



**3rd Congress of the World Conference on Constitutional Justice
'Constitutional Justice and Social Integration'
Seoul, Republic of Korea, 28 September – 1 October 2014
Questionnaire**

A. Court description

**CONSTITUTIONAL COUNCIL
OF THE KINGDOM OF CAMBODIA**

INTRODUCTION

1. History

The system of Constitutionality control did not exist in the history of Cambodia. The Constitution of May 6, 1947, which had been modified successively until March 31, 1964, provided for the competence to interpret constitutional texts in its article 119 but did not state the constitutionality control. The competence to final interpretation was left to the National Assembly.

The system of constitutionality control was established for the first time in the Khmer Republic Constitution of April 30, 1972 under the name of "the Constitutional Court". Despite its name, the Constitutional Court is a body apart from the judiciary power. This bore western influence.

The advent of the Communist regime in 1975 swept away the influence of Western democracy, and by historical coincidence, Cambodia returned to its ancient tradition. It means that constitutionality control was absent since April 1975 until May 1993.

The new Constitution, adopted in September 21, 1993, by the Constituent Assembly after the 1993 elections organized by the United Nations, was promulgated in September 24, 1993. Western influence was back again and the return was made possible by United Nations Transitional Authority in Cambodia (UNTAC). The Chapter XII (new) of the Constitution provides for the **Constitutional Council** which recalls, in many respects, the French Constitutional Council.

2. Hierarchical position in the judicial system

Chapter XI (new) of the current constitution provides for "**the judicial power**" which does not deal with the Constitutional Council. This means that the Constitutional Council does not belong to the judicial power. Thus, it is apart from the judicial hierarchy which comprises only, from bottom to top, the Court of First Instance, the Appeal Court, and the Supreme Court.

In term of control of the constitutionality, the Constitutional Council is an internal regulating body (*au jeu des pouvoirs*), and it is not a veritable jurisdiction. It exercises its impartial controls and limits itself to the constitutionality matters. The other aspects of legality control fall within the competence of the lower and upper courts in the judiciary hierarchy.

In term of litigations relating to legislative and senatorial elections, the Constitutional Council exercises an exclusive judicial function which is an exception to the judicial power. As mentioned above, it is not within the judicial hierarchy.

The Cambodia legal system differs from the Anglo-Saxon system which the constitutionality control is integrated into the judicial power.

I-Basic texts

1. Extract of the Constitution of September 24, 1993 modified, Article 92 and Chapter XII (new);
2. Law on the Organization and the Functioning of the Constitutional Council.

II- Composition, procedure and organization

3. Composition

▪ Total number of members: 9

▪ Appointing and electing authorities

- The King shall appoint three members by Royal Decree;
- The Supreme Council of Magistracy shall elect three members who shall later be appointed by Royal Decree;
- The National Assembly shall elect three members who shall later be appointed by Royal Decree.

▪ The President of the Constitutional Council

The president of the Constitutional Council shall be elected every 3 years at the absolute majority of all its members. The outgoing President may be re-elected for the function.

▪ The qualifications of the members

The members of the Constitutional Council shall be chosen among the high ranking personalities who:

- are Khmer by birth;
- have at least 45 years of age;
- have at least 15 years of professional experiences;
- possess degree of higher education in the areas of law, administration, diplomacy, or economics.

▪ Mandate: 9 years

- ##### **▪ Re-appointment and Re-election (1/3):** Every three years, three members shall be renewed. One shall be appointed by the King, one elected by the Supreme Council of Magistracy and one elected by the National Assembly for its first mandate; the Constitutional Council is composed of 3 members assigned for a mandate of 3 years, 3 others for a mandate of 6 years, 3 others for a mandate of

9 years. A replacement for a member of the Constitutional Council whose mandate has a duration equal or less than three years, the substitute member can be re-appointed or re-elected for a new mandate. (see also Annexes)

▪ **Incompatibilities with any activities in the public function and other functions:**

- Member of the Government;
- Member of the Senate;
- Member of the National Assembly;
- President or Vice-President of a political party;
- President or Vice-President of a trade-union;
- Magistrates in office

Members of the Constitutional Council must not exercise any other function or profession during their mandate.

▪ **Immunities**

Members of the Constitutional Council shall not be liable to civil or penal sanctions for decisions taken while fulfilling their functions of members of the Council.

