



## **CCHR Briefing Note – October 2014**

### **Children in the Cambodian criminal justice system**

#### **Executive summary**

Various international standards recognize that children accused of infringing the criminal law require special care and protection. Children accused of a crime are entitled to all fair trial rights that apply to adults, as well as to additional protections to reflect the fact that children differ from adults in their physical and psychological development. When administering justice to juveniles, States must have in place procedures to ensure that these rights and protections are adhered to and that the best interests of the child are considered at all stages of the process.

This Briefing Note assesses the current state of the juvenile justice system in the Kingdom of Cambodia (“Cambodia”) against international standards. The first section provides an outline of the international and domestic laws pertaining to juvenile justice while the second section assesses the adherence to juvenile rights within the criminal system through data collected during three years of trial monitoring. The final section offers realistic recommendations for the implementation of reform on juvenile justice which can be adopted to ensure that Cambodia’s administration and treatment of juveniles within the criminal justice system complies with international standards. Key recommendations to the Royal Government of Cambodia (“RGC”) include:

- Enact a Draft Juvenile Justice law as a matter of priority;
- Amend existing laws to ensure proper enforcement;
- Organize specific training for judges and prosecutors before they preside over/prosecute cases involving juvenile defendants; and
- Ensure pre-trial detention only takes place in exceptional circumstances, as a measure of last resort and for the shortest appropriate period.

This Briefing Note is written by the Cambodian Center for Human Rights (“CCHR”), a leading, non-aligned, independent, non-governmental organization (“NGO”) that works to promote and protect democracy and respect for human rights – primarily civil and political rights – in Cambodia.

#### **Overview of the legal framework relating to juvenile justice**

##### **International law**

The international standards that exist with regards to juvenile justice have evolved through various internationally recognized conventions, guidelines and blueprints for the effective protection of children in the criminal justice system. They are directly applicable in Cambodia, as Article 31 of the Constitution of the Kingdom of Cambodia (the “Constitution”) states that Cambodia shall recognize and respect the Universal Declaration of Human Rights<sup>1</sup> (the “UDHR”) and the covenants and

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<sup>1</sup> The UDHR, adopted by the UN General Assembly resolution on 10 December 1948, <http://bit.ly/XYKoAd>

conventions related to human rights, women's rights and children's rights, thereby incorporating the UDHR and the Convention on the Rights of the Child (the "CRC")<sup>2</sup> ratified by Cambodia in 1992. This was reiterated in a 2007 decision by the Constitutional Council which recognizes that international law is directly applicable by domestic courts.<sup>3</sup> In addition, Article 48 of the Constitution states that *"the State shall protect the rights of children as stipulated in the Convention on Children."*

The CRC, adopted by the United Nations (the "UN") General Assembly (the "UNGA") in May 1989, is the main instrument which embodies the minimum protections that should be applied to juveniles in the justice system. The CRC contains fair trial guarantees for children accused of having infringed penal law and is one of the most universal conventions having been ratified by every country in the world except for two.<sup>4</sup>

The CRC is underpinned by four main principles: (1) non-discrimination; (2) the right to life; (3) survival and development; and (4) respect for the views of the child. Articles 37 and 40 of the CRC pertain specifically to the administration of children in the criminal justice system and both are guided by the above four principles. While they both reiterate rights that also apply to adults, the Articles add specific safeguards and protections applicable to children deprived of liberty or in the criminal system. Article 37 contains protections in case of deprivation of liberty of children, including that no life imprisonment shall be imposed to minors; that arrest, detention and imprisonment should be for the shortest appropriate amount of time and a measure of last resort; that the needs of the person and his/her age must be taken into account; and that children deprived of liberty should be separated from adults.

**Article 37 of the CRC:**

*"(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. **Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;***

*(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only **as a measure of last resort and for the shortest appropriate period of time;***

*(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and **in a manner which takes into account the needs of persons of his or her age.** In particular, every child deprived of liberty shall be **separated from adults** unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;*

*(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her*

<sup>2</sup> CRC adopted by the UN General Assembly resolution 44/25 of 20 November 1989, <http://bit.ly/XYKurr>

<sup>3</sup> Decision of the Constitutional Council No.092/003/2007 of 10 July 2007 regarding the applicability of the international human rights treaties by the courts of Cambodia

<sup>4</sup> The United States of America has signed but not ratified the CRC, and Somalia has neither signed nor ratified the CRC.

*liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.”*

Article 40 of the CRC specifies children’s fair trial rights and imposes on States the obligation to take into account the child’s age and the desirability of promoting the child’s reintegration and assuming of a constructive role in society, as well as to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children. In particular, Article 40 instructs that States should establish measures for dealing with children without resorting to judicial proceedings and for making available alternatives such as care, guidance and supervision orders, counselling, probation, foster care, education and vocational training programs, amongst other such measures.

There are further non-binding international standards that exist, which nevertheless provide a strong basis for the interpretation and implementation of the rules contained within the CRC. The United Nations Standard Minimum Rules for the Administration of Juvenile (the “Beijing Rules”)<sup>5</sup> was the first major international agreement that incorporated a comprehensive guide of the standard minimum rules for the administration of juvenile justice. The Beijing Rules aim to promote juvenile welfare to the greatest possible extent, minimize the necessity of intervention by the juvenile justice system and in turn reduce the harm that may have been caused by the effects of the criminal justice procedures.

Moreover, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty,<sup>6</sup> adopted by the UNGA in December 1990, detail how juvenile justice system should uphold the rights and safety and promote the physical and mental wellbeing of juveniles. The UNGA also adopted in the same month the United Nations Guidelines for the Prevention of Juvenile Delinquency (the “Riyadh Guidelines”), which instructs States to adopt preventive programs that prioritize and safeguard the “*well-being, development, rights and interests of all young persons.*”<sup>7</sup> Finally, in 1997, the Guidelines for Action on Children in the Criminal Justice System were also developed to provide a framework to state parties to implement the CRC in the context of the administration of juvenile justice.<sup>8</sup>

#### Domestic law

The rights of juveniles are protected under Cambodian law. However, it is of note that Cambodia does not have a separate set of clearly defined laws pertaining to the rights of children. Legal provisions for the differential treatment for minors are drawn from the Criminal Code of the Kingdom of Cambodia (the “Criminal Code”) and the Code of Criminal Procedure of the Kingdom of Cambodia (the “CCPC”).

Article 39 of the Criminal Code contains a loose, ill-defined commitment to “*surveillance, education, protection and assistance*” of juveniles and offers a generic outline of protections that should be

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<sup>5</sup> United Nations Standard Minimum Rules for the Administration of Juvenile Justice (‘Beijing Rules’), adopted by the United Nations General Assembly resolution 40/33 of 29 November 1985, <http://bit.ly/XYH2gv>

<sup>6</sup> UN General Assembly, resolution 45/113, of 14 December 1990, <http://bit.ly/1sTwedY>

<sup>7</sup> United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), adopted and proclaimed by the General Assembly resolution 45/112, of 14 December 1990, <http://bit.ly/XYImQv>

<sup>8</sup> Guidelines for Action on Children in the Criminal Justice System, recommended by Economic and Social Council Resolution 1997/30 of 21 July 1997, <http://bit.ly/XYHRGc>

offered to minors who commit offenses but does not offer a precise measure by which this protection should be offered. These commitments are not expanded upon in the CCPC, nor is there a specific set of procedural rules for juveniles. As such, there is little under domestic law to act as a guide to those administering justice to juveniles. Domestic provisions relating to the juvenile justice system will be further analyzed in the section below.

### **Assessment of the implementation of juvenile justice standards**

Cambodia's treatment of juveniles in the criminal justice system must be assessed in two ways. First, domestic law must be assessed against international standards to determine whether the Cambodian legal framework is capable of providing the protection required by international law. Secondly, the protection provided under Cambodia's legal framework must be compared to the realities that juveniles face in the criminal justice system – legal protection is worthless if it is routinely ignored.

CCHR's Trial Monitoring Project (the "Project") has produced data on fair trial rights in Cambodia, including on the treatment of juveniles in the criminal justice system. The Project monitors criminal trials to obtain quantitative and qualitative data with a focus on both procedural and substantive elements by using a checklist which measures adherence to fair trial rights.

Between August 2009 and June 2012 the Project monitored trials at Phnom Penh, Kandal, Banteay Meanchey and Ratanakiri Courts of First Instances and published six bi-annual reports on fair trial rights.<sup>9</sup> The monitoring at the courts of First Instances has produced data on a total of 219 cases involving juveniles, out of a total of 2,558 trials monitored.

