

# GUIDELINES FOR LEGAL PROTECTION OF WOMEN'S AND CHILDREN'S RIGHTS IN CAMBODIA

2014

Supported by:



អនុវត្តដោយ:



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## Abbreviations

|          |   |
|----------|---|
| CPC      | Criminal Procedure Code 2007  |
| DV Law   | Law on the Prevention of Domestic Violence and the Protection of Victims 2005 |
| JPO      | Judicial Police Officer   |
| JPO-MoWA | The Judicial Police Officials of the Ministry of Women's Affairs              |
| MoWA     | Ministry of Women's Affairs   |
| Pro Deo  | free/without charge (Latin "for God")   |

Do's 

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Please pay attention 

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Don'ts 

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# Preface by the Minister

The Guidelines for Legal Protection of Women's and Children's Rights in Cambodia have been developed for the Provincial Departments of the Ministry of Women's Affairs and other key actors which provide assistance in cases of Violence Against Women.

Cambodia has a national legal and policy framework to protect women's rights including the Law on the Prevention of Domestic Violence and Protection of Victims of 2005, Criminal Procedure Code 2007, the Law on Suppression of Trafficking in Humans and Sexual Exploitation of 2008 and the National Action Plan to Prevent Violence Against Women 2013 – 2017.

In spite of these laws, Violence Against Women is still endemic and prevalent in the Cambodian society due to the historically unequal power relations between men and women and the pervasive discrimination against women in both the public and private spheres. The 2012 Review Report of the National Action Plan to Prevent Violence Against Women shows that one out of four women who have been in a relationship has experienced violence. High prevalence is also demonstrated in a recent survey in Asia and the Pacific for rape, both partner and non-partner and gang rape, and the survey shows that more than 20 percent of Cambodian men aged between 18 and 49 admitted to having raped a woman <sup>1</sup>. Cambodia has not yet been able to eliminate these serious crimes and so we need to continue to implement and develop measures to prevent them step by step until these heinous crimes can be eliminated completely.

Under the Five Year Strategic Plan 2009-2013 Neary Ratanak III, the Ministry of Women's Affairs of Cambodia strives to put into place administrative mechanisms and guidelines for effective implementation of the aforementioned laws to protect women and children's rights, and especially to address cases of domestic violence, rape, sexual harassment at the work place, trafficking, sexual and labour exploitation.

I strongly hope that these guidelines become a crucial instrument to assist law enforcers and social workers in providing effective assistance to women and children who suffer from gender-based violence. By doing so, these guidelines will also contribute to build a more just and harmonious Cambodian society.



<sup>1</sup> Fulu, E., Warner, X., Miedema, S., Jewkes, R., Roselli, T. and Lang, J. (2013). *Why Do Some Men Use Violence Against Women and How Can We Prevent It? Quantitative Findings from the United Nations Multi-country Study on Men and Violence in Asia and the Pacific*. Bangkok: UNDP, UNFPA, UN Women and UNV.

# Introduction

The Guidelines for Legal Protection of Women's and Children's Rights in Cambodia (Ministry of Women's Affairs of Cambodia, 2014) can be used as guidance and training material by and for the Judicial Police Agents of the Ministry of Women's Affairs (JPAs) and any other civil servants or service providers that work to protect the rights of women and children in Cambodia, and particularly in cases of Violence Against Women.

The Guidelines for Legal Protection of Women's and Children's Rights in Cambodia describe the rights of the victims and the best way in which service providers can assist them in order to get justice. These guidelines are especially a valuable tool for the Judicial Police Agents of the Ministry of Women's Affairs in order to help them to improve their understanding about the legal system and to enable their proper monitoring of cases of Violence Against Women.

These guidelines are based on a set of nine trainings conducted by a team of lawyers and trainers that provided an intensive train-the-trainer course to 11 Judicial Police Agents of the Ministry of Women's Affairs to enable them to train all Judicial Police Agents in their turn. The trainings for the 11 trainers took place in the period December 2012 – October 2013 within the framework of the Access to Justice for Women project, implemented by the Ministry of Women's Affairs of Cambodia and GIZ and funded by the German Federal Ministry for Economic Development and Cooperation (BMZ) and the Spanish Agency for International Cooperation and Development (AECID).

The Guidelines for Legal Protection of Women's and Children's Rights in Cambodia were compiled by Mr. Khlok Dara, legal consultant, while Ms. Dorine van der Keur reviewed and adjusted them based on inputs from the working group of the Judicial Police Agents of the Ministry of Women's Affairs of Cambodia.

# Chapter 1 - Women's Rights

## Introduction

Women's rights are infringed often and protection of women's rights in Cambodia is still underdeveloped. Powers in the different gender roles are unequally distributed: women have little power in e.g. the work place. They rarely occupy the more senior positions in companies and within the government and its institutions. In general there is little respect for women's rights and both men and women in Cambodia believe men have the right to infringe the rights of women. There are many different kinds of infringements of the rights of women and children, but the most repugnant is the violence against women, which is common in Cambodia, including:

- Domestic violence
- Rape
- Human Trafficking – sexual exploitation and labour exploitation
- Sexual harassment at work

Protection of women from these infringements has only been given proper attention in the last ten years when the government and NGOs have started to empower women.

However, women who want to stand up for their rights often find it difficult to access justice. Wives of domestic violence perpetrators are told to stay with their husband since divorce is still socially unaccepted in Cambodian culture. Victims of rape rarely get to see their day in Court. Usually the perpetrator settles on a civil compensation out of the Court and the matter is unlawfully dismissed by the police/Royal Prosecutor. Or even worse, the family of the victim wants the victim to marry the perpetrator so that her honour is saved in a twisted way.

Currently there is a monitoring system under development to give an insight in the prevalence of these infringements in Cambodia.

### **Some definitions related to protection of women's rights:**

**Gender** refers to the social attributes and opportunities associated with being male and female and the relationships between women and men and girls and boys, as well as the relations between women and those between men. These attributes, opportunities and relationships are socially constructed and are learned



through socialization processes. They are context/ time-specific and changeable. Gender determines what is expected, allowed and valued in a woman or a man in a given context. In most societies there are differences and inequalities between women and men in responsibilities assigned, activities undertaken, access to and control over resources, as well as decision-making opportunities.

Gender is part of the broader socio-cultural context. Other important criteria for socio-cultural analysis include class, race, poverty level, ethnic group and age.<sup>2</sup>

**Gender Based Violence** is violence that is directed against a person on the basis of gender or sex. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. While women, men, boys and girls can be victims of gender-based violence, women and girls are the main victims.<sup>3</sup>

**Violence Against Women** is any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.<sup>4</sup>

## Legal framework to protect women

### Cambodian Constitution

Article 31 of the Constitution of the Kingdom of Cambodia states Khmer citizens shall be equal before the law, enjoying the same rights and freedom and obligations regardless of race, colour, sex, language, belief, religion, political tendency, national origin, social status, wealth or other status. Article 35 of the Constitution states that Khmer citizens of either sex shall have the rights to participate actively in the political, economic, social and cultural life of the nation. Article 36 of the Constitution further states that Khmer citizens of either sex shall enjoy the rights to choose any employment in accordance with their ability and the needs of society. Khmer citizens of either sex shall receive equal pay for the same work. Housework shall have the same value as the income generated from the jobs performed outside the house. Article 45 of the Constitution says that all forms of discrimination against women shall be eliminated. The exploitation of

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2 UN definition quoted from <http://www.un.org/womenwatch/osagi/conceptsanddefinitions.htm>

3 Based on articles 1 and 2 of the UN General Assembly Declaration on the Elimination of Violence against Women (1993) and Recommendation 19, paragraph 6 of the 11th Session of the CEDAW Committee

4 UN definition quoted from [http://www.who.int/reproductivehealth/topics/violence/vaw\\_series/en/index.html](http://www.who.int/reproductivehealth/topics/violence/vaw_series/en/index.html)



women in employment shall be prohibited. Men and women shall enjoy equal rights in all fields, especially with respect to marriage and family matters.

## International Treaties on Human Rights

Article 31 of the Constitution directly incorporates a number of important international instruments on human rights into Cambodian laws to ensure the protection of human rights including basic rights such as the rights to life, individual rights, personal security and freedom of movement, beliefs and religions, the rights to create communities and political parties, proper judiciary proceedings and equality before the law.

Cambodia signed and rectified many international treaties. Some international treaties also ensure the protection of the rights of women. The state party shall have the duties to implement, ensure, protect and respect the universal human rights, such as:

**The International Covenant on Economic, Social and Cultural Rights** (*ratification by Cambodia on 26 May 1992*): Article 1 says that all people have the right of self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development. Article 2 sub 2 says that the states parties undertake to guarantee that the rights will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political opinion. Article 3 says that the state parties undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights. Article 6 says that the state parties recognize the right to work, the right to freely choose the work. Article 7 says that the state parties recognize the right of everyone to the enjoyment of just and favourable conditions of work, equal wage for the same work.

**International Covenant on Civil and Political Rights** (*ratification by Cambodia on 26 May 1992*): Articles 1, 2, 3, 4, 14, 22 and 26 guarantee the protection of the rights of all individuals and equal rights.

**Universal Declaration of Human Rights** (*valid for all UN Country Members*): Articles 1, 2, 7, 16, 23 and 26 say about the recognition of the protection of human rights.

**The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** (*ratification by Cambodia on 15 October 1992*): Among many international treaties on human rights, only the CEDAW specifically addresses the protection of women's rights. This Convention demands the state parties to regularly enforce women's rights and condemn all forms of discrimination against women and implement all appropriate measures. Countries party to the Convention are legally bound to put its provisions into practice. They are also

committed to submit national reports, at least every four years, on measures they have taken to comply with their treaty obligations. Article 1 of the CEDAW states that the discrimination against women shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. Article 2 states that the state parties condemn discrimination against women in all its forms. To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation. Article 3 states that ensuring the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men. Articles 4, 5, 6, 7, 8, 9, 10, 11, 15 points out the protection and promotion of women's rights to be equal with men.

Besides the domestic laws providing the equal rights to all individuals before the law and to protect the rights of women, who are illegally abused, the Convention can be applied directly to protect women's rights in Cambodia.

## **Cambodian Laws**

### **Criminal Procedure Code 2007 and Penal Code effective in late 2010**

All forms of violence against women/children can be prosecuted under the Penal Code effective in late 2010 and how to prosecute shall be followed the Criminal Procedure Code (CPC 2007).

Beside these, there are other specific laws that deal with specific forms of violence against women/children, including:

### **The Law on Prevention of Domestic Violence and Protection of Victims 2005 (DV Law)**

To respond to the abuse towards women, Cambodia adopted the Law on Prevention of Domestic Violence and Protection of Victims in 2005 (DV Law). The objective of the law is to prevent domestic violence, protect victims, and strengthen the culture of non-violence and harmony within households in the Kingdom of Cambodia. Another goal is to offer immediate and effective support to victims – even in rural and remote areas. The DV Law aims to avoid harm and minimize risks of violations by allowing for intervention before any violation of rights has

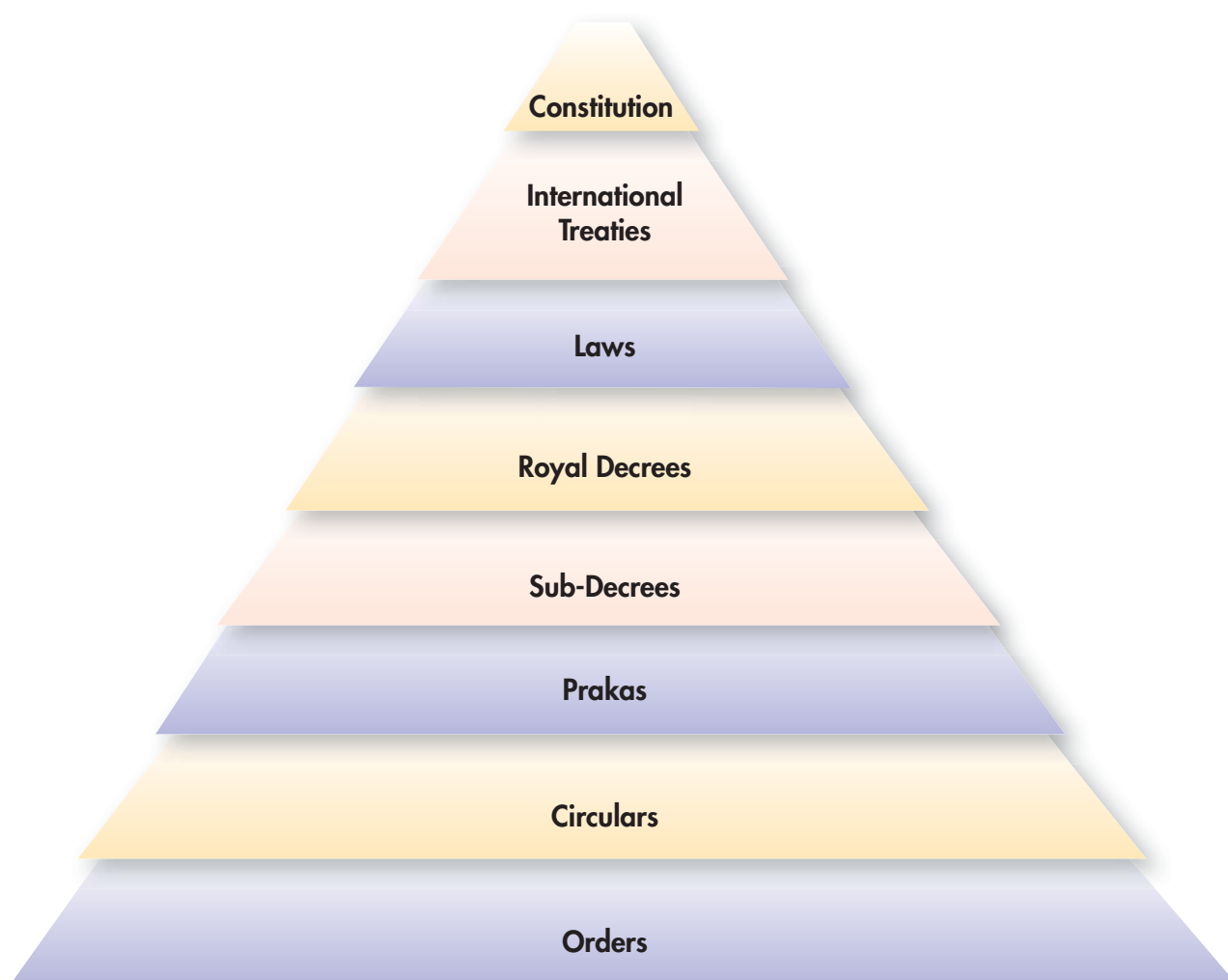
taken place. Art. 3 DV Law states that domestic violence must be effectively and efficiently prevented by taking “the appropriate measures to protect victims or persons who could be vulnerable”.

## The Law on Suppression of Human Trafficking and Sexual Exploitation

This law was adopted in 2008 replaced the 1996 law that was generally considered too basic. The new law prohibits trafficking and sexual exploitation through means of e.g. prostitution, pornography and indecent acts.

## Hierarchy of laws

The legal framework to protect women from violence consists of different treaties, laws and other legal instruments. It is important to be able to understand the hierarchy between laws and regulations. In case of ambiguity between law and regulations, the higher one prevails. This can be depicted as follows<sup>5</sup>.



<sup>5</sup> Source: General Administrative Laws, 2001

# Chapter 2 - Key Officials

## Royal Prosecutor

### Role & Authority

The Royal Prosecutor has a pivotal role in criminal cases. Only the Royal Prosecutor can file criminal suits (*art. 131 Cambodian Constitution*). S/he brings the charges of criminal offenses against charged persons to the Court and presents the evidence in Court.

The following Royal Prosecutors shall have territorial competence (*Art. 39 CPC 2007*):

- ❖ The Prosecutor at the site where the offense was committed.
- ❖ The Prosecutor in the place of residence of the person who is suspected for committing an offense.
- ❖ The Prosecutor of the territory in which the suspect for committing an offense is arrested.

The scope of the territorial competence of the Royal Prosecutors attached to the Court of 1st Instance is limited to either the municipality or the province.

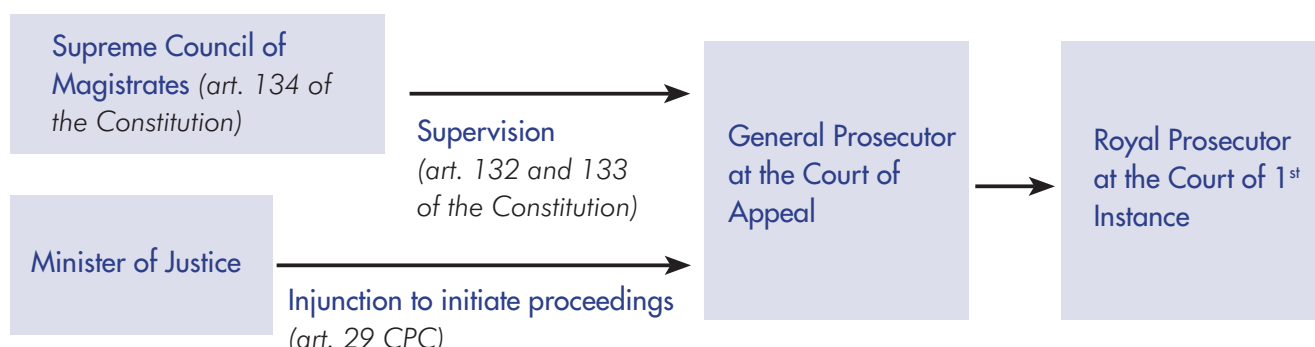
The scope of the competence of the General Prosecutor or Deputy General Prosecutor attached to the Supreme Court or the Court of Appeal is the whole territory of the Kingdom of Cambodia.

### Working Relations and Responsibilities

In principle the Supreme Council of Magistrates should ensure the conduct of Royal Prosecutors and take disciplinary measures in case of misconduct. If there are complaints regarding the misconduct or work of a Royal Prosecutor, a complaint should be directed to the Supreme Council of Magistrates. The Minister of Justice has some, but limited power over a prosecutor: s/he can order the prosecutor to initiate proceedings.

**For example:** a Royal Prosecutor has not processed a Criminal action after the charged has paid compensation to the family of a rape victim. This is misconduct and should be reported to the Supreme Council of Magistrates or the Ministry of Justice to take measures.

Figure 1–Working Relation and Responsibilities of Royal Prosecutors



There are two important limitations to this figure:

1. Every Royal Prosecutor shall obey the injunction of his superiors according to the established hierarchy. However, during a hearing, the Royal Prosecutor may freely provide oral remarks according to his conscience. No disciplinary action can be brought against a Royal Prosecutor on the basis of his remarks made during a hearing.
2. The Minister of Justice can make a written injunction to the Royal Prosecutor or General Prosecutor to initiate proceedings, but he/she cannot make injunction to keep any criminal case file without processing (*Article 29 CPC 2007*).

## Judicial Police

### Role & Authority

There are three different kinds of Judicial Police with different roles & authorities (*art. 57 CPC 2007*) as following:

#### 1. Judicial Police Officers (*art. 71-75 CPC 2007*)

The Judicial Police Officers (JPOs) have the duty to receive complaints or denunciations and to record these. They have to conduct preliminary investigations into felonies, misdemeanours and petty offenses, to identify and arrest offenders and to collect evidence (*art. 56 CPC 2007*).

JPOs can at their own discretion start a preliminary investigation on felonies or misdemeanours. JPOs can summon and interrogate any suspect or person who may have relevant information in relation to an offense (*art. 114 CPC 2007*). A

written record must be kept of the interrogation (*art. 115 CPC 2007*).

With the permission of the Royal Prosecutor JPOs can remand a person into police custody for interrogation if the person refuses to provide information and only for a period of 48 hours maximum. In exceptional cases this period may be extended with 24 hours. JPOs cannot detain minors under 14 (*art. 96 CPC 2007*).

## **2. Judicial Police Agents (*art. 76 -79 CPC 2007*)**

The judicial police agents have a mission to examine petty offenses and assist JPOs in the performance of their duties. For examining offenses, the judicial police agents shall make records. Those records are for information only (*art. 78 CPC 2007*).

## **3. Civil servants and public agents who are authorized by separate laws to examine offenses in the scope of their territorial jurisdiction (*art. 82 CPC 2007*)**

The formalities and procedures of authorization are defined by an Inter-ministerial Prakas of the Ministry of Justice and the concerned ministries.

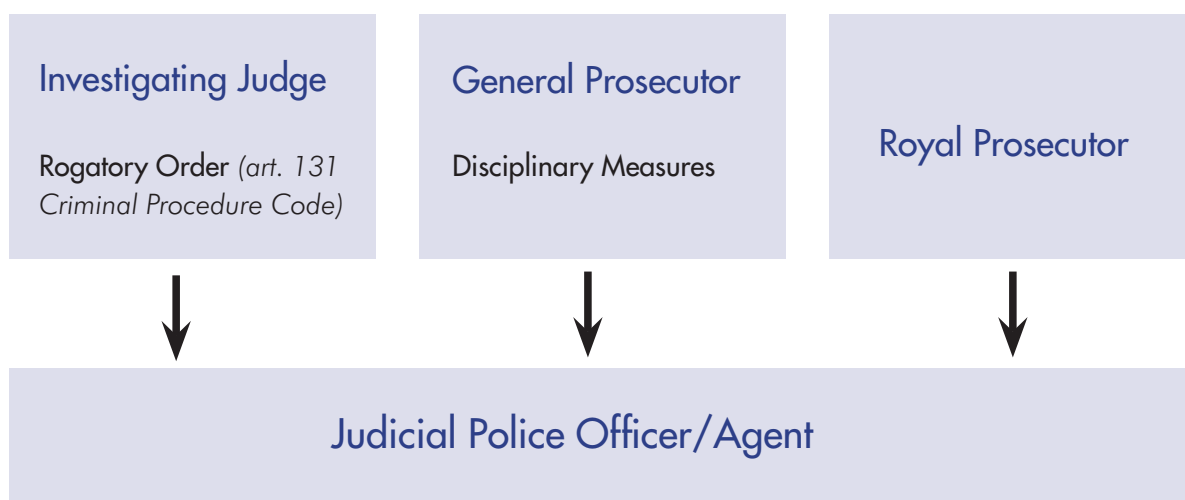
Typically these officials are working on environment, forestry, health and tax issues at the relevant ministries. MoWA also has officials who are authorized to work on cases related to domestic violence. Please see paragraph on *Judicial Police Officials of MoWA*.

## **Working Relations and Responsibilities**

All Judicial Police Officers and Agents fall under the supervision of the Royal Prosecutor. However, the judicial police officers and agents may also fall under the supervision of the investigating judge when the Investigating Judge issues a rogatory order (*art. 37 CPC 2007*) to them to request any specific investigations.

Disciplinary actions are taken by the General Prosecutor of the Court of Appeal.

Figure 2–Working Relations and Responsibilities of the JPO and Agents (types a and b)



## Judicial Police Officials of MoWA

### Role & Authority

Art. 10 Domestic Violence Law (DV Law) 2005 and the Criminal Procedure Code (CPC 2007) authorize the Ministry of Women's Affairs to employ Judicial Police to act in cases of domestic violence.

According to these laws, an inter-ministerial Prakas of MoWA and MOJ No. 64 BrKKYKKN/07 dated 30 October 2007 on the appointment the following MoWA officials have legal qualifications as Judicial Police Officials of MoWA to implement the DV Law:

- ▶ One Director General of the General Department of Social Development
- ▶ Two deputies Director general of the general Department of Social Development
- ▶ One Director of the Department of Legal Protection
- ▶ Two Deputies Director of the Department of Legal Protection
- ▶ Two Chief of Offices of the Department of Legal Protection
- ▶ Four Deputy Chief of Offices of the Department of Legal Protection



- ▶ Three Officials of the Legal Office of the Department of Legal Protection
- ▶ All Twenty Four Director of the Provincial/Capital Departments of Women's Affairs
- ▶ All Twenty Four Deputy Director of the Provincial/Capital Departments of Women's Affairs
- ▶ Twenty Four Chief of the Provincial/Capital Offices of Women's Affairs
- ▶ Twenty Four Deputy Chief of the Provincial/Capital Offices of Women's Affairs.



In order to perform this work, the MoWA Prakas No. 072 KKN/BS dated 07 September 2007, the role and authority of JPO-MoWA is defined as follows:

1. Representing as a plaintiff for victim;
2. Making reports and records;
3. Monitoring and following up with investigations; and
4. Following up Court's procedures (decisions and convictions).

JPO-MoWA has authority within the territorial boundaries of the unit to which they are assigned. In Phnom Penh, JPO-MoWA has the authority over the whole capital without consideration of the location of the unit to which they are assigned.

