

**Kingdom of Cambodia
Nation Religion King**



DRAFT LAW
ON
THE ORGANIZATION OF
THE COURTS

Chapter 1

General Provisions

Article 1:

The purpose of this law is to:

- Ensure the independence of the judiciary;
- Preserve the impartiality and protect the rights and freedoms of citizens;
- Ensure good administrative functioning of the judiciary and the public prosecution;
- Improve the speedy and efficient public service delivery;
- Ensure that justice is delivered in all types of cases in order to increase confidence among the general population and to contribute to the strengthening of society.

Article 2:

The objectives of this law are to:

- Determine the organization and functioning of the judiciary at all sectors and levels within the adjudicate courts of the Kingdom of Cambodia;
- Determine the organization and functioning of the public prosecution at all sectors and levels within the prosecution attached to the courts of the Kingdom of Cambodia;
- Determine the competence of the courts at all sectors and levels according to specialization;
- Organize work related to the management, the administration and the functioning of the courts.

Article 3:

The court, in the Kingdom of Cambodia, shall be classified as follows:

- Court of First Instance;
- Court of Appeal;
- Supreme Court.

The Court of First Instance is the lower court. The Court of Appeal and the Supreme Court are the higher courts.¹

The Military court is a separate court that is equal to the Court of First Instance and has the jurisdiction over the military offenses.

¹ Except as otherwise provided by other law, the Court of First Instance is the first level court that adjudicates over the factual and legal elements. The Court of Appeal is the second level court that adjudicates over the factual and legal elements.

Pursuant to actual needs, the establishment of any other courts or extraordinary tribunals other than this shall be made by the law.

Article 4:

Courts of all sectors and levels have judicial jurisdiction over all cases including administrative cases.

Article 5:

Lower courts shall be divided into specialized courts. The establishment, removal and change of the specialized courts shall be determined by a Royal Decree.

Each President of the Court of First Instance shall handle direct hierarchical administrative authority over the President of all specialized courts in the respective courts. Each President of a specialized court shall handle direct hierarchical administrative authority over his/her member judges. The President of the Court of First Instance shall not be the President of any specialized court. The President of each specialized court may act as the President of one specialized court only.

Higher courts shall be divided into Chambers. The establishment, removal and change of the Chambers shall be determined by a Royal Decree.

Each President of the higher court shall handle direct hierarchical administrative authority over the Presidents of all Chambers in the respective court. The President of each Chamber shall handle direct hierarchical administrative authority over his/her member judges. The President of the higher court shall not be the President of any Chamber. The President of each Chamber may act as the President of one Chamber only.

Article 6:

Only the trial judge shall have the right to adjudicate cases. The trial judge shall carry out duties independently and strictly apply the law with professional dedication and conscience.

Justice shall be delivered in the name of Cambodian citizens in accordance with the procedure and law in force.

Only the court/tribunal shall have the power to try and adjudicate all cases and deliver its judgment.

Article 7:

Court hearings shall be conducted in public except in the case that the public hearing may jeopardize public order or cause breach of customs/tradition or except as otherwise provided by special provisions of other law.

In all cases, judgments and verdicts shall be announced at public hearings.

The deliberation of the Trial Chamber shall remain confidential. Unless otherwise provided by other provisions, the announcement of judgment or verdict shall be made by the President of the Trial Chamber or one judge among other judges who are within the composition of the Trial Chamber.

All judgments/verdicts must be furnished with reasons unless otherwise provided by other provisions. The judgment and verdict shall be signed by Council of the Trial Chamber with a signature from the court clerk.

Article 8:

The Prosecutor's Office at each Court of First Instance is called the Prosecution attached to the Court of First Instance.

The Prosecutor's Office at the Court of Appeal is called the Prosecution attached to the Court of Appeal.

The Prosecutor's Office at the Supreme Court is called the Prosecution attached to the Supreme Court.

The representative(s) of the Prosecution shall be present in all court hearings of criminal cases or other cases as determined by law.

Article 9:

The Courts and the Prosecution at all levels shall have clerks, administrative officials as well as specialized officials as assistants as deemed necessary.

The clerks shall assist the judges at all stages of proceedings within the Courts and the Prosecution.

The duties and functions of clerks shall be determined by the Statutes of Clerks.

The procedure and qualification of selecting specialized officials shall be determined by a Sub-decree.

Article 10:

The courts at all levels shall have an administrative body that is under the central administration of the Ministry of Justice to support the functioning of the courts and prosecution.

The administrative body at the Court of First Instance is called the Secretariat for Administration of the Court of First Instance and is equal to a Department.

The administrative body at the Court of Appeal is called the General Secretariat of Administration of the Court of Appeal and is equal to General Department.

The administrative body at the Supreme Court is called the General Secretariat of Administration of the Supreme Court and is equal to General Department.

Article 11:

The Ministry of Justice shall supervise all administrative affairs of all Courts/tribunals with the General Secretariat of Administration of the Court as the executive body. The Ministry of Justice may issue legal instruments and other necessary guidelines to ensure the excellent administrative management of the courts at all levels. When necessary, the Minister of Justice may assign an inspection on specific issue and then report to the Supreme Council of Magistracy for examination and decision.

The higher courts have the authority to supervise the court works of the lower court. The supervision shall be made in the framework of appeal procedure pursuant to the applicable provisions on the procedures.

Chapter 2

The Court of First Instance and Prosecution

Attached to Court of First Instance

Section 1

The Court of First Instance

Sub-Section 1

The Organization and Functioning of the Court of First Instance

Article 12:

The Court of First Instance is the first level tribunal located in the Capital of Phnom Penh and at different provinces in the Kingdom of Cambodia.

The Court of First Instance shall be divided into specialized courts. The Court of First Instance is the adjudicate court that has jurisdiction to adjudicate all cases except the cases that fall under the jurisdiction of the special court or an extraordinary tribunal established by specific law.