#### Minimum age of criminal responsibility

Article 38 of the Criminal Code sets the age of criminal responsibility at 18 years-old, in accordance with the CRC, which defines a child as "*every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.*"<sup>10</sup> While neither the CRC nor the International Convention on Civil and Political Rights (the "ICCPR") expressly set a minimum age of criminal responsibility, the CRC requires States to set a minimum age below which children are presumed not to have the capacity to infringe criminal law.<sup>11</sup> In addition, the Committee on the Rights of the Child – the UN body in charge of monitoring the implementation of the CRC – has concluded that 12 is the lowest internationally acceptable minimum age of criminal responsibility.<sup>12</sup>

Although the legal age of criminal responsibility in Cambodia is 18, the wide discretion given to judges under Article 39 of the Criminal Code, which allows judges to "*impose a criminal penalty on minors of fourteen years and over if warranted by the circumstances of the offence or the character of the minor,*" is worrying. This allows judges to give a child under the age of 18 the same criminal responsibility as that of an adult. Estimates from civil society experts during consultations suggest

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<sup>9</sup> The sixth bi-annual reports on fair trial rights in Cambodia are available at: <http://bit.ly/M7mkET>

<sup>10</sup> CRC Article 1

<sup>11</sup> CRC Article 40(3)(a) '3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular: (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

<sup>12</sup> Committee on the Rights of the Child, *General Comment No.10: Children's rights in juvenile justice*, para 32. <http://bit.ly/VhCL63>

that up to 50% of children charged with a felony are treated as adults in the criminal justice system.<sup>13</sup> Contributing to this problem is the lack of adequate methods of providing a child's age, due to internal migration, forced evictions or simply because local authorities failed to provide adequate registration documents at birth.<sup>14</sup>

### Pre-Trial Detention

International standards strongly discourage pre-trial detention in relation to juveniles, even more so than with cases involving adult accused. In most cases, the best interests of the child are protected by not separating them from their parents. Detention of children, including after arrest and prior to trial, should be avoided whenever possible and used only as a measure of last resort for the shortest appropriate period. This is because juveniles are particularly vulnerable to violence and sexual exploitation while in detention, as well as to prevent interaction with adult criminals, which might reduce the likelihood of successful rehabilitation.<sup>15</sup>

Cambodia's domestic law and procedures, in theory, provide some protection against pre-trial detention for juveniles. Article 212 of the CCPC expressly bans pre-trial detention for those under the age of 14. Although Article 213 of the CCPC limits pre-trial detention for those between 14 and 18, it does not expressly discourage pre-trial detention. This is worrying and contrary to Article 9(1) of the CRC, which imposes a high test of necessity when separating a child from his/her parents against their will.

With 87% of juveniles being put in pre-trial detention, according to CCHR's data, it is clear that Cambodia's administration of juvenile justice systematically fails to adhere to international law with regards to the use of pre-trial detention. The imprisonment of juveniles, particularly un-convicted juveniles, must only ever be used as a measure of absolute last resort. The fact that pre-trial detention is the norm for the overwhelming majority of juvenile defendants represents a huge blow to the presumption of innocence and right to liberty. Furthermore, it is alarming that the prevalence of pre-trial detention for juveniles has exceeded that for adults in the most recent monitored periods: between July and December 2011, 95% of juveniles involved in case monitored were put on pre-trial detention against 70% of adults; and between January and June 2012, 91.5% of juveniles, as opposed to 71% of adults.

The data on juveniles in pre-trial detention shows a justice system that does not fully implement a distinct juvenile justice system specifically geared towards considering fair trial rights as they relate specifically to children. This is perhaps indicative of a lack of social and structural resources and support to allow for alternatives to be put in place to help facilitate the presumption that juveniles should not be detained pending trial.

The Vice-President of the Banteay Meanchey Court explained to CCHR trial monitors that some of the main reasons for imposing pre-trial detention in cases involving juvenile accused are the seriousness of the offence and the fact that the accused person may not have a fixed address, as

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<sup>13</sup> Ibid.