Please note that whenever this Guideline mentions Judicial Police Officer



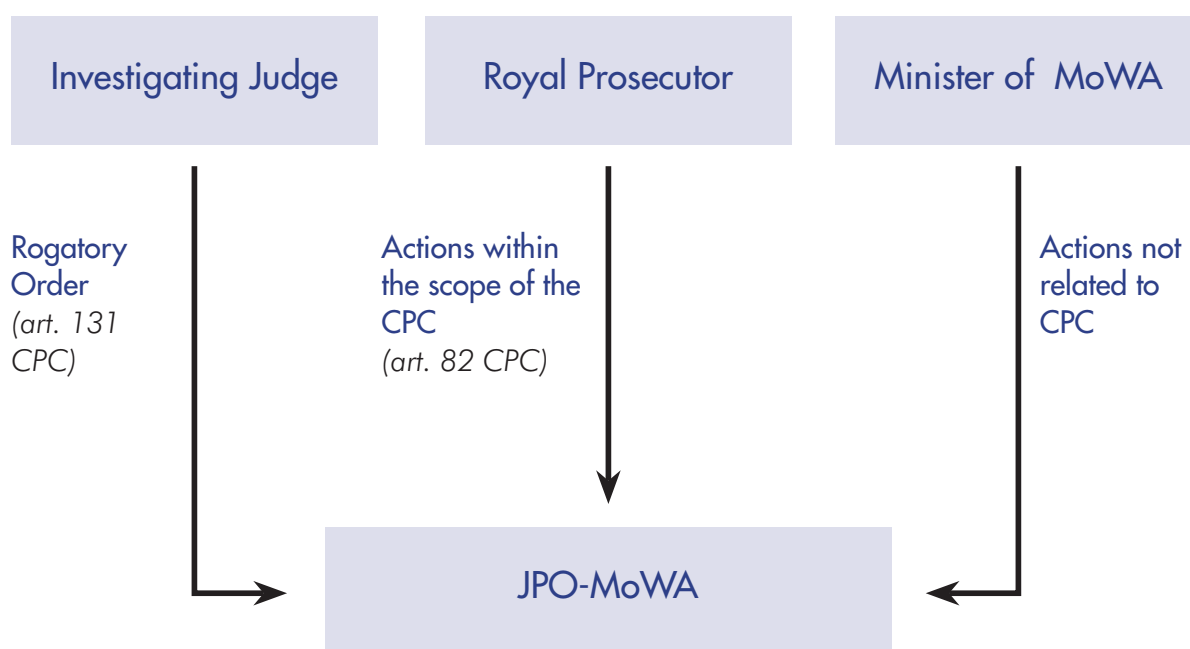
(JPO), the Judicial Police Official of MoWA (JPO-MoWA) do not fall under this type of judicial police officers as stated in the CPC 2007. Most police authorities and tasks mentioned in the CPC 2007 are only awarded directly to JPOs and not to JPO-MoWA, such as police investigations, searches, confiscate items, interrogations, taking suspects into custody (The roles of JPO-MoWA shall be clarified clearly by MoWA)!

## Working Relations and Responsibilities

The supervision of the work of a Judicial Police Officials of MoWA depends on the task being implemented. If the Judicial Police Official of MoWA is suspected of misconduct while acting under the CPC 2007, the Royal Prosecutor will have to inform the General Prosecutor of the Court of Appeal who will notify the Minister of MoWA for disciplinary action. The Minister of MoWA will have to inform the General Prosecutor of the Court of Appeal of the disciplinary action taken (art. 82 CPC 2007).

**For example:** if a JPO-MoWA received a complaint but does not forward the complaint to the Royal Prosecutor, the Royal Prosecutor should inform the General Prosecutor of the Court of Appeal when s/he learns about this misconduct. The General Prosecutor of the Court of Appeal will inform the Minister of MoWA, who will have to decide – after investigating the misconduct – on disciplinary measures against the JPO-MoWA.

Figure 3 – Working Relations and Responsibilities of the Judicial Police Officials



# Investigating Judge

## Role & Authority

The Investigating Judge conducts investigations after receiving an initial submission by the Royal Prosecutor or a complaint by acting as plaintiff in a civil action. S/he has the obligation to collect evidence during an investigation. The Investigating Judge is neutral and collects evidence favourable to the defendant (= exculpatory) and evidence showing the guilt of the defendant (= inculpatory) (*art. 127 CPC 2007*).

An Investigating Judge can order a suspect to appear before him/her (*art. 186 CPC 2007*). An Investigating Judge can also order bringing in of a charged person (*art. 190 and 191 CPC 2007*) and can issue an arrest warrant (*art. 196 and 198 CPC 2007*) and issue a detention order for pre-trial detention (*art. 200 CPC 2007*).

The Investigating Judge takes a decision (a closing order) after the investigations to either indict the suspect and send the case to the trial Judge or to close the investigations and drop the charges against the suspect(s) (*art. 246 CPC 2007*).

# Investigation Chamber

## Role & Authority

The investigation chamber has the competence to adjudicate any appeal against decisions of the investigating judge. It is the same with the investigating judges, members of the investigation chamber cannot attend the trial of criminal cases to which they have already acted upon as the investigating judges or otherwise their decisions shall be annulled.

## Hierarchy

Figure 4 - Hierarchy of Investigating Judges



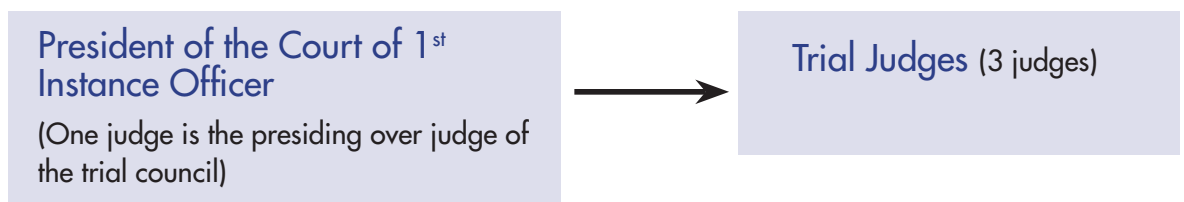
# Trial Judge

## Role & Authority

The Trial Judge leads the hearing. The Judge should think and act neutral. The Judge shall allow the parties and witnesses of the Royal Prosecutor, lawyer of the accused and lawyer of the civil party to be questioned, confrontation between the accused and the victim and showing evidence. However the presiding Judge may exclude from the hearing everything he deems to unnecessarily delay the trial hearing without being conducive to ascertaining the truth, such as repeated questions from the Royal Prosecutor and lawyer and any questions that are not related to the fact.

## Hierarchy

Figure 5– Hierarchy of Trial Judges



# Lawyer

## Role & Authority

A lawyer is never neutral. S/he acts on behalf of his client. A lawyer can either assist in protecting the rights or represent a suspect/charged/accused (= *defence counsel*) or the victim (= *victim counsel*) in a criminal procedure. In a civil procedure such as a divorce procedure or a Protection Order request the lawyer has the role to file the necessary documents/requests with the Court and to represent the client in Court – talking on the client’s behalf – to ensure that the rights of the client are protected/obtained.

## Acting as Defence Counsel

A suspect in police custody for a period of the past 24 hours can request to speak for 30 minutes with a lawyer or any other person whom he/she selected, provided that this selected person is suspected of involvement in the same crime (*art. 98 CPC 2007*). In case the Court tries a case which is characterized as the felony committed by a major or the crime committed by a minor, the Court president shall appoint a lawyer upon his/her initiative if the accused has not selected or cannot select a lawyer by himself/herself (*art. 300-301 CPC 2007*). If the Court tries the case of felony committed by a major and the crime committed by a minor without the presence of a lawyer, it is an invalid decision subject to amendment or dismissal by the appellate Court. An Investigating Judge will inform a charged person of his/her right to a lawyer (*art. 143 CPC 2007*). Charged persons should in principle only be interrogated in the presence of his/her lawyer (*art. 145 CPC 2007*). With permission of the Investigating Judge the lawyer may also ask questions during the interrogation (*art. 146 CPC 2007*). The charged person who is in detention may freely communicate with his/her lawyer and their conversations are confidential and cannot be listened to or recorded (*art. 149 CPC 2007*).

## Acting as a Victim Counsel

If a victim is represented by a lawyer with a mandate, s/he must be interviewed in the presence of the lawyer (*art. 150 CPC 2007*). With permission of the Investigating Judge the lawyer may also ask questions during the interrogation (*art. 151 CPC 2007*).



Although it is not obligatory by law, it is important that the victim has a lawyer to ensure his/her rights are protected in the criminal procedure and - if applicable - the civil claim. For the poor there are pro Deo lawyers who provide legal aid without charge. Victims should be referred to the nearest pro Deo lawyer or law firm. A request for a lawyer for the poor shall be made to the Ministry of Justice.

## Trial

In case the accused, civil party or civil defendants are assisted by a lawyer, the Court shall summon the lawyer to attend the trial.

Before the trial hearing, the lawyer can examine the case file in the Court Clerk's office under the supervision of the Court Clerk. The lawyer or the secretary of the lawyer may be authorized by the Court President to copy documents in the case file at their own cost, under the supervision of the Court Clerk (*art. 319 CPC 2007*).

## Working Relations and Responsibilities

Lawyers are considered a free profession. However complaints of clients or others can be submitted to the Bar Association of the Kingdom of Cambodia that can take disciplinary measures against lawyers that breached their code of conduct. All lawyers are the members of this Association.

# Local Authority

## Role & Authority

The Cambodian legal framework does give a role to the Commune Council (Sangkat) in the protection of women and children from violence.

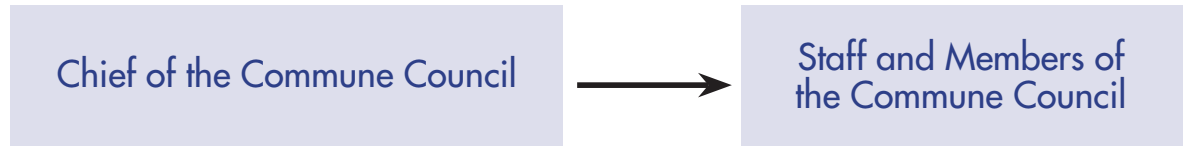
Art. 14 DV Law 2005 stipulates that the Commune Council can issue a decision to take temporary measures and order the perpetrator to stop committing domestic violence, destroying property, entering or selling the shared family home or other measures deemed necessary.

Marriages and births are to be registered at the civil registrar of the Commune Council.

In case a party wants to file for a divorce, the request for divorce may be filed with the Commune Council. Please see further in Chapter 8.

## Hierarchy

Complaints regarding staff, registrar or Commune Council members should be directed to the Chief of the Commune Council.



## Medical doctor

### Role & Authority

In case of violence against women or children, the victim should be taken to the hospital as soon as possible to receive medical treatment and to obtain forensic medical evidence of a medical doctor.



# Chapter 3 - Introduction Criminal Law

## Definition of a Crime

A criminal offense is an offense that is punishable under the Criminal Code. In principle if the law does not define an act as an offense, then the act cannot be considered a crime that is punishable (*art. 3 Penal Code effective in late 2010*).

**For example:** *Mr. Samnangrapes his neighbour Ms. Thoeun. Article 239 of the Penal Code effective in late 2010 states that this is a rape offense.*

According to the Penal Code effective in late 2010, there are three categories of offenses that differentiate the seriousness of the crimes:

### 1. Petty Crime

**Definition:** any offense is a petty crime in case where the maximum sentence of imprisonment incurred is less than or equal to six days. A fine may be imposed in addition to the imprisonment (*art. 48 Penal Code effective in late 2010*).

**Example:** *Threat to destruct or damage someone's bicycle the monetary fine from 5,000 (five thousand) Riels to 100,000 (one hundred thousand) Riels is imposed. (because the damage is cost little then, the article 423, para, 2 Penal Code effective in late 2010 should be applied)*

### 2. Misdemeanor

**Definition:** an offense is a petty crime in case where the maximum sentence of imprisonment incurred is more than 6 days and less than or equal to 5 years. A fine may be imposed in addition to imprisonment (*art. 47 Penal Code effective in late 2010*).

**Example:** Mr. Vichea, manager at a garment factory, touches the breasts of one of his female workers. He does this by surprise and without her consent. In this case, according to Art. 246 Penal Code, it is an indecent assault and shall be punishable by imprisonment from one to three years and a fine from two million to six million Riels.

### 3. Felony

Definition: an offense is a felony in case where the maximum sentence of imprisonment incurred is (1) life imprisonment or (2) a sentence of imprisonment for more than 5 years and less than or equal to 30 years. A fine may be imposed in addition to imprisonment (*art. 46 Penal Code effective in later 2010*).

**Examples:**

- ❖ Premeditated murder, maximum sentence is life imprisonment;
- ❖ Rape, maximum sentence is 10 year imprisonment;
- ❖ Paying bribery of a government official, maximum sentence is 10 years;
- ❖ Accepting a bribery by a civil servant, maximum sentence is 15 years.

## Reasons for Extinguishing Criminal Actions

A criminal action cannot be pursued if the accused:

- ▶ Died;
- ▶ The statute of limitations is expired;
- ▶ A general amnesty is granted;
- ▶ The abrogation of the criminal law;
- ▶ The res judicata. The criminal case has already been adjudicated by a competent court (*art. 7 CPC 2007*).

# Statute of Limitations

Petty Crime - 1 year

Misdemeanour - 5 years

Felony - 15 years

The term of the statute of limitations starts at the time of the committal of the offense but is interrupted by an act of prosecution or investigation (*art. 11 CPC 2007*). After such an interruption a new full term is given.

**For example:** Ms. A. is raped (felony) in 1995 and there is no trace of a suspect. In 2013 a witness comes forward. An investigation is started and a suspect is apprehended. However, the statute of limitations is 15 years and therefore the perpetrator cannot be sentenced.

**For example:** Mr. A. is raped (felony) in 1995 and there is no trace of a suspect. In 2003 a tip off leads to reopening of the investigation, but the investigation leads to nothing. In 2013 a new witness comes forward. An investigation is started and a suspect is apprehended. This time the perpetrator can be sentenced since the investigation in 2003 interrupted the term of statute of limitations and a new term of 15 years commenced after the closure of the investigations in 2003.

A criminal action also extinguishes when (*art. 8 CPC 2007*):

- ❖ A complaint is withdrawn, but only if the complaint is a condition for criminal proceedings;
- ❖ A settlement is reached with the state; or
- ❖ An agreed fine is paid.

**For example:** The withdrawal of a complaint after having agreed to pay a fine from a victim after he/she has agreed to pay a fine.



No mediation can take place that (illegally) results in ending the criminal prosecution.



There is a widespread practice in Cambodia that when the a victim('s family) of rape agrees on the amount of compensation from the perpetrator, the case is dropped by the JPO and/or the Royal Prosecutor. The Criminal Procedure Code states that if a victim withdraws his/her complaint, this abandonment does not suspend the criminal action (*art. 25 CPC 2007*). The Code also states expressly that the police cannot keep criminal cases without processing, even if negotiations between the suspect and the victim are pending or the victim withdrew her request (*art. 75 CPC 2007*).



Equally bad practice is to force the victim of a rape to marry the perpetrator to save the face of the victim's family. Law enforcement officers should strongly discourage families from such settlements since it constitutes a serious infringement of women's rights.

## Attempt to commit a felony or misdemeanour

An attempt to commit a felony or, in the case provided by the law, a misdemeanour may be punishable when the following conditions are met (*art. 27 Penal Code effective in late 2010*):

- ▶ The perpetrator commenced to commit the offense, it means that he/she has commenced the act with the purpose to commit the offense; and
- ▶ The perpetrator did not stop his/her act voluntarily, but the act was interrupted or disturbed by the influences of circumstances beyond his/her will.

An attempt to commit a petty offense shall not be punishable.

## Criminal Responsibility

The principle of criminal responsibility means any individual who commits a criminal offense should be held responsible for his/her own act (*art. 24 Penal Code effective in late 2010*).

## Perpetrator

A perpetrator refers to any individual who commits the offense. Any individual who attempts to commit a felony or, in the case provided for by the law, a misdemeanour, shall also be considered a perpetrator.

## Co-perpetrator

The co-perpetrator refers to many individuals who mutually agree to directly commit an offense jointly (*art. 26 Penal Code effective in late 2010*).

### **Instigator (*art. 28 Penal Code effective in late 2010*)**

An instigator of a felony or a misdemeanour is any individual who encourages the committal of the felony or the misdemeanour by giving gifts, promises or threats, incitement, persuasion, or by abusing his/her own authority or power.

### **Accomplice (*art. 29 Penal Code effective in late 2010*)**

An accomplice of a felony or a misdemeanour is any individual who has intentionally assisted in facilitating an attempt or achievement of the felony or misdemeanour by giving his/ her own assistance or support. An accomplice of the felony or the misdemeanour shall be punished with the same penalties for the perpetrator.

### **Minor (*Articles 38 to 41 Penal Code effective in late 2010*)**

A minor (below 18 years of age) who commits an offense shall be subject to monitoring, education, protection and support. The Court may sentence minors who reached 14 years and older if the circumstance of the offense or the minor's character are required to do so (*art. 39 Penal Code*). The sentences for minors of 14 years and older are adjusted as follows:

- ❖ The maximum sentence of imprisonment shall be reduced by half. If the maximum sentence incurred is the penalty of life imprisonment, it shall be reduced to 20 years imprisonment;
- ❖ The minimum sentence of imprisonment shall be reduced by half, if it is over one day;
- ❖ The minimum and maximum fines shall be reduced by half.

### **Legal Entity (*Articles 18 and 42 Penal Code*)**

In principle, a legal entity can be held responsible for an offense if it is expressly provided for by the law. The penalties that may be pronounced for a legal entity

are as follows (*art. 167 Penal Code*):

- ❖ Fines in the status of the principal penalties;
- ❖ Additional penalties that are provided for by the law for a legal entity.

## Principle of Absence of Criminal Responsibility

There are certain reasons that a natural person who commits an offense holds no criminal responsibility as follows:

### Lawful Self-Defence

Any person who commits an offense in lawful self-defence shall not hold the criminal responsibility. The lawful self-defence shall meet the following conditions (*art. 33 and 34 Penal Code*):

- The offense is compelled to be necessary to defend oneself or others, or to protect the property against an unjustified act of aggression;
- The offense and the act of aggression shall occur at the same time; and
- The means used in the self-defence is not disproportionate to the weight of the act of aggression.

**For example:** *Husband Sopheap is drunk, comes home and finds his wife at home with another man. He thinks she is committing adultery and grabs the axe to attack his wife and the man. The wife grabs a knife next to her and stabs him in the chest while her husband charges to attack them. The husband dies. The wife's act qualifies as self-defence.*



When the accused claims the act of violence was committed in self-defence, this defence should be brought up in Court. In cases where women or children are the victim of violence, they sometimes end up in Court as the accused, when they defended themselves.

## Mental Disorder

If a person, who commits an offense at the time he/she suffers from a mental disorder that has caused him/her not to be in full control of his/her actions, shall hold no criminal responsibility. However, the individual who commits the offense has diminished the control of his/her actions, shall still hold the criminal responsibility. Therefore, the Court shall take this issue into account when it determines the penalty.

If a person, who commits an offense at the time he/she suffers from a mental disorder resulting from the consumption of alcohol, drugs, or the substances prohibited by the law, may not be exonerated from holding the criminal responsibility (*art. 31 Penal Code effective in late 2010*).

## Authorization by Law or Authority

Any person who carries out the acts prescribed or authorized by the law shall not commit an offense. Any person who performs the acts ordered by the legitimate authority shall not commit an offense, unless the acts are obviously unlawful (*art. 32 Penal Code effective in late 2010*).

**For example:** *the Judicial Police Officer Sokhom orders Judicial Police Agent to throw away a plastic garbage bag at the crime scene. However, later it turns out that Sokhom knew that the bag contained important evidence against Sokhom's best friend, a suspect of the crime. The Judicial Police Agent cannot be found guilty of the offense of hiding evidence since he had no idea what was in the bag and was following orders (art. 75 CPC 2007).*



# Chapter 4 - Criminal Procedure

When discussing protection of women's and child rights in the context of violence against women/children in a criminal procedure, the woman/child is usually the victim. However, the woman/child can also be accused of violence in case of self-defence. Therefore, both the rights of victims and suspect/charged/accused are discussed in this chapter.



The most important rights/obligations for victims are emphasized in this chapter and are:

- To file a criminal complaint;
- The right to be assisted by a lawyer (not mandatory by law though);
- The right to be informed by the Royal Prosecutor and the Investigating Judge on decisions regarding processing the file and bringing the case to trial;
- Provide a victim's statement as evidence and if requested by the Trial Judge to testify at the Court hearing;
- The right to submit a civil claim in a criminal procedure to request for compensation;
- The right to attend the trial.



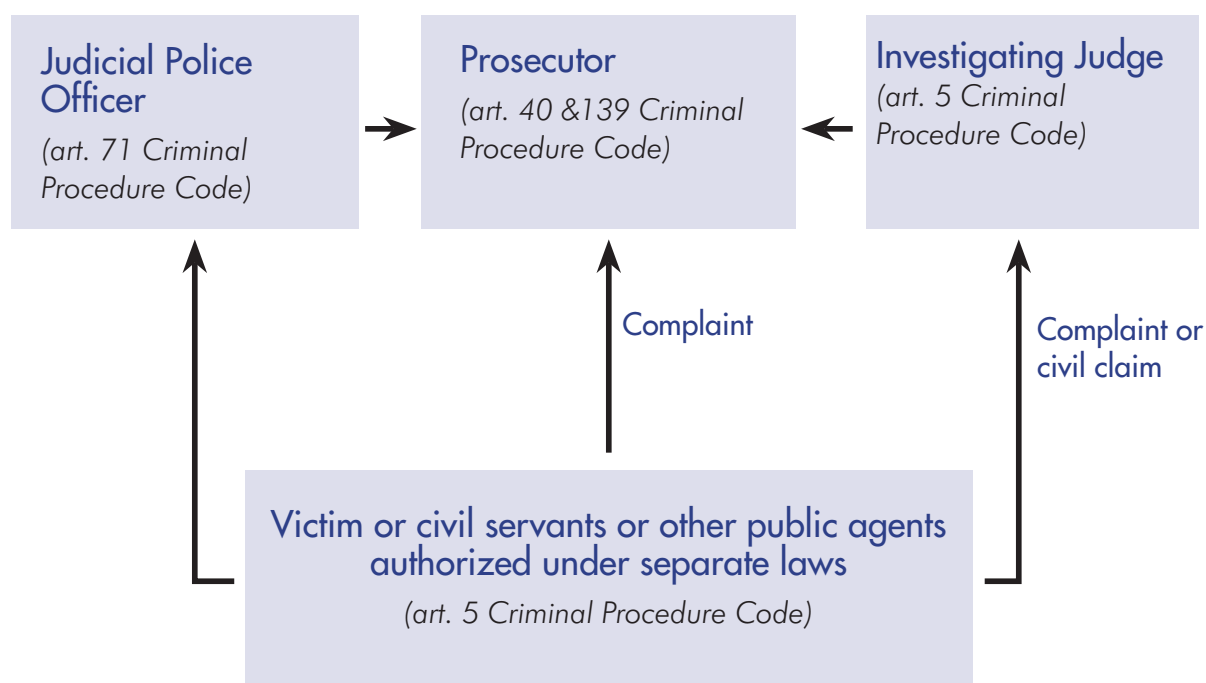
The law and implementers involved in violence against women cases are not sufficiently protective of victims in the way that their identity is protected from the accused. They are usually asked to testify at the trial after having given numerous victim statements to the police and Royal Prosecutor. At the trial they can only see the accused. The interviewers and Trial Judge are often not particularly sensitive or non-judgmental.

# 1. Criminal Complaint

A victim has the right to submit a criminal complaint. A criminal can be submitted to JPOs, or the Royal Prosecutor (JPO-MoWA can receive complaints). The victim can also file a civil claim to request compensation from the perpetrator for the crime to the Investigating Judge.

It is the Royal Prosecutor who decides on whether or not to start a criminal procedure based on complaints by the victim/relative of the victim or denunciations ('tip offs') made directly to him or to a JPO.

Figure 6– Criminal Complaints



**For example:** In the earlier morning, Ms. Sao saw a group of traffickers were attempting to bring 10 girls across the border in front of his house. She went to report this to a JPO. The JPO reports this to the Royal Prosecutor.



The victim has the right to file a complaint. However, a JPO-MoWA can also submit a complaint instead of the victim of domestic violence (*art. 10 DV Law 2005*).

Note that it is not possible to file a complaint instead of the victim in case of rape, trafficking or other violence against women not being domestic violence.



However, it should be noted that the MoWA's roles and policy are able to help victims of violence against women.

After receipt of the complaint the JPO shall make a record as stipulated in *Art. 72 of CPC 2007*. The record shall mention the allegations, the name and status of the JPO, the unit of the JPO and the date.