Article 13:

The Court of First Instance shall consist of:

- President of the Court;
- Vice-President of the Court;
- Judges;
- Court Clerks;
- Administrative officers and other legal specified officers who work at the Court of First Instance.

Article 14:

Every Court of First Instance shall be comprised of specialized courts as follows:

- Civil Court;
- Criminal Court;
- Commercial Court;
- Labour Court.

When necessary, the Court may create other specialized courts. Such creation shall be made by a Royal Decree.

Each specialized court shall render its decision(s) autonomously within its jurisdiction, in the name of the Court to which it belongs.

Article 15:

Each specialized court shall be comprised of:

- President of the court;
- Judges;
- Court Clerks.

The President of each specialized court including judges and court clerks shall be appointed by the President of Court of First Instance. The functioning of these specialized courts shall be determined by the President of the Court of First Instance in accordance with applicable law and existing legal instruments.

Article 16:

Each specialized court of the Court of First Instance, when rendering its decision(s), shall be comprised of one judge or a Trial Chamber in accordance with the provisions regarding Civil Procedure, Criminal Procedure or the provisions laid down in other applicable procedures. In the event that any judge is busy or in situation that cannot perform his/her duty, the judge shall be substituted by another judge who ranks the following in the replacement order as determined in the annual order of the President of the Court of First Instance.

In the event that any specialized court could not conduct a hearing on the ground that it lacks judges, the President of the Court of First Instance shall assign judges from other specialized courts to perform the function instead. If there is a need to request one or more judge from another Court of First Instance to fill in the composition of this specialized court, the President of the concerned Court shall make a request to the Minister of Justice.

Article 17:

The President of the Court of First Instance shall take necessary measures to supervise the functioning of the Court of First Instance. In the event that the President of the Court of First Instance cannot perform his/her duty or the position of President is not filled, the Minister of Justice shall appointed the Vice-President of the Court of First Instance or if no Vice-President can be appointed, the Minister of Justice shall appoint any judge as the Acting President in order to ensure the functioning of the Court of First Instance until the official appointment of the President of the Court of First Instance.

The President of the Court of First Instance shall issue decisions to:

- Appoint a Vice-President of the Court of First Instance or if a Vice-President is not available, he/she may appoint any judge to act as President as his/her replacement when he/she is busy;
- Appoint a Vice-President of the Court of First Instance to act as the President of each specialized court according to specialization or work experience. In case of lack of or no Vice-President is available, the President of the Court of First Instance may appoint any high-ranking judge or a judge who has high experience to act as the President of the specialized court;
- Determine the replacement order of judges of each specialized court and of each Trial Chamber of the specialized court for the case when any judge is absent or busy;
- Appoint and transfer the court clerks of each specialized court as deem necessary.

Article 18:

The meeting(s) of the Court of First Instance shall be conducted under the chairmanship of the President of the Court of First Instance and shall report about working results and to determine the administrative process of the Court of First Instance.

Article 18:

If necessary, the Minister of Justice may authorize the Court of First Instance to conduct a hearing outside its head office upon the proposal from the President of the Court of First Instance.

Sub-Section 2

Competence

Article 19:

The Court of First Instance shall have jurisdiction to adjudicate all cases within its jurisdictional competence which is extended to all court cases, except as otherwise provided by other law to fall within the jurisdiction of other court.

If it is deemed necessary, the Ministry of Justice may decide to transfer jurisdiction in adjudicating a case from one Court of First Instance to another in order to ensure public benefit, security, social safety and good functioning of justice.

If there is a conflict of competence between specialized courts in a Court of First Instance, the President of the Court shall convene a meeting of the Presidents of the concerned specialized courts at his/her own discretion or as requested by the President of any specialized court to decide on competence. The President of the Court of First Instance shall make a decision on the conflict of competence through an order. The order shall be final and there shall be no option for grievance or complaint.

Article 20:

The Criminal Court of the Court of First Instance shall have competence to hear all criminal cases which fall within its jurisdictional competence in accordance with the Code of Criminal Procedure, except as otherwise provided by other law.

The Criminal Court of the Court of First Instance shall adjudicate criminal cases by one judge or a Trial Chamber in accordance with the provisions of the Code of Criminal Procedure.

The Department of Investigation of the Court of First Instance is one part of the Criminal Court and has jurisdiction to investigate criminal cases in accordance with the Code of Criminal Procedure. The President of the Court of First Instance shall appoint at least two judges pursuant to the order to function as investigating judges at the Department of Investigation of the Criminal Court of the Court of First Instance. This order shall also determine the order of judges to take the duty. In case there is no or a lack of investigating judge, the President of the Court of First Instance may appoint the judges of other specialized court to perform the investigating function.

When necessary, investigating judges may act as judges at other specialized court as assigned by the President of the Court of First Instance.

Article 21:

The Civil Court of the Court of First Instance shall have competence to hear all civil cases within its jurisdiction in accordance with the provisions laid down in the Code of Civil Procedure, except as otherwise provided by law.

The Civil Court of the Court of First Instance shall adjudicate civil cases by one judge or Trial Chamber in accordance with the provisions of the Code of Civil Procedure.

Article 22:

The Commercial Court of the Court of First Instance shall have competence to hear all commercial cases including insolvency case, commercial cases and cases related to the requests for enforcement of Commercial Arbitration decisions in the country complying with the provisions regarding the commercial procedures.

Article 23:

The Commercial Court of the Court of First Instance, when hearing the cases, shall be comprised of one judge accompanied by two advisors, who are businessmen or who have knowledge in commercial laws except in case as determined in paragraph 2 below.

In commercial cases where the subject matter is equal to or over 1.000.000.000 (One thousand millions) Riels, the Commercial Court, when it render its decision, shall consist of three judges accompanied by two advisors, who are businessmen or who have knowledge in commercial law.

The judgment of the Commercial Court shall be decided by one or three judges as provided by paragraph 1 and 2 above following the consultation with commercial advisors.