<sup>14</sup> <sup>14</sup> Universal Periodic Review: UPR Submission on Child Rights in the Kingdom of Cambodia (Cambodia) by the NGO Coalition on the Rights of the Child (2009-2013)

<sup>15</sup> Committee on the Rights of the Child, *General Comment No.10: Children's rights in juvenile justice*, para 85. <http://bit.ly/VhCL63>

well as the fact that there are insufficient resources to monitor judicial supervision.<sup>16</sup> Members of the judiciary at Phnom Penh Municipal Court of First Instance cited instances of accused persons lying about their age and committing further offences as reasons behind the high levels of pre-trial detention in cases involving juveniles.<sup>17</sup> It is crucial that judges make decisions on pre-trial detention in accordance with the provisions of Article 205 of the CCPC, which does not include the seriousness of the alleged offence as a criteria for imposing pre-trial detention. As is the case with adult accused, there is a clear need for the provision of adequate resources to make judicial supervision a realistic and workable alternative to pre-trial detention.

#### **Case study 1**

A trial monitored at the Phnom Penh Municipal Court of First Instance on 6 June 2012 involved two juvenile siblings. The younger of the two, aged 14 at the time of the offense, was convicted of theft under Article 353 and Article 356 of the Criminal Code and sentenced to one year imprisonment. His older brother, aged 17, was convicted of receiving stolen goods under Article 399 and Article 400 of the Criminal Code and was sentenced to 2 years imprisonment with a one year suspension. It is alleged that the younger boy had stolen jewelry from the house where he worked and had then given the jewelry worth \$2700 to his older brother to keep. Their parents were ordered to pay \$2,600 in compensation to the civil party.

Although the sentences are in accordance with the minimum sentencing requirements for children, it is nevertheless concerning that alternative methods of sentencing were not considered at any point during trial. It could also be argued that placing a child into prison for a misdemeanor for one year is highly disproportionate and contrary to the long term development and wellbeing of the child.

The youngest juvenile had escaped arrest and so was absent at trial. However, the older brother was arrested on 30 January 2012 and was kept in pre-trial detention for five months until the date of the trial on 6 June 2012. This is worrying because, not only should pretrial detention be considered as an absolute last resort but the duration of the detention period should not exceed 4 months<sup>18</sup> in cases of misdemeanors for children aged 16 to 18 years. The fact that the pre-trial detention period exceeds that of highest allowed duration shows a complete disregard for the rights of the child and the prevalence and normality of the use of pretrial detention by the courts.

To add more concern, the child appeared in court in prison uniform, violating his right to be presumed innocent.<sup>19</sup> This case illustrates not only disregard for fair trial rights but highlights the lack of understanding amongst judges of the extra care and discretion that should be shown to children in proceedings.

#### Juvenile Privacy

Criminal trials involving adults should generally be held in public in order to comply with the right to a public hearing. However, under international law, when a trial involves a juvenile, it is legitimate to

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<sup>16</sup> CCHR dialogue with Vice-President of Banteay Meanchey Court, Judge Ith Somphouse, 13 September 2012

<sup>17</sup> CCHR dialogue with Vice-President, Resident Judges, Vice-Prosecutor and Administrative Officer of Phnom Penh Court, 17 September 2012.

<sup>18</sup> Criminal Code Article 214 of the

<sup>19</sup> CRC Article 40 (2)(b)(i), ICCPR Article 14 (2), UDHR Article 11,

restrict those who attend the trial and to impose reporting restrictions in order to protect the juvenile from any harm that could be caused by undue publicity and to avoid stigmatization.

Article 40(2)(b)(vii) of the CRC states that “*States Parties shall, in particular, ensure that ... [a child has] his or her privacy fully respected at all stages of the proceedings.*” The ICCPR further reinforces this principle through further distinguishing between the universal principle of the right to a public hearing for adults and keeping within the principle of the importance of juvenile privacy.<sup>20</sup>

CCHR’s trial monitoring data shows that the administration of juvenile justice in Cambodia fails to provide the privacy required under international law. In only three of the 219 cases monitored were measures to protect the privacy of the juveniles taken.

Public access could be restricted to protect the juvenile’s privacy by, for example, allocating a separate and restricted courtroom for cases involving juveniles. Where it is not possible to do so, members of the public (other than the juvenile’s parents or legal guardians) should not be granted access to hearings. A juvenile defendant’s name or any other identifying details should not be displayed on any public notice board. The privacy of juveniles may further be protected through the use of tools such as video conferencing systems. In Cambodia, such video conferencing systems have been installed in some courtrooms, although CCHR’s monitoring activities shows that they are almost never used.

