

Country File  
**CAMBODIA**



Last updated: **May 2009**

<b>Region</b>	Asia Pacific
<b>Legal system</b>	Civil law
<b>UNCAT Ratification/ Accession (a)/ Succession (d)</b>	15 October 1992 (a)
<b>Relevant Laws</b>	<ul style="list-style-type: none"> <li>• Constitution of 1993</li> <li>• Provisions Relating to The Judiciary And Criminal Law And Procedure Applicable In Cambodia During The Transitional Period of 10 September 1992 (Transitional Criminal Law)</li> <li>• Code of Criminal Procedure of 2007</li> </ul>
<b>Relevant Articles</b>	<ul style="list-style-type: none"> <li>• <b>Prohibition of torture:</b> <ul style="list-style-type: none"> <li>- Article 38 of the Constitution</li> <li>- Article 12 of the Transitional Criminal Law</li> </ul> </li> <li>• <b>Definition of torture:</b></li> <li>• <b>Penalties:</b></li> <li>• <b>Others:</b> <ol style="list-style-type: none"> <li>1. <b>Exclusion of Evidence:</b> <ul style="list-style-type: none"> <li>- Article 38 of the Constitution</li> <li>- Article 321 of the Code of Criminal Procedure</li> </ul> </li> <li>2. <b>International law status:</b> <ul style="list-style-type: none"> <li>- Article 31 of the Constitution</li> <li>- Article 74 of the Transitional Criminal Law</li> </ul> </li> <li>3. <b>Participation in torture:</b> Article 38 of the Constitution</li> </ol> </li> </ul>
<b>Languages Available</b>	<ul style="list-style-type: none"> <li>• English</li> </ul>
<b>Other Relevant Information</b>	Full texts and the Khmer version of the legislation may be accessed from <a href="http://www.senate.gov.kh/">http://www.senate.gov.kh/</a>

# Relevant Articles – CAMBODIA

## ENGLISH (Translation)

### Constitution of 1993

#### **Article 31**

The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human rights, the covenants and conventions related to human rights, women's and children's rights.

Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, color, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status. The exercise of personal rights and freedom by any individual shall not adversely affect the rights and freedom of others. The exercise of such rights and freedom shall be in accordance with the law.

#### **Article 38**

The law guarantees there shall be no physical abuse against any individual.

The law shall protect life, honor, and dignity of the citizens.

The prosecution, arrest, or detention of any person shall not be done except in accordance with the law.

Coercion, physical ill-treatment or any other mistreatment that imposes additional punishment on a detainee or prisoner shall be prohibited. Persons who commit, participate or conspire in such acts shall be punished according to the law.

Confessions obtained by physical or mental force shall not be admissible as evidence of guilt.

Any case of doubt, it shall be resolved in favor of the accused. The accused shall be considered innocent until the court has judged finally on the case.

Every citizen shall enjoy the right to defense through judicial recourse.

## Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia during the Transitional Period of 10 September 1992

### ***Article 12 Treatment of Detainees***

1. No detainee shall be subjected to cruel, inhuman or degrading treatment or punishment, nor be beaten or tortured. Each detainee must have access to appropriate medical care. Prisoners must not be shackled or kept in isolation, whether they are in pre-trial detention or already sentenced. In no case shall the family of a detainee or prisoner be harassed as a result of the prisoner's behavior.
2. Arrest and detention must take place in accordance with the Standard Minimum Rules for the Treatment of Detainees, as well as the Body of Principles for the Protection of any Person under Any Form of Detention or Imprisonment, adopted by the United Nations.

### ***Article 74 International Instruments***

The instruments of the United Nations mentioned in the present text are applicable as law in Cambodia once they have been officially published by UNTAC.

Other relevant international instruments may be referred to for the interpretation of the present text.

## Code of Criminal Procedure of 2007

### ***Article 321 Evidence Evaluation by Court***

Unless it is provided otherwise by law, in criminal cases all evidence is admissible. The court has to consider the value of the evidence submitted for its examination, following the judge's intimate conviction.

The judgment of the court may be based only on the evidence included in the case file or which has been presented at the hearing.

A confession shall be considered by the court in the same manner as other evidence.

Declaration given under the physical or mental duress shall have no evidentiary value.

Evidence emanating from communications between the accused and his lawyer is inadmissible.