With regards to the commercial case, where its subject matter is below or equal to 100,000,000 (One hundred millions) Riels, the Commercial Court, when rendering its decision(s), shall consist of one judge with no participation from commercial advisors.

The commercial advisors shall not carry out their duties permanently in the Commercial Court of the Court of First Instance. The commercial advisors shall carry out their functions at the invitation extended by the President of the Commercial Court of the Court of First Instance.

Article 24:

The procedure for selecting and determining the duty of the commercial advisors shall be determined by a Sub-Decree upon the request of the Minister of Justice following the consultation with the Minister of Commerce.

Article 25:

The Labour Court of the Court of First Instance shall have competence to hear all cases relating to labour in accordance with the provisions on the labour procedures.

Article 26:

The Labour Court of the Court of First Instance, when hearing the cases, shall consist of one judge, accompanied by two labour advisors, among whom one is the worker/employee and another is the employer.

Judgment(s) of the Labour Court of the Court of First Instance shall be rendered by a judge after the consultation with labour advisors.

The labour advisors shall not carry out their duties permanently in the Labour Court of the Court of First Instance. Labour advisors shall carry out their functions at the invitation extended by the President of Labour Court of the Court of First Instance.

Article 27:

The Competent Labour Court is the Labour Court of the Court of First Instance where the labour disputes arise.

Though the competence is determined in the above paragraph, the workers/employees may file lawsuits in Court of First Instance as determined below, except as otherwise provided by the provisions of other law:

- At his/her place of residence or
- At the location of head office or a principal place of the Company or legal entity or
- At the place of residence of the representative or a person in charge of the Company or legal entity, if the location of head office or a principal place of the Company is not available.

Article 28:

The procedure of electing and carrying out duty of labour advisor shall be determined by a Sub-Decree upon the request of the Minister of Justice following the consultation with the Minister in charge of labour sector.

Section 2

The Prosecution attached to the Court of First Instance

Article 29:

The Prosecution attached to the Court of First Instance shall be comprised of:

- Prosecutor;
- Deputy Prosecutor;
- Clerk;
- Administrative officers and other legal specialized officers who work at the Prosecution attached to the Court of First Instance.

Article 30:

The Prosecution is an indivisible body. The Prosecution has the duty to bring criminal actions and request for law enforcement before the investigating and adjudicating jurisdiction as well as other functions as determined by applicable law and provision.

The Prosecutors and Deputy Prosecutors are the representatives of the Prosecution attached to the Court of First Instance for where they work. The Deputy Prosecutor shall carry out the function of the Prosecution under the supervision and joint responsibility of the Prosecutor attached to the Court of First Instance.

In the event that the Prosecutor attached to the Court of First Instance is busy or sick or absent, he/she shall appoint the Deputy Prosecutor to replace him/her. In the event that the Prosecutor cannot perform his/her function or the position of Prosecutor is vacant, the Ministry of Justice shall appoint a Deputy Prosecutor to act as an Acting Prosecutor in order to ensure the functioning of the Prosecution attached to the Court of First Instance until the official appointment of Prosecutor takes place.

Article 31:

The Prosecutor shall have authority over all Deputy Prosecutors under his/her jurisdictional competence. The prosecutor shall have the right to entrust and assign tasks to Deputy Prosecutors to perform. The Prosecutor has the power to issue a mandatory injunction commanding Deputy Prosecutors over prosecutors who are under his territorial jurisdiction. He can issue an injunction to such prosecutors to initiate proceedings or to make conclusions that he thinks are appropriate. The conclusions of the Deputy Prosecutor shall be submitted to the Prosecutor before the hearings take place. If the Prosecutor attached to the Court of First Instance disagrees with the conclusions and conclusion-maker refuses to follow, the Prosecutor

may designate other Deputy Prosecutors or designate him/herself as a representative of the Prosecution to attend the hearing of the Court of First Instance.

However, during the hearing, the Deputy Prosecutor may freely make verbal remarks on his/her personal views according to the law and his/her own conscience. No disciplinary punishment can be made against the representatives of the Prosecution for the reason that the verbal remarks during the hearing differ from the written conclusion.

Section 3

The Secretariat for Administration of the Court of First Instance

Article 32:

The Secretariat for Administration of the Court of First Instance shall be created as an executive body of Court of First Instance and the Prosecution attached to Court of First Instance to be responsible for:

- Personnel, administration, budget and finance;
- Court administration management and providing technical assistance to court programmes;
- Budget planning for submission to President of the Court and the Prosecutor for consideration and decision;
- Reporting regularly all matters relating to personnel, administration and finance to the President of the Court and the Prosecutor;
- Implementing the budget in line with adopted projects/plans;
- Ensuring public relations;
- Sending regularly the judgments of the Court of First Instance to the Ministry of Justice;
- Organizing and sending monthly, quarterly, bi-annual and annual reports on personnel, administration and finance to the Ministry of Justice;
- Performing other duties as may be assigned by the President of the Court of First Instance and the Prosecution;
- Performing other duties as provided by law.

The Secretariat for Administration of the Court of First Instance shall be divided into offices based on actual needs. Each office shall be headed by a President and a number of Vice-Presidents as deemed necessary.

The organization and functioning of the Secretariat for Administration of the Court of First Instance shall be determined by a Sub-Decree upon the request of the Minister of Justice.

Article 33:

The Secretariat for Administration of the Court of First Instance shall be headed by a President and a number of Vice-Presidents as deemed necessary. The President of the Secretariat Department shall be appointed by a Sub-Decree upon the request of the Minister of Justice following the consultation with the President of the Court of First Instance and the Prosecutor

of the Prosecution attached to the Court of First Instance. The officials who work at the Secretariat Department who rank lower than the President of Secretariat shall be nominated through the proclamation of the Ministry of Justice. The President and the Vice-President shall be selected from amongst public servants who are skilled and have working experience in legal, administrative and financial field

The Chief and Deputy Chief of Office shall be selected from the officials of the Ministry of Justice and shall have at least 3 years of working experience in legal, administrative or finance skills.