When presented with CCHR’s findings, officials of the Banteay Meanchey Provincial Court of First Instance claimed that judges decided to protect the privacy of juvenile defendants only for specific crimes such as rape,<sup>21</sup> while in a similar meeting officials at the Phnom Penh Municipal Court of First Instance claimed that no specific provision requires the Court to hold in-camera hearing in cases involving juvenile defendants.<sup>22</sup>

## Case study 2

An example of measures that could be taken to protect juveniles’ privacy is illustrated by a case in which the privacy of the juvenile was protected. The trial took place at the Phnom Penh Municipal Court of First Instance and involved a 15-year-old juvenile charged with “Rape with aggravating circumstances in connection with victims” under Article 241 of the Criminal Code. On 19 January 2011, the victim, a five-year-old girl, went to the house of the accused to watch TV. The accused allegedly kissed her and told her to take off her skirt before raping her. During the trial, a screen was used to protect the privacy of the juvenile accused. Furthermore, the accused was said to have mental problems, according to the father of the accused and his lawyer, and thus needed extra protection.

This case is one of only two cases in which measures were taken to protect juvenile out of the 219 cases recorded.

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<sup>20</sup> Article 14 (1)

<sup>21</sup> CCHR dialogue with two resident judges, Em Vannak and Theam Chan Piseth, 29 August 2013.

<sup>22</sup> CCHR dialogue with two vice presidents, Eung Seang and Kor Vandy, deputy prosecutor Sok Reoun, and other four resident judges Seng Neang, Y Thavarak, Seam Sakola, and Chang Sinath, 17 September 2013.

## Sentencing

Article 3(1) of the CRC states that the best interests of the child are to be a primary consideration when ordering or imposing penalties on juveniles found to have infringed the criminal law. Article 37 (b) imposes on the court the onus to consider imprisonment of juveniles as a measure of last resort to be employed only in exceptional cases. Article 40 emphasizes that “*Care, guidance, supervision orders; counseling; probation, foster care; education and vocational training programs and other alternatives to institutional care*” should be prioritized over imprisonment.

Domestic law in relation to the sentencing of juveniles gives the courts full discretion over sentencing. Although Article 39 of the Criminal Code emphasizes non-custodial sentences for juveniles by stating that minors who commit offenses should be subject to supervision, education, protection, and assistance, it also allows for a criminal penalty if “*warranted by the circumstances.*” When courts lack the relevant training and sensitivity in dealing with juveniles, the natural outcome is that incarceration is imposed in almost all cases.

The near-universal prevalence of custodial sentences for juveniles found guilty is extremely concerning. Judges appear to give no credence to either domestic or international law that encourages non-custodial sentences. CCHR only has information about one case during its monitoring activities where the judge gave some consideration to imposing a non-custodial sentence to a juvenile defendant. In that case, even though the judge sentenced the juvenile to three years and six months in prison, the judge gave three years’ probation. As such the juvenile would only serve six months instead of three years and a half in jail. These figures are of serious concern and at great odds with both international and domestic law.

Although there is a legislative framework in Cambodia that provides for differentiated treatment of juveniles who are convicted, the application of this legislation is the exception, rather than the norm. The data collected may indicate a lack of social and judicial resources and structures to support the court in implementing legislation. Representatives of the Banteay Meanchey Court of First Instance explained that the court is willing to impose non-custodial sentences on juvenile defendants, but that it is very challenging to implement due to the lack of supervision measures.<sup>23</sup> Moreover, Youth Rehabilitation Centers, for instance, are under-utilized due to lack of funds and support for juvenile justice programs.<sup>24</sup> Alternative provisions such as judicial supervision and community service require adequate procedures and resources. This requires a cooperative approach, with the RGC working in partnership with donors, NGOs and private organizations, to ensure the development of an effective juvenile justice process that focuses on ensuring that young persons who break the law receive adequate support to become constructive members of society.

## General issues with the criminal justice system

Pervasive through the Cambodian judiciary is a lack of fair trial rights and endemic political interference. The treatment by the police of those suspects arrested is also a major concern. A full description of the dysfunction of Cambodian justice system is beyond the scope of this Briefing Note.<sup>25</sup> However, it is clear that juveniles suffer the consequences of this dysfunction.