▪ **Rank and prerogatives**

- The President of the Constitutional Council has rank and prerogatives equal to those of the President of the National Assembly;
- The members of the Constitutional Council have rank and prerogatives equal to those of the Vice-President of the National Assembly.

▪ **Dismissal**

The decision for the dismissal of any member of the Council shall be taken by 2/3 of majority vote of the whole members of the Council in closed door hearing with his/her presence. The motives for dismissal of any member can be incompatibility, absence over three consecutive meetings without prior notification to the Council or cannot fulfill his/her duties due to physical or mental disabilities.

4. Procedures

▪ **Quorum:** absolute majority of all its members.

Sessions of the Constitutional Council are valid only if at least five out of nine members participate, and if convened by its President or, in case of his absence, convened by its eldest member. The first session of the Constitutional Council shall be convened by the eldest member.

▪ **Rules of Procedures**

Rules of Procedure shall be determined and adopted by an absolute majority of all its members. The Rules of Procedure also define the internal procedure of the Constitutional Council. Members of the Constitutional Council shall be divided into 3 groups of 3 members. Each group shall consist of one member appointed by the King, one member elected by the Supreme Council of Magistracy and another member elected by the National Assembly. The President shall appoint a Rapporteur of any group for each case.

▪ **Preliminary and plenary sessions**

- The concerned group of the Constitutional Council shall discuss and analyze the point of view submitted by the Rapporteur. After a complete debate, the Rapporteur shall submit his/her report, even controversial, to the preliminary session scheduled by the President;
 - The preliminary session is a preparatory meeting to a decision in which each member expresses his/her opinion without adoption. In this session one may perceive tendencies, favorable or not, to the question examined;
 - The plenary session is the final phase in which the Constitutional Council shall make the decision by an absolute majority of all its members. This plenary session, in some cases, could become a public hearing as stipulated in the Law on the Elections of the Members of the National Assembly;
 - All the debates in the meeting shall be recorded in minutes by a group of secretaries led by Secretary General or Deputy Secretary General.
- **Secrecy of deliberation**
 - Members of the Constitutional Council shall keep deliberations and votes in secret.
 - **Validity of decisions**
 - All decisions of the Constitutional Council, except the dismissal of any member, shall be made by an absolute majority of all its members.
 - **The contradictory procedure:** is only used in the Public hearing.
 - **Means of defense:** Oral or written means.
 - **All complaints lodged with the Constitutional Council** are gratis

5. Organization

In its activities, the Constitutional Council is assisted by a Secretariat General which shall be under the authority of the President of the Constitutional Council.

▪ Secretariat General

Led by a Secretary General and assisted by a Deputy-Secretary General, both nominated by Preah Reach Kret (Royal Decree) following the proposal of the President of the Constitutional Council. The Secretary General and Deputy-Secretary General shall be chosen among senior officials who have a minimum of 10 years experiences in administration and shall not be leaders of any political party.

The Secretary General and Deputy-Secretary General shall have the ranks and prerogatives of Secretary of State and Undersecretary of State respectively.

III- Jurisdiction/Power

6. Control of acts

The nature of acts

Laws

A. a priori control

▪ *Constitutional Law*

The King consults the Constitutional Council on any proposal aiming at amending the Constitution. Constitutional Law may be sent to the

Constitutional Council for review, before its promulgation, as provided for ordinary laws.

- *Organic laws*

Organic law must be sent to the Constitutional Council for review before its promulgation.

- *Laws on the Ratification of treaties and international conventions and ordinary laws*

Before their promulgation, Laws on the Ratification of treaties and international conventions and ordinary laws may be sent to Constitutional Council for review by the King, the Prime Minister, the President of the Senate, ¼ of the Senators, the President of the National Assembly or 1/10 of the National Assembly Members.

The Constitutional Council has the authority to control the draft or the Constitutional proposal on the amendment of the Constitution that the King shall consult the Constitutional Council. Article 143 (New) of the Constitution stipulates that the King consults the Constitutional Council on any proposal aiming at amending the Constitution.

After being adopted by the National Assembly and finally examined by the Senate, the organic laws or amendments to the organic law, the Rules of Procedure or the amendment to the Rules of Procedure of the National Assembly and the Rules of Procedure or amendment the Rules of Procedure of the Senate must be submitted to the Constitutional Council for review before promulgation.

Paragraph 2 , Article 140 (New) of the Constitution provides that the rules of procedure of the National Assembly, the rules of procedure of the Senate and the organic laws must be sent to the Constitutional Council for examination before their promulgation.

