



**KINGDOM OF CAMBODIA**  
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**Permanent Mission of the Kingdom of Cambodia  
to the United Nations Office and other  
International Organisations at Geneva**

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The Permanent Mission of the Kingdom of Cambodia to the United Nations Office and other International Organisations at Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to the letter dated 9 April 2020 of Ms. Dubravka Simonovic, Special Rapporteur on Violence against Women, its Causes and Consequences, has the honour to transmit herewith reply from the Ministry of Women's Affairs of the Kingdom of Cambodia as to the questionnaires on "Criminalization and Prosecution of Rape."

The Permanent Mission of Cambodia would appreciate it if the said information could be forwarded to its high destination.

The Permanent Mission of the Kingdom of Cambodia to the United Nations Office and other International Organizations at Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 24 June 2020



Office of the United Nations High Commissioner  
for Human Rights (OHCHR)  
Geneva

## Annex – Questionnaire on Criminalization and Prosecution of Rape

### Definition and scope of criminal law provision

- 1- Please provide information on criminal law provision's on rape (or analogous forms of serious sexual violence for those jurisdictions that do not have a rape classification) by providing full transcripts of the relevant articles of the Criminal code and the Criminal procedure code.

#### Answer

*According to Article 239 of the Criminal Code states that "Rape shall mean any act of sexual penetration with a sexual organ or an object committed against another person of either sex by violence, coercion, threat or by being opportunistic." There are many relevant articles state about the rape such as the article 240, 241, 242, 243 and 244.*

- 2- Base on the wording of those provision, is the provided definition of rape:
  - a. Gender specific, covering woman only YES/NO
  - b. Gender neutral, covering all persons YES/NO
  - c. Based on the lack of consent of victim YES/NO
  - d. Based on the use of force or threat YES/NO
  - e. Some combination of the above. YES/ NO. If yes, please specify.  
*Because the definition of rape is based on the use of force or threat.*
  - f. Dose it covers only vaginal rape? YES/NO
  - g. Dose it covers all forms of penetration? YES/NO. If yes, please specify.  
*Because the definition of rape in the Article 239 of the Criminal code "Rape shall mean any act of sexual penetration with a sexual organ or an object committed against another person of either sex by violence, coercion, threat or by being opportunistic."*
  - h. Is marital rape in this provision explicitly included? YES/NO
  - i. Is the law silent on marital rape? YES/NO
  - j. Is marital rape covered in the general provision or by legal precedent even if it is not explicitly included? YES/NO
  - k. Is marital rape excluded in the provision, or is marital rape not considered as a crime? YES/NO
- 3- Are there any provisions excluding criminalization of the perpetrator of the victim and alleged perpetrator live together in a sexual relationship/have sexual relationship/had a sexual relationship? If so, please submit it with corresponding translations. NO

- 4- What is the legal age for sexual consent?

*The legal age for sexual consent is 15 years (Article 239 of the Criminal Code).*

- 5- Are there any provisions that differentiate for sexual between peers? If so, please provide them.

#### Answer

*No, if the sex between a friend is unscrupulous or threat or uses other means for purposes of rape, whatever the age according to paragraph 2 of article 239, it is considered as a rape case.*

- 6- Provide information on criminal sanctions prescribed and length/duration of such criminal sanctions for criminalized forms of rape.

Answer

*According to the Articles 239 of the Criminal code duration of such criminal sanctions for criminalized forms of rape shall be punishable by imprisonment from five to ten years. However, some articles of the Criminal code also state aggravating circumstances of the form of offense too.*