All units of judicial police maintain a complaint registry as stipulated in *Art. 73 of CPC 2007*. The complaint registry shall mention the allegations, the identity of the complainant, the filing date of the complaint, the name and status of the JPO who recorded the complaint, the type of offense, the actions taken on the complaint such as sending it to the Royal Prosecutor or initiated a police inquiry.

After receipt of the complaint the JPO shall either immediately initiate a police inquiry or send the record of the complaint to the Royal Prosecutor to take action. In case of receiving a denunciation that is manifestly founded, the JPO shall inform the Royal Prosecutor and request for advice (*art. 74 CPC 2007*).

If the JPO decides to conduct a police inquiry before submitting the report of the complaint, they are competent to:

- Inquire into and examine offenses;
- Conduct searches;
- Interview any persons with information regarding the case;
- Call experts for technical and scientific examination; and
- Place suspects in police custody.

Except that a JP-MoWA cannot investigate.

## 2. Preliminary Investigations

The Royal Prosecutor can start a preliminary investigation into the complaint (*art. 40 CPC 2007*). The Royal Prosecutor can ask the JPO to perform this task or investigate the case by him/herself. The Royal Prosecutor has the power to order the JPO to arrest or order the individuals who are able to provide the information about the offense to appear or order the JPO to conduct searches and seize items and allow extension of police custody.



## 3. Evidence collection

The legal term evidence is the means by which any alleged fact may be established or proved wrong.

To enable prosecution of violence against women and children it is of the utmost importance to have evidence, since these cases mostly depend on the statements of the victim(s) and suspect(s).

### Evidence at the crime scene

The first JPO at the scene should ensure to not disturb the evidence at the scene, protect evidence that is in danger to be destroyed, make notes of the scene, and record the names of the witnesses.

When more JPOs enter the scene, they can start documenting the scene with video, photography and/or sketches and collecting and sealing the evidence.

### Interrogations of suspects

The JPOs can order suspects to appear at the Police Station for interrogation. If necessary suspects can be taken into police custody for in principle no longer than 48 hours. In case of a felony and evidence that the suspect is guilty, this period may be extended with 24 hours by the Royal Prosecutor.

## Victim and/or Witness Statements

The interviewing JPO should have had training in interviewing traumatized victims or witnesses in order to be able to approach the victim or witness in a sensitive and non-judgmental manner. It is important to create an atmosphere where the victim/witness feels confident to share all embarrassing details of the assault. To have a female JPO conduct the interview might help significantly. But most important is the attitude of the interviewing JPO.

## Medical evidence

When the victim is not seriously wounded, s/he should be first interviewed for his/her statement. Immediately following this first interview, the victim should be taken to the emergency room of the nearest hospital for a medical check. A change of clothes should ideally be taken with the victim, so that the clothes of the victim can be collected as evidence if there is blood, semen or other relevant stains or rips on the clothes.

The JPO should help the victim to obtain a Medical Forensic Certificate by the Provincial Hospital that can be used as evidence in Court or at least ask the doctor to give a statement regarding the injuries observed. The Medical Forensic Certificate can be found in Annex 5. The costs for the Medical Forensic Certificate is USD 12,50 (50.000 Riel).



It is of the utmost importance that the victim is examined by a medical doctor as soon as possible after the assault. The more time passes after the assault, the less evidence can be found by the doctor. This is especially important with violence against women and children, where usually there is little other evidence. If the client is poor, JP-MoWA should try to negotiate the price for the Medical Forensic Certificate with the Provincial Hospital or find an NGO that can pay for these costs. Sometimes the Provincial Committee on Women and Children can also negotiate with the Provincial Hospital to wave the fee for poor women/children.

**Note:** The procedures for free medical examination are as follows:

- A police officer makes a request for the medical examination;
- A lawyer makes a request to the court;
- The court issues an order to have the issuance of a medical examination certificate free of charge.

A format of the medical examination for the sexual abuse is attached in Annex 6.

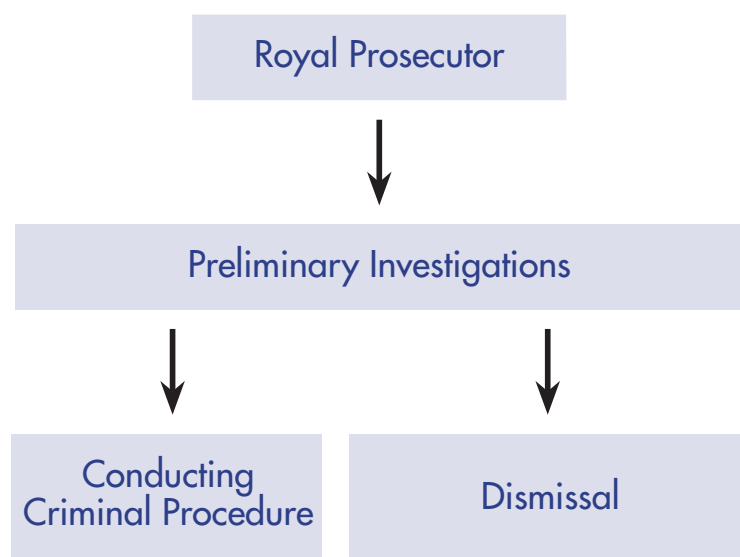
## Records

The JPOs conducting the investigation must send all records and all evidence to the Royal Prosecutor.

## 4. Decision by the Royal Prosecutor

After receiving the complaint, the Royal Prosecutor has two months to take a decision to either process or dismiss the complaint (*art. 40 and 41 CPC 2007*). If a preliminary investigation was conducted, the decision should be based on the results.

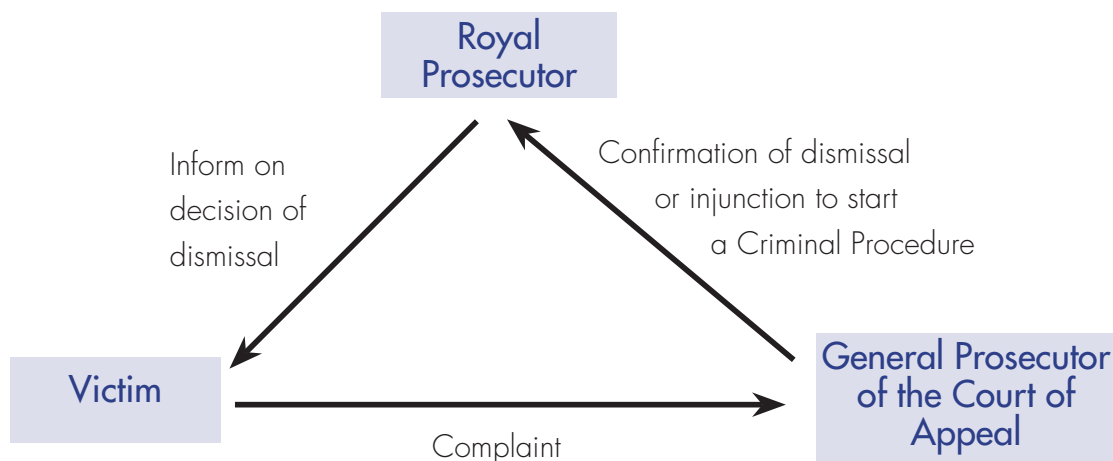
Figure 7– Decision by the Royal Prosecutor





In case the Royal Prosecutor decides to dismiss the complaint, the Royal Prosecutor will have to inform the victim. If the victim does not agree, s/he can file an appeal within two months to the General Prosecutor of the Court of Appeal in Phnom Penh (*art. 41 CPC 2007*).

Figure 8– Appeal against the decision of the Royal Prosecutor



According to art. 41 of CPC 2007, filing the case without processing shall be based on grounds of law and fact and filing the case without processing does not have the effect of *res judicata*.

The Royal Prosecutor shall have the grounds as follows:

- The facts of the case have nothing to do with the criminal case or there is insufficient evidence of a crime; or
- The criminal action is extinguished; or
- The facts constitute a criminal case is a petty offense and it is in the public interest to save public resources to prosecute serious crimes.

**For example:** In an argument Mr. Sopheak slaps his neighbour Ms. Makara in the face, not resulting in any injury. In this case, the Royal Prosecutor does not process the criminal proceedings due to:

- It is a petty offense (*art. 228 Penal Code effective in late 2010*); and
- Sopheak has never committed a crime before; and
- Makara agrees to forget what happened if Sopheak apologizes to her.

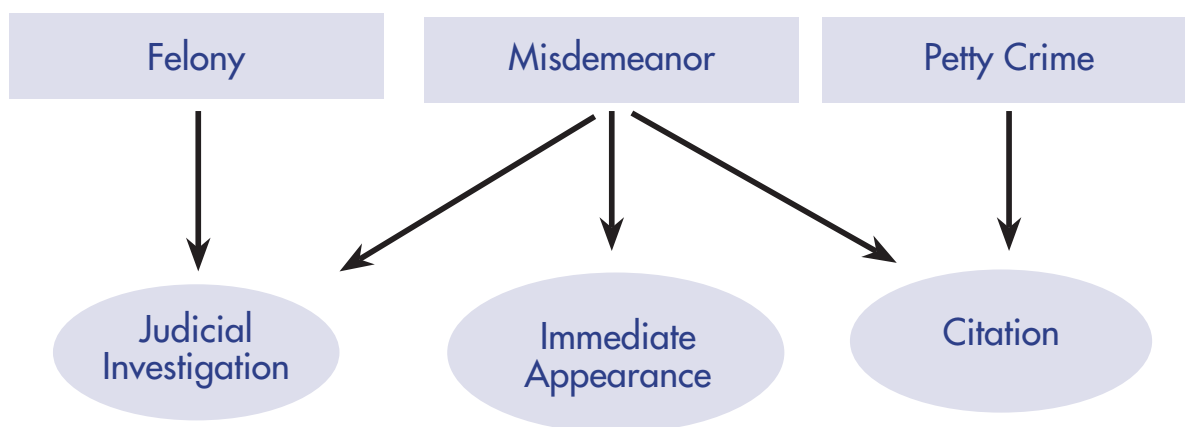


In case the Royal Prosecutor decides to process the complaint, the criminal proceedings can be conducted through:

- ❖ a judicial investigation after submission of the case to the Investigating Judge (*art 44 CPC 2007*); or
- ❖ a citation. A citation is an order made to the accused to appear in a trial before the Court within a certain amount of days (*art. 46 CPC 2007*); or
- ❖ summons for immediate appearance in a trial on usually the same day in case (*art. 47 CPC 2007*):
  - The offense is Flagrant felony or am is demean our; and
  - The offense shall be punished with an imprisonment of at least 1 year and 5 years at the longest; and
  - The accused is an adult; and
  - The case has the substantial facts to be tried.

The process of starting the criminal procedure depends on the type of offense.

Figure 9 - Initiating a criminal procedure

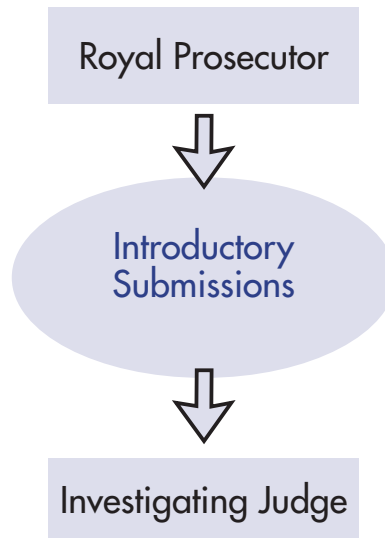


Permission for arrest is granted to the Royal Prosecutor by the Investigating Judge.

After the completion of the arrest, the arrested individual with guards shall be forwarded to appear before the Royal Prosecutor. After checking his/her personal identity, the Royal Prosecutor shall inform the individual about the charge, legal text and the offense to be suppressed. Under this measure, the individual shall be put on trial on the same day by the Court of First Instance and the individual shall be informed that he/she has the right to select a lawyer.

## 5. Judicial Investigation

Figure 10 - Judicial Investigation



An Introductory Submission is made by the Royal Prosecutor to open Judicial Investigations. Judicial Investigations are mandatory for a felony, optional for a misdemeanour.

After the Investigating Judge received the Introductory Submissions from the Royal Prosecutor s/he can decide to charge any person mentioned in the Submissions under investigation (*art. 126 CPC 2007*). The suspect then becomes “charged”. The judicial investigation is led by the Investigating Judge.



An Investigating Judge has to collect all evidence that relate to the case (*art. 127 CPC 2007*). This means not only evidence that shows that the charged person has committed the crime, but also evidence that shows that s/he has not committed the crime. This is because the Investigating Judge is a Judge and should be objective, just as the Trial Judge should be objective.



The Investigating Judge must inform the charged person of the charges and informed of the right to remain silent until he/she has a lawyer. The Investigating Judge will also inform the charged person of his rights to choose a lawyer or a lawyer appointed in accordance with the Law on the Bar (*art. 143 CPC 2007*).

At any time during a judicial investigation the Royal Prosecutor may request the Investigating Judge to conduct any investigative act that he believes will be useful (*art. 132 CPC 2007*).



The charged person and the civil party may also request the Investigation Judge to for example question him/herself and other people (*art. 133 and 134 CPC 2007*).

At any time during the judicial investigation the Investigating judge may conduct searches, in principle in the presence of the person living there or using the premises for e.g. a business. In principle the searches must take place between 6 am until 6pm. (*art. 159 CPC 2007*) and items that could be used as evidence may be sealed and taken (*art. 160 CPC 2007*).

At any time during the judicial investigation the Investigating judge can issue an order to ask for an expert report (*art. 162 CPC 2007*).

**For example:** the Investigating judge feels doubt about the injury from the biting by the husband in a DV case. The Investigating judge asks a medical doctor to explain the medical forensic report further.

**For example:** the Royal Prosecutor can issue a DNA test to check if semen is indeed from the rape suspect.

**For example:** the Royal Prosecutor asks a graphologist to check whether the handwritten suicide note is indeed from Mrs. Vuthy to ensure the case is suicide and not homicide.

If an Investigating Judge considers the investigation concluded, s/he informs the Royal Prosecutor, the charged person, the civil parties and their lawyers. The Investigating Judge sends the file to the Royal Prosecutor for examination.

Within 15 days, if a charged person is detained and within one month if not, the Royal Prosecutor shall return the case file to the Investigating Judge together with his final submission. In the final submission the Royal Prosecutor may request the Investigating Judge to issue an indictment against the charged person or to issue a non-suit order (*art. 246 CPC 2007*). The Investigating Judge takes the final decision in a so called closing order. The closing order is either an indictment or a non-suit order. The Investigating Judge does not have to follow the submission/opinion of the Royal Prosecutor (*art. 247 CPC 2007*).

The Investigating Judge shall issue a non-suit order in case:

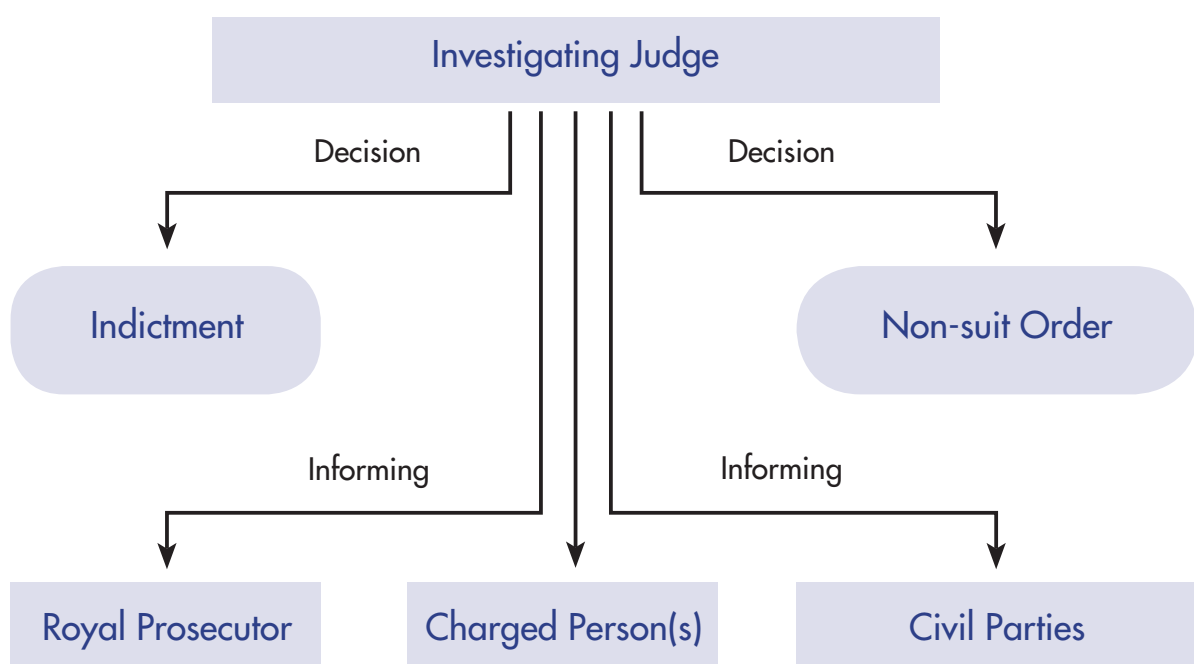
1. The facts do not constitute a felony, misdemeanour or petty offense;
2. The perpetrators of the committed acts remain unidentified;
3. There is insufficient evidence for a conviction of the charged person.



The Royal Prosecutor, charged person and the civil parties shall be informed of the closing order without delay (*art. 247 CPC 2007*).

When the charged person is indicted, he becomes “*the accused*”.

Figure 11 - Closing Order – is the final decision of the Investigating Judge



# Flagrant delict

An offense is a *Flagrant delict* if the accused is caught in the act and apprehended either during the crime or immediately after committing the crime. The offense is also a *Flagrant delict* if, shortly after a misdemeanour or felony, a suspect is in hot pursuit by the public or a person is found to have an object, scar, mark or any other evidence from which it can be concluded that he committed or participated in an offense.

Any person can arrest the offender and bring him/her to the nearest JPO.



JPO will immediately inform the Royal Prosecutor in case of a flagrant felony or a flagrant misdemeanour (*art 89 CPC 2007*). The JPO will have to conduct an investigation at the crime site, seize items for evidence and they can order persons on site to remain there until the investigation operation on site is completed.

The JPO may conduct searches at any time (also before 6:00 am and after 18:00 pm in case):

- ❖ A search is conducted in cases of Flagrant Felony or Misdemeanour;
- ❖ A search is conducted in cases of assimilation of Flagrant Felony or Misdemeanour:
  - There is a call for help from inside a place;
  - A search is conducted at a place that is open to the public;
  - A search is conducted at a place where drugs are produced, stored, circulated, distributed or used (*art. 91 CPC 2007*).

# Pre-trial detention

In principle a charged person shall remain at liberty before the trial commences (*art. 203 CPC 2007*). Pre-trial detention can be ordered by the Investigating Judge for the duration from the investigation until the trial date to enable proper investigations, to prevent suspects from hiding from the law and to prevent further crimes, ensure the security of the charged person and to protect public order (*art. 205 CPC 2007*). Conditions for pre-trial detention are (*art. 204 CPC 2007*):

- ❖ The accused in the case of felony or misdemeanours;
- ❖ Involving a punishment of imprisonment of equal to one year or over one year.

**Table 1 - Length of Pre-Trial Detention**

| Age             | Felony             | Misdemeanour                                |
|-----------------|--------------------|---|
| Adult           | 6 months + (6 x 2) | 4 months or half minimum sentence + (2 x 1) |
| 16-17 years old | 6 months           | 4 months or half minimum sentence           |
| 14-15 years old | 4 months           | 2 months of half minimum sentence           |
| Younger than 14 | 0                  | 0   |

The duration of detention for a misdemeanour committed by any person under 18 years old should not exceed half of the minimum period of sentence set by law (*art. 214 CPC 2007*).

A minor under 14 years old may not be temporarily detained. The Investigating Judge can decide to send the minor temporarily to his/her guardians or, if there are no guardians, to a Provisional Education and Care Center until the competent Judge has made his decision on this issue.

The Royal Prosecutor and the charged may request release from pre-trial detention with the Investigating Judge. It is the Investigating Judge who decides upon release.

If the Investigating Judge refuses the request, the Royal Prosecutor and/or charged can appeal with the Investigating Chamber of the Court of Appeal (*articles 216 and 217 of the CPC 2007*).

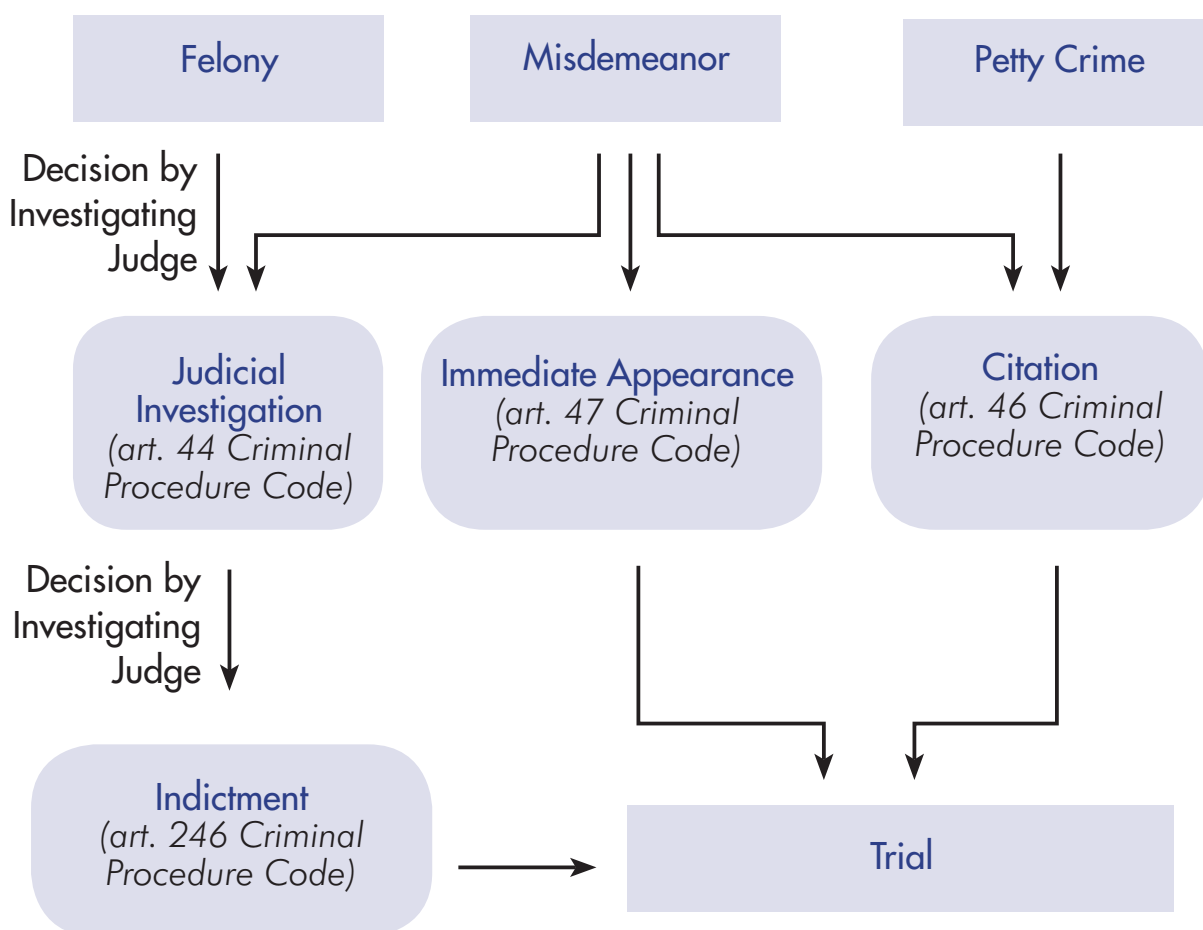
After the Closing Order is taken by the Investigating Judge, the pre-trial detention is terminated unless the Investigating Judge issues a separate decision to keep the charged person in detention. The decision to keep the charged person in provisional detention ceases to be effective after four months. If the charged person is not called to appear before the trial Court within these four months, the charged person shall be automatically released (*art. 249 CPC 2007*).

## 6. Trial

A trial is initiated through:

- an Investigating Judge's decision to indictment; or
- a citation order from the Royal Prosecutor (*art. 46 CPC 2007*); or
- summons for immediate appearance in a trial on usually the same day in case (*art. 47 CPC 2007*).

Figure 12 - Initiating a Court Trial is done by the Investigating Judge who can follow three different paths that depend on the category of the crime:



The President of the Court sets a date for the hearing. The Trial Judge(s) cannot be the same Judge(s) that conducted any judicial investigation in the case (*art. 288 CPC 2007*).



The Royal Prosecutor shall be orally informed of the trial date (*art. 292 of the CPC*). The accused, civil party, other victims, witnesses, experts, interpreters/translators are summoned by the Royal Prosecutor to appear for the hearing (*art. 294-296 CPC 2007*).