Article 16 (New) of the Law on the amendment of the Law on the Organization and Functioning of the Constitutional Council states that the organic laws and their amendments, once adopted by the National Assembly and definitively reviewed by the Senate, must be sent by the President of the National Assembly to the Constitutional Council for the control of their constitutionality, before their promulgation.

The Senate's Rules of Procedure and their amendments, after their adoption by the Senate, must be sent by the President of the Senate to the Constitutional Council for the control of their constitutionality, before their enforcement.

The National Assembly's Rules of Procedure and their amendments, once adopted by the National Assembly, must be sent by the President of the National Assembly to the Constitutional Council for the control of their constitutionality, before their enforcement.

Article 17 (New) of the Law on the amendment of the Law on the Organization and Functioning of the Constitutional Council states that the King, the President of the Senate, the President of the National Assembly, the Prime Minister, one-fourth of the Senators or one-tenth of the National Assembly's

Members may send the laws adopted by the National Assembly and definitively reviewed by the Senate to the Constitutional Council for examination before their promulgation.

B. a posteriori control

- After a law has been promulgated, the King, the President of the Senate, $\frac{1}{4}$ of the Senators, the President of the National Assembly, $\frac{1}{10}$ of the National Assembly members, or the Prime Minister can request the Constitutional Council to examine the constitutionality of that law;
- All laws in force may be raised by parties in court cases, through interlocutory question, for the unconstitutionality review. In this case, should the Supreme Court find the complaint valid, it shall forward the complaint to the Constitutional Council.

Article 141 (New) of the Constitution stipulates that after a law has been promulgated, the King, the President of the Senate, the President of the National Assembly, the Prime Minister, one-fourth of the Senators, one-tenth of the National Assembly's Members, or the Courts can request the Constitutional Council to examine the constitutionality of that law.

Any citizen has the right to raise the unconstitutionality of the laws through the intermediary of the National Assembly's Members or that of the President of the National Assembly or of the Senators or of the President of the Senate, as provided in the aforementioned paragraph.

Article 18 (New) of the Law on the amendment of the Law on the Organization and Functioning of the Constitutional Council states that after a law has been promulgated, the King, the President of the Senate, the President of the National Assembly, the Prime Minister, one-fourth of the Senators, one-tenth of the National Assembly's Members or the Courts can request the Constitutional Council to examine the constitutionality of that law.

According to the above Article, the Constitutional Council has the competence to control the constitutionality after that Law has been promulgated. Any person who has the competence can request the Constitutional Council to examine the constitutionality after the Law has been promulgated (paragraph 1, Article 141 (New) of the Constitution).

Including the courts can be: the parties involved or the judges themselves may raise a variance of the unconstitutionality of the Law. The Constitution does not set itself the conditions of this constitutional review by the variance. However, Article 19, paragraph 1 of the Law on the Organization and Functioning of the Constitutional Council states that any individual engaged in a legal proceeding, who considers that a provision of a law or a decision of any institution violates any of his/her fundamental rights and liberties may raise the unconstitutionality of this law with the court. According to this Article, the right to file to the court can be the plaintiff, defendant, as well as the party in lawsuit.

Anyway, Article 19, paragraph 2 of the Law on the Organization and Functioning of the Constitutional Council adds that the court, when finding the question raised grounded, shall submit the case to the Supreme Court within 10 days at the latest. According to this text, the judge assesses the grounded, shall submit the case to the Supreme Court to examine and send to the Constitutional Council within 15 days at the latest as in Article 19, paragraph 3 of the Law on the Organization and Functioning of the Constitutional Council states that the Supreme Court shall examine and refer that case to the Constitutional Council within 15 days at the latest, except when it deems the case inadmissible.

The Supreme Court therefore operates a second test filter before sending the petition to the Constitutional Council.

These provisions are most remarkable cases because it reaches the extent to control the constitutionality by variance which the Constitutional Council can examine the petition of litigant.

The possibility of verification of the constitutionality by variance appears as a maximum guarantee of respecting the rule of law through constitutional review with completely comprehensive.

- **Rules of Procedure**

Rules of Procedure of the Senate and of the National Assembly must be sent to the Constitutional Council for review before their implementation.

- **The adoptions of the National Assembly**

The Constitutional Council is the only competent institution having the authority to nullify any vote by the National Assembly that is contrary to the principle of safeguarding the independence, sovereignty, territorial integrity, and that undermines the political unity of the nation.