*The Criminal code:*

- *Articles 239: "Rape" shall mean any act of sexual penetration with a sexual organ or an object committed against another person of either sex by violence, coercion, threat or by being opportunistic. Rape shall be punishable by imprisonment from five to ten years.*
- *Article 240: Aggravating circumstances (means used or status of the perpetrator): Rape shall be punishable by imprisonment from seven to fifteen years if it is committed:*
  - *With the use or threatened use of a weapon*
  - *With the use of a narcotic or any means liable to overcome or weaken the victim's resistance*
  - *By any person having authority over the victim*
  - *By any person abusing the authority vested in him or her by his or duties*
  - *By several person acting as perpetrators, co-perpetrators, instigators or accomplices.*
- *Article 241: Aggravating circumstances (status of the victim): Rape shall be punishable by imprisonment from seven to fifteen years if it is committed:*
  - *Against a person who is particularly vulnerable by reason of his or her age*
  - *Against a pregnant woman whose pregnancy is obvious or known to the perpetrator*
  - *Against a person who is particularly vulnerable by reason of illness or disability and whose state is obvious or known to the perpetrator.*
- *Article 242: Aggravating circumstances ( mutilation or disability): Rape shall be punishable by imprisonment from ten to twenty years if it results in the mutilation or permanent disability of the victim.*
- *Article 243: Aggravating circumstances (torture or acts of cruelty): Rape shall be punishable by imprisonment from ten to thirty years if it is preceded, accompanied or followed by torture or acts of cruelty.*
- *Article 244: Aggravating circumstances (death of the victim): Rape shall be punishable by imprisonment from fifteen to thirty years if without intent to kill, it results in the death of the victim or it leads to the suicide of the victim.*

- 7- What does the legislation in your country provide in terms of reparation to the victim of rape and/or sexual violence after conviction of the perpetrator?

### Answer

*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 (Articles 13 of Criminal Code Procedure):*

- *A direct consequence of an offense*
- *Personal damage*
- *Actual occurred and exist at the present time.*

8- Dose the law foresee aggravating circumstance when sentencing rape case? If so, what are they?

a. Is rape by more than one perpetrator an aggravating circumstance? YES/NO

*Articles 240 of Criminal code: Aggravating Circumstances which Based on Means Used or Connection with the Offender The rape is punishable by an imprisonment of between 7 (seven) to 15 (fifteen) years when it is committed:*

- 1. with a utilization of weapon or a threat with a weapon;*
- 2. with a utilization of drug or all other methods of any kind designed to suppress or weaken the resistance of the victim;*
- 3. by a person who has authority over the victim;*
- 4. by a person who abuses his/her power which was vested in him/her;*
- 5. by several persons acting in their capacity as an perpetrator, co-perpetrators, an instigator or an accomplice.*

b. Is rape of a particularly vulnerable individual an aggravating circumstance, or the imbalance of power between alleged perpetrator and victims? (for example, doctor/patient, teacher/student; age difference) YES/NO (*Article 240 of Criminal code*)

c. Is rape by spouse or intimate partner an aggravating circumstance?

*Have aggravating circumstance or not, it is depending on the action commit on the partner. As stated in Article 240, 241, 242, 243 and 244 of the Criminal code.*

9- Dose the law foresee mitigating circumstance for the purpose of punishment? YES/NO If yes, please specify

10- Is reconciliation between the victim and the perpetrator allowed as part of a legal response? YES/NO If so, at what stage and what are the consequence?

a. Regardless of the law, is reconciliation permitted in practice? YES/NO and what is the practice in this regard?

*According to the Criminal Code of Cambodia, rape is regarded as a serious crime. There is no tolerance against this kind of criminal act and the perpetrators are prosecuted. Compromise or mediation for these types of criminal acts are unlawful.*

11- Is there any provision in the criminal code that allows for the non-prosecution of perpetration? YES/NO If yes, please specify.

a. If the perpetrator marries the victim of rape? YES/NO

b. If the perpetrator loses his "socially dangerous" character or reconciles with the victim? YES/NO

## Prosecution

- 12- Is rape reported to the police prosecuted ex officio (public prosecution)? YES/NO
- 13- Is rape reported to the police prosecuted ex-parte (private prosecution)? YES/NO
- 14- Are plea bargain or “friendly settlement “of a case allowed in cases of rape of woman? YES/NO
- 15- Are plea bargain or “friendly settlement “of a case allowed in cases of rape of children? YES/NO
- 16- Please provide information on the statute of limitations for prosecuting rape.