Article 34:

Sessions of Court of First Instance shall be conducted under the presidency of the President of Court of First Instance and Prosecutor attached to Court of First Instance to summarize the results of the previous period and to determine the objectives of administrative work of the Court of Appeal for the following year. The session report shall be submitted to the Ministry of Justice.

Chapter 3

The Military Court and Prosecution Attached to the Military Court

Article 35:

The Military Court is the lower court of equal level with Court of First Instance. The Military Court is located in the Capital of Phnom Penh and has jurisdiction over the territory of the Kingdom of Cambodia.

When necessary, the Military Court may conduct hearings outside its headquarter . To that end, the president of Military Court shall ask for permission from Ministry of Justice.

When necessary, other Military Courts may be established by a Royal Decree in which its territorial jurisdiction shall be determined in the legal regulations establishing it.

Article 36:

The Military Court shall be comprised of:

- President;
- Vice-President;
- Judges, and
- Court Clerks.

Article 37:

There is a Prosecution attached to the Military Court, which consist of:

- Prosecutor;

- Deputy Prosecutor, and
- Clerks.

Article 38:

Military Court shall have competence to hear all cases relating to military offences.

When there is the conflict of jurisdiction between the Military Court and the Court of First Instance, the Court of Appeal with territorial jurisdiction shall decide on the matter upon the complaint from the Prosecution or Prosecutor-General of the Court of Appeal.

Except otherwise provided by specific law for application on military offenses, the adjudication of military offenses by the Military Court and the Prosecution attached to the Military Court shall be complied with the applicable provisions on criminal procedure.

The decisions of Military Court shall open access for appeal to the Court of Appeals in accordance with the applicable provisions on criminal procedure. The appeal complaint against the decision of the Court of Appeal to the Supreme Court shall be in accordance with the applicable provisions on criminal procedure.

Article 39:

The organization and functioning of the Military Court shall be determined by a separate law.

Chapter 4

The Court of Appeal and Prosecution-Prosecutor attached to the Court of Appeal

Section 1

The Court of Appeal

Sub-Section 1

The Organization and Functioning of the Court of Appeal

Article 40:

The Court of Appeal is the second level tribunal².

The Court of Appeal consists of the Phnom Penh Court of Appeal and each regional Court of Appeal whose determination of territorial jurisdiction of the regional Court of Appeal shall be made by a Royal Decree.

Article 41:

² The Court of Appeal has jurisdiction to adjudicate over the factual and legal elements of the cases under its territorial jurisdiction.

The Court of Appeal shall be comprised of:

- President;
- Vice-President;
- Judges;
- Court Clerks, and
- Administrative officers and other legal specialized officers who work at the Court of Appeal.

Article 42:

The Court of Appeal shall have Chambers as follows:

- Criminal Chamber;
- Civil Chamber;
- Investigating Chamber;
- Commercial Chamber;
- Labour Chamber;

When necessary, other specialized Chambers of the Court of Appeal may be established by a Royal Decree.

Each Chamber renders its judgment(s) autonomously within its jurisdictional competence, in the name of the Court of Appeal to which it belongs.

Article 43:

Each Chamber shall be comprised of:

- President of the Chamber;
- Judges;
- Court Clerks.

The President of each Chamber shall be appointed by the President of the Court of Appeal.

The number of judges, Court Clerks and the functioning of the Chamber thereof shall be determined by the President of the Court of Appeal.

Article 44:

Each Chamber, when hearing the cases, shall consist of three judges, one of whom is the President in accordance with the applicable procedures.

In the event that a case is transferred back by the Supreme Court, the Court of Appeal shall adjudicate the case with five judges all of whom did not previously adjudicate on the same case.

Article 45:

The President of the Court of Appeal shall take all necessary measures to supervise the functioning of the Court of Appeal. The President of the Court of Appeal shall issue decisions to:

- Appoint a Vice-President of the Court of Appeal or if a Deputy President is not available, he/she may appoint any judge to act as his/her replacement as deemed necessary;
- Appoint a Vice-President of the Court of Appeal to act as President of each Chamber according to the specialization and working experience. In case of lack or a Vice-President is not available, the President of Court of Appeal may appoint any judge whose rank is high or who is full of working experience to act as President of the Chamber.
- Determine the replacement order of substitute judges in the Trial Chamber of each Chamber in case any judge is absent or busy;
- Appoint and transfer the court clerks of each Chamber as deem necessary.

Article 46:

The meeting(s) of the Court of Appeal shall be conducted under the chairmanship of the President of the Court of Appeal to determine the administrative process of the Court of Appeal.

Sub-Section 2
Competence

Article 46:

The Court of Appeal shall have authority to adjudicate all cases within its territorial jurisdiction, except as otherwise provided by law to fall under the jurisdiction of other court.

The territorial jurisdiction of each Court of Appeal shall be determined by law.

Article 47:

The Court of Appeal shall consider at the same time on both the matter of law as well as of facts of a case under its jurisdictional competence as determined by law.³

³ The Court of Appeal shall have jurisdictional competence to consider and decide on:

- The appeals against the decision of the Court of First Instance that fall under its jurisdiction;
- The appeals concerning territorial jurisdiction of the Court of First Instance or conflict of territorial jurisdiction of all Court of First Instance that fall under its jurisdiction except otherwise provided by other law;
- The appeals against the decision of the Military Court that fall under its jurisdiction;
- The cases that were transferred back by the Supreme Court. In this case, the hearing shall consist of five judges who did not participate in the first trial of the case;

Article 48:

The Criminal Chamber shall have competence to hear appeal complaints against criminal judgments of the Courts of First Instance and Military Court, and other cases within its jurisdictional competence in accordance with the applicable provisions on criminal procedure.

The Criminal Chamber when hearing felony, misdemeanour and petty crime cases, shall consist of three judges, including the President.

