

Human Rights Resource Centre (HRRC)
in collaboration with the
Asian International Justice Initiative (AIJI); and
WSD Handa Center for Human Rights and International Justice (Handa Center)

**Judicial Training in ASEAN:
A Comparative Overview of Systems and Programs**

April 2014



COUNTRY FACTSHEET 2: JUDICIAL TRAINING IN CAMBODIA

A. Training Organization and Institutionalisation

1. *Relevant Recent Legal and Judicial Reforms*

Following democratic election in 1993, the Royal Government of Cambodia initiated a series of legal and judicial reforms, often in collaboration with development partners.¹²² In 2003, the Government adopted a National Strategy on Legal and Judicial Reform and, in 2005, a corresponding Plan of Action for the implementation of this strategy. Following a gradual implementation of the legal and judicial reform strategy, the Government committed through its National Strategic Development Plan (2008–2013) to accelerate the implementation process.¹²³ One important component is the envisaged adoption of fundamental laws that has been waiting since 2005, particularly the Law on the Organization and Functioning of the Courts and Prosecutions, the Law on Amendment of the Supreme Council of Magistracy, and the Law on Statute of Judges and Prosecutors. These laws would help to strengthen the judiciary's independence and impartiality. It is hoped that the year 2014 will see some progress in the drafting and adoptions of these fundamental laws.¹²⁴

Against the background of a considerable decimation of Cambodia's judiciary during the period of the Khmer Rouge regime, the Strategy and Plan of Action made detailed provisions for improving and expanding the education and capacities of the Cambodian judicial profession. A first important step was the establishment, in 2005, of the Royal Academy of Judicial Professions (RAJP) to oversee and manage the training for the various judicial professions in Cambodia.¹²⁵ The Royal School for Magistracy (also often referred to as Royal School for Judges and Prosecutors, RSJP),¹²⁶ established by Royal Decree in 2002, was thus integrated into the new RAJP as a separate department. Accordingly, the RAJP is nowadays responsible for the training of judges, prosecutors, court clerks, and notary officers. Currently, the school consists of a General Secretariat and four specific professional training schools, namely the Royal School for Magistracy, the Royal School for Greffiers, the Royal School for Bailiffs, and the Royal School for Notary.¹²⁷ In this report the focus is on the training of judges under the Royal School for Magistracy (**RSM**).

122 See, for instance, Konrad-Adenauer Foundation (KAS). *Occasional Papers on Democratic Development: Rule of Law* (hereafter **KAS Occasional Papers: Rule of Law**). January 2009. Available at http://www.kas.de/wf/doc/kas_16756-1522-2-30.pdf?130205225016 (last visit on 1 April 2014).

123 Kong Phallack. "Overview of the Cambodian Legal and Judicial System and Recent Efforts at Legal and Judicial Reform." In *Introduction to Cambodian Law*, edited by Hor Peng, Kong Phallack, Joerg Menzel. Phnom Penh: Konrad-Adenauer Foundation, 2012. 12. Available at http://www.kas.de/wf/doc/kas_31083-1522-2-30.pdf?120720080516 (last visit 1 April 2014).

124 Vong Sokheng. "New Laws on Judiciary due by End of Month." *The Phnom Penh Post* (5 February 2014). Available at <http://www.phnompenhpost.com/national/new-laws-judiciary-due-%E2%80%98end-month%E2%80%99> (last visit 30 March 2014); Stuart White. "Judicial Draft Laws Still Unseen: Rights Groups." *The Phnom Penh Post* (11 March 2014). Available at <http://www.phnompenhpost.com/national/judicial-draft-laws-still-unseen-rights-groups> (last visit on 30 March 2014).

125 Royal Decree No. NS/RD/0105/019, 21 January 2005.

126 This entity is also referred to as Royal School for Judicial Professions or Royal School for Judges and Prosecutors (RSJP). For the purpose of this report, the name Royal School for Magistracy (RSM) is used based on the most current information provided on the website of Royal Academy for Judicial Profession (last visited in March 2014).

127 See also *Royal Academy for Judicial Professions*. Website. http://www.rajp.gov.kh/index_en.html

2. Institutions Responsible for Judicial Training

Institution	Responsibility	Training oversight and trainers of the institution
Royal School for Magistracy (RSM), within the Royal Academy for Judicial Professions (RAJP).	Responsible for training of all judges and prosecutors in Cambodia.	In 2013, the RAJP came under the administrative and financial oversight of the Ministry of Justice. The Board of Directors consists of 14 members, from both the executive and judicial branches, and is chaired by the Minister of the Council of Ministers. The RAJP is headed by a President who is chosen from among Cambodians with high qualifications in Law or Management. ¹²⁸ Trainers in the RSM have often been chosen from among sitting judges and prosecutors, as well as from a pool of well-known legal practitioners and university professors. ¹²⁹ Short-term international trainers are also provided through development assistance programs.

