that respect, the Royal government makes all efforts to address any dispute relating to land problem through resolutions thereto in accordance with the existing law as described above.

## G. NGOs and Trade Union Laws

### Point 30:

**The process of drafting of the Law on Associations and Non-Governmental Organizations** (draft NGO Law) of the Kingdom of Cambodia has been initiated since 1996. The Ministry of Interior has always collaborated with legal experts of OHCHR/Cambodia, French experts and World Bank legal experts with the participation, consultation and comments by a wide range of Association and NGOs representatives. After the consultations, the Ministry of Interior has always compiled comments and recommendations made by those Associations and NGOs for further enhancement of the provisions of the draft law. In fact, as of early 2010, the Ministry of Interior and the Ministry of Foreign Affairs and International Cooperation have initiated a draft law on Associations and Non-Governmental Organizations and was put forward for broad public consultations with the participation by embassy representatives, Ministries/institutions and associations, local and international Non-Governmental Organizations. Besides collecting comments and recommendations during consultative forums to improve the substance of the draft law on Associations and Non-Governmental Organizations, the Ministry of Interior and the Ministry of Foreign Affairs and International Cooperation have created an open environment which is conducive to the creation of the Working Groups of Associations and NGOs as well as that of embassy representatives that held a number of successive meetings to discuss and exchange ideas, views and recommendations that have contributed to further enrichment of the substance of the law, from the first draft to its final draft.

### Draft Trade Union law

The Ministry of Labour and Vocational Training, in collaboration with ILO representatives, from November 2008 to June 2011, has created a draft law on Trade Unions, which consists of 17 Chapters and 91 Articles, based on ILO Conventions and recommendations as well as experiences of some countries in the region and the inputs of all relevant stakeholders and actors in order to bring the law into the conformity with international standards, especially to the real needs of Cambodia.

Moreover, following the involvement of the Ministries/institution and other stakeholders, the draft law on Trade Union have been modified and passed through a number of consecutive meetings which include the organization of five mixed working meetings (8th Working Group) and five consultative tri-party workshops on the draft law on Trade Union of the public enterprises (which consists of 17 Chapters and 91 articles).

Upon receiving the comments from relevant stakeholders and actors during and after the consultative tri-party workshops on the draft law on Trade Union which was recently conducted from 12 to 13 July 2011, the Ministry had also examined and further discussed on the draft law on Trade Union of the public enterprises to make modifications to improve it (the draft law).

In fact, among 20 articles raised by ILO in its latest recommendations, the Ministry had examined and modified as follows:

- accepted the ILO recommendations of 13 articles, which accounts for 65 percent;
- made some changes to one article (article 66) of the ILO recommendations, which is equal to 5 percent;
- No change made to 6 articles which are articles 4, 10, 57, 60 and article 69 which is equal to 30 percent. As among the above 6 articles, there is only one article that the Ministry did not modify as recommended by ILO that is article 69, since the substance of this

article was totally taken from article 305 and 5 other articles are interrelated, i.e., article 3 refers to article 4, article 10 refers to article 12, whereas article 57 and article 60, the Ministry is of view that it might be misinterpreted from its original.

- In relation to article 3 stating about the scope, the Ministry did not modify as recommended by ILO, as we are of the view that, at this stage, the law does not cover the civil servants of teachers. The law solely covers the enterprises/ establishments as well as the employers and employees and other individuals, who are governed under the provisions of the Statute of officials of Labour Law. Furthermore, the civil servants and teachers are already subject to the Common Statute of Civil Servants. As a result, the law entitled Draft Law on Trade Union is changed to **Draft law on Trade union and Enterprises**.
  - Regarding the concerns of trade union, the Ministry has made modifications as requested namely in the articles 21, 22 and 23. When it comes to the penalty provisions, the Ministry has removed the sentences of the criminal sanctions and has reduced the amount of the fine.
  - In summary, the Draft law on Trade Union and Enterprises was not elaborated in the contrary to ILO conventions ratified by Cambodia. However, the Ministry will take practical approach to continue to examine further the relevant issue in the legislation process with respect to other related areas in order to enhance the "Rule of Law of the Kingdom of Cambodia".
  - Through above clarifications, the Ministry has not restricted the rights to freedom of expression of the Trade Union.
-