Article 49:

The Civil Chamber shall have competence to hear appeal complaints against civil judgment(s) of the Court of First Instance within its jurisdictional competence in accordance with the applicable provisions on civil procedure. The judgments shall be rendered by three judges, including the President.

Article 50:

The Investigating Chamber shall have competence to hear appeal complaints against decisions of the investing judge and other cases as determined by law within its jurisdictional competence in accordance with the applicable provisions on criminal procedure. The judgment shall be rendered by three judges, including the President.

Article 51:

The Commercial Chamber shall have competence to hear appeal complaints against decisions of the Court of First Instance in commercial cases within its jurisdictional competence in accordance with the applicable provisions relating to commercial procedures. The judgment shall be rendered by three judges, including the President. The Commercial Court of the Court of Appeal, when hearing the cases, shall consist of three judges including one judge and accompanied by two advisors, who are businessmen or who have knowledge in commercial laws and who are not the commercial advisors to the same case previously adjudicated before the Court of First Instance and the Court of Appeal. The Commercial Chamber of Appeal Court's decision shall be made by three judges, among whom one is the President, after consultant with the commercial advisors.

The commercial advisors shall not carry out their duties permanently in the Commercial Chamber of the Court of Appeal. The commercial advisors shall carry out their functions at the invitation extended by the President of the Commercial Chamber of the Court of Appeal.

-
- The appeals against the decision of the Bar Council as provided in the Statute of Lawyers;
 - The appeals against the decision of the Court of First Instance that decide on the accreditation on the decision of the national arbitrator;
 - The requests for issuing decision on the accreditation to implement the decision of foreign arbitrator.

The procedure of selecting and terms of reference for the commercial advisors shall be determined by a Sub-Decree upon the request of the Minister of Justice following the consultation with the Minister of Commerce.

Article 52:

The Labour Chamber shall have competence to hear appeal complaints against decisions of the Court of First Instance in labour cases and other cases within its jurisdictional competence in accordance with the applicable provisions on labour procedures. The Labour Chamber of the Court of Appeal, when hearing the cases, shall consist of three judges including one judge who is the President and accompanied by two labour advisors, among whom one is the worker/employee and another is the employer; both of whom are not the labour advisors to the same case previously adjudicated before the Court of First Instance and the Court of Appeal. The decision of the Labour Chamber shall be made by three judges, among whom one is the President, after consultation with the labour advisors.

The labour advisor shall not carry out his/her duties permanently in the Labour Chamber of the Court of Appeal. The labour advisors shall carry out his/her functions at the invitation extended by the President of the Labour Chamber of the Court of Appeal.

The procedure of electing and performing duty of labour advisor shall be determined by a Sub-Decree upon the request of the Minister of Justice following the consultation with the Minister in charge of labour sector.

Article 53:

A joint chamber hearing may be created by the decision of the president of Court of Appeal under his initiation or upon the proposal from any president of chamber when any case fall in competence of multiple chamber or if the case has found a controversial solution before different Chambers of the same Court of Appeal. A joint chamber hearing shall be convened upon the invitation extended by the President of the Court of Appeal or at the request of any President of the Chamber to the President of the Court of Appeal.

The decision of a joint chamber hearing on the competence and a controversial solution of the Court of Appeal's Chambers shall have force and effect to get all Court of Appeal's Chambers to comply.

In case a joint chamber hearing is created, such a hearing shall consist of at least five judges in equal shares to represent all concerned Chambers. A joint chamber hearing shall proceed under the chairmanship of the President of the Court of Appeal.

The President of the Court of Appeal shall issue judgment in accordance with the decision of the joint chamber. The judgment on the conflict of jurisdiction and conflict of law is the final decision.

Section 2

The Prosecution-General Attached to the Court of Appeal

Article 54:

There is a Prosecutor-General's Office attached to Court of Appeal, which shall consist of:

- Prosecutor-General attached to the Court of Appeal;
- Deputy Prosecutor-General;
- Prosecutors;
- Clerks, and
- Administrative officers and other legal officers who work at the Prosecution attached to the Court of Appeal.

Article 55:

The roles of Prosecution-General attached to the Court of Appeal shall be given to the Prosecutor General attached to Court of Appeal. The Deputy Prosecutor-General and Prosecutors-General attached to Court of Appeal shall carry out this function under the supervision and joint responsibility of the Prosecutor-General attached to Court of Appeal.

In event that the Prosecutor General attached to the Court of Appeal is busy or sick or absent, he/she shall appoint the Deputy Prosecutor-General to replace him/her.

In the event that the Prosecutor-General cannot perform the function or the position of Prosecutor-General is vacant, the Ministry of Justice shall appoint a Deputy Prosecutor-General to act as an Acting Prosecutor-General in order to ensure the functioning of the Prosecution attached to the Court of Appeal until the official appointment of Prosecutor-General takes place.

Article 56:

The Prosecutor-General shall have authority over all Deputy Prosecutor-Generals and Prosecutors attached to the Court of Appeal.

The Prosecutor-General attached to the Court of Appeal shall appoint and designate the works to the Deputy Prosecutor-General and Prosecutors attached to Court of Appeal to work in the working groups of the Prosecution and Chambers.

The conclusions of Deputy Prosecutor-General or Prosecutor attached to the Court of Appeal shall be submitted to the Prosecutor-General for examination before the hearings take place. If the Prosecutor-General attached to Court of Appeal disagrees with the conclusions and the conclusion maker refuses to follow, the Prosecutor-General may designate another Deputy Prosecutor General or another Prosecutor or designate him/herself as a representative of the Prosecution to attend the hearing.

However, during the hearing, the Deputy Prosecutor-General or Prosecutor may freely make verbal remarks on his/her personal views according to his/her own conscience. No disciplinary punishment could be made against the representatives of the Prosecution for the reason that the verbal remarks during the hearing differ from the written conclusion.

The Prosecutor-General attached to the Court of Appeal has the right to issue a mandatory injunction commanding the Prosecutor attached to the Court of First Instance in accordance with the applicable provisions on criminal procedures.