A Decision

a. *Concerning political parties*

The Constitutional Council examines and decides on the complaint of any political party concerning the refusal of its registration by the Ministry of Interior.

b. *Interlocutory question*

After receiving complaint, through the interlocutory question, from the Supreme Court, the Constitutional Council shall decide on the constitutionality or unconstitutionality, raised by parties in a court case, of laws or decisions of any institution.

7. Other competences

- **Interpretation of the Constitution and Laws**

The Constitutional Council possesses the competence not only to interpret the Constitution and but also Laws. In this case, one may ask whether the interpretation of law by the Supreme Court can be annulled by the Constitutional Council. This case has not existed so far.

- **Competence with regard to elections**

- Concerning only elections of the Members of the National Assembly and of the Senate;
- The Constitutional Council shall play its judicial role as either the first and the last resort, or the appeal level (and the last resort), depending on cases stipulated by law.

▪ **Referendum**

The Constitution does not stipulate referendum.

8. Entitlement to complaints

▪ **General principles**

In principle, the Constitutional Council cannot examine any matter on its own initiative. So far, the Constitutional Council never deviates from this principle.

▪ *Who are entitled to complain?*

- The King, the President of the Senate, the President of the National Assembly, the Prime Minister, $\frac{1}{4}$ of the Senators and $\frac{1}{10}$ of the Members of the National Assembly are entitled to complain on matter concerning the constitutionality of law;
- The Supreme Court, through interlocutory question, is entitled to complain on matter concerning the constitutionality of law;
- Political Parties are entitled to complain on matter concerning the refusal of their registration by the Ministry of Interior;
- Individuals or Political Parties, according to the law on the election of the Members of the National Assembly and the law on the election of the Senators, are entitled to lodge complaints against the decision of the National Election Committee.

Apart from these cases, individual or public bodies are not entitled to lodge a complaint with Constitutional Council directly.

IV- Nature and effects of judgments

9. Nature of judgments

Judgments of the Constitutional Council shall take the form of decisions.

There shall be a variety of decisions:

- Rejections due to inconformity with legal form;
- Inadmissibility due to incompetence;
- Annulment of decision on the refusal of political party registration;
- Declaration of either conformity or inconformity with the Constitution, full or partial rejection of Law etc.

10. Effect of judgments

Decisions of the Constitutional Council shall be final and without recourse.

These decisions shall have authority over all the instituted powers as stipulated in the Constitution.

Any provision of law declared unconstitutional by the Constitutional Council shall not be promulgated or implemented.

ANNEXES

KINGDOM OF CAMBODIA
Nation Religion King

Compositions of the Constitutional Council

1998-2014

Period	Members nominated or elected by		
	King	National Assembly	Supreme Council of Magistrature
02.06.1998/and 04.07.1998/ 15.06.2001 (1 st mandate)	H.E SON Soubert (for 3 years) H.E SAY Bory (for 6 years) Samdech CHAUSEN Cosal Chum (for 9 years)	H.E TOP Sam (for 3 years) H.E YANG Sem (for 6 years) H.E BIN Chhin (for 9 years)	H.E PRAK Sok (for 3 years) H.E TOR Pingleath (for 6 years) H.E CHAN Sok (for 9 years)
29.06.2001/ 15.06.2004 (2 nd mandate)	H.E SAY Bory (3 years) Samdech CHAUSEN Cosal Chum (6 years) H.E SON Soubert (renewed for 9 years)	H.E YANG Sem (3 years) H.E BIN Chhin (6 years) H.E TOP Sam (renewed for 9 years)	H.E TOR Pingleath (3 years) H.E CHAN Sok (6 years -Deceased : 15.07.2004) H.E PRAK Sok (renewed for 9 years)
06.07.2004/ 21.08.2004/ 15.06.2007 (3 rd mandate)	Samdech CHAUSEN Cosal Chum (3 years) H.E SON Soubert (6 years) H.E. Mrs SUM Nipha (for 9 years)	H.E BIN Chhin (3 years) H.E TOP Sam (6 years) H.E PENN Thol (for 9 years)	H.E PROM NHEAN Vicheth (3 years) H.E PRAK Sok (6 years) H.E CHHOUR Leanghout (for 9 years)