In principle the accused has the right to a public trial. However the Court may make an exception to this (*art. 316 CPC 2007*). For all trials the judgment should be announced publicly (*art. 317 CPC 2007*).

## Costs of the trial



In a criminal trial the accused and the victim are not obliged to pay a Court fee. However, if the victim files only a civil claim without the criminal action, s/he should pay a Court fee and the Investigating Judge can also order the civil party to pay a deposit (*art. 140 CPC 2007*). However the Investigating Judge might waive the deposit in case the victim is poor.

**Table 2 – Court fees in civil procedures or a civil claim in a criminal procedure**

| Value of the dispute   | Court fee |
|--|-----------|
| Up to 10.000.000 Riel (USD 2.500)                                | 1%        |
| 10.000.000 Riel (USD 2.500) – 100.000.000 Riel (USD 25.000)      | 0,7%      |
| 100.000.000 Riel (USD 25.000) – 1.000.000.000 Riel (USD 250.000) | 0,3%      |
| Over 1.000.000.000 Riel (USD 250.000)                            | 0,1%      |

Where it is difficult to determine the value of the dispute, the Court shall determine the value of the action in its reasonable discretion. Where it is impossible to determine the value of the action, the value shall be deemed 5.500.000 Riel.



For a civil claim in a criminal procedure Courts usually charge USD 13,75 (55.000 Riel = 1% of 5.500.000 Riel) to pro Deo lawyers who represent the poor.

## Present at the hearing

- ❖ The Trial Judge (three Judges for felonies) (*art. 289 CPC 2007*);
- ❖ (Deputy) Royal Prosecutor;
- ❖ Court Clerk who assists the Judge and makes notes;
- ❖ The accused;
- ❖ The lawyer of the accused has to be present during the trial of a felony case and in case the accused is a minor. For the trial of a misdemeanour and a petty offense, the present of a lawyer is not compulsory. In case the accused does not appear, the trial can be held in absentia, meaning that the Court will proceed with the trial even in the absence of the accused (*art. 333 CPC 2007*);
- ❖ Civil Party and his/her lawyer (*art. 314 CPC 2007*);
- ❖ Witnesses & experts. *Article 315 of the CPC 2007* obliges witnesses to appear before the Court once they are summonsed. There are few laws protecting witnesses in Cambodia. A reason for pre-trial detention can be the protection of witnesses (*art. 205 CPC 2007*).

## Trial steps

### 1. Verifying the Identity and Questioning the Accused and Party

When the hearing starts, the Court clerk shall call the names of the accused, civil parties, civil defendants, victims, witnesses and experts and verify the identity of those persons. If a civil party is represented or has a lawyer, the Court clerk shall verify the identity of those representatives and verify the validity of their delegation of power.

At the commencement of the trial hearing, each party may request the Court to hear witnesses who are present in the Court room but who were not summoned to testify. Taking the testimony of those witnesses shall be approved by the presiding Judge. All parties may object to the hearing of the testimony of witnesses if the party believes their statements are not conducive to ascertaining the truth. In case of objection, the presiding Judge decides whether to hear the witness testimony or not (*art. 327 CPC 2007*).

## 2. Witness and experts are sent outside the Courtroom

The witnesses and experts shall retreat and move to the waiting room prepared for them, from which they cannot communicate and see each other or hear anything in the Court room (*art. 322 of the CPC 2007*).

## 3. Reading the charges

Before starting to conduct the questioning, the presiding Judge shall inform the accused of the charges that he is accused of.

## 4. Evidence Collection

The presiding Judge hears the accused and shall ask any questions which he believes to be conducive to ascertaining the truth (*at 325 CPC 2007*). After the Judge's questions, the Royal Prosecutor, lawyers and all the parties may be authorized to question the accused. All questions shall be asked with the authorization of the presiding Judge. Except for questions asked by the Royal Prosecutor and the lawyers, all other questions shall be asked through the presiding Judge, such as the questions asked by the victims to the accused. In case of objection to a question, the presiding Judge decides whether the question should be asked or not.

The presiding Judge can then hear the statements of civil parties, victims, witnesses and JPOs and Judicial Police Agents who conducted the enquiry as witnesses (*art. 326 CPC 2007*). The Royal Prosecutor, lawyers and all other parties may be allowed to ask questions to each party giving a statement (*art. 326 CPC 2007*).

Items may also be presented and used as evidence in Court (*art. 332 CPC 2007*).

**Note:** All witnesses shall swear that he/she will tell the truth according to his/her belief or religion, except the family related witnesses and children under 14 years of age (*art. 328 and 156 CPC 2007*).

## Closing Arguments and Statements

At the conclusion of the hearing, the presiding Judge invites the following people to give their closing statements one after another:

- ❖ The civil party, the civil defendants and the accused can make brief statements;
- ❖ The lawyer of the civil party presents his closing arguments;
- ❖ The Royal Prosecutor presents his closing arguments;
- ❖ The lawyer of the civil defendant and then the lawyer of the accused present their closing arguments.

The civil party and the Royal Prosecutor can make rebuttal statements. However, the accused and his lawyer shall be always the last ones to speak (*art. 335 CPC 2007*).

**Note:** Until the end of the trial hearing, the accused, the civil party, and civil defendants may make written statements and submit all documents and evidence that they think will be conducive to ascertain the truth (*art. 334 CPC 2007*).

## Examination of Evidence

The Trial Judge will base the decision on evidence included in the case file or which has been presented at the hearing. The Trial Judge will have to weigh the value of evidence submitted. A confession made by the accused shall be considered by the Court in the same manner as any other evidence. Statements given under the physical or mental duress shall have no evidentiary value. Evidence emanating from the communications between the accused and his lawyer is inadmissible (*art. 321 CPC 2007*).

If the hearing is not finished in one session, the Court can adjourn the hearing to another date (*art. 340 CPC 2007*).

## Deliberation of the Court

At the conclusion of the trial hearing, the Trial Judge(s) will either give its judgment or inform parties of the date of the judgment. However if the Trial Judge(s) believes that the case has not yet been able to make the judgment at the conclusion of the trial hearing, the Judge may conduct further investigation in accordance with the conditions as specified under the law, e.g. seeking a witness statement that has not been obtained yet.

The Trial Judge may issue an order for additional investigations to a specific Judge.

## Judgments

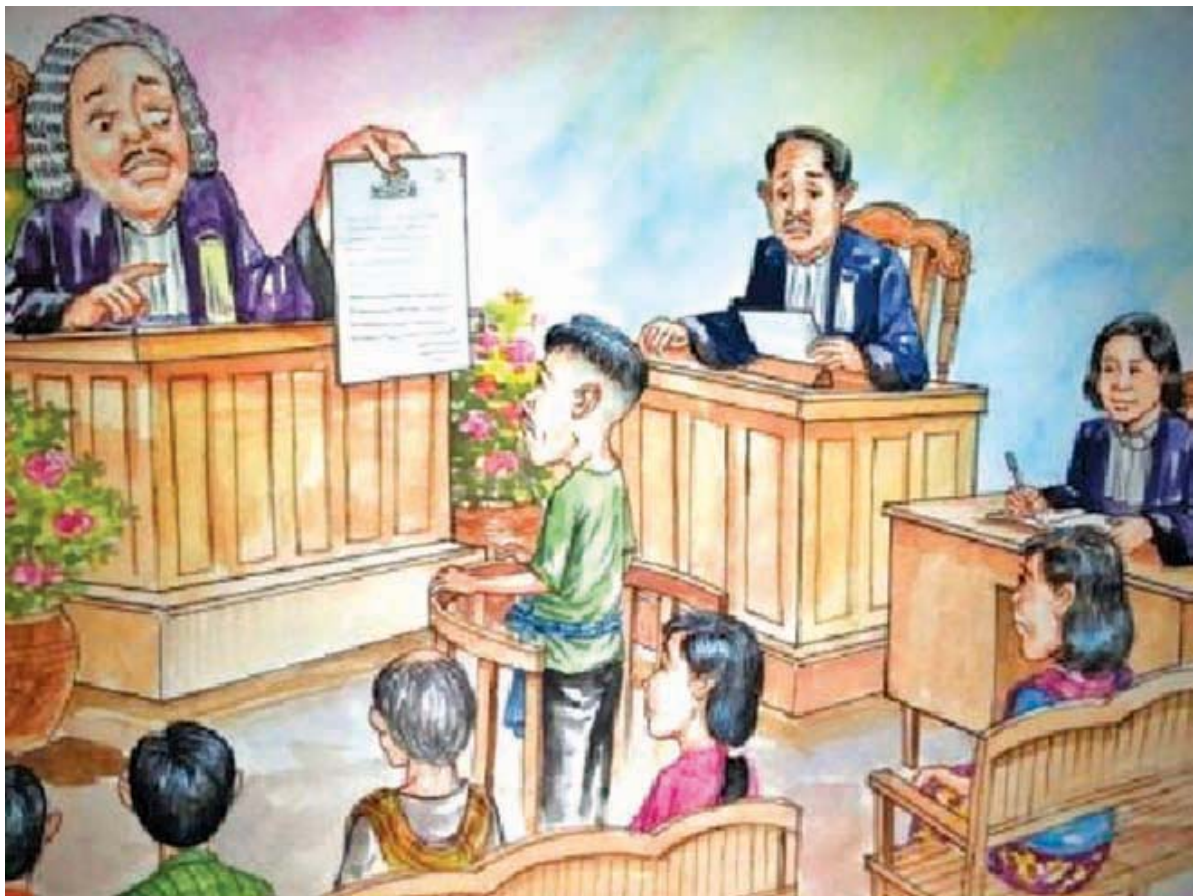
The final decision of the lower Court is called “judgment”. There are three types of judgment at the lower Court. They are:

**Non-default judgment:** the accused appeared at the trial (*art. 309 and 360 CPC 2007*).

**Judgment deemed as non-default** if the accused is aware of the citation or summons (*art. 361 CPC 2007*).

**Default judgment** (*art. 362 CPC 2007*).

All judgments issued by the Court shall become effective through public announcement of the decision (*art. 317 and 359 CPC 2007*).



## Sentences

The Court issues sentences based on the seriousness of and circumstances of the offence, the individual circumstances of the accused, of his/her mental state of mind, resources and burdens, motives as well as his/her conduct after committing the offence, in particular towards the victim. This is called the Individual Principles of Penalty (*art. 96 Penal Code effective in late 2010*). The Penal Code effective in late 2010 has three categories of penalties:

## 1. Principal penalty

The principal penalty is divided into two categories: Imprisonment and fine which is expressed in riel (*art. 43 Penal Code effective in late 2010*). The Court may sentence as follows (*art. 97 Penal Code effective in late 2010*):

- ❖ A sentence of imprisonment and a fine together; or
- ❖ A sentence of imprisonment only; or
- ❖ A fine only.

Fines shall be paid to the state (into the state budget, see *art. 52 Penal Code effective in late 2010*).

## 2. Alternative penalty (*art. 72-75 Penal Code effective in late 2010*)

The alternative penalty consists of community service and a reprimand. The alternative penalty may be pronounced by the Court to replace the principal penalty. If an accused is liable to imprisonment of less than or equal to 3 years, the Court may pronounce community service as an alternative. Community service is the obligation to be conducted for a period of time from 30 to 200 hours for the benefit of the state, sub-national administration or legal entities of other public entities, communities, or non-governmental organizations. The community service shall be governed by the provisions under the Labour Law, such as night work, hygiene, security and women labour. The community service may be performed in overlapping with a professional activity.

If an accused is liable to imprisonment for a maximum period of less than or equal to 3 years, the Court may pronounce the reprimand if the three conditions are met as follows:

- ❖ The public disturbance caused by the offense has already ceased;
- ❖ The damages have already been compensated; and
- ❖ The accused has provided a guarantee of reintegrating into society.

**For example:** *Vireak indecently exposed himself to two young females in his school class. The Court may decide to impose community service to clean up the commune office for 100 hours. Therefore, the Court does not sentence Vireak to a principal penalty such as a fine or imprisonment. Vireak apologized in front of the whole class for his crime, understood his mistake and promised to correct his behaviour in future.*

### 3. Additional penalty (art. 53 – 71 Penal Code)

Additional penalties can be given, but only if the law specifically stipulates these for the felonies, misdemeanours and petty offenses. A Judge may include them in the judgment. However, the additional penalty is mandatory if the law stipulates this explicitly.

**Examples of additional penalties** are prohibition from residing, suspension of driving license, confiscation of assets and publication of sentences.

## Appeal

### Parties with a right to appeal

In case a criminal offense is committed, everyone has the right to file a complaint to the competent Court. But for the case of appeal, the law determines the persons who can make an appeal.



An appeal may be filed by (art. 375 CPC 2007):

- The accused;
- The Royal Prosecutor of the Court of First Instance and the General Prosecutor attached to the Court of Appeal;
- The civil party or civil defendant.

**Note:** Regarding this, MoWA can help intervene to the Appeal Court with the following conditions:

- A victim shall make a request (file an application) to MoWA first. Then, MoWA prepares the application (a complaint) for the victim (to be signed by the victim) to the Appeal Court through MoWA Minister's signature.
- In case of the provincial level, the process is the same. It is done through the provincial governor or deputy governor. The formats of the intervention letter are attached in Annexes 8 and 9.



**For example:** Vibol is charged for rape. In the trial stage, the charges were dropped by the trial Judge. Due to the dissatisfaction with the decision, the Royal Prosecutor makes an appeal against this decision. In case that Vibol is in detention, he would be still in detention waiting for the decision of the Court of Appeal.

**For example:** Sotheary is punished by the trial Judge who sentenced him to life imprisonment for rape and murder. Due to the dissatisfaction with the decision, Sotheary can appeal against this decision to the Court of Appeal.

**For example:** Ms. Bopha files a complaint against Mr. Ratanak to the Kampong Speu Provincial Court of First Instance for indecent assault and claims a compensation of 10 million Riels. During the trial stage, the trial Judge decides to sentence Mr. Ratanak to two year in jail and give a compensation of 1 million Riels to Ms. Bopha. Due to the dissatisfaction with the compensation made by the Kampong Speu Provincial Court, Ms. Bopha decides to appeal against the civil decision (compensation).

**For example:** The offender Sakunthea, who is 13 year old, rapes Narak, who is 8 year olds. Narak's mother files a complaint to claim a compensation of 20 million Riels from the offender's father. During the trial stage, the Judge decides that the offender's father has to pay a compensation of 20 million Riels to Narak's mother. Due to the dissatisfaction with the Judge's decision, the offender's father makes an appeal against this civil compensation.

## Competence Court of Appeal

The Criminal Chamber of the Court of Appeal has the authority to decide appeals against decisions of the Court of First Instance within its scope of jurisdiction for criminal cases (art. 373 CPC 2007). Therefore, if any party in a dispute is not satisfied with a decision of the Court of First Instance, they can file a complaint to the Criminal Chamber of the Court of Appeal.

**For example:** Dara files a sexual trafficking complaint against Narak to the Battambang Provincial Court and claims a compensation of 10 million Riels. The Battambang Provincial Court of First Instance hears the case and issues the judgment to sentence Narak to 1 year imprisonment and provides the compensation of 1 million Riels to Dara. Due to dissatisfaction with the decision of the Battambang Provincial Court of First Instance, Dara appeals to Criminal Chamber of Court of Appeal to decide on the compensation again.

## Appeal Term



An appeal by the convicted person, the civil party, or a civil defendant shall be made within one month.

Where the judgment is non-default the time period for an appeal shall be calculated from the day the judgment was pronounced. Where the judgment is deemed to be non-default, the time period for an appeal shall be calculated from the day the writ of notification was made regardless of the means (art 382 CPC 2007).

**Table 3 - Appeal term Non-Default Judgment** (*art. 382 CPC 2007*)

| Non-Default Judgment<br>(Articles 382 CPC 2007) |   |
|---|---|
|   | Accused                                       |
| Term for filing complaint                       | 1 month from the day the judgment is declared |
| Form of objection                               | Appeal with the Court of 1st Instance         |

**Table 4 - Appeal term Judgment deemed as Non-Default** (*art. 361 CPC 2007*)

| Judgment Deemed as Non-default<br>(Articles 361 CPC 2007) |                                       |
|---|---------------------------------------|
|   | Accused                               |
| Term for filing complaint                                 | 1 month                               |
| Form of objection   | Appeal with the Court of 1st Instance |



**Table 5 - Appeal term for Default Judgment (art. 362 CPC 2007)**

| Default Judgment<br>(art. 368 CPC 2007) |   |
|---|---|
|   | Accused                                       |
| Term for filing complaint               | 15 days from the day the judgment is informed |
| Form of objection                       | Opposition with the Court of 1st Instance     |

An appeal by the Royal Prosecutor must be filed within one month, starting from the day the judgment is pronounced. An appeal by the General Prosecutor must be filed within three months; starting from the day the judgment is pronounced (art. 381 CPC 2007).

## Process

The appeal by the Royal Prosecutor, the convicted person, the civil party and the civil defendants shall be filed with the office of the clerk of the Court which issued the judgment. An appeal by the General Prosecutor shall be made at the office of the clerk of the Court of Appeal (art. 379 CPC 2007).

## Representation

A convicted person may be represented by a lawyer to make an appeal. But the lawyer shall have a power letter of attorney to file an appeal for the convicted person. In case, however, the convicted person is a minor, he may be represented by his father, mother or guardian. In the latter case, the representative is not required to have the power letter of attorney.

In case a civil party may be represented by a lawyer, his/her spouse or a direct-line relative, the representative shall provide a power letter of attorney to file an appeal. Then, the representative may file an appeal instead of the civil party. In case a civil defendant is represented by a lawyer, his spouse or a direct-line relative, the representative shall provide a power letter of attorney to file an appeal (art. 376 CPC 2007).



A domestic violence victim can be represented by a JPO-MoWA in accordance with MoWA's Prakas No. 072 KKN/BS dated 07 September 2007. However JPO-MoWA should in principle only file an appeal in case the victim agrees to this.

## Abstention

When a Judge or a Royal Prosecutor who has participated in the judicial investigation, or who has already participated in the trial at the Court of First Instance, may not participate in the hearing of the Court of Appeal as a presiding Judge or Judge for the same case (*art. 374 CPC 2007*). In case a Judge or a Royal Prosecutor violates the provision of this rule, their judgments shall become void.

**For example:** Judge B participated as an Investigating Judge in the trial of a rape case in the Court of First Instance. Judge B cannot act as the Trial Judge in the same case.

**For example:** Judge A participated in the process as an investigating Judge of the case of murder of Ms. Vy's husband. During the investigation stage, Judge A dropped the charges against the accused. Ms. Vy's appeals this decision with the Court of Appeal. In the meantime Judge A moved to work as a Judge in the Court of Appeal. Judge A cannot handle the appeal file he already worked on as the investigating Judge in the Trial Court of First Instance.

## Execution

In case an appeal is filed against the judgment of the Court of First Instance, The execution of the judgment shall be suspended until the time limit for appeal has expired.

However, an accused in detention who appeared before the Court of First Instance shall remain in prison during the period in which the Royal Prosecutor can appeal. In case the Royal Prosecutor has appealed against the criminal part of the judgment, the accused shall remain in prison until the Court of Appeal makes its decision. Where the Court of First Instance had decided to acquit the accused or to sentence the accused to imprisonment for the period of less than or equal to the time spent in provisional detention, the Royal Prosecutor may agree to release the accused before the expiration of the time limit for appeal (*art. 398 CPC 2007*).

**For example:** Mr. Samrach is charged by the Royal Prosecutor for rape of his 10 year old stepson and forwards the case file for trial. During the trial, the trial Judge decides to drop the charges against Samrach. The Royal Prosecutor is not satisfied with the decision and files an appeal. During the appeal procedure, the execution of the judgment to drop the charges shall be suspended. It means that Samrach is not released during the time waiting for the decision of the Court of Appeal.

**For example:** Mr. Phanna is charged by the Royal Prosecutor for indecent exposure. During the investigation stage, the investigating Judge decides to put the accused in the pre-trial detention for 1 month. After forwarding the case file to trial, the trial Judge decides to sentence Phanna to 1 month imprisonment. Due to the dissatisfaction with the decision of the trial Judge, the victim makes an appeal against the decision. Due to Phanna's imprisonment is equal to the time spent in the provisional detention; Phanna may be released by the Royal Prosecutor before the expiration of the time limit for appeal.

## Procedure

The procedures of the Court of Appeal are not much different from the procedures of the Court of First Instance.

If an appeal is filed, the clerk of the Court of First Instance brings the case file up to date for forwarding it to the Court of Appeal. The clerk shall forward to the office of the clerk of the Court of Appeal without delay the following:

- ❖ The case file
- ❖ A copy of each appeal document (with a stamp of the Court to certify that the copy is the same as the original);
- ❖ A copy of the judgment (with a stamp of the Court to certify that the copy is the same as the original).

In case where there is an appeal against the Court's decision on the detention of an accused, the case files shall be forwarded within 10 days at the latest, calculating from the date of the appeal, unless there are circumstances that cannot be overcome. Such circumstances shall be noted in the forwarding letter.

When the case is received by the Court of Appeal, the President of the Criminal Chamber shall examine whether the case file is up to date and, if so, determine a date for the hearing. The Court of Appeal shall decide within a reasonable period of time.

If an appeal is made against a detention-related decision of the Court of First Instance against the accused, the Court of Appeal shall decide without delay and within a maximum of 15 days calculating from the date the case file was received (*art. 387 CPC 2007*).

## Judgment

### Effect of Appeal by Accused Only

If an appeal against the whole judgment of the Court of First Instance has only been received from the accused, the Court of Appeal may not aggravate the sentence. It may modify the judgment only in favor of the accused. It means that the Court of Appeal may not add an incidental sentence to the principal sentence. The Court of Appeal may re-qualify the offense found by the Court of First Instance with another offense, but may not aggravate the sentence imposed on the accused for damage to the civil action. If the Court of First Instance fails to declare any incidental sentence that was mandatory, the Court of Appeal shall annul the judgment and decide on the sentence (*art. 399 CPC 2007*).

**For example:** *Delux is sentenced by the Court of First Instance to 8 year imprisonment and paying the compensation of 3 million Riels to his rape victim. Due to the dissatisfaction with the decision of the Court of First Instance, Delux files an appeal against the imprisonment. After receiving the appeal from the accused, the Court of Appeal opens the hearing to decide on the imprisonment. The Court of Appeal may not aggravate the sentence to over 8 years. The Court of Appeal may only decide on another offense with the imprisonment which is equal to or less than 8 years. The Court of Appeal may not increase the amount of civil compensation of over 3 million Riels in accordance with its knowledge because the victim does not file an appeal.*

### Effect of Appeal by Royal Prosecutor and General Prosecutor

An appeal against the judgment of the Court of First Instance by the Royal Prosecutor or the General Prosecutor leads to a review of the criminal part of the trial judgment of the Court of First Instance. The Court of Appeal may eventually dismiss an acquittal judgment or affirm the sentence that is declared by the Court of First Instance. The Court of Appeal can always decide to acquit the accused, if it considers that the person was not proved guilty. The Court of Appeal, however, may impose any incidental sentence that is mandatory which the Court of First Instance fails to impose (*art. 400 CPC 2007*).

**For example:** Sokhom is sentenced by the Court of First Instance to 7 year imprisonment on the charges of rape. Due to the dissatisfaction with the decision, the Royal Prosecutor or the General Prosecutor files an appeal. Therefore, the Court of Appeal may sentence Sokhom to the imprisonment which is equal to 7 years, or over 7 years (8, 9 or 10 years in accordance with its knowledge).

### Effects of Appeal by Civil Party and Civil Defendants

When a civil party or a civil defendant files an appeal against the decision of the Court of First Instance on the civil parts, it leads to a review of the civil part of the trial judgment of the Court of First Instance only. Moreover, a civil party may not bring a new request before the Court of Appeal which was not submitted to the Court of First Instance (art. 402 CPC 2007)

**For example:** Thida is sentenced by the Court of First Instance to an imprisonment of 2 months for sexual harassment and provides a compensation of 5 million Riels to his victim. Due to the dissatisfaction with the decision to provide 5 million Riels in compensation, the victim files an appeal. Therefore, the Court of Appeal may amend the decision of the Court of First Instance related to the 5 million Riels compensation only. The victim cannot make an appeal related to the imprisonment determined by the Court of First Instance.

### Reversal of Judgment

When the Court of Appeal receives an appeal from any individual and opens the trial for the appeal and the accused is not found guilty, the Court of Appeal shall repeal the judgment of the Court of First Instance and acquit the accused (art. 405 CPC 2007).

**For example:** Mr. Rithy is sentenced to 2 years by the Phnom Penh Municipal Court of First Instance for indecent assault. Due to dissatisfaction with the decision of the Phnom Penh Municipal Court of First Instance, Rithy files an appeal. When the Court of Appeal opens the trial for the appeal, the Court of Appeal finds that Mr. Rithy is not guilty. Therefore, the Court of Appeal issues a judgment to drop the charges against Mr. Rithy and releases the accused as soon as the time limit of the request for cassation is expired.