Section 3

The General Secretariat for Administration Attached to the Court of Appeal

Article 57:

The General Secretariat for Administration of the Court of Appeal is an executive body of Court of Appeal and the Prosecution-General attached to the Court of Appeal to be responsible for:

- Personnel, administration, budget and finance;
- Court administration management and providing technical assistance to court programmes;
- Budget planning for submission to President of the Court and the Prosecutor General for consideration and decision;
- Reporting regularly all matters relating to personnel, administration and finance to the President of the Court and the Prosecutor General;
- Implementing the budget in line with adopted projects/plans;
- Ensuring public relations;
- Sending regularly the judgments of the Court of Appeal to the Ministry of Justice;
- Organizing and sending monthly, quarterly, bi-annual and annual reports on personnel, administration and finance to the Ministry of Justice;
- Performing other duties as may be assigned by the President of the Court of Appeal and the Prosecutor General;
- Performing other duties as provided by legal instruments.

The General Secretariat for Administration of the Court of Appeal shall be divided into Departments headed by the Head and a number of Deputy Heads as deemed necessary.

The organization and functioning of the General Secretariat for Administration of the Court of Appeal shall be determined by a Sub-Decree upon the request of the Minister of Justice.

Article 58:

The General Secretariat for Administration of the Court of Appeal shall be headed by a Secretary General and a number of Deputy Secretary Generals as deemed necessary. The Secretary General shall be appointed by a Royal Decree upon the request of the Head of Government. The Minister of Justice shall consult with the President of the Court of Appeal and the Prosecutor General of the Prosecution attached to the Court of Appeal to prepare the request and send to the Head of Government. The Secretary General shall be selected from the officials of the Ministry of Justice and shall have at least 7 years of working experience in law, administration or finance.

The Deputy Secretary General and the Head of Department shall be appointed by a Sub-Decree upon the request of the Minister of Justice following the consultation with the President of the Court of Appeal and the Prosecutor General of the Prosecution attached to the Court of Appeal. The Deputy Secretary General and the Head of Department shall be selected from the officials of the Ministry of Justice and shall have at least 5 years of working experience in law, administration or finance.

The Deputy Head of Department, Chief and Deputy Chief of office shall be appointed by a Proclamation (Prakas) of the Minister of Justice. The Deputy Head of Department, Chief and Deputy Chief of office shall be selected from the officials of the Ministry of Justice and shall have at least 3 years of working experience in law, administration or finance.

Article 59:

Each session of the Court of Appeal shall be conducted under the chairmanship of the President of the Court of Appeal and the general prosecutor attached to the Appeal Court to summarize the results of the previous period and to determine the objectives of administrative work of the Court of Appeal for the following year. The session report shall be submitted to the Ministry of Justice.

Chapter 5

The Supreme Court and Prosecution-General Attached to the Supreme Court

Section 1

The Supreme Court

Sub-Section 1

The Organization and Functioning of the Supreme Court

Article 60:

There is only one Supreme Court, which is located in the Capital of Phnom Penh.

Article 61:

The Supreme Court shall be comprised of:

- President;
- Vice-President;
- Judges;
- Court Clerks, and
- Administrative officers and other legal officers who work at the Supreme Court.

Article 62:

The Supreme Court shall have Chambers as follows:

- Criminal Chamber;
- Civil Chamber;

- Commercial Chamber;
- Labour Chamber;

If deemed necessary, other Chambers of the Supreme Court may be created by a Royal Decree.

Each Chamber shall render its decision(s) autonomously in the name of the Supreme Court.

Article 63:

Each Chamber shall consist of:

- President of the Chamber;
- Judges;
- Court Clerks.

The President of each Chamber shall be appointed by President of the Supreme Court. The number of judges, Court Clerks and the functioning of the Chambers thereof shall be determined by the President of the Supreme Court.

Article 64:

Each Chamber, when hearing the cases, shall consist of five judges, one of whom is the President in accordance with the applicable provisions.

Article 65:

The President of the Supreme Court shall take all necessary measures to supervise the functioning of the Supreme Court and gives guidance to all Chambers of the Supreme Court to enforce the law.

The President of the Supreme Court shall issue decisions to:

- Appoint a Vice-President of the Supreme Court or if a Vice-President is not available, he/she may appoint any judge to act as President as his/her replacement when necessary;
- Appoint a Vice-President of the Supreme Court to act as the President of each Chamber according to the specialization and working experience. In case of lack or a Vice-President is not available, the President of the Supreme Court may appoint any judge to act as the President of the Chamber.

Sub-Section 2

Competence

Article 66:

The Supreme Court shall have competence to hear appeals under its jurisdictional competence as determined by law.⁴

Article 67:

A plenary chamber hearing shall be created to adjudicate::

- The second appeal filed against the judgments and verdicts of the Court of Appeal pursuant to the applicable procedures;
- Motions for review against the final judgments and verdicts pursuant to the applicable procedures.

A plenary chamber hearing of the Supreme Court shall be convened upon the invitation extended by the President of the Supreme Court or at the request of the President of any Chamber to the President of the Supreme Court.

A plenary chamber hearing of the Supreme Court is the hearing that renders decisions in the name of the Supreme Court.

In cases where a plenary chamber hearing is created, such a hearing shall consist of at least nine judges including judges representing all of the chambers of the Supreme Court.

A plenary chamber hearing shall be held under the chairmanship of the President of the Supreme Court.

Article 68:

A joint chamber may be created by the order of the President of the Supreme Court under his/her initiative or at the request of the President of any chamber when a case falls within the competence of multiple chambers or if the decision of a different Chamber of the Supreme Court was controversial. A joint chamber hearing shall be convened upon the invitation extended by the President of the Supreme Court.