3. Participants of Judicial Training

a.) Royal School for Magistracy (RSM), in the Royal Academy for Judicial Professions

Requisites for Participants	Recruitment Process	Annual Average Number of Graduates
A judge trainee candidate must <ul style="list-style-type: none"> - Be a Cambodian citizen; - Possess, at the minimum, a bachelor of laws degree; - Pass the admission examination. 	There exists an admission examination for judge trainee candidates, composed of written and oral exams. ¹³⁰ In the past, the RSM admitted smaller groups of judge trainees that were selected for admission by various ministries without need of examination, based on their experience at the ministries. ¹³¹ The RAJP has exerted efforts in the last intakes to ensure regularity in the selection process.	At the establishment of the school, there were around 190 judges throughout Cambodia. The initial aim of the program was an average annual graduation of 50 judges. ¹³² A 2009 news article reported that, on average, 55-65 judge trainees had graduated annually. ¹³³ Generally, the needs of the courts are taken into account when determining the number of judge trainees per intake. In 2011, one report states that there were 396 judges in Cambodia. ¹³⁴

128 Royal Decree No. NS/RKT/0105/019, Art. 7.

129 Skype call with one current trainer at Royal School for Magistracy.

130 See Phun Vidjia. "Cambodia." In David Cohen, Kevin Tan Yew Lee, and Mahdev Mohan (eds). *Rule of Law for Human Rights in the ASEAN Region: A Baseline Study (hereafter HRRC Rule of Law Baseline Study)*. 1st ed. Jakarta: Human Rights Resource Centre, 2011. Available at: <http://hrcca.org/data/rule-law-human-rights-asean-region-baseline-study>. 60.

131 Ibid.

132 Caroline Huot and Sam Rith. "Hope of Justice Lies in School for Judge." *The Phnom Penh Post* (21 November 2003). Available at <http://www.phnompenhpost.com/national/hope-justice-lies-school-judges> (last visit March 29, 2014).

133 Asian Human Rights Commission. "To Be A Judge, Be Ready to Bribe: Student." 12 May 2009. Available at <http://www.humanrights.asia/news/forwarded-news/AHRC-FAT-004-2009/?searchterm> (last visit March 28, 2014).

134 Phun Vidjia. "Cambodia" In HRRC Rule of Law Baseline Study. 60. Citing the website of the Royal Academy for Judicial Professions.

4. Necessity of Undergoing Pre-Judicature Training

A majority of previous qualified and trained judges did not survive the Khmer Rouge Regime. As a result, Cambodia faced tremendous challenges in staffing its fledgling judiciary during the time of reconstruction. Judges appointed at that time and thereafter received no or only little judicial training, and were mainly appointed based on other professional experience.¹³⁵ In 1999, only around 37 per cent among the then almost 100 judges received some form of legal training, while a considerable number did not even complete high school education.¹³⁶ Therefore, there has been a considerable need for proper judicial training. After the opening of the Royal School for Magistracy in 2003, all judges and prosecutors are supposed to go through formal judicial training.

B. Structure and Content of Training Programme for Judges

1. Structure of Training Curriculum

Judge and prosecutor trainees receive an initial training of two years. The training is divided into three phases:

- (1) Eight months of class theory;¹³⁷
- (2) One-year practical judicial traineeship; and
- (3) Four months legal specialization.

During the judicial traineeship phase, trainees are placed at courts in Cambodia. Some are placed in courts abroad in the framework of international cooperation. During the specialization phase, trainees with good grades may choose to be judges or prosecutors in specialized fields. After the specialized courses, judges and prosecutors will be appointed by the Supreme Council of Magistracy to work at courts throughout Cambodia.

There is no year-round curriculum for the RSM as compared to the regular curriculum offered at universities in Cambodia. The subject/topics are taught in weekly sections. There are three components of the training, namely civil matters, criminal matters, and administrative matters.¹³⁸ Since the establishment of the RSM and the RAJP, a series of collaborations and assistance measures have been agreed with international development donors, such as with Japan in relation to the initial training curriculum and on civil matters, as well as with France on criminal matters.

An important knowledge and capacity transfer occurs through the involvement of Cambodian judicial professionals at the Extraordinary Chambers in the Courts of Cambodia (ECCC), which benefits both senior and junior professionals. This capacity-building process is an explicit goal of the ECCC's legacy activities.¹³