# Cassation

The request for cassation is an objection to the final judgment of Court of Appeal. It means that during the time limit of the request for cassation, the execution of the judgment of the Court of Appeal shall be suspended.

## Persons Entitled to Request for Cassation

A request for cassation may be made by:

- The General Prosecutor attached to the Supreme Court;
- A General Prosecutor attached to a Court of Appeal;
- An accused or a convicted person;
- A person wanted for extradition;
- A civil party and;
- A civil defendant.

The Criminal Chamber of the Supreme Court shall examine a request for cassation (*art. 418 CPC 2007*).

In case there is a request for cassation against the judgment of the Court of Appeal, the execution of the judgment shall be suspended until the decision of the Supreme Court. The first request for cassation has the composition of 5 Judges who conduct the trial only on the question of law. While the second request for cassation has the composition of 9 Judges who conduct the trial in a plenary session of both the questions of law and fact (*art. 442 CPC 2007*).

## Grounds for Request for Cassation

The Supreme Court may not grant a request for cassation:

- For illegal composition of the trial panel;
- For lack of jurisdiction of the Court;
- For abuse of power;
- For breaching the law or for misapplication of the law;
- For violations or failure to comply with procedure causing nullity;

- For failure to decide on a request made by the Royal Prosecutor or a party, given it was unambiguous and made in writing;
- For manipulation of facts;
- For lack of reasons and;
- For contradiction between holding and ruling (*art. 419 CPC 2007*).

## Time Period for Request for Cassation



A request for cassation shall be made within the following periods:

- One month for an appeal judgment issued by the Criminal Chamber of the Court of Appeal;
- Fifteen days for a decision issued by the Investigation Chamber of the Court of Appeal;
- Five days for a decision by the Investigation Chamber concerning issues of extradition.

If the judgment being challenged is a non-default judgment, the time period shall be calculated from the date the judgment was declared.

If the judgment being challenged is deemed to have been a non-default judgment, the time period shall be calculated from the date of notification.

If the judgment is a default judgment, the time period shall be calculated from the date of the expiration of the period for opposition (*art. 420 CPC 2007*).

A request for cassation shall be submitted to the office of the clerk of the Court of Appeal which issued the judgment (*art. 422 CPC 2007*). The clerk of the Court of Appeal shall bring the case file up to date for forwarding it without delay to the clerk of the Supreme Court to register the case file. The clerk of the Supreme Court shall notify the parties of the registration of the case file.

Within 10 days after the notification, the clerk shall notify the requester for cassation or his/her lawyer that he/she has 20 days to submit a legal brief on the questions of law to the Criminal Chamber of the Supreme Court.

If the requester for cassation has already appointed a lawyer and the lawyer's name has already been given to the clerk of the Supreme Court, the clerk shall also notify the lawyer. If a brief is submitted by the requester of cassation, the clerk shall notify the other parties and their lawyers and notify them that they have 20

days to respond to the requester's brief (*art. 427 CPC 2007*). If the twenty-day period is insufficient, any party may request an extension from the President of the Supreme Court. The duration of the extension shall not exceed ten days.

## Time Period for Decision

When the Supreme Court receives the request for cassation, the Supreme Court shall make its decision within no later than 6 months from the date of receiving the case file, unless there are circumstances that cannot be overcome (*art. 438 CPC 2007*). The Criminal Chamber of the Supreme Court may reject the request for cassation in whole or in part and reverse a judgment of the Court of Appeal in whole or in part.

If the request for cassation is rejected, the contested decision becomes a *res judicata*. The appellant shall not be authorized to bring another request for cassation against the same judgment. If the Supreme Court reverses a contested decision, it shall return the case and the parties to the Court of Appeal. However, the composition of the bench shall be different than the previous composition.



# Chapter 5 - Civil claim in a criminal case

## Who can submit a civil claim in a criminal case?

Victims of a felony or misdemeanour can file a complaint as plaintiffs of a civil action before the Investigating Judge (*art. 5 CPC 2007*). The purpose of a civil claim is to seek compensation for injuries to victims of an offense and with this purpose to allow victims to receive reparation corresponding with the injuries they suffered.

Not only victims can become a civil party but also:

- Legal representative of juvenile victim;
- Legal representative of victim under legal guardianship;
- Successors of a deceased victim;
- Individual or association recognized by law as civil party.

## What is a civil action in a criminal case?

A civil action can be brought in a criminal case in order to be compensated for the psychological, physical and property damage to the victim who suffered from any wrongful act.

There are three conditions that indicate the civil responsibility. They are:

1. A direct consequence of an offense;
2. Personal damage;
3. Actually occurred and exist at the present time.

## Civil claim in conjunction with the criminal trial



A civil action can be brought in conjunction with a criminal action that is before a criminal Court means that when a victim files a criminal action, he/she can claim in the purpose of the complaint to prosecute the offender and demand compensation for the damage by writing them in the complaint.

**For example:** Mr. Sok and Ms. Sophy have been neighbours for years. On 2 December 2012, Mr. Sok commits indecent assault on Ms. Sophy, resulted in injuries. Ms. Sophy files a complaint to a JPO in Kampong Trach District in order to ask the Kampong Trach District police chief to arrest Mr. Sok and bring him to the Court for justice. The complaint of Ms. Sophy does request criminal action for the indecent assault, but also demands that Mr. Sok pays compensation for the medical cost for the treatment of her injuries for the amount of 10 million Riels in total.

**For example:** Ms. San brings Chan Sopheap, a 14-year-old girl, to Kampot to work in a restaurant that also turns out to be a brothel. The father of Sopheap Mr. Chan files a complaint against Ms. San to the Investigating Judge of the Kampot Provincial Court of First Instance and demands compensation for the loss of dignity of 4 million Riels. The Royal Prosecutor receives the complaint from the Investigating Judge and has two months to decide whether or not to start the criminal procedure and charge the suspect. The next step is for the Investigating Judge to decide whether or not to accuse Ms. San for trafficking. Only if the case is brought before the trial Judge and Ms. San is sentenced for the trafficking, can the Judge decide on the civil claim. The decision on how much compensation Mr. Chan can get depends on the Court's judgment whether the amount of 4 million Riels is corresponding with the damage claimed by Mr. Chan or not.

## Civil claim separate from the criminal trial

A civil action can be brought separately from the criminal trial. In that case the criminal action is brought before a Judge of the criminal chamber of the Court and the civil claim is brought before another Judge at the civil chamber of the Court. But the decision of the civil chamber of the Court will be postponed until a final criminal judgment is rendered.

**For example:** Ms. Chakriya is an aunt of a girl, called Sopheap who is raped by a 16-year-old classmate in Touk Meas High school, called Tola, when they go out together. Ms. Chakriya files a criminal complaint to the Kampot Provincial Court of First Instance to ask the Court to prosecute Tola in accordance with the law and files another complaint, a civil action, to the Kampot Provincial Court of First Instance to demand a compensation to the damage that already occurred: the damage to the dignity, medical treatment and travel costs including the damage to the time lost for the amount of 5 million Riels. Therefore, among the two actions, the criminal action shall be decided upon first, before the civil action can be judged. If the criminal action results Tola is guilty, then the judge who handles the civil action can make a decision on the amount of the compensation. If Tola is found not-guilty, the civil action must be dismissed.

# Chapter 6 - Domestic Violence

## Scope of Domestic Violence

According to the DV Law 2005 domestic violence is violence that happens and could happen to husband or wife, dependent children and persons living under the same roof and who are dependent on the household (*art. 2 DV Law 2005*).

Domestic violence is divided into four types:

- Physical violence;
- Mental violence;
- Economic violence;
- Sexual aggression.

### Physical Violence

Physical violence is the use of physical force against another in a way that results in injuring that person or putting him or her at risk of being injured.<sup>6</sup>

**For example:** *tying up, hitting with hand or object, knocking, slapping, spanking, kicking, biting, shaking, pulling hair, punching, throwing an object at the other, pushing, shoving, grabbing, burning, throwing acid, shooting, murdering, raping and forcing to perform sexual acts.*

### Psychological Abuse

This can be verbal or non-verbal. Psychological abuse consists of more subtle actions or behaviours than physical abuse, but can be as harmful as physical abuse. Psychological abuse generally includes acts that create stress in the victim's mind.<sup>7</sup>

<sup>6</sup> Explanatory Notes on the Law on the Prevention of Domestic Violence and the Protection of the Victims, MoWA, 2007, page 57

<sup>7</sup> Ibid, page 58

**For example:** *Intimidating, yelling, cursing, insulting, persecuting, degrading, or slandering a person's reputation and dignity by means of threats, insults, or blackmail. Threatening with objects (e.g. knife, axe, gun, machete), isolating from relatives and close friends, coercing or compelling into actions beyond or against that person's intentions, will, or capability.*

**For example:** *forbidding a person to leave the house.*

## Sexual Abuse

Sexual abuse includes acts of encroaching on a person's sexual inviolability or sexual freedom.<sup>8</sup>

**For example:** *indecent assault – forcing someone to participate in unwanted, unsafe, or degrading sexual activity*

**For example:** *sexual exploitation – forcing someone to look at pornography or participate in pornographic film making*

**For example:** *Mr. Ratana has threatened to beat his wife if she does not agree to have sex with him whenever he has sexual desire, despite she begs for mercy.*

## Economic Violence

Violence can also occur in the form of property/economic/financial violence. This type of violence comprises of acts that restrict the rights of the victim to ownership or possession, such as the use of the house, food, clothing and other pieces of property, income, money or resources.<sup>9</sup>

**For example:** *The husband forces his wife to give him money for drinking wine or gambling.*

**For example:** *preventing the spouse or partner from working or choosing an occupation.*

**For example:** *The husband has thrown his wife's mobile phone to the floor because he is jealous.*

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<sup>8</sup> Ibid, page 60

<sup>9</sup> Ibid, page 61

# Intervention

According to Article 9 of the DV Law 2005 the nearest authorities must intervene:

*“The nearest authorities in charge have the obligation to urgently intervene in case domestic violence occurs or is likely to occur in order to prevent and protect the victim.”*

## The Duties of the Parties who Participate in the Intervention and Protection of Domestic Violence

To prevent and intervene in domestic violence cases the following methods may be used (art. 13 DV Law 2005):

- Seizing the weapon(s) or practical objects that have been used or may be used by the perpetrator;
- Moving the perpetrator from the scene or moving the victim if there is a request from the victim. In any special case, the victim may be removed without a request if there is a necessary reason to do so;
- Offering the appropriate assistance to the victim in accordance with their circumstances, e.g. providing urgent medical assistance and/or temporary shelter to ensure the safety;
- Explaining, educating and mediating both parties to stop violence and informing the victim about their rights for the prevention of violence such as applying for a Protection Order from the Court to order the perpetrator to stop violence or to request for a reconciliation or mediation.

The JP-MoWA can meet with the victim to interview her/him about the incidence and ask them to submit the related documents in order to help file a complaint to MoWA/PDoWA in accordance with the laws.

For some cases, MoWA/PDoWA also invites the other party to come to be interviewed about the incident and mediate in domestic violence cases or ask the perpetrator not to commit further violence (minor violence cases only).

When the JP-MoWA has learned that the perpetrator violated the Court's protection order (through the information from the victim), they shall instruct the victim to report to the nearest judicial police immediately so that she/he can be intervened in accordance with the laws (the arrest made by the judicial police in this case is not required any authorization from the Royal Prosecutor, *art. 18 DV law 2005*).

In order to protect the victim's security, the authorities in charge<sup>10</sup> may issue an administrative decision and take temporarily legitimate measures in accordance with Articles 43, 48, and 49 of the Law on the Management of Commune Administration (*art. 14 DV Law 2005*).

## Mechanism to address Domestic Violence

In choosing the options to remedy domestic violence, both parties may choose options if appropriate in relation to the seriousness of the crime. The options include:

- Alternative dispute solution;
- Judicial solution.

### Alternative Dispute Resolution

According to Article 26 of the DV Law 2005:

*"For the offenses that are the mental/psychological or economic affected acts of violence and minor misdemeanour or petty offense, reconciliation or mediation may be possible with an agreement from both parties.*

*The family members may choose any option by asking the parents, relative, Buddhist monk, elder, village chief, commune councillor to act as an arbitrator to solve the problem in order to preserve the harmony within the household in accordance with the nation's good custom and tradition."*



JPO-MoWA should not encourage victims of domestic violence to seek mediations in case of more serious cases, e.g. with bodily injury or repeated cases. They should certainly not actively discourage victims from seeking a divorce, even if this in Cambodian culture means that they will have to continue their lives under the Cambodian stigma for divorcees.

<sup>10</sup> The authorities in charge who are entitled to issue an administrative decision are Commune/Sangkat Chief

## Judicial Resolution

According to art. 17 DV Law 2005 parties cannot choose the alternative dispute resolution in case of violence that is characterized as a felony or a severe misdemeanour. The acts of violence that are the felony or severe misdemeanour shall be subject to the criminal action.



It should be policy of MoWA that in case a JPO-MoWA has knowledge of a domestic violence case constituting a felony or misdemeanour, the JPO-MoWA should report the case to the Royal Prosecutor, even if the victim does not want to complain.

For minor misdemeanours or petty offenses however, criminal action shall not be possible if the victim who is a major has made a request to the Court to drop charges against the perpetrator. In case domestic violence has occurred again, violating the criminal law, the Court shall initiate a criminal action against the perpetrator in accordance with the Criminal Procedures even if there is a request from the victim to drop the charges (*art. 36 DV Law 2005*).

**Note:** Regarding the case file, if the Royal Prosecutor has not yet finally laid charges, he/she may release the perpetrator for the misdemeanours or petty offenses.

# Chapter 7 - Protection Orders

A Protection Order is a decision issued by the Provincial/Municipal Court of 1<sup>st</sup> Instance as requested by a party who has a dispute of domestic violence.

The Protection Order is a legal measure with the purpose of providing a temporary protection from domestic violence through imposing orders on the perpetrator not to do something or to do something. The Protection Order can be used for example to forbid the offender to come in the house/street/neighbourhood of the victim, but orders can be requested regarding other aspects of the household as well. Protection Orders are only issued by the Courts on request of the victim.

The request is a civil law request. Article 20, paragraph 1, sentence 2 of the DV Law 2005 states clearly that the Protection Order is a civil measure. It is:

- not an intervention by public authorities (administrative law);
- not a punishment whatsoever of a perpetrator (criminal law).

However, when a Protection Order is violated, the perpetrator is committing a crime (*art. 29 DV Law 2005*).

## Types of Stages of Protection Orders

Protection Orders can be ordered at two different stages in domestic violence cases.

### Stage 1 - Temporary Protection Order

The Court may issue the temporary Protection Order which is valid for a maximum of two months. The Protection Order shall be issued as an emergency measure in case of a domestic violence crisis (*art. 23 DV Law 2005*).

**For example:** *Mrs. Neary becomes a victim of domestic violence when her husband – after he came home drunk – hits her in the face causing bruises. Mrs. Neary believes that her husband will hit her again if he gets drunk again. Mrs. Neary files a request to the Court to ask for a Protection Order against her husband to forbid him to enter her house and street.*



## Stage 2 – Regular Protection Order

According to art. 23 sub 2 of the DV Law 2005, the Regular Protection Order is effective for up to 6 months and issued during the period of time the Court is investigating a domestic violence case, the trial is not yet conducted, or before a final verdict is declared.

**For example:** *During the criminal investigation process over the case of which Mr. Veasna hits his wife causing a serious cut in her head, the Court issues the Protection Order, imposing the perpetrator not to put the property on sale and prohibiting from approaching the place where the victim stays for 6 months.*

## Applicant for the Protection Order

According to art. 22 of the DV Law 2005, the individuals who are entitled to apply for the Protection Order are:

- The victim or representatives of the victim or the authorities in charge within the victim's residential area or officials, agents who perform their work at the scene;
- Any person who learns about the incident of domestic violence if the victim is a child, mentally retarded person or a person whom the Court believes that he is unable to file a complaint by him/herself.



A Protection Order can also be requested by JPO-MoWA. In the policy of MoWA these Protection Orders are only asked on behalf of the victim if the victim agrees.

## Protection that can be ordered

Art. 25 DV Law 2005 states that the following orders can be requested and given by the Court:

- Prohibition to commit domestic violence;

- Prohibition from approaching or entering the house shared together or the places where the victims stay or work without the permissions from the victims and the authorities in charge;
- Prohibition from contacting the victims through any means;
- Prohibition from destroying the properties or arranging to put on sale the victims' or the victims' relatives' properties;
- Removal of the perpetrators or the victims from the jointly shared house, if there is a request. In special cases the victim can be removed without a request if there is a necessary reason to do so.

The following additional measures can be taken if the Courts know that it is necessary to protect or provide the safety, health and welfare to the victims:

- Ordering any police or Royal Gendarmerie to preserve personal properties of the victims;
- Making a decision on the custody of the children and the rights to visit the children by paying the highest attention to the rights and interests of the children;
- Halting the victims' duty of financial support towards the perpetrators;
- Imposing the perpetrators to provide the financial assistance to the victims, based on the perpetrators' financial ability.

**For example:** *Mrs. Thy is regularly beaten by her husband. Finally she cannot bear it any longer and she reports it to the police and after investigation the case is brought to trial. Mrs. Thy's lawyer advises her to also request that her husband cannot enter their house, for the custody of the children and for her husband to pay alimony for the time being. On her request Mrs. Thy's lawyer also starts a divorce proceeding.*

## Effect of Protection Order

The Protection Order takes effect immediately after the Court issuance. Moreover, the Protection Order has the effect to impose orders on the perpetrator, authorities in charge and the persons involved in the case.

In case a party disagrees with the Protection Order, s/he may file an objection to the Court to review its decision in a period of 2 months at the longest after the issuance of the Protection Order (*art. 30 DV Law 2005*).

# Chapter 8 - Marriage & Divorce

Analysing divorce, with emphasis on the steps to determine what legal framework to apply to different types of divorce.

## Marriage

The Civil Code was adopted on 05/10/2007 and promulgated by the Law on the enforcement of Civil Code on 03 06/2011.

In Cambodia people often confuse legal marriage with the traditional marriage ceremony. When we look at the legal consequences of marriage however, the term of spouse or husband and wife refers to a man and a woman who have registered their marriage certificate at the civil registrar of the Commune Council (art. 955 Civil Code).

**For example:** Mr. Vannac and Ms. Thida have a wonderfully traditional marriage ceremony but forget to register their marriage at the Commune Council. Legally they are not married and they are not considered legal husband and wife.

**For example:** Mr. Sopheap does not traditionally marry Ms. Bophana. However, they agree to live together as husband and wife and have legally registered their marriage in front of the civil registration official. According to the law, Mr. A and Ms. B are the legal spouses.



MoWA should encourage women to register their marriages, and inform them of the consequences of non-registration. A legal marriage provides rights to joint marital property, alimony and child support. If their marriage is not registered, according to the Civil Code and promulgated by the Law on the enforcement of the Civil Code in 05/20011 the court may allow the two parties to separate if there are adequate grounds in accordance with the law. For the division of marital property, the court will allow the two parties to divide the marital property with an agreement. However, if any party does not agree the court may decide to divide the marital property at its own discretion. For the child custody, alimony as well as the above-mentioned points, if the two parties does not agree with each other the court will decide at its own discretion and the procedures in the law.

Any couple that wishes to get married may freely get married. However, there are some requirements in the Civil Code.

## 1. Requirement related to age

According to Article 948 of Civil Code, neither men nor women may marry until they have reached the age of 18. However, if one of the parties has attained the age of majority and the other party is a minor who is not less than 16 years old, the parties may marry with the consent of the parental power holders or guardian of the minor. If one of the parties wishing to marry is a minor, he/she is required to fulfil the requirements as follows:

- The minor shall be at least 16 years old;
- The other party has reached the legal age;
- The party who is a minor shall have the consent of the parent or guardian (*art. 953 Civil Code*). If the parent or his/her guardian unreasonably refuses the consent, the minor may apply to the Court for adjudication in place of the consent (*art. 953 Civil Code*). But the 16 or 17-year-old minor who is able to support himself independently and wishes to get married may apply to the Court for emancipation. After the minor receives the emancipation from the Court, he/she may be considered to have reached the legal age. Therefore, he/she may get married without the consent of the parental power holder or guardian anymore.

## 2. Requirement related to capacity

The capacity to show the willingness is the most basic requirement to make the marriage happened. Therefore, if any party wants to get married, the individual shall be the one who have the capacity to show the willingness. If the individual, however, does not have the capacity to show the willingness to the extent of minimum level, then he/she may not be able to get married. A mentally disabled person under general guardianship might not have the capacity to show the willingness and might lack the capacity to understand the legal consequences of his/her actions. He/she may not be able to get married. However, if he/she has the minimum capacity required for showing the willingness to get married, the consent of the general guardian is not required for him/her to get married (*art. 954 Civil Code*).

**For example:** Mr. Vesna is 25 years old and Ms. Linda is 20 years old. They plan to get married. One day, Mr. Vesna has a traffic accident causing a mental disability. He does not know what is right and what is wrong anymore and therefore is put under the general guardianship of his aunt. Three months later, he is almost fully recovered. In such situation, if Mr. Vesna is able to show his willingness to marry Ms. Linda in front of a Civil Registrar, Mr. Vesna and Ms. Linda may get married without the consent of Mr. Vesna's aunt.

### 3. Prohibition of bigamy

Bigamy (more than one spouse) is forbidden (*art. 949 Civil Code*). Therefore, a married man or a married woman, who has not yet dissolved their marriage, may not re-marry. Any violation with this prohibition shall be punished as a felony. Re-marriage is still possible, as long as the previous marriage is already dissolved (*Article 4 of the Law on Monogamy 2006*).

**For example:** Mr. Vannac and Ms. Thida who did not register their marriage with the Commune Council decide to live apart. In principle, both of them have the right to marry each other.

**For example:** Mr. Sopheap and Ms. Bophana who registered their marriage with the Commune Council are unhappy. Mr. Sopheap wants to leave Ms. Bophana and marry his mistress. Mr. Sopheap cannot marry his mistress without first getting a divorce through the Courts.

If a woman who filed for divorce wishes to remarry, the law requires that she shall wait at least 120 days after the dissolution or annulment of her previous marriage. After this period she may remarry. In case she wishes to remarry during the time prohibited by the law, she needs to have a doctor's certificate saying that she is not pregnant (*art. 950 Civil Code*).

### 4. Requirements related to Relatives

Marriage is not possible between blood relatives in the direct line (lineal consanguinity such as (grand)children or (grand)parents) or siblings (collateral blood relatives up to the third degree of relationship) (*art. 951 Civil Code*).

## 5. Requirements related to Sex

Although the Civil Code does not expressly forbid same sex marriages, it is generally assumed that this is not possible under Cambodian law.

### Application of Marriage<sup>11</sup>

Before marriage both man and woman fill in an application to certify that he/she is single or widower or divorcee/widow without having any relationship with anyone else. The couple is then required to apply for a marriage with the civil registrar of the Commune Council at the bride's place of residence (*art. 28 of Sub-Decree on Civil Registration 2000*). After the civil registrar receives the application, he/she shall issue a marriage permission letter and a public announcement of the marriage that will be stuck on their homes or the Commune Council Office during 10 days so that the third parties may file objections. After 10 days objections are no longer possible and the wedding can take place.

For the legal registration of the marriage the married couple will have to go to the registrar with two adult witnesses to register their marriage in the marriage book of the Commune Council. The civil registrar shall provide a copy of the marriage certificate to the married couple.

### Effect of Marriage

The couple can use either the husband's or the wife's surname or their respective surnames prior to their marriage (*art. 965 Civil Code*).

The husband and wife have the obligation to cohabit, cooperate and assist each other (*art. 966 Civil Code*). They have the freedom to choose their occupation and to participate independently in political, cultural and social activities (*art. 967 Civil Code*).

Unless the couple agree otherwise in an agreement before or after the marriage conclusion, the property of both spouses fall under the statutory joint marital property system (*art. 969 and 970 Civil Code*). The statutory joint marital property system has the following rules:

- Marital property includes all property obtained during the marriage by one or both spouses (*art. 973 Civil Code*);
- Marital expenses are paid from marital income/property (*art. 971 Civil Code*);

The couple manages the joint marital property jointly. If they cannot agree on

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<sup>11</sup> Sub-Decree No. 103 ANKr.BK on Civil Registration dated 29 December 2000

the management, they can turn to the Court for a decision on the management (*art. 974 Civil Code*). Joint marital property may not be sold or disposed of without the permission of both spouses (*art. 976 Civil Code*).

Outside the marital joint property falls:

- a) Property held by a spouse from before the marriage;
- b) Property acquired by a spouse during the marriage by gift, succession, or testamentary gift;
- c) Property obtained as the consideration for disposing of property described in items (a) or (b) above (*art. 972 Civil Code*).