⁴ The Supreme Court shall have competence to:

- Hear and determine the Second appeals against the decision of the lower courts in accordance with applicable provisions and complaint against the decision of the Court of Appeal;
- Hear and determine motions for review against the final judgment;
- Hear and determine the requesting for re-trial for civil final judgment of the Supreme Court. In this case, the hearing shall consist of composition of judges who did not participate in the previous hearing of the same case;
- Determine the ambiguous of competent jurisdiction of the lower courts in civil case in accordance with the applicable provisions on civil procedure;
- Issue judgments in accordance with applicable procedures and laws.

The decision of a joint chamber hearing on the division of competences between various Chambers of the Supreme Court and the conflict of laws shall have force and effect to get all Chambers of the Supreme Court and of all lower courts to comply.

In cases where a joint chamber hearing is created, such a hearing shall consist of at least nine judges in equal shares to represent all concerned Chambers. A joint chamber hearing shall be held under the chairmanship of the President of the Supreme Court.

The President of the Supreme Court shall render his/her decisions according to the decision made by a joint chamber hearing. The decision on the conflict of competences and conflict of laws shall not open access for appeals.

Article 69:

The Criminal Chamber shall have competence to hear appeals against criminal judgments of the Court of Appeal according to the provisions laid down in the Code of Criminal Procedure.

Article 70:

The Civil Chamber shall have competence to hear appeals against judgments and objections filed against the Court of Appeal's decisions in civil cases as well as appeals against civil judgments of the Court of First Instance pursuant to the provisions regarding Civil Procedure.

Article 71:

The Commercial Chamber shall have competence to hear appeals against judgments and objections filed against the Court of Appeal's decisions in commercial cases pursuant to the provisions of commercial procedure law.

Article 72:

The Labour Chamber shall have competence to hear appeals against judgements and objections filed against the Court of Appeal's decisions in labour and social security according to the provisions of labour law.

Section 2

The Prosecution Attached to the Supreme Court

Article 73:

There is a Prosecution attached to the Supreme Court, which shall consists:

- Prosecutor-General attached to the Supreme Court;
- Deputy Prosecutor-General;
- Prosecutors;
- Clerks, and
- Administrative officers and other legal officers who work at the Prosecution attached to the Supreme Court.

Article 74:

The roles of Prosecution attached to the Supreme Court shall be given to the Prosecutor-General attached to the Supreme Court. The Deputy Prosecutor-General or Prosecutors attached to the Supreme Court shall carry out his/her functions under the supervision and joint responsibility of the Prosecutor-General attached to the Supreme Court.

In the event that the Prosecutor-General attached to the Supreme Court is busy or sick or absent, a Deputy Prosecutor-General shall be appointed to replace him/her or if a Deputy Prosecutor General is not available, he/she may appoint a Prosecutor as his/her replacement.

In case the Prosecutor-General cannot perform his/her function or the Prosecutor General position is vacant, the Ministry of Justice shall appoint a Deputy Prosecutor-General to act as an Acting Prosecutor-General in order to ensure the functioning of the Prosecution attached to the Supreme Court until the official appointment of Prosecutor-General takes place.

Article 75:

The Prosecutor-General shall have authority over all Deputy Prosecutor-Generals and Prosecutors attached to the Supreme Court. The Prosecutor-Generals attached to the Supreme Court shall appoint and designate works to the Deputy Prosecutor-Generals and Prosecutors attached to the Supreme Court to attend the hearing.

The conclusions of a Deputy Prosecutor-General or Prosecutor attached to the Supreme Court shall be submitted to the Prosecutor-General for examination before the hearings take place. If the Prosecutor-General attached to the Supreme Court disagrees with the conclusions and the conclusion-maker refuses to follow, the Prosecutor General may designate another Deputy Prosecutor General or Prosecutor or designate him/herself as a representative of the Prosecution to participate as prosecutor at the hearing.

However, during the hearing, the Deputy Prosecutor-General or Prosecutor of the Supreme Court may freely make verbal remarks on his/her personal views according his/her own conscience. No disciplinary punishment could be made against the representatives of the Prosecution for the reason that the verbal remarks during the hearing differ from the written conclusion.

Section 3

The General Secretariat for Administration of the Supreme Court

Article 76:

The General Secretariat for Administration of the Supreme Court shall be created as an executive body of Supreme Court and the Prosecution attached to the Supreme Court to be responsible for:

- Personnel, administration, budget and finance;

- Court administration management and providing technical assistance to court programmes;
- Fundraising for submission to President of the Court and the Prosecutor General for consideration and decision;
- Reporting regularly all matters relating to personnel, administration and finance to the President of the Court and the Prosecutor General;
- Ensuring public relations;
- Sending regularly the judgments of the Supreme Court to the Ministry of Justice;
- Organizing and sending monthly, quarterly, bi-annual and annual reports on personnel, administration and finance to the Ministry of Justice;
- Performing other duties as may be assigned by the President of the Supreme Court and the Prosecution;
- Performing other duties as provided by law.

The General Secretariat for Administration of the Supreme Court shall be divided into Departments headed by a Head and a number of Deputy Heads as deemed necessary.

The organization and functioning of the General Secretariat for Administration of the Supreme Court shall be determined by a Sub-Decree upon the request of the Minister of Justice.

Article 77:

The General Secretariat for Administration of the Supreme Court shall be headed by a Secretary General and a number of Deputy Secretary Generals as deemed necessary.

The Secretary General shall be appointed by a Royal Decree upon the request of the Head of Government. The Minister of Justice shall consult with the President of the Supreme Court and the Prosecutor General of the Prosecution attached to the Supreme Court to prepare the request and send to the Head of Government. The Secretary General shall be selected from the officials of the Ministry of Justice and shall have at least 7 years of working experience in law, administration or finance.

The Deputy Secretary General and the Head of Department shall be appointed by a Sub-Decree upon the request of the Minister of Justice following the consultation with the President of the Supreme Court and the Prosecutor General of the Prosecution attached to the Supreme Court. The Deputy Secretary General and the Head of Department shall be selected from the officials of the Ministry of Justice and shall have at least 5 years of working experience in law, administration or finance.