Period	Members nominated or elected by		
	King	National Assembly	Supreme Council of Magistrature
20.06.2007/ 15.06.2010 (4 th mandate)	H.E SON Sobert (3 years) H.E. Mrs SUM Nipha (6 years) H.H SISOWATH Phandaravong (for 9 years)	H.E TOP Som (3 years) H.E PENN Thol (6 years) <u>H.E EK Sam Oi</u> (for 9 years)	H.E PRAK Sok (3 years) H.E CHOUR Leanghout (6 years) H.H.E PILE ROM NHEAN Vicheth (renewed for 9 years)
17.06.2010/ 15.06.2013 (5 th mandate)	H.E. Mrs SUM Nipha (3 years) H.H SISOWATH Phandaravong (6 years) Samdech NORODOM Sirivudh (for 9 years)	H.E PENN Thol (3 years) <u>H.E EK Sam Oi</u> (6 years) H.E MIN Sean (for 9 years)	H.E CHOUR Leanghout (3 years) H.E PROM NHEAN Vicheth (6 years) H.E. Mrs CHEM Veyrith (for 9 years)
20.06.2013/ 15.06.2016/ (6 th mandate)	H.H SISOWATH Phandaravong (Final mandate by the end of June 2016) Samdech NORODOM Sirivudh (until 2019) H.R.H Samdech Preah Mohessara NORODOM Chakrapong (until 2022)	<u>H.E EK Sam Oi</u> (Final mandate by the end of June 2016) H.E MIN Sean (until 2019) H.E PIT Taingsan (until 2022)	H.E PROM NHEAN Vicheth (Final mandate by the end of June 2016) H.E. Mrs CHEM Veyrith (until 2019) H.E UTH Chhorn (until 2022)

Note :

- Period : oath taking date
- Underlining : President and former President of the Constitutional Council

KINGDOM OF CAMBODIA
Nation Religion King

List of the members of the Constitutional Council 1998-2014

N°	Member	Terms	Nomination Date	Oath	Final Mandate	Birth/Decease	Nomination Authority	Observations	Replaced	Replaced by
01	H.E CHAN Sok	6 years	23-05-1998 21-06-1998	02-06-1998	15-07-2004	16.11.1972/ 15-07-2004	Supreme Council of Magistrature	Nominated for 9 years Terms: President of Constitutional Council (1998-2004) Deceased in term: 15-07-2004		H.E PROM NHEAN Vicheth 21.08.2004
02	Samdech CHAUSEN Cosal Chum	9 years	24-02-1997	04-07-1998	15-06-2007	01.09.1905/ 22-01-2009	King			
03	H.E TOR Pengeath	6 years	23-05-1998	02-06-1998	15-06-2004	25-02-1935	Supreme Council of Magistrature			
04	H.E SAY Bory	6 years	25-06-1998	04-07-1998	15-06-2004	29-01-1940	King		H.E PONG Peng Cheng	
05	H.E SON Soubert	12 years	11-08-1998 10-05-2001	24-08-1998 29-06-2001	15-06-2010	20-06-1942	King	12 years Terms :3 years for 1 st terms and 9 years for 2 nd terms	Samdech Bovorsétha SON San	
06	H.E YANG Sem	6 years	24-05-1998	02-06-1998	16-06-2004	01-02-1943	National Assembly			
07	H.E PRAK SOK	12 years	23-05-1998 07-06- 2010	02-06-1998 29-06-2001	16-06-2010	18.12.1943 18-07-2014	Supreme Council of Magistrature	12 years Terms :3 years for 1 st terms and 9 years for 2 nd terms		