## Nullity of Marriage

A marriage shall be considered void in case:

- There is no willingness to marry between the parties because of confusion of the other party's identity, coercion and other reasons;

**For example:** *The parents coerce their daughter to marry a man whom she does not love.*

- The parties did not follow the proper marriage procedure. However, if there is a minor procedural defect alone, the effect of marriage shall not preclude validity of the marriage (*art. 958 Civil Code*).

**For example:** *Mr. Chenda and Ms. Len have married legally but later they find out that one of their witnesses was only a 17-year old minor at the time of the marriage. This is not a major procedural defect and the marriage will be considered legally valid.*

# Annulment of Marriage

A marriage may be annulled in the following cases:

## 1. Marriage is unlawful (*art. 959-963 Civil Code*)

- The marriage is concluded with a minor without the proper permission;
- The marriage is concluded between prohibited relatives.
- Where the remarriage is registered at the time the previous marriage is not yet dissolved;
- Where the remarriage is registered during the time prohibited by the law (a woman shall remain a widow for the period of 120 days). In this case, the spouse of the party or former spouse may also apply for annulment of the marriage.

## 2. Marriage is based on fraud or threat (*art. 963 Civil Code*)

A marriage that is based on fraud or threat may be annulled. The victim of the fraud or threat shall have his/her right of annulment extinguished after a period of 3 months has elapsed since the party discovered the fraud or has become free of the threat or if the party has then agreed with the marriage.

## Effect of Annulment of Marriage

The annulment of a marriage shall have no retroactive effect. It means that the annulment shall only have the effect in the future and may not be able to restore their status before the marriage (*art. 964 Civil Code*).

**For example,** *children born in an annulled marriage are still the legal children of the father, as if born in a marriage.*

# Divorce

It is by law not obligatory to be represented by a lawyer in a divorce proceedings, however it is advisable to have one, since the proceedings can be complicated.

The parties to a marriage may choose the procedures for divorce as follows:



## 1. Filing for divorce with the Commune Council

A husband or wife may file a request for divorce to the Commune Council at the domicile of their residence. After receiving the petition, the Commune Council may try to reconcile the parties during a period of 15 days after the receipt of the request. If the parties are not reconciled during this period, the Commune Council shall forward the complaint for divorce to the Court.

## 2. Filing for divorce with the Court

A husband and/or wife may file a request for divorce directly to the Provincial/Municipal Courts of 1st Instance that have the jurisdiction at the residential area of the parties in accordance with *article 10 of Civil Procedure Code 2007 and 982 of Civil Code*.

For a divorce case the Court fee is 55.000 Riel (*art. 60-3 and 61-1a of Civil Procedure Code 2007*).

## Joint request for divorce

The parties to a marriage may file jointly for a divorce if they mutually agree to the divorce. The Court may only grant the divorce after verifying the will of both parties to end their marriage (*art. 979 Civil Code*).



Note that it is not possible to end a marriage by agreement without the decision of the Court. Only a Court decision can end a legally registered marriage.

**For example:** *Mr. Tola married Ms. Neary and they have lived together for one year. Unfortunately they do not get along and they mutually agreed to have a divorce. After examining the case file for divorce and finding that the parties have a real desire for divorce, the Court decides to issue a ruling to grant them a divorce.*

## Request by one spouse

If only one spouse requests the divorce, the request can only be granted by the Court based on one of the following grounds:

- If the other spouse commits an act of infidelity;  
**For example:** *Husband secretly has a second wife or visited a prostitute.*
- If he or she abandons one another without giving good reasons;  
**For example:** *After one year of marriage, the husband deserts his wife without giving reasons.*
- If it is not known whether the other spouse is alive or dead for more than a year;  
**For example:** *The ship where the husband worked on has been shipwrecked. His body has not been found one year after the shipwreck.*
- If the other spouse has been living apart continuously for more than one year which is contrary to the purpose of the marriage;  
**For example:** *After three months of marriage, the husband refuses to come home for a period of more than one year.*
- Other cases where the matrimonial relationship has broken down and there is no prospect of reconciliation.  
**For example:** *The wife has returned to her parents and took the children. She refuses to go back home because her husband beats her.*

## Grounds to deny divorce

Even in the cases as mentioned above, the Court may dismiss divorce if the divorce would cause extreme hardship or anguish to the other spouse or the children (*art. 978 Civil Code*).

The Court may also dismiss divorce if the party demanding the divorce has seriously neglected to cooperate with and assist the other spouse (*art. 978 Civil Code*).

## Provisional Orders

The Court may issue a ruling for provisional orders (preliminary injunctions) regarding the separation (who will live where including the children), custody and

visiting rights of the children, management of property, financial support for the spouse (alimony), sharing of the household expenses of the marriage, expenses for supporting the children and either upon the request of a party or at its own discretion (*art. 983 Civil Code*).

## Final divorce orders

The parties should not only request for a divorce but also request for a decision by the Court on:

**a) property division (*art. 980 Civil Code*);**

The marital joint property will have to be divided. If the parties cannot agree on the division, the Court will divide as follows (*art. 980 Civil Code*) Each party will remain owner of the separate property that did not fall within the joint marital property (*art. 972 Civil Code*); Each party will receive half of the marital joint property unless the Court upon request decides otherwise based on special circumstances.

**For example:** *if the husband is not able to pay alimony, the wife might request to receive the full (not half) ownership of the marital house. The Court might consider the fact that the husband cannot pay for alimony a special circumstance.*

**b) Decision on alimony for the spouse (*art. 983 Civil Code*);**

**c) Decision on child support (*art. 983; 1040-2, 6 Civil Code*);**

**d) Decision on child custody (*art. 1037 Civil Code*);**

The parent holding the custody will still have to obligation to consult the other parent in case of decisions regarding education, changing the residence of the child outside the province, the child's occupation, medical treatment, disposition of property of the child and other important matters (*art. 1042 Civil Code*).

**e) Visitation rights of the parent not living with the child(ren) (*art. 1040 Civil Code*)**

If request for divorce does not include a request for these orders, the Court may not be able to make arrangements for the parties.

# Inheritance

Women and men have equal rights in successions.

## Statutory succession

If there is no valid testament the inheritance is divided in accordance with the law (statutory succession, *art. 1156 – 1167 Civil Code*). According to Article 973 Civil Code, the property both spouses or one spouse acquired during the marriage, in principle, is the joint property. Therefore, if the husband or wife dies, half of the joint property shall remain in the ownership of the surviving spouse and the other half goes to the inheritance.

A husband dies, leaving his legally registered wife and 2 children behind. At the time of death the husband owns a piece of land, 3 cows and USD 3.000. All his property falls within marital property. The wife therefore remains owner of half. The other half is inherited by the children and wife in equal parts. Thus the division is as follows:

### Wife:

- 2/3 of the land (half marital property and 1/6 succession)
- 2 cows (half marital property and 1/6 succession) and
- USD 3.000 (half marital property and 1/6 succession)

### Children:

- Each 1/6 of the land
- Each ½ cow (one cow as joint property) and
- Each USD 500.

## Testamentary succession

People have the freedom to deviate from the statutory system through a testament where they describe who will inherit what part of their inheritance. The testament should be made up in line with the legal requirements as described in *articles 1168 to 1229 of Civil Code*. However, testamentary freedom is limited since there are legally secured portions as described in *art. 1230 of Civil Code*.

A husband dies. The husband has a valid testament where he excludes his daughter from the inheritance and wants his son and wife to inherit everything. According to art. 1230 Civil Code the daughter is still entitled to 1/12 of the inheritance (half of the statutory inheritance).

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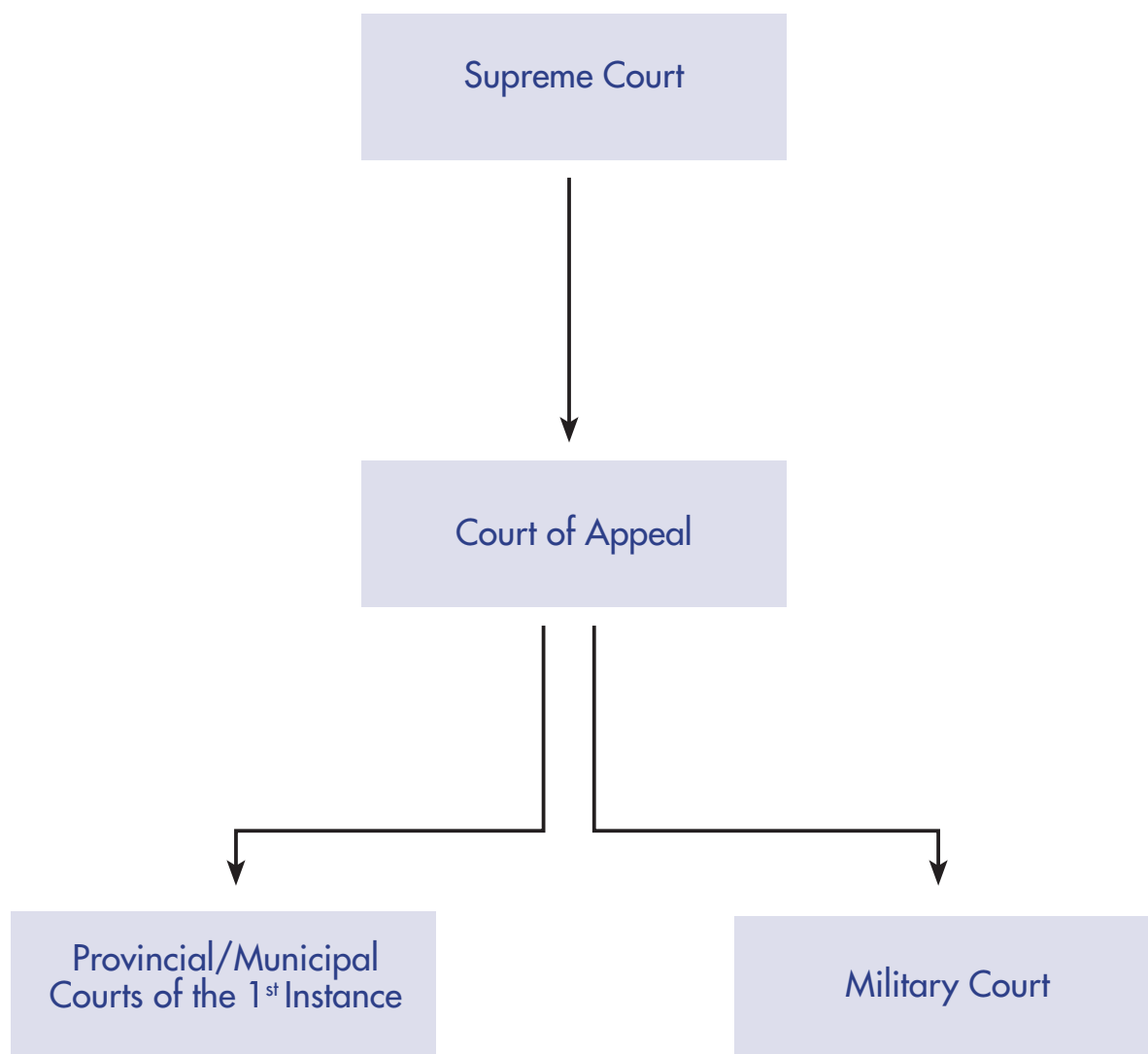
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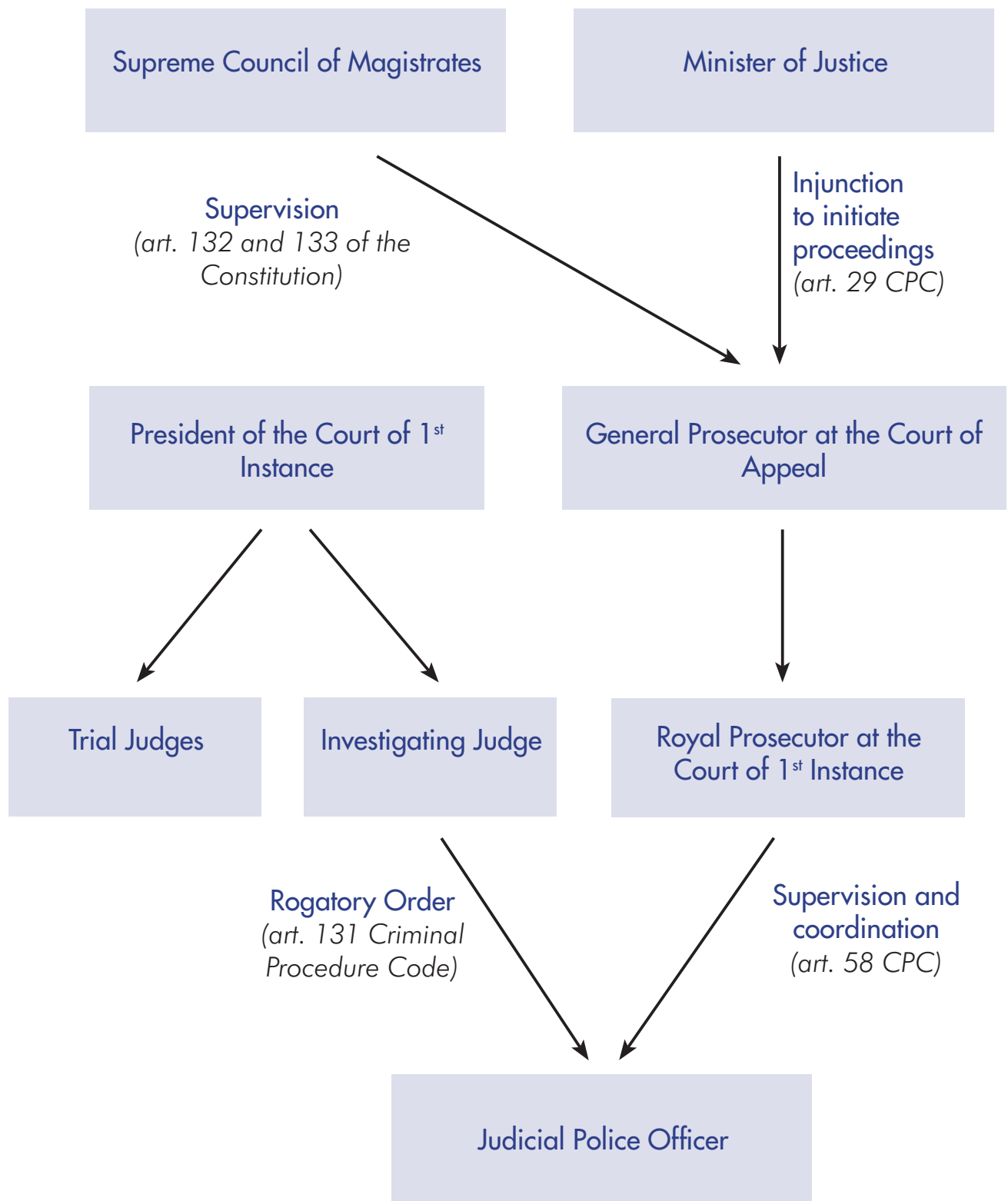
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## Annex 2 - Structure of the Court



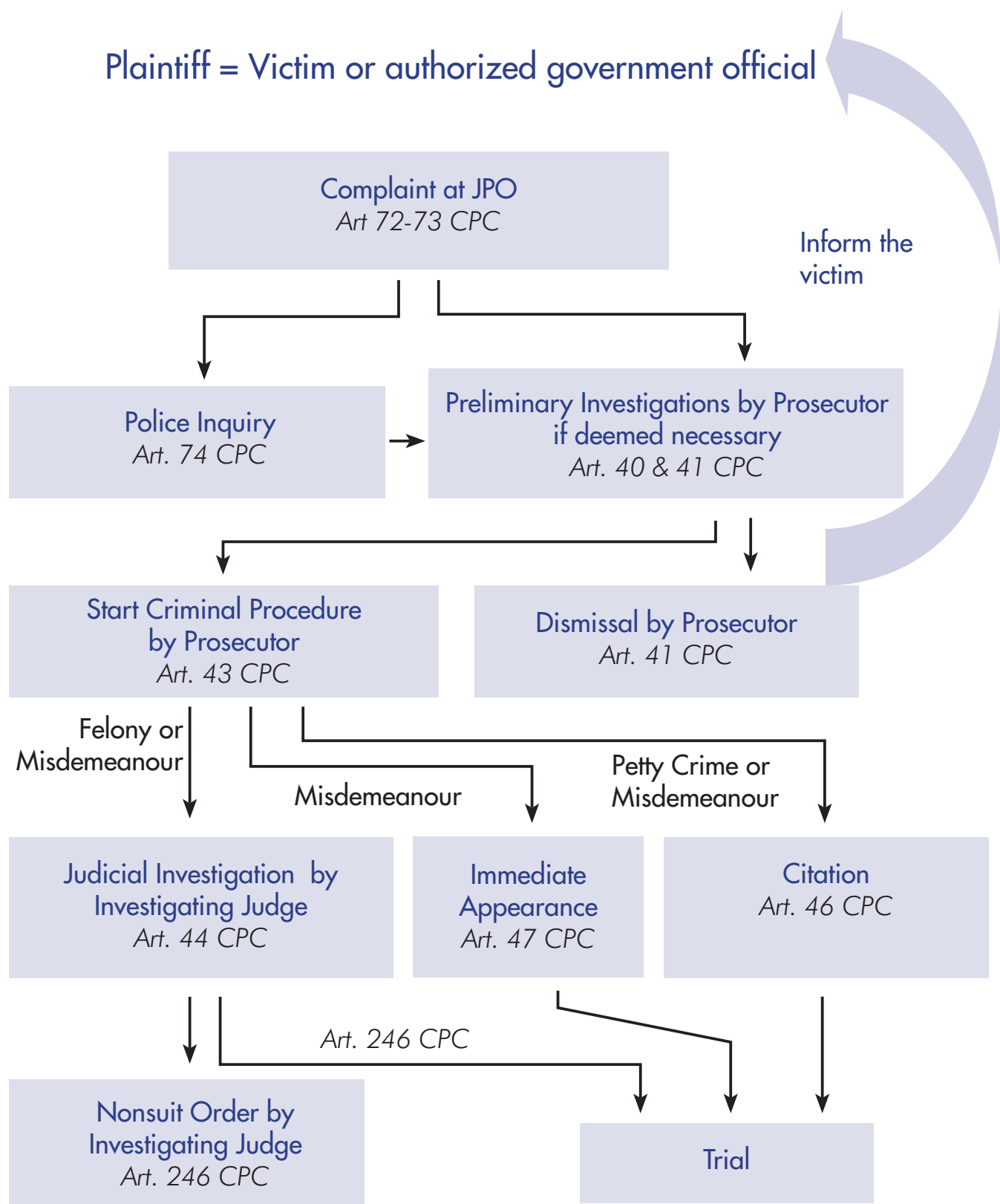


# Annex 3 - Hierarchy

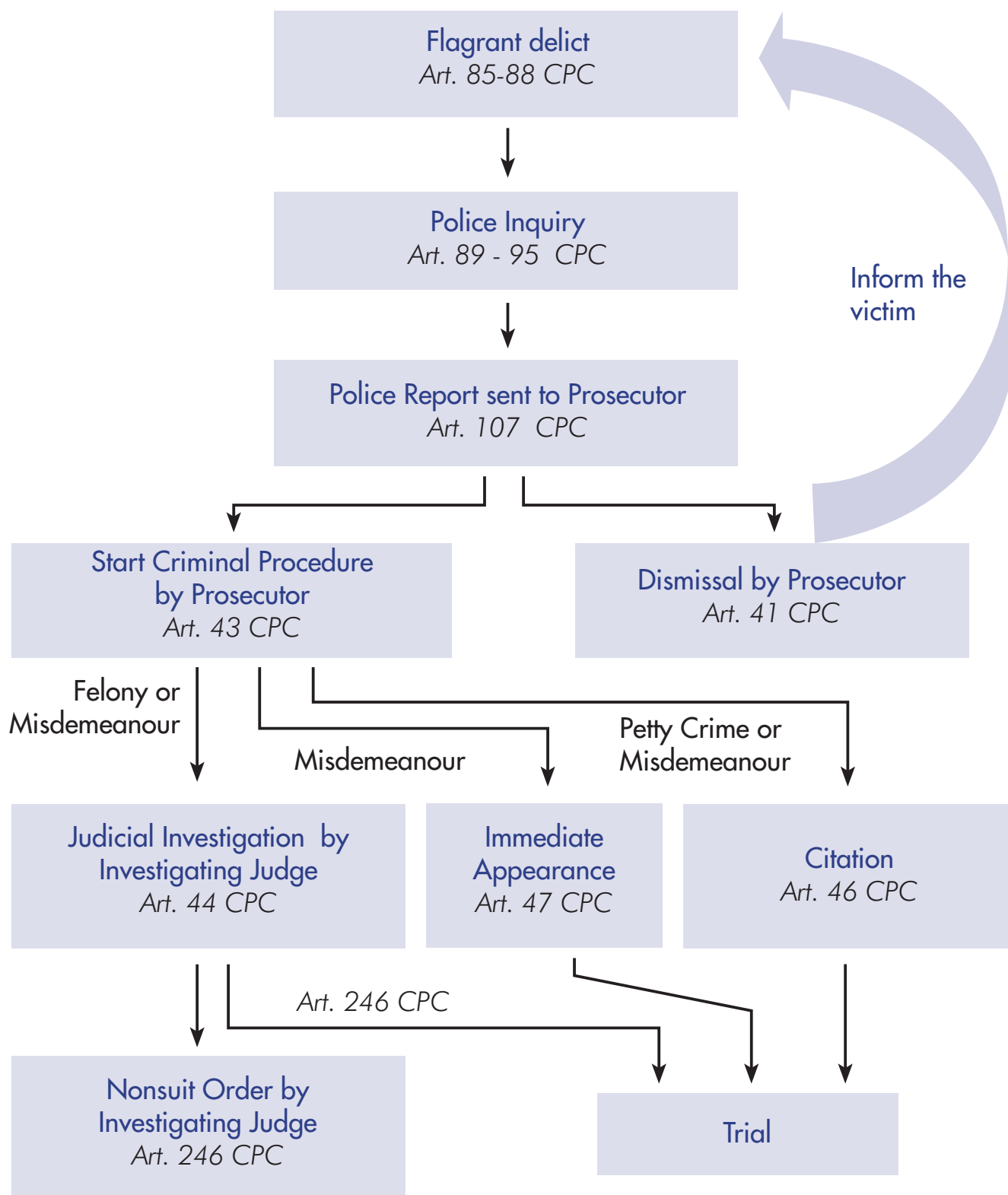


## Annex 4 - Flowchart Criminal Procedure in case criminal complaint is submitted to a JPO (non-flagrant delict)

Plaintiff = Victim or authorized government official



## Annex 5 - Flowchart Criminal Procedure (flagrant delict)



# Annex 6 - Medical Certificate



**ព្រះរាជាណាចក្រកម្ពុជា**  
**ជាតិ - សាសនា - ព្រះមហាក្សត្រ**  
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**ក្រសួងសុខាភិបាល**  
**អង្គភាព:.....**  
**លេខ:.....**

**លាក់ការណ៍សំងាត់**

**ឯកសារពិនិត្យការរំលោភផ្លូវភេទ**  
 (ស្ត្រីភេទ: ពិនិត្យដោយគ្រូពេទ្យផ្នែកសម្ភព និង រោគស្ត្រី. បុរស: ពិនិត្យដោយគ្រូពេទ្យទូទៅបាន)

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អ៊ីមែល.....

ទូរស័ព្ទ.....

អ៊ីមែល.....

ទីស្តីការក្រសួងសុខាភិបាល, លេខ ១៥១-១៥៣ រុក្ខវិថី កម្ពុជាក្រោម ភ្នំពេញ ទូរស័ព្ទ-ទូរសារ: (៨៥៥-២៣) ៨២៦ ០៣៤, ៨២៦ ៨៤១

# ឯកសារពិនិត្យការរំលោភផ្លូវភេទ

នាម និង តាតួនាទីជនរងគ្រោះ:.....ឈ្មោះហៅក្រៅ:.....ភេទ: ប្រុស ☐ ស្រី ☐

ថ្ងៃខែឆ្នាំកំណើត: ...../...../..... អាសយដ្ឋានបច្ចុប្បន្ន:.....

.....លេខកូដ:..... ទូរស័ព្ទលេខ:.....

ថ្ងៃខែឆ្នាំចូលមកពិនិត្យ:...../...../..... ពេលម៉ោង:..... ទីកន្លែងពិនិត្យ:.....