The Deputy Head of Department, Chief and Deputy Chief of office shall be appointed by a Proclamation (Prakas) of the Minister of Justice. The Deputy Head of Department, Chief and Deputy Chief of office shall be selected from the officials of the Ministry of Justice and shall have at least 3 years of working experience in law, administration or finance.

Article 78:

Sessions of the Supreme Court shall be held under the chairmanship of the President of the Supreme Court and General Prosecutor attached to the Supreme Court to summarize the results

of the previous period and to determine the objectives of administrative work of the Court of Appeal for the following year. The session report shall be submitted to the Ministry of Justice.

Chapter 6

Incompatibility

Article 79:

The functions of making criminal actions, investigating and to adjudicating shall be divided. Any judge who is responsible for one case as a representation of the Prosecution or as an investigating judge shall not adjudicate or take part in the trial of the case for which he/she was responsible. Otherwise, the judgment or verdict shall be voidable.

Article 80:

Judges shall not take part in a hearing with one or more judges who is/are the spouse or relative by blood up to the fourth level inclusive, or a relative by marriage up to the third level inclusive, even as a trial judge or representative of the Prosecution. This principle shall also apply to judges at the higher courts for cases that were adjudicated by judges at the lower courts who are the spouse or relatives by blood up to the fourth level inclusive or relatives by marriage up to the third level inclusive.

Article 81:

A judge, whose spouse or relative by blood up to the fourth level inclusive or relative by marriage up to the third level inclusive are lawyer representing one side of the parties to any case, shall not take part in adjudicating the case.

Article 82:

A judge shall not take part in adjudicating a case if one side of the party to the case is his/her spouse or relative by blood up to the sixth level inclusive or relatives by marriage up to the third level inclusive.

Article 83:

Except otherwise provided by other provisions on procedures, all parties to a case and individuals who benefits from the case, including the representative from the Prosecution can lodge a complaint seeking annulment of the decisions of the Courts for the violation of the provisions on conflicts of interest provided under Article 79, Article 80, Article 81 and Article 82 above.

The complaint to annul the decision of the Court shall be made during the period of opposition motions or recourses in accordance with the applicable provisions on the procedure. Even if the judgment or verdict is final, the complaint to annul the decision of the Court still may be made during the period of 60 days counting from the day that the reasons as identified in Article

79, Article 80, Article 81 and Article 82 above were found out after the judgment or verdict was issued. In that case, the complaint to annul the decision of the Court shall be brought before the court that issues the judgment or verdict. However, different trial judges shall examine and decide on the complaint to annul the decision of the Court and implement the procedures in accordance with the applicable provisions.

Chapter 7

The Budget of the Court and the Prosecution attached to the Court

Article 84:

The Courts of First Instance and the prosecution attached to the Courts of First Instance, the Appeal Courts and the general prosecution attached to the Appeal Courts and Supreme Court and general prosecution attached to the Supreme Court shall have separate budgets for functioning allocated from the budget of Ministry of Justice.

Control and management of the budget of the courts and the prosecution attached to the courts as stated in paragraph 1 above shall be determined by Royal Decree.

Chapter 8

Transitional Provisions

Article 85:

The courts of all sectors and levels and the Prosecution attached to the adjudicate courts that were established before this law enters into force, shall continue their functions in accordance with this law.

Article 86:

While waiting for the establishment of other locations of the Court of Appeal, the current Court of Appeal that is located in the Capital of Phnom Penh shall have jurisdiction over the territory of the Kingdom of Cambodia.

Article 87:

The launch of other specialized courts of the Court of First Instance as provided under Article 14 of this Law shall be made by a proclamation (Prakas) of the Minister of Justice.

Article 88:

If the Commercial Chamber and Labour Chamber of the higher court are unable to function due to insufficient judges, the adjudication on the commercial and labour cases shall be within the competence of the Civil Chamber of the higher court. These tasks shall be designated by the President of the higher court in which the specialized chamber is located.

If any specialized chamber above functions in accordance with this law, other specialized chamber shall transfer cases, which do not fall within its jurisdiction and that are not dealt, to the competent specialized chamber.

Article 89:

In cases where there are not sufficient judges, the investigating judge may carry out the functions of the trial judge, provided that he/she is not allowed to give rulings on cases which he/she has investigated.

Article 90:

In cases where there is no administrative court, the hearing of administrative cases shall be handed over to the Civil Court of the Court of First Instance and to the Civil Chamber of the higher court.

Article 91:

When there are no commercial advisors or labour advisors, the composition of hearing in commercial and labour cases shall follow the basic principles regarding civil litigation.

Article 92:

When there are no commercial procedure laws, the hearing of commercial cases shall follow the basic principles regarding civil procedure and other applicable laws.

When there are no labour procedure laws, the hearing of labour cases shall follow the basic principles regarding civil procedure and other applicable laws.

When there are no administrative procedure laws, the hearing of administrative cases shall follow the basic principles regarding civil procedure and other applicable laws.

Article 93:

In the first five years after this law enters into force, the appointment of court administrative officials of the courts at all levels shall be made based on the actual qualifications.

The chief court clerk of the Court of First Instance may be appointed as the Head or Deputy Head of the Secretariat for Administration of the Court of First Instance where he/she works.

The chief court clerk of the higher court may be appointed as Secretary General or Deputy Secretary General of the General Secretariat for Administration of the higher court where he/she works.

Chapter 8
Final Provisions

Article 94:

The Penal Code and Code of Criminal Procedure in use during the transitional period dated 10 September 1992, the Law on the Organization and Activities of the Tribunals of Kampuchea which was promulgated by decree No. 6 dated 08 February 1993 and any other provisions that are contrary to this law shall be repealed and replaced by this law.

This law has been adopted by the National Assembly of the Kingdom of Cambodia on.....201.....
During its.....th Session of the..... Legislature.
Phnom Penh,201.....

President of the National Assembly

Samdech Akka Moha Ponhea Chakrei Heng Samrin