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<sup>23</sup> CCHR dialogue with two resident judges, Em Vannak and Theam Chan Piseth, 29 August 2013.

<sup>24</sup> Cambodia Criminal Justice Assistance Project Phase III, Juvenile justice strategy, global justice solution (Asia) Pty Ltd March 2009, (Report), March 2009, <http://bit.ly/1sTEOti>

<sup>25</sup> CCHR, “Judicial Reform” (Briefing Note), March 2014, <http://bit.ly/1pOnNNj>



### **Case study 3**

In January 2014, protests occurred in Phnom Penh in respect of the wages received by workers in garment factories. The subsequent police crackdown resulted in multiple arrests of protestors or those who, apparently, were simply found by police within the vicinity of the protests. 26 people were accused and tried for “*intentional violence with aggravating circumstances*” and “*intentional damage with aggravating circumstances.*” One of the accused was a 17-year-old minor.

The arrest and trial of the accused was widely seen as politically motivated and attracted criticism from the international community. Of further concern was the treatment of the 17-year-old juvenile at the time of arrest and while in police custody. The juvenile stated at the hearing that he was beaten by the police, breaking his hand; an injury that he believes will prevent him returning to work at the garment factory. He was tried with adults, with no specific consideration to his age.

The juvenile, along with the other defendants, was found guilty and received a suspended prison sentence, notwithstanding the lack of any evidence linking him to the crime.

### **Conclusion and recommendations**

Cambodia does have a legal framework for the treatment of juveniles in the criminal justice system which conforms to certain extent with international standards. However, major concerns persist with Cambodia’s laws and procedures for juveniles. These concerns fall into two broad categories. First, as shown above, the existing laws are in themselves inadequate in that there are gaps within the legislation that negate effectiveness. Secondly, the legal and procedural protections that do exist are not adhered to in practice.

The lack of a set of procedural rules that specifically deal with juveniles is a major contributing factor. Of the provisions in the Criminal Code and the CCPC that do refer to minors, most of these are brief and poorly defined to act as a real guide to those administering juvenile justice. In any event, the protection that does exist is routinely ignored.

There appears to be a fundamental lack of understanding among those administering juvenile justice, including judges, that children must be treated differently from adults. There is clear need for better training, understanding and resources for those administering juvenile justice.

As such, CCHR makes the following recommendations:

- The RGC must ensure that the draft Juvenile Justice Law is enacted as a matter of priority. The law must include appropriate guidance on how to provide different treatment to juveniles, for example on privacy, the use of pre-trial detention. It should advocate for the implementation of alternatives to custodial sentences that focus on education, integration and rehabilitation and be developed in consultation with law practitioners and civil society;
- Investigating Judges should ensure that the provisions of national and international law, which create a strong presumption against the pre-trial detention of juveniles, are adhered

to. Pre-trial detention should only take place in exceptional circumstances, as a measure of last resort and for the shortest appropriate period;

- Before presiding over/prosecuting cases involving juvenile defendants, judges and prosecutors should undergo specific training regarding issues relating to juvenile justice; this training should be implemented jointly by the Ministry of Justice (“MoJ”) and the Bar Association of the Kingdom of Cambodia (“BAKC”);
- Wherever possible in courts that have multiple courtrooms sitting at any one time, a separate courtroom should be allocated to deal exclusively with cases involving juveniles. No public access (save for access for the parent/guardian of the juvenile defendant) should be permitted and reporting restrictions should be imposed. Where it is not possible to allocate a separate courtroom, members of the public should not be granted access to the hearing and the child’s name or any other identifying details must not be displayed on any public notice board;
- All juveniles shall be entitled to have an appropriate adult (parent, guardian or other suitable person over the age of 18) present during police questioning and at every court hearing;
- Sentencing options for juveniles must be widened. The MoJ, supported by the Ministry of Social Affairs (“MoSA”), should implement a set of sentencing guidelines relating to juveniles whereby the focus is placed firmly upon rehabilitation rather than punishment alone. The incarceration of children must be avoided at all costs and should be implemented in only the most serious cases, where other forms of sentencing have been exhausted or where imprisonment is required for reasons of public protection; and
- The MoJ and the MoSA should implement diversion schemes, in which a juvenile offender is supported and rehabilitated within the community as an alternative to formal prosecution. This scheme must be implemented for all first time offenders with the exception of the most serious felony offenses.

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