Nº	Member	Terms	Nomination Date	Oath	Final Mandate	Birth/Decease	Nomination Authority	Observations	Replaced	Replaced by
08	H.E TOP Sam	12 years	24-05-1998 01-06-2001	02-06-1998 29-06-2001	15-06-2010	21-04-1947	National Assembly	12 years Terms 3 years for 1 st terms and 9 years for 2 nd terms		
09	H.E BIN Chhin	9 years	24-05-1998 11-07-2001 30-08-2004	02-06-1998	15-06-2007	17-08-1949	National Assembly	Nominated as President of Constitutional Council for 3 years terms of 2 nd and 3rd mandate		
10	H.E PENN Thol	9 years	14-08-2004	21-08-2004	15-06-2013	06-02-1934	National Assembly		H.E YANG Sem	
11	H.E. Mrs SUM Nipha	9 years	14-08-2004	06-07-2004	15-06-2013	05-09-1938	King		H.E SAY Bory	
12	H.E CHOUR Leanghout	9 years	03-07-2004	21-08-2004 20-06-2007	15-06-2013	08-01-1941	Supreme Council of Magistrature		H.E TOR Pengleath	
13	H.E PROM NIEAN Vicheth	12 years	12-08-2004 26-05-2007	20-06-2007	15-06-2016	01-01-1944	Supreme Council of Magistrature	12 years Terms 3 years for 1 st term and 9 years for 2 nd terms	H.E CHAN Sok (for 3 years terms of 3rd mandate)	
14	H.E EK Sam OI	9 years	02-06-2007 26-06-2007 28-06-2010	20-06-2007	15-06-2016	25-07-1944	National Assembly	Nominated as President of Constitutional Council for 3 years terms of 4 th mandate (2007-2010), 5 th mandate (2010-2013) and 6 th mandate (2013-2016)	H.E BIN Chhin	

Nº	Member	Terms	Nomination Date	Oath	Final Mandate	Birth/Decease	Nomination Authority	Observations	Replaced	Replaced by
15	H.H SISOWATH Phandaravong	9 years	16-05-2007	20-06-2007	15-06-2016	04-06-1932	King		Samdech CHAUSEN Cosal Chum	
16	Samdech NORODOM Sirivudh	9 years	05-05-2010	17-06-2010	15-06-2019	08-06-1951	King		H.E SON Soubert	
17	H.E MIN Sean	9 years	29-05-2010	17-06-2010	15-06-2019	15-04-1945	National Assembly		H.E TOP Sam	
18	H.E. Mrs CHEM Veyrith	9 years	08-06-2010	17-06-2010	15-06-2019	04-05-1957	Supreme Council of Magistrature		H.E PRAK SOK	
19	H.R.H Samdech Preah Mohessara NORODOM Chakrapong	9 years	14-02-2013	12-06-2013	15-06-2022	21-10-1945	King		H.E. Mrs SUM Nipha	
20	H.E UTH Chhorn	9 years	06-05-2013	12-06-2013	15-06-2022	02-01-1948	Supreme Council of Magistrature		H.E CHOUR Leanghout	
21	H.E PIT Taingsan	9 years	10-05-2013	12-06-2013	15-06-2022	01-03-1942	National Assembly		H.E PENN Thol	

CONSTITUTIONAL COUNCIL
SECRETARIAT GENERAL

KINGDOM OF CAMBODIA
Nation Religion King

Secretaries General and Deputy Secretaries General
Of the Secretariat General of the Constitutional Council
1998-2014

N	NAME	DATE OF BIRTH	NOMINATION DATE	FONCTION	Rank & Prerogatives
1	H.E PIT Taingsan	01 March 1942	10 July 1998	Secretary General	Secretary of State
2	H.E MENG Kimly	19 March 1952	10 July 1998	Deputy Secretary General	Under Secretary of state
3	H.E CHAN Rasy	24 February 1959	30 April 2009	Secretary General	Secretary of State
4	H.E CHAN Sovannareth	08 March 1964	30 September 2013	Deputy Secretary General	Under Secretary of state

References

- 1- General Presentation of the Constitutional Council of the Kingdom of Cambodia
- 2- Constitutionality control by the Constitutional Council of the Kingdom of Cambodia
- 3- Booklet on the Constitutional Council of the Kingdom of Cambodia, in 3 languages (Khmer, English and French)

Questionnaire

B. Social integration

As concerns the specific sub-topics for the 3rd Congress, please reply to the following questions in a succinct manner, in any of the languages of the conference - but if possible with a translation into English.

1. Challenges of social integration in a globalised world

1.1. What challenges has your Court encountered in the past, for example in the field of asylum law, taxation law or social security law?

- **Until now none of such a case has been submitted to the Constitutional Council.**

1.2. How were issues of social integration or conflict transformed into legal issues?

- **Cambodia has experienced some problems related to issues of social integration in the whole country especially after the collapse of the Khmer Rouge regime from 7 January 1979 and in the period since the promulgation of the new Constitution in 1993, as a result of the universal elections organized by the UN. All these problems were transformed into legal issues by changing the political regime from mono-party to liberal multi-party.**

1.3. Is there a trend towards an increase in cases on legal issues relating to social integration? If so, what were the dominant questions before your Court in the past and what are they at present?