### Answer

*In Accordance with Cambodia Criminal Code, rape is a crime therefore the statute of limitations for prosecuting the felony is 15 years (Article 10 of Code of Criminal Procedure).*

*Article 11: The duration of the statute of limitations commences at the time the offense was committed. The statute of limitations is interrupted by an act of prosecution or investigation. The end of any such act of prosecution or investigation restarts a new period of the statute of limitations pursuant to the provisions of Article 10 of this Code (Statute of Limitations of Crime). The new time period applies to everyone involved in the case.*

- 17- Which are the provision allowing a child who was a victim of rape and to report it after reaching adulthood, if any? YES/NO *(Not Applicable)*
- 18- Are there mandatory requirement for proof of rape, such a medical evidence or the need for witnesses? YES/NO If yes, please specify  
*The legal term evidence is the means by which any alleged fact may be established or proved wrong. The evidence collection shall be drawn from four main sources:*
- *Evidence at the crime scene*
  - *Interrogations of suspects*
  - *Victim and/or Witness Statements*
  - *Medical evidence (within 72 hours)*
- 19- Are there any rape shield provisions aimed at preventing judges and defense lawyer from exposing a woman’s sexual history during trial? YES/NO
- 20- Are there procedural criminal law provisions aimed to avoid re-victimizations during the prosecution and court hearings? YES/NO. If yes, please specify.

## War and/or conflict

- 21- Is rape criminalized as a war crime against humanity? YES/NO
- Article 188 of Criminal Code: Crime Against Humanity Each of the acts prescribed below when committed within the framework of a generalized or systematic attack carried out against civilian population, constitutes a crime against the humanity:*
1. *murder;*
  2. *extermination;*
  3. *induction into slavery;*
  4. *forced deportation or transfer of the population;*
  5. *imprisonment or any other form of serious deprivation of freedom in violation of the fundamental provisions of the international laws;*

6. torture;
7. rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization and all other form of sexual violence of the same seriousness;
8. prosecution of a group or a community under the political, racial, national, ethnic, cultural , religious or sexual motives.
9. forced disappearance;
10. apartheid;
11. All other inhuman acts which causes great sufferings or serious attack on physical integrity.

22. Is there a statute of limitations for prosecuting rape in war or in conflict contexts? YES/NO  
*[Article 9. Crime Procedure Code: Crime without statute of limitation, against humanity, genocide and war crimes have no statute of limitations.] and [Article 5. Law on The Extraordinary Chambers in the Courts of Cambodia (ECCC)]*

23- Is there explicit provision excluding statutes of limitation for rape committed during war and armed conflict? YES/NO

24- Has the Rome Statute of the International Criminal Court (ICC) been ratified? YES/NO

Answer

*Cambodia signed the Rome Statute of the International Court on 23 October 2000, ratified on 11 April 2002 and entry into force on 1 July 2004.*

**Data**

25- Please provide data on the number of cases of rape that were reported, prosecuted and sanctioned, for the past two to five years.

Answer

- a. *Number of cases of rape that were reported 223 cases (based on CNCW report from 2015 -2017)*
- b. *Number of cases that were prosecuted 152 cases (being address in the court process system)*
- c. *Number of cases that were sanctioned (N/A)*

**Other**

26- Please explain any particular and additional barrier to the reporting and prosecution of rape and to the accountability of perpetrators in your legal and social context not covered by the above.

Answer

*The culture context and the level of the education can be an additional barrier for women to reporting and prosecution of rape case because usually women rarely to speak out about their sexuality issues to other people. Some women usually do not access to the information about their rights to get justice, especially, women who lives in the rural therefore, they cannot bring the complaint to the court.*