**ករណីសង្ស័យរំលោភផ្លូវភេទ:** (ផ្តល់ដោយជនរងគ្រោះ)

- ☐ ការរំលោភសេពសន្ថវៈ (Rape)
  - ☐ ការរំលោភសេពសន្ថវៈដោយមនុស្សក្នុងក្រុមគ្រួសារ (Incest)
  - ☐ ការបៀតបៀនភេទឱ្យខ្លាច (Indecent Assault)
  - ☐ ការរំលោភផ្លូវភេទផ្សេងទៀត:.....
- ថ្ងៃខែឆ្នាំ នៃការរំលោភ:...../...../..... ម៉ោង:.....

**អ្នករួមជំនួយបេក្ខជនចុះក្រោម:**

- ☐ ខ្លួនឯង (Self) ☐ ប៉ូលីស (Police)
  - ☐ មិត្តភក្តិ (Friend) ☐ ញាតិ (ជាតិ).....
  - ☐ ផ្សេងទៀតបញ្ជាក់:.....
- ឈ្មោះ:..... ទូរស័ព្ទ:.....

## ការយល់ព្រមចំពោះការពិនិត្យវេជ្ជសាស្ត្រ

( អាចជូនអ្នកជំនាញជាយោបល់ )

ខ្ញុំបាទ/នាងខ្ញុំ យល់ព្រមទាំងស្រុងលើការពិនិត្យផ្នែកវេជ្ជសាស្ត្រនេះ រួមទាំងការពិនិត្យប្រដាប់បន្តពូជ និង កត់ត្រាទុកជាឯកសារអំពីលទ្ធផលនៃការពិនិត្យនេះ។ ខ្ញុំបាទ/នាងខ្ញុំអនុញ្ញាតឱ្យ: ប្រមូលយកនូវសំណាក-វត្ថុវិភាគចាំបាច់ទាំងអស់ សំរាប់យកទៅធ្វើតេស្ត នៅក្នុង មន្ទីរពិសោធន៍ និង ការថតយករូបភាពជាចាំបាច់ លើរបួសស្នាមដែលពាក់ព័ន្ធនឹងហេតុផលនៃការពិនិត្យវេជ្ជសាស្ត្រនេះផងដែរ។

ថ្ងៃទី.....ខែ.....ឆ្នាំ.....

ហត្ថលេខា វិស្វាមមេដៃស្តាំជនរងគ្រោះ



ជនរងគ្រោះឈ្មោះ: .....

**ទំនាក់ទំនងជាមួយអ្នកជំនួយ:**

- ☐ ខ្លួនឯង ☐ ប៉ូលីស ☐ មិត្តភក្តិ
- ☐ ញាតិ ( ត្រូវជាតិ ).....
- ☐ ផ្សេងទៀតបញ្ជាក់:.....

.....

ថ្ងៃទី.....ខែ.....ឆ្នាំ.....

ហត្ថលេខា វិស្វាមមេដៃស្តាំសាក្សី



សាក្សីឈ្មោះ: .....

ថ្ងៃទី.....ខែ.....ឆ្នាំ.....

ហត្ថលេខា របស់គ្រូពេទ្យ-ពិនិត្យគ្លីនិក



គ្រូពេទ្យឈ្មោះ: .....

ថ្ងៃ-ខែ-ឆ្នាំ ពិនិត្យគ្លីនិក

...../...../.....

ពេលវេលានៃការចាប់ផ្តើមពិនិត្យ

ម៉ោង:.....

ពេលវេលានៃការសន្និដ្ឋានគ្លីនិក

ម៉ោង:.....

ថ្ងៃទី.....ខែ.....ឆ្នាំ.....

ហត្ថលេខា វិស្វាមមេដៃស្តាំសាក្សីគ្រូពេទ្យ



សាក្សីគ្រូពេទ្យឈ្មោះ: .....

មុខរបរ: .....

## ការពិនិត្យជំនាញ

សម្រាប់ការប្រើប្រាស់ក្នុងការបង្រៀន

ឈ្មោះ:..... ទីកន្លែងពិនិត្យ :.....  
 ឈ្មោះគ្រូពេទ្យ :..... ម៉ោងពិនិត្យ :.....  
 អាស័យដ្ឋានអង្គភាព :.....

### ១. ការសាកសួរ និង ប្រតិបត្តិការ :

#### ១.១-ប្រតិបត្តិជំនាញមុនមក :

|            |                                                               |                  |                                                               |
|------------|---------------------------------------------------------------|------------------|---------------------------------------------------------------|
| ក-បេះដូង   | : មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> | ខ-ថ្លើម          | : មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> |
| គ-ស្បែកឈាម | : មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> | ឃ-កាមរោគ         | : មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> |
| ង-វះកាត់   | : មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> | ឃ-ជំងឺផ្លូវចិត្ត | : មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> |

ច-ផ្សេងៗ សូមបញ្ជាក់:.....

១.២-ប្រតិបត្តិការ : មិនទាន់គ្រប់ការ:..... ថ្ងៃខែឆ្នាំមករដូវប្រាំង:..... ថ្ងៃខែមករដូវក្ដៅ:.....

១.៣-ប្រតិបត្តិការ : លើកដំបូងថ្ងៃទី.....ខែ.....ឆ្នាំ..... លើកចុងក្រោយថ្ងៃទី.....ខែ.....ឆ្នាំ.....

១.៤-ប្រតិបត្តិការប្រើមធ្យោបាយពន្យារកំណើត : មធ្យោបាយ ..... ចំនួន:..... នៅពេលណា.....

#### ១.៥-ប្រតិបត្តិការផ្ទៃពោះ :

|                                                                                 |                                                        |
|---------------------------------------------------------------------------------|--------------------------------------------------------|
| ក-មិនដែលមានផ្ទៃពោះ: មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> | ខ-ធ្លាប់មានផ្ទៃពោះ: ចំនួន <input type="checkbox"/> ដង  |
| គ-ធ្លាប់កើតកូន: ចំនួន <input type="checkbox"/> នាក់                             | ឃ-ធ្លាប់ពន្យារកូន: ចំនួន <input type="checkbox"/> នាក់ |

#### ១.៦-តើវិធីនៃការរួមភេទដោយរបៀបណា :

|                            |                                                             |                           |                                                             |
|----------------------------|-------------------------------------------------------------|---------------------------|-------------------------------------------------------------|
| ក-បញ្ចូលស្បែកក្នុងទ្វារមាស | មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> | ខ-បញ្ចូលដៃក្នុងទ្វារមាស   | មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> |
| គ-បញ្ចូលស្បែកក្នុងមាត់     | មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> | ឃ-បញ្ចូលស្បែកក្នុងរន្ធគូថ | មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> |

ង-ផ្សេងៗ:.....

#### ១.៧-អាកប្បកិរិយាក្រោយពេលរំលោភ :

|                    |                                                             |                |                                                             |
|--------------------|-------------------------------------------------------------|----------------|-------------------------------------------------------------|
| ក-ស្វែងរកទ្វារមាស  | មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> | ខ-បត់ជើងតូច    | មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> |
| គ-បត់ជើងធំ         | មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> | ឃ-ងូតទឹក       | មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> |
| ង-ខ្វះមាត់         | មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> | ច-ដុះច្រពុះ    | មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> |
| ឆ-ប្តូរសំលៀកបំពាក់ | មាន <input type="checkbox"/> គ្មាន <input type="checkbox"/> | ជ-ផ្សេងៗ:..... |                                                             |

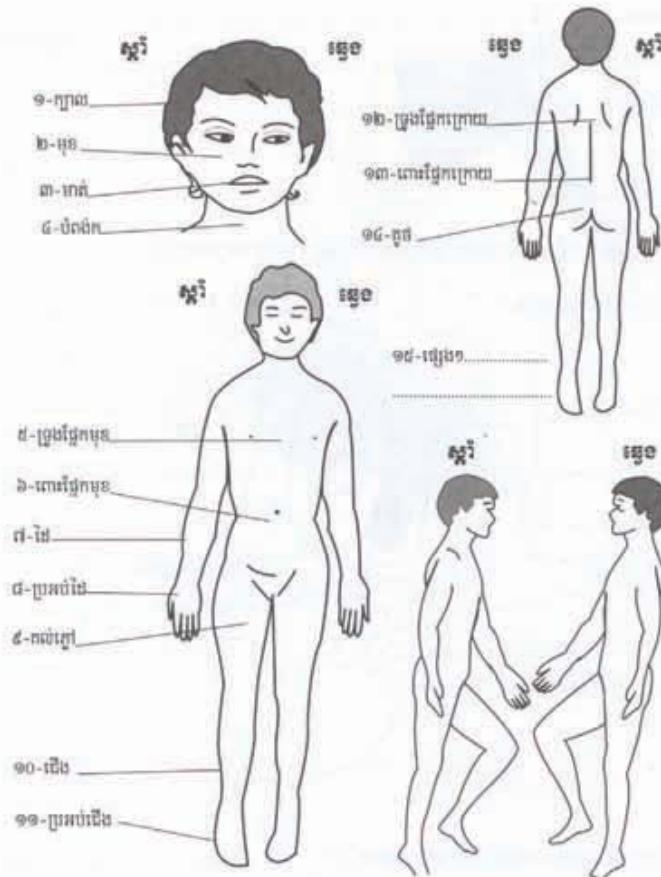


## ២. ការពិនិត្យផ្ទៃក្នុង៖

២.១- ការពិនិត្យដូចខាងក្រោម៖ ប្រើកម្លាំងដាច់ខាតដើម្បីការពារលំអិតលើរាងស្នាមដាំ, ហើម, ស្នាមរលាត់, ស្នាមដាច់

| ឈ្មោះ                                        | ទិន្នន័យ (ចូរសរសេរបញ្ជាក់ពីទំហំស្នាមស្នាមនៃរបួស) |
|----------------------------------------------|--------------------------------------------------|
| ១- <input type="checkbox"/> ក្បាល            | <input type="checkbox"/> : .....                 |
| ២- <input type="checkbox"/> មុខ              | <input type="checkbox"/> : .....                 |
| ៣- <input type="checkbox"/> មាត់             | <input type="checkbox"/> : .....                 |
| ៤- <input type="checkbox"/> បំពង់ក           | <input type="checkbox"/> : .....                 |
| ៥- <input type="checkbox"/> ទ្រូង-ផ្នែកមុខ   | <input type="checkbox"/> : .....                 |
| ៦- <input type="checkbox"/> ពោះ-ផ្នែកមុខ     | <input type="checkbox"/> : .....                 |
| ៧- <input type="checkbox"/> ដៃ               | <input type="checkbox"/> : .....                 |
| ៨- <input type="checkbox"/> ប្រអប់ដៃ         | <input type="checkbox"/> : .....                 |
| ៩- <input type="checkbox"/> គល់ក្បាល         | <input type="checkbox"/> : .....                 |
| ១០- <input type="checkbox"/> ជើង             | <input type="checkbox"/> : .....                 |
| ១១- <input type="checkbox"/> ប្រអប់ជើង       | <input type="checkbox"/> : .....                 |
| ១២- <input type="checkbox"/> ទ្រូងផ្នែកក្រោយ | <input type="checkbox"/> : .....                 |
| ១៣- <input type="checkbox"/> ពោះផ្នែកក្រោយ   | <input type="checkbox"/> : .....                 |
| ១៤- <input type="checkbox"/> គូថ             | <input type="checkbox"/> : .....                 |
| ១៥- <input type="checkbox"/> ផ្សេងៗ          | <input type="checkbox"/> : .....                 |

ចូរគូសរូបបង្ហាញពីទីកន្លែង, ទំហំ ជាសម្លេងនៃមុខ ទ្រូង ស្នាមស្នាមរបួស



២.២-ការពិនិត្យប្រដាប់ភេទផ្នែកខាងក្រៅ :

- ផ្ទាវមាស (Vulva):

- |                                                 |                                       |                                              |
|-------------------------------------------------|---------------------------------------|----------------------------------------------|
| <input type="checkbox"/> វត្ថុរំលីត Lubrication | <input type="checkbox"/> ទឹកកាម Semen | <input type="checkbox"/> ឈាម Blood           |
| <input type="checkbox"/> ទឹករំលីតភេទ Mucus      | <input type="checkbox"/> ខ្ទុះ Pus    | <input type="checkbox"/> ផ្សេងៗ Others ..... |

- ប្រដាប់ភេទខាងក្រៅ (External genital):

- |                                        |                                            |                                                       |
|----------------------------------------|--------------------------------------------|-------------------------------------------------------|
| <input type="checkbox"/> ពេញវ័យ Mature | <input type="checkbox"/> គ្រប់ការ Pubertal | <input type="checkbox"/> មិនទាន់គ្រប់ការ Pre-pubertal |
|----------------------------------------|--------------------------------------------|-------------------------------------------------------|

- ការពិនិត្យ កត់ត្រាលំអិតណាមួយ និង ហើមពក (Examination record any pain or tenderness)

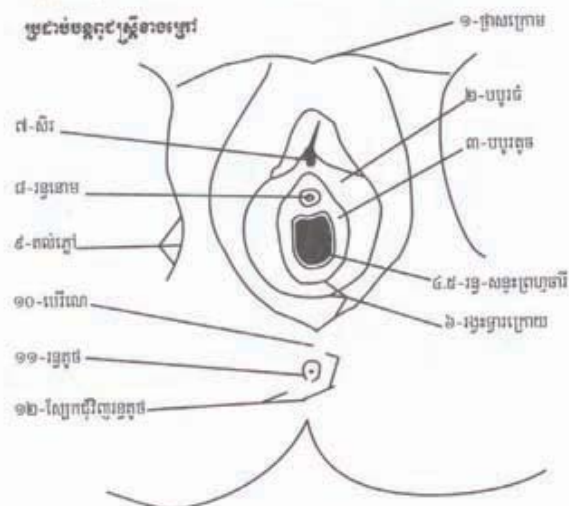
**ធម្មតា**

**មិនធម្មតា (សូមសរសេរបញ្ជាក់ពីមហិស្តាសនាម)**

- |                                                               |                                  |
|---------------------------------------------------------------|----------------------------------|
| ១- <input type="checkbox"/> ថ្ពាសក្រោម Mons                   | <input type="checkbox"/> : ..... |
| ២- <input type="checkbox"/> បបូរធំ Labia majora               | <input type="checkbox"/> : ..... |
| ៣- <input type="checkbox"/> បបូរតូច Labia minora              | <input type="checkbox"/> : ..... |
| ៤- <input type="checkbox"/> រន្ធប្រហូត Introtus               | <input type="checkbox"/> : ..... |
| ៥- <input type="checkbox"/> សន្ទះប្រហូត Hymen                 | <input type="checkbox"/> : ..... |
| ៦- <input type="checkbox"/> ដុះស្រូវក្រោម                     | <input type="checkbox"/> : ..... |
| ៧- <input type="checkbox"/> សិរ Clitoris                      | <input type="checkbox"/> : ..... |
| ៨- <input type="checkbox"/> រន្ធនោម Urethra                   | <input type="checkbox"/> : ..... |
| ៩- <input type="checkbox"/> គល់ភ្នៅក្នុង Inner thighs         | <input type="checkbox"/> : ..... |
| ១០- <input type="checkbox"/> បើរណា Perineum                   | <input type="checkbox"/> : ..... |
| ១១- <input type="checkbox"/> រន្ធគូថ Anus                     | <input type="checkbox"/> : ..... |
| ១២- <input type="checkbox"/> ស្បែកជុំវិញរន្ធគូថ Perianal skin | <input type="checkbox"/> : ..... |

ត្រូវតែសម្រួលបង្ហាញពីទីកន្លែង, ទំហំ ជាសង់ម៉ែត្រ នៃ ស្នាមស្នាមរបួស

ប្រដាប់ភេទក្រៅស្រ្តីខាងក្រៅ



- ការយកសំណាក វិវត្តភាពដើម្បីស្រាវជ្រាវពីវត្តមាននៃ កោសិកាឈាម រឺ ទឹកកាម

- វិធីវិធីមុខនិងឯកសារពិនិត្យផ្នែកខាងក្នុងភេទ ត្រូវយកសំណាកដោយ ដំបូង និង តំណាងវត្តភាពជាមុនសិន ជាប់រយៈពេលប្រាំថ្ងៃសំរាប់វិធីវិធីស្រាវជ្រាវ និង ឯកសារ ។



២.៣-ការពិនិត្យប្រដាប់ភេទផ្នែកខាងក្នុង:

ក-ការពិនិត្យប្រដាប់ភេទដោយចំពុះទា :

**ធម្មតា**

**មិនធម្មតា** (ចូរសរសេរបញ្ជាក់ទំហំស្មុគស្មាញ)

១- ☐ គុលដីសាក់

☐ : .....

២- ☐ មាត់ស្បូន

☐ : .....

៣- ☐ ភ្នាសទ្វារមាសផ្នែកលើ

☐ : .....

៤- ☐ ភ្នាសទ្វារមាសផ្នែកក្រោម

☐ : .....

ខ-ការពិនិត្យភ្នាសទ្វារមាស Vaginal examination: .

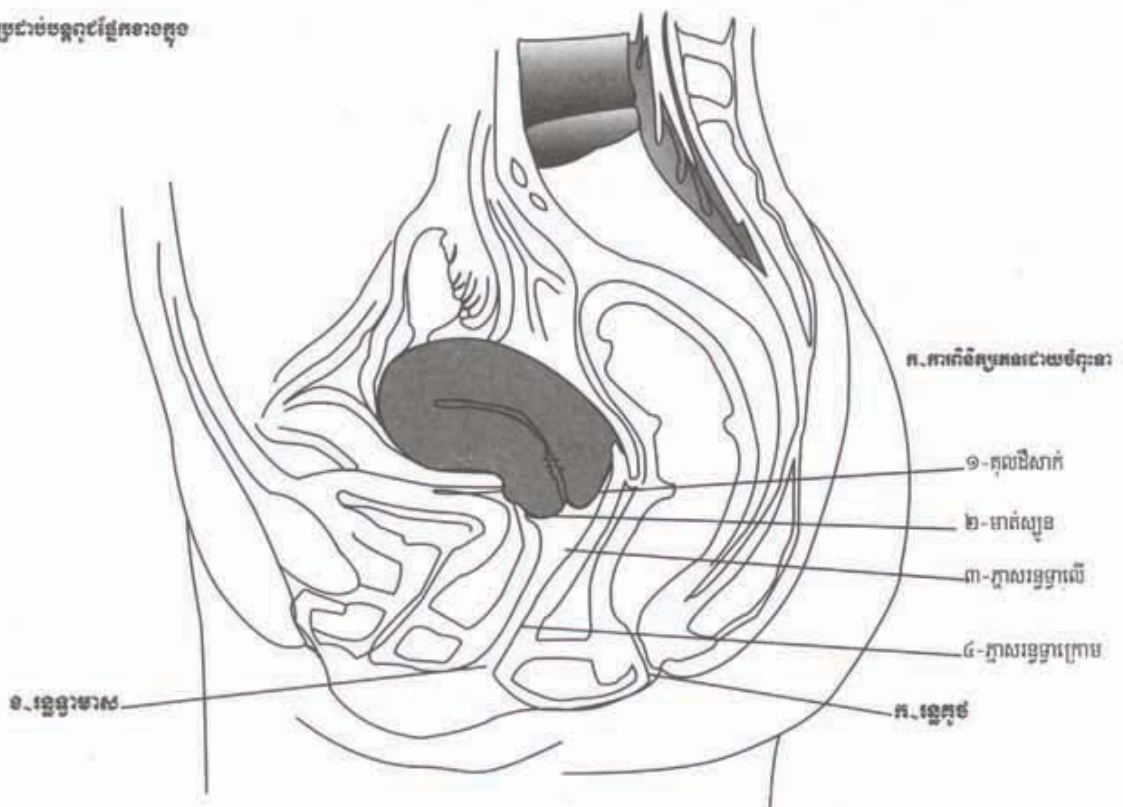
.....  
 .....

គ-ការពិនិត្យរួមផ្ទៃ Rectal examination: .

.....  
 .....

ត្រូវចូលចូលបង្ហាញពីទីកន្លែង, ទំហំ ជាសម្លេងត្រឹមត្រូវ នៃ ស្មុគស្មាញរបស់

ប្រដាប់បង្កពូជផ្នែកខាងក្នុង



**មត្យាវាគៈ:** ចំពោះជនរងគ្រោះភេទប្រុសត្រូវសរសេរបញ្ជាក់ពីរបួសស្មាញដែលមាន នៅក្នុងសេចក្តីសន្និដ្ឋានខាងក្រោមនេះ

### ៣. ការបកស្រាយវិស័យ:

-វិវិលទ្វារមាស □

-វិស័យកសិកម្ម ឧស្សាហកម្ម និងសេវា ១២

-ក្រចក ☐

-វិវិលមាត់ស្បូន ☐

-សំរាប់ ☐

-ផ្សេងៗ បញ្ជាក់ ☐ : .....

-ឈាម ០

-ពេល ☐

#### ៤. ការពិនិត្យដោយបន្ទីរពិសោធន៍:

-ពិនិត្យប្រុងសំ **Wet Mount** ☐

-ពិនិត្យដោយដាក់ពណ៌ Gram Stain ☐

-រកមេជីវិត Sperm Check ☐

-រកមេរោគ-ជំងឺស្លាយ RPR ☐

-តេស្តរកពិក Pregnancy Test ☐

-វិភាគទឹកនោម Urine Analysis ☐

-តេស្តរកវិរុសប៊ីអិល HIV Test ☐

-ផ្សេងៗ Others.....

៥. សេចក្តីសន្និដ្ឋាន និង អនុសាសន៍ :

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins or other markings on the paper.

## លិខិតយល់ព្រមប្រគល់ព័ត៌មានជូន៖

**នគរបាលយុត្តិធម៌ដែលមានតួនាទីស៊ើបអង្កេតរឿងក្តី. តុលាការ. ព្រះរាជអាជ្ញា. មេធាវីជំនរងគ្រោះ**

ខ្ញុំបាទ/ខ្ញុំអនុញ្ញាតឱ្យមន្ទីរពេទ្យ..... រឺ វេជ្ជបណ្ឌិត  
 ឈ្មោះ..... ផ្តល់ព័ត៌មានចំពោះមុខយើងអំពីឯកសារពិនិត្យការរំលោភផ្លូវភេទ និង  
 របាយការណ៍មន្ទីរពិសោធន៍ពាក់ព័ន្ធជូន នគរបាលយុត្តិធម៌ដែលមានតួនាទីស៊ើបអង្កេតរឿងក្តី. តុលាការ. ព្រះរាជអាជ្ញា. មេធាវី  
 ជំនរងគ្រោះ ដែលបានស្នើសុំសំរាប់គោលបំណងនីតិវេជ្ជសាស្ត្រ។ ក្នុងករណីចាំបាច់គណៈកម្មការកោសល្យវិច័យ ខេត្ត-ក្រុង អាច  
 ផ្តល់ឯកសារចំលងនេះ តាមការស្នើសុំជាលាយលក្ខណ៍អក្សរពី នគរបាលស៊ើបអង្កេត. ចៅក្រម. ព្រះរាជអាជ្ញា មេធាវីជំនរងគ្រោះ ។

.....ថ្ងៃទី.....ខែ.....ឆ្នាំ.....  
 ហត្ថលេខា វិស្វាមេដៃស្ត្រី-ជំនរងគ្រោះ



ព្យាគិសណ្តនជំនរងគ្រោះ ៖

- ☐ ខ្លួនឯង
- ☐ ឪពុកម្តាយ
- ☐ អាណាព្យាបាល
- ☐ អ្នកជំនាញ (សូមបញ្ជាក់)

.....ថ្ងៃទី.....ខែ.....ឆ្នាំ.....  
 ហត្ថលេខា វិស្វាមេដៃស្ត្រីសាក្សី



ឈ្មោះ (ជំនរងគ្រោះ).....

ឈ្មោះ (សាក្សី).....

បានឃើញ និង ឯកភាព  
 .....ថ្ងៃទី.....ខែ.....ឆ្នាំ.....  
 ហត្ថលេខា-គណៈកម្មការកោសល្យវិច័យ  
 ខេត្ត-ក្រុង:.....



ឈ្មោះប្រធាន.....

.....ថ្ងៃទី.....ខែ.....ឆ្នាំ.....  
 ហត្ថលេខា និង ត្រាអង្គភាព  
 មន្ទីរពេទ្យ-ស្រុកប្រតិបត្តិ.....



ឈ្មោះប្រធាន.....