- **There is trend towards an increase in cases on legal issues related to social integration, because Cambodia has adhered to ASEAN and WTO as well. At present the ASEAN is preparing to establish the ASEAN Community by 2015.**

2. International standards for social integration

2.1. What are the international influences on the Constitution regarding issues of social integration/social issues?

- **The Constitution of the Kingdom of Cambodia 1993 provides for the recognition of international standards for social integration/social issues in many of its dispositions from article 31 to article 75.**

2.2. Does your Court apply specific provisions on social integration that have an international source or background?

- **The international norms ratified by Cambodia will become legal norm of Cambodia.**

2.3. Does your Court directly apply international instruments in the field of social integration?

- **No such complaint lodged with the Constitutional Council.**

2.4. Does your Court implicitly take account of international instruments or expressly refer to them in the application of constitutional law?

- **Never (None of case related to such approach has explicitly point out).**

2.5. Has your Court ever encountered conflicts between the standards applicable on the national and on the international level? If so, how were these conflicts solved?

- **Such case never exists.**

3. Constitutional instruments enhancing/dealing with/for social integration

3.1. What kind of constitutional law does your Court apply in cases of social integration – e.g. fundamental rights, principles of the Constitution (“social state”), “objective law”, Staatszielbestimmungen, ...?

- **The Constitution of the Kingdom of Cambodia 1993 provides for many dispositions dealing with social integration as in the above mentioned 2.1. Under the Constitution, there are also others norms dealing for social integration.**

3.2. In cases where there is access of individuals to the Constitutional Court: to what extent can the various types of constitutional law provisions be invoked by individuals?

- **Any citizen has the right to raise the unconstitutionality of the law or to ask the Constitutional Council to interpret it through the intermediary of the President of the Senate, the President of the National Assembly, 1/4 of the Senators or of 1/10 of the National Assembly’s Members.**
- **Citizen, party to legal proceeding, can raise the question of constitutionality before the Constitutional Council through the intermediary of the general jurisdictions (Exception of unconstitutionality).**
- **Citizen has rights to lodge directly to Constitutional Council in case of complaints against the decision of the National Election Committee (N.E.C) for the elections of Members of the National Assembly and the elections of the Senators (without filter).**

3.3. Does your Court have direct competence to deal with social groups in conflict (possibly mediated by individuals as claimants/applicants)?

- **The Constitutional Council has never experienced any such a case in the fact that Cambodian society is homogeneous.**

3.4. How does your Court settle social conflicts, when such cases are brought before it (e.g. by annulling legal provisions or by not applying them when they contradict the principle of equality and non-discrimination)?

- **Until now none of such a case has been submitted to the Constitutional Council.**

3.5. Can your Court act preventively to avoid social conflict, e.g. by providing a specific interpretation, which has to be applied by all state bodies?

- **The Constitutional Council has never experienced any such a case.**

3.6. Has your Court ever encountered difficulties in applying these tools?

- **Never.**

3.7. Are there limitations in the access to your Court (for example only by State powers), which prevent it from settling social conflicts?

- **Citizen has rights to submit a petition with the Constitutional Council as mentioned in the above point 3.2 without any filter.**
- **According to the Constitution and the Law on the Organization and the Functioning of the Constitutional Council and the Law on the amendment of this Law, the request for control of constitutionality and interpretation of law to the Constitutional Council is only limited for the King, the President of the Senate, the President of the National Assembly, the Prime Minister, one-fourth of the Senators or one-tenth of the National Assembly's Members or for the Court (only after a law has been promulgated).**

4. The role of constitutional justice in social integration

4.1. Does your Constitution enable your Court to act effectively in settling or avoiding social conflict?

- **According to article 136 (new) of the Constitution of the Kingdom of Cambodia, the Constitutional Council is vested with competences to guarantee the respect of the Constitution, to interpret the Constitution and the Laws adopted by the National Assembly and definitively reviewed by the Senate and to decide on litigations related to the elections of the Members of the National Assembly and to the elections of the Senators.**
- **The Constitutional Council is the Guardian of the Constitution.**

4.2. Does your Court de facto act as 'social mediator', or/and has such a role been attributed to it?

- **No, it doesn't.**

4.3. Have there been cases, when social actors, political parties could not find any agreement, they would 'send' the issue to your Court which had to find a 'legal' solution, which normally should have been found in the political arena?

- **No, it doesn't have.**