



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

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The Permanent Mission of the Kingdom of Cambodia to the United Nations Office and other International Organizations at Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honor to refer to the latter's Note No. OL KHM 1/2020 dated 09 April 2020 regarding a joint communication of the Special Procedures addressed to H.E. Mr. Prak Sokhonn, Deputy Prime Minister, Minister of Foreign Affairs and International Cooperation, in which they expressed their personal views pertinent to the Draft Law on the Management of the Nation in State of Emergency (LMNSE).

In this regard, the Permanent Mission of the Kingdom of Cambodia wishes to offer clarifications as follows:

1. It is commonplace that amid growing concerns over the alarming threats and risks to human lives posed by the coronavirus (COVID-19) pandemic, many countries have been compelled to take drastic actions to uphold the people's lives and public health while limiting freedoms of movement, assembly and privacy. At least 70 countries across the globe have declared state of emergency and lockdown measures to contain the spread of this virus.
2. The International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights provide for provisional derogation from citizens' certain rights and freedoms in a state of emergency. However, the restrictions shall be determined by law for the sake of public and common interests.
3. Cambodia has taken a wide range of policy and practical steps to prevent and curb the potential outbreak. Among others is the drafting of the Law on Management of the Nation in State of Emergency (LMNSE), which is currently being reviewed by the Senate.
4. While Article 22 new of the Constitution allows proclamation of a state of emergency, a law that stipulates such a declaration had been void, and this explains the *raison d'être* of current draft law.

5. This draft law is explicitly permissible by national and international human rights instruments, namely the Constitution of Cambodia (Article 22 new, 31, 86 and 102 new), the Universal Declaration of Human Rights (Article 29), ICCPR (Article 4), interpretations of the United Nations Human Rights Council, including decisions of the International Court of Justice, etc.
6. Like every other LMNSE worldwide, this bill provides for procedures and conditions for declaring a state of emergency, measures to be taken by the government, its reporting obligations, and penalty for obstruction and violations of the actions. A law must prescribe sanctions for non-compliance if we are to ensure its effective enforcement. Compared to other Asian and European countries, Cambodia's draft law is more lenient in terms of powers and punitive actions.
7. When it comes to the implementation, the principles of accountability, proportionality and necessity are applied. The powers delegated to the government to take measures at the time of a state of emergency are not without any limit. Articles 86 and 102 (new) of the Constitution overtly set forth a monitoring mechanism by the two-chamber parliament of Cambodia. In addition, any law enforcement officers engaging in arbitrary conducts and abuse of the law shall be punishable before the court of law.
8. The LMNSE will be invoked only in a situation necessitating additional measures with a desperate need for safeguarding and maintaining security and public order to protect the people's lives, public health, public interest and property of citizens as a whole. Furthermore, the state of emergency is to be proclaimed within a specific period of time for the whole or certain geographical scope of a country where the condition is exacerbated and out of control.
9. Cambodia is committed to its obligations in accordance with Article 4 of the ICCPR should the state of emergency be pronounced and the LMNSE be enforced for the public cause.
10. At such a critical moment of COVID-19 pandemic, the claim that the LMNSE abuses human rights is not only groundless but also indicative of a selective and biased application of human rights. It is a universal obligation for any authorities and institutions including the World Health Organization and the Office of the High Commissioner for Human Rights to guarantee and protect people's lives.
11. Notwithstanding and without the prejudice to such a selective expression

of concern, this shall not jeopardize the government' obligations to protect the people's lives and public health, to safeguard national security, and to maintain public order. It is within the sovereign rights of the government as a duty-bearer to protect and secure its population from all kinds of threats and dangers, ranging from war-caused incidents and foreign invasion to public health emergency and disease outbreak.

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

Geneva, 16 April 2020



Office of the High Commissioner for Human Rights
Geneva

CC: All Permanent Missions to
the United Nations Office at Geneva