# Annex 7 - Protection Order Request

**ព្រះរាជាណាចក្រកម្ពុជា**  
**ជាតិ សាសនា ព្រះមហាក្សត្រ**

(ទម្រង់តាមមាត្រា៥៤១ នៃ ក.ជ.វ)

**ពាក្យសុំដីកាការពារ**  
**សូមគោរពចូលមក**  
**លោកប្រធានសាលាដំបូង** .....

*សូមបានជ្រាប*

**ម្ចាស់បំណុល:**  
ឈ្មោះ:..... ភេទ អាយុ ឆ្នាំ មានអាសយដ្ឋានភូមិ..... ឃុំ/សង្កាត់.....  
ក្រុង/ស្រុក/ខណ្ឌ..... រាជធានី/ខេត្ត.....។

**អ្នកតំណាងដោយមេធាវី:**  
មេធាវី..... អត្តលេខ..... នៃ..... ដែលមានការិយាល័យតាំងនៅផ្ទះលេខ.....  
ផ្លូវលេខ..... សង្កាត់..... ខណ្ឌ..... រាជធានី.....។

**គូនបំណុល:**  
ឈ្មោះ:..... ភេទ អាយុ ឆ្នាំ មានអាសយដ្ឋានភូមិ..... ឃុំ..... ស្រុក.....  
ខេត្ត.....។

**ទី១: ខ្ញុំមសារនៃដីកាសម្រេចដែលធានាដោយម្ចាស់បំណុល**  
សុំឲ្យតុលាការចេញដីកាការពារដូចតទៅ:  
១-ហាមឃាត់មិនឲ្យចុងចង្ហើយឈ្មោះ:..... ធ្វើ.....។  
២-ហាមឃាត់មិនអោយចុងចង្ហើយឈ្មោះ:.....ធ្វើ.....។  
៣.....។  
៤.....។

**ទី២: តំណក់ទំនងគតិយុត្តិដែលនឹងត្រូវរក្សាការពារ**  
រៀបរាប់ដំណើររឿងដែលនាំអោយមានទំនាក់ទំនងគតិយុត្តិ (អង្គហេតុ)



.....។

**ទី៣: ភាពចាំបាច់នៃការរក្សាការពារ**

រៀបរាប់ពីភាពចាំបាច់នៃការរក្សាការពារ

.....។

.....។

អាស្រ័យហេតុនេះសូម **លោកប្រធាន** មេត្តាចេញដីកាការពារតាមការស្នើសុំដោយ  
អនុគ្រោះ។

សូម **លោកប្រធាន** មេត្តាទទួលនូវការគោរពដ៏ខ្ពង់ខ្ពស់អំពីយើងខ្ញុំ។

ធ្វើ.....,ថ្ងៃទី ..... ខែ ..... ឆ្នាំ ២០១០

**ហត្ថលេខា**

# Annex 8 - Format of Victim's Complaint

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| <p><b>ក្រសួង ក.ក.ង</b></p> <p><b>ប៉ូលីស</b></p> <p>ឈ្មោះ.....</p> <p>ថ្ងៃខែ.....</p> <p>ម៉ោង.....១០:៣០.....</p> <p>អ្នកទទួល.....</p> | <p><b>ព្រះរាជាណាចក្រកម្ពុជា</b></p> <p><b>ជាតិ សាសនា ព្រះមហាក្សត្រ</b></p> <p>០៩០៩*១១១១</p> <p><b>ពាក្យបណ្តឹង</b></p> <p>នាងខ្ញុំឈ្មោះ: កេទស្រី អាយុ៣៦ឆ្នាំ សញ្ជាតិខ្មែរ មុខរបរលក់ដូរ</p> <p>មានទីលំនៅភូមិ ឃុំ ស្រុក ខេត្ត ។ លេខទូរស័ព្ទ</p> <p>។</p> <p><b>សូមគោរពជូន</b></p> <p><b>លោកជំទាវរដ្ឋមន្ត្រី ក្រសួងកិច្ចការនារី</b></p> <p style="text-align: right;"><i>សូមទានជ្រាប</i></p> <p><b>កម្មវត្ថុ:</b> សំណើសុំឲ្យជួយអន្តរាគមន៍ទៅសាលាដំបូងខេត្ត សុំលែងលះជាមួយ លោក កេទប្រុស អាយុ៣៨ឆ្នាំ មានទីលំនៅភូមិ ឃុំ ស្រុក ខេត្ត (បច្ចុប្បន្នឃុំខ្លួននៅមន្ទីរឃុំឃាំងខេត្ត ) បែងចែកទ្រព្យសម្បត្តិរួម សុំសិទ្ធិចិញ្ចឹមបីបាច់ថែរក្សាកូន ដោយសុំប្រាក់អាហារភាគពូកែចំនួន មិន ដុល្លារអាមេរិក( ដុល្លារអាមេរិក) និង សុំអនុវត្តដីកាសម្រេចរក្សាការពាររបស់សាលាដំបូងខេត្ត ចុះថ្ងៃទី ខែ ឆ្នាំ ២០១២ ។</p> <p><b>យោង:</b> -អត្តសញ្ញាណប័ណ្ណសញ្ជាតិខ្មែរ</p> <p>-សៀវភៅគ្រួសារ</p> <p>-សំបុត្រអាពាហ៍ពិពាហ៍(ឆ្នាំ២០០៥)</p> <p>-រូបថត</p> <p>-ពាក្យបណ្តឹងសុំលែងលះទៅសាលាដំបូងខេត្ត ចុះថ្ងៃទី ខែ ឆ្នាំ ២០១២ របស់ឈ្មោះ:</p> <p>-ដីកាសម្រេចរក្សាការពារ ចុះថ្ងៃទី ខែ ឆ្នាំ២០១២ របស់សាលាដំបូងខេត្ត</p> <p>-ឯកសារទ្រព្យសម្បត្តិ(ថតចម្លង)</p> <p>តបតាមកម្មវត្ថុនិងយោងខាងលើ នាងខ្ញុំសូមគោរពជម្រាបជូន លោកជំទាវ រដ្ឋមន្ត្រី មេត្តាជ្រាបថា នាងខ្ញុំ និងលោក បានរៀបអាពាហ៍ពិពាហ៍ជាមួយគ្នាតាំងពីឆ្នាំ ១៩៩៨ និងបានចុះសំបុត្រអាពាហ៍ពិពាហ៍ត្រឹមត្រូវ(ឆ្នាំ២០០៥) ហើយមានកូនចំនួន៣នាក់ កូនទី១ឈ្មោះ កេទប្រុស អាយុ១៣ឆ្នាំ កូនទី២ឈ្មោះ: កេទស្រី អាយុ៩ និង កូនទី៣ឈ្មោះ: កេទប្រុស អាយុ៨ឆ្នាំ។ ការរស់នៅរបស់នាងខ្ញុំនិងស្វាមីមានភាព រកាំរកូសជាមួយគ្នាជាយូរមកហើយ មានជេរប្រមាថ វាយដំសឹងតែរាល់ថ្ងៃ រហូតមកដល់ថ្ងៃទី១៨ ខែតុលា ឆ្នាំ២០១២ គាត់បានវាយធ្វើបាបនាងខ្ញុំបណ្តាលឲ្យមានរបួសធ្ងន់ធ្ងរ រហូតចូលទៅ សម្រាកព្យាបាលនៅមន្ទីរពេទ្យវិសាលសុខ(រាជធានីភ្នំពេញ)រយៈពេល២ថ្ងៃ បន្ទាប់មកនាងខ្ញុំបាន</p> |
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មកស្នាក់នៅផ្ទះម្តាយជាង១ខែ ដោយសារនាងខ្ញុំមិនហ៊ានទៅផ្ទះវិញខ្លាចគាត់វាយធ្វើបាប ។  
 ក្រោយមកនាងខ្ញុំបានត្រឡប់មករស់នៅភូមិ ឃុំ ស្រុក ខេត្ត  
 ហើយបានជួលផ្ទះដែលស្ថិតនៅជិតផ្ទះដែលនាងខ្ញុំរស់នៅជាមួយប្តីអស់រយៈពេល៦ខែ ។ នៅថ្ងៃ  
 ទី០៨ ខែកក្កដា ឆ្នាំ២០១៣ នាងខ្ញុំបានឮអ្នកភូមិប្រាប់ថា ប្តីនាងខ្ញុំបានរៀបចំសែនព្រេងជាមួយ  
 ឈ្មោះ អាយុ២១ឆ្នាំ ដែលជាអ្នកបំរើរបស់នាងខ្ញុំ ហើយពួកគេបានរស់នៅលើផ្ទះនាងខ្ញុំ  
 រហូតមក ។ នៅថ្ងៃទី២៣ ខែតុលា ឆ្នាំ២០១២ នាងខ្ញុំបានដាក់ពាក្យបណ្តឹងទៅតុលាការខេត្ត  
 ស្នើសុំលែងលះជាមួយលោក ជាប្តី ប៉ុន្តែរហូតមកដល់សព្វថ្ងៃតុលាការ  
 មិនទាន់បានដោះស្រាយករណីបណ្តឹងរបស់នាងខ្ញុំនៅឡើយទេ។ ក្រោយមក ប្តីនាងខ្ញុំមានរឿង  
 រ៉ាំរ៉ៃរាល់ដល់អាជ្ញាធរសមត្ថកិច្ច ទើបមានការឃុំខ្លួនគាត់នៅមន្ទីរឃុំឃាំងខេត្ត ហើយ  
 គាត់បានជួលគេលក់ដីចំនួនបីកន្លែង គឺដីចំការដែលមានទំហំ ២០ម គុណនឹង ២៦ម នៅភូមិ  
 ដីចំការដែលមានទំហំ ៩ម គុណនឹង ៨០ម នៅភូមិ និងដីចំការដែលមាន  
 ទំហំ ១០,៥ម គុណនឹង ៥០ម នៅភូមិ ដែលភូមិទាំងបីនេះស្ថិតនៅឃុំ  
 ស្រុក ខេត្ត ដីទាំងបីកន្លែងនេះជាទ្រព្យសម្បត្តិរួមដែលទិញក្នុងតម្លៃ ១០ម៉ឺន ៣ពាន់  
 ដុល្លារអាមេរិច(១៣,០០០ ដុល្លារអាមេរិច) ដូច្នេះទើបនៅថ្ងៃទី២៥ ខែតុលា ឆ្នាំ ២០១២ នាងខ្ញុំបាន  
 ដាក់ពាក្យស្នើសុំដីកាសម្រេចរក្សាការពារទៅសាលាដំបូងខេត្ត ចំនួន ៤ចំណុចគឺ ៖

ចំណុចទី១៖ ហាមឃាត់ឈ្មោះ មិនឲ្យអោយលក់ដូរ ជួលបញ្ចាំ ធ្វើអំណោយ ឬ  
 ផ្ទេរសិទ្ធិផ្ទះលេខ១២៣ ស្ថិតនៅភូមិ ឃុំ ស្រុក ខេត្ត

ចំណុចទី២៖ សុំលើកសោឡារផ្ទះ និងទ្វារបង់ដើម្បីឲ្យដើមចោទ និងកូនៗបានរស់នៅ  
 ធម្មតាវិញ

ចំណុចទី៣៖ សុំបែកលំនៅសង្វាសពីចុងចំណើយដោយឲ្យចុងចំណើយទៅរស់នៅលំនៅ  
 ដ្ឋានផ្សេង

ចំណុចទី៤៖ សុំសិទ្ធិគ្រប់គ្រងកូន ៣នាក់ ។

ប៉ុន្តែតុលាការបានចេញសេចក្តីសម្រេចចំនួន៣ចំណុចគឺ៖

ចំណុចទី១៖ ហាមឃាត់ឈ្មោះ ចុងចំណើយ និងជនដទៃទៀត មិនឲ្យលក់ដូរ  
 ជួល បញ្ចាំ ធ្វើអំណោយ ឬផ្ទេរសិទ្ធិផ្ទះលេខ ស្ថិតនៅភូមិ ឃុំ  
 ស្រុក ខេត្ត ជាបណ្តោះអាសន្ន ។

ចំណុចទី២៖ អនុញ្ញាតឲ្យឈ្មោះ ដើមចោទចូលទៅរស់នៅក្នុងផ្ទះស្ថិតនៅ  
 ភូមិ ឃុំ ស្រុក ខេត្ត ជាធម្មតាដូចស្ថានភាពដើមវិញ ។

ចំណុចទី៣៖ លើកចោលការសុំឲ្យចុងចំណើយបែកលំនៅទៅរស់នៅទីផ្សេង ប៉ុន្តែចុង  
 ចំណើយត្រូវរក្សាសុវត្ថិភាព មិនឲ្យកើតមានទំនាស់ជាមួយប្រពន្ធ ។



នាងខ្ញុំពុំបានយល់ព្រមទៅលើចំណុចដែលគុណការសម្រេចទាំងស្រុងឡើយ ហើយ ចំពោះការអនុវត្តដីកាសម្រេចរក្សាការពារនេះ ប្តីនាងខ្ញុំមិនបានធ្វើតាមចំណុចទាំងអស់នេះឡើយ ហើយបានជេរប្រមាថជឿលក្ខិៈនាងខ្ញុំដោយសំដីអសុរសសព្វបែបយ៉ាង និងជះទឹកបបរស្រោច លើខ្លួននាងខ្ញុំ កន្លងមកនាងខ្ញុំបានខិតខំប្រឹងប្រែងរកស៊ីចិញ្ចឹមកូនតែម្នាក់ឯងទាំងលំបាកវេទនា ដោយប្តីនាងខ្ញុំគិតតែពីដើរសម្បាយមានស្រីធ្វើបាបប្រពន្ធកូនគ្មានមេត្តា និងក្រហឫកហារធម៌បង្កិត ឡើយ ។ នាងខ្ញុំបានសន្សំសំចៃប្រាក់កាស ខំលក់ដូរទាំងយប់ទាំងថ្ងៃទើបបាននៅសល់ទ្រព្យ សម្បត្តិមួយចំនួន ហើយនាងខ្ញុំបានអនុវត្តតាមប្តីនាងខ្ញុំចេញពីមន្ទីរឃុំយ៉ាងវិញតាត់នឹងក្រឡប់ មកផ្ទះហើយធ្វើបាបនាងខ្ញុំនិងកូន និងលក់ទ្រព្យសម្បត្តិយកទៅចិញ្ចឹមស្រីអស់ ទើបនាងខ្ញុំ សូម លោកជំទាវ រដ្ឋមន្ត្រី មេត្តាជួយអន្តរាគមន៍ទៅគុណការខេត្ត ឲ្យអនុវត្តទៅតាមនីតិវិធីច្បាប់ កំណត់ពេលកាលទៅទៀតលើករណីប្តីសុំលែងលះប្តីប្រពន្ធ បែងចែកទ្រព្យសម្បត្តិមួយ សុំសិទ្ធិ ចិញ្ចឹមបីបាច់ថែរក្សាកូនទាំង៣នាក់ដោយសុំអាហារភាគពូកិច្ចចំនួន ម៉ឺនដុល្លារអាមេរិក( ដុល្លារអាមេរិក) និងសុំឲ្យអនុវត្តដីកាសម្រេច រក្សាការពាររបស់សាលាដំបូងខេត្ត ចុះថ្ងៃទី ខែ ឆ្នាំ២០១២ ។

ចំណែកទ្រព្យសម្បត្តិដែលនាងខ្ញុំមាន នាងខ្ញុំសូមជម្រាបជូនដូចខាងក្រោមនេះ និង សូមឲ្យគុណការមេត្តាផ្តល់យុត្តិធម៌ក្នុងការបែងចែកឲ្យនាងខ្ញុំនិងកូនស្របទៅតាមច្បាប់ ។

នាងខ្ញុំមានទ្រព្យសម្បត្តិដូចខាងក្រោមនេះ ៖

- ១/ ដីនៅឃុំ ស្រុក ខេត្ត ៖
- ដីភូមិដែលមានទំហំបណ្តោយ ៣០ម ទទឹង ៦ម និងមានផ្ទះថ្មីជាន់ទំហំ បណ្តោយ ២៥ម ទទឹង៥ម ទីតាំងនៅភូមិ ។
  - ដីភូមិសម្រាប់លក់សាច់ប្រាក់ មានទំហំបណ្តោយ៣,៩មទទឹង ១,៥ម ទីតាំងនៅភូមិ
  - ដីភូមិទំហំ ៥០ម គុណនឹង ៧០ម ទីតាំងនៅភូមិ ។
  - ដីភូមិនិងផ្ទះ ដែលមានទំហំ ១៧ម ទទឹង ៥,៥ម ទីតាំងនៅភូមិ ។
  - ដីភូមិដែលមានទំហំ ៤,៥ម គុណនឹង ២៩ម ទីតាំងនៅភូមិ
  - ដីស្រែប្រាំងទំហំ ២ហិកតា៦កុង(២៦០អា) ទីតាំងនៅភូមិ ។
  - ដីទំហំ ១ហិកតា ៤កុង(១៤០អា) ទីតាំងនៅភូមិ ។
  - ដីទំហំ ៩០អា ទីតាំងនៅភូមិ
  - ដីស្រែទំហំ ២ហិកតា ទីតាំងនៅភូមិ
- ២/នៅឃុំ ស្រុក ខេត្ត ៖
- ដីភូមិនិងផ្ទះដែលមានទំហំបណ្តោយ៣១មទទឹង៤ម ទីតាំងនៅភូមិ ។
- ៣/ឃុំ ស្រុក ខេត្ត ៖
- ដីស្រែប្រាំង ដែលមានទំហំ ១៥កុង(១ហិកតាកន្លះ) ទីតាំងនៅភូមិ
- ៤/ឃុំ ស្រុក ខេត្ត ៖



-ដីចំការ ដែលមានទំហំ ២០ម គុណនឹង ២៦ម ទីតាំងភូមិ ។ លោក  
បានលក់នៅថ្ងៃទី ខែ ឆ្នាំ ២០១៣ ។  
-ដីចំការ ទំហំ ៩ម គុណនឹង ៨០ម ទីតាំងនៅភូមិក្អកល្អាល។ លោក  
បានលក់នៅថ្ងៃទី ខែ ឆ្នាំ ២០១៣ ។  
-ដីចំការ ទំហំ ១០,៥ម គុណនឹង ៥០ម ទីតាំងនៅភូមិ ។ លោក  
បានលក់នៅថ្ងៃទី ខែ ឆ្នាំ ២០១៣ ។

៥/ឃុំ ស្រុក ខេត្ត ៖  
-ដីស្រែប្រាំង ដែលមានទំហំ ៤០អា ទីតាំងភូមិ ។  
-ដីស្រែប្រាំង ដែលមានទំហំ ១១កុង(១ហិចតា១០អា) ទីតាំងភូមិ ។  
-ដីស្រែទំហំ ៤០អា ទីតាំងនៅភូមិ

៦/ឃុំព្រះស្តេច ស្រុក ព្រះស្តេច ខេត្តព្រៃវែង៖  
-ដីស្រែប្រាំង ដែលមានទំហំ ៦កុង(៦០អា) ទីតាំងភូមិ

៧/ឃុំ ស្រុក ខេត្ត ៖  
-ដីស្រែប្រាំង ដែលមានទំហំ ៣ហិចតា ទីតាំងនៅភូមិ  
-ដីស្រែប្រាំង ទំហំ ៣ហិចតា ទីតាំងនៅភូមិ

៨/ឃុំ ស្រុក ខេត្ត ៖  
-ដីទំហំ ៣០ម គុណនឹង ៤០ម (ជាដីត្រពាំង) ទីតាំងនៅភូមិ

៩/បញ្ជីឈ្មោះអ្នកដែលបានសង់មាសទៅលោក ។  
១០/ថយន្តម៉ាក Lexus Rx 300 ស្លាកលេខ ភ្នំពេញ  
១១/ម៉ូតូម៉ាក Honda Dream 125 ស្លាកលេខ ភ្នំពេញ  
១២/ជំពាក់បំណុលលោកស្រី ភូមិ សង្កាត់ ខណ្ឌ  
រាជធានីភ្នំពេញ ចំនួន ម៉ឺន ដុល្លារអាមេរិក ( . ដុល្លារអាមេរិក ) ។

អាស្រ័យហេតុនេះ នាងខ្ញុំសូម លោកជំទាវ រដ្ឋមន្ត្រី មេត្តាជួយអន្តរាគមន៍តាមសំណើ  
របស់នាងខ្ញុំ ដោយក្តីអនុគ្រោះ ។

សូម លោកជំទាវ រដ្ឋមន្ត្រី មេត្តាទទួលនូវការគោរពដ៏ខ្ពង់ខ្ពស់អំពីនាងខ្ញុំ ។

រាជធានីភ្នំពេញ, ថ្ងៃទី ខែ ឆ្នាំ២០១៣

ស្នាមមេដៃស្ត្រី



# Annex 9 - Format of MoWA Minister's Intervention Letter



## **សូមជម្រាបជូន លោកប្រធាន សាលាដំបូងខេត្ត**

**កម្មវត្ថុ:** សំណើសុំជួយដោះស្រាយលើករណីរឿងក្តីរបស់លោកស្រី ទៅលើ  
ចំណុចដូចខាងក្រោម ៖  
១/ សុំលែងលះប្តីឈ្មោះ  
២/ សុំសិទ្ធិគ្រប់គ្រងកូនទាំងបីនាក់  
៣/ សុំទាមទារប្រាក់អាហារភាគរួចចំនួន .. ( ម៉ឺន) ដុល្លារអាមេរិក  
៤/ សុំបែងចែកទ្រព្យសម្បត្តិរួមជា២ចំណែកស្មើគ្នា ។

**យោង:** លិខិតពាក្យបណ្តឹងលេខ កកន ចុះថ្ងៃទី ខែ ឆ្នាំ២០១៣ របស់ លោកស្រី  
- ឯកសារពាក់ព័ន្ធមួយចំនួន ។

សេចក្តីដូចបានជម្រាបជូនក្នុងកម្មវត្ថុនិងយោងខាងលើ ខ្ញុំ សូមជម្រាប លោកប្រធាន  
សាលាដំបូងខេត្ត ជ្រាបថា ក្រសួងកិច្ចការនារីបានទទួលពាក្យបណ្តឹងរបស់លោកស្រី  
អាយុ៣៦ឆ្នាំ សញ្ជាតិខ្មែរ មុខរបរលក់ដូរ មានទីលំនៅភូមិ ឃុំ  
ស្រុក ខេត្ត ប្តីឈ្មោះ អាយុ៣៨ឆ្នាំ(បច្ចុប្បន្នឃុំខ្លួននៅមន្ទីរឃុំឃាំងខេត្ត  
) ស្នើសុំឲ្យជួយអន្តរាគមន៍មកសាលាដំបូងខេត្ត សុំជួយដោះស្រាយករណីបណ្តឹង  
របស់លោកស្រីពាក់ព័ន្ធនឹងចំណុចខាងលើ ព្រោះលោកស្រីព្រួយបារម្ភខ្លាចក្រែងប្តីរបស់លោកស្រី  
ជួលគេឲ្យលក់ដី និងទ្រព្យសម្បត្តិមួយចំនួន ដែលជាទ្រព្យរួមរកទៅចំណាយថ្នាល់ខ្លួនអស់ ដោយ  
សារឯកសារទ្រព្យសម្បត្តិទាំងអស់នោះ នៅលើម្តាយបង្កើតរបស់ប្តីគាត់ ។ ម្យ៉ាងទៀត បច្ចុប្បន្ន  
លោកស្រី មានជីវភាពក្រីក្រលំបាកហើយត្រូវចិញ្ចឹមកូនទាំងបីនាក់ម្នាក់ៗ និង  
ត្រូវការចាំបាច់នូវប្រាក់កាសមួយចំនួន ដើម្បីយកទៅសងបំណុលដែលចំពាក់គេកាលនៅជួបជុំជា  
មួយប្តីឲ្យទាន់ពេលវេលា បើមិនដូច្នោះទេ នឹងត្រូវបាត់បង់ទាំងប្រាក់កក់ និងទ្រព្យសម្បត្តិដើម  
ផងដែរ ។ ក្រសួងកិច្ចការនារី បានតាមដានរឿងនេះឃើញថា លោកស្រី ទទួល  
រងនូវអំពើហិង្សាផ្លូវចិត្ត និងផ្លូវកាយជាយូរឆ្នាំមកហើយ គ្មានសង្ឃឹមថានឹងអាចជួបជុំគ្នាជាមួយប្តី  
ឡើងវិញបានឡើយ ទើបស្នើសុំ លោកប្រធាន សាលាដំបូងខេត្ត ជួយដោះស្រាយករណីរឿងក្តី

របស់លោកស្រី ដោយផ្ដោតទៅលើកំរិតរបស់នាងរបស់លោកស្រី និងផលប្រយោជន៍  
របស់កូនទាំងបីនាក់ ដោយក្តីអនុគ្រោះ ។

អាស្រ័យហេតុនេះ សូម លោកប្រធាន សាលាដំបូងខេត្ត ជួយជំរុញការជំនុំជំរះ  
រឿងក្តីនេះឲ្យបានឆាប់ តាមការគួរ ។

សូម លោកប្រធាន ទទួលនូវការរាប់អានអំពីខ្ញុំ ។ ស៊ីសី

រាជធានីភ្នំពេញ, ថ្ងៃទី ខែ ឆ្នាំ២០១៣







**Address:** Building 3, Norodom Boulevard,  
Sangkat Wat Phnom, Khan Doun Penh, Phnom  
Penh, Cambodia.

**Tel:** 023 216 707

**Website:** [www.mwa.gov.kh](http://www.mwa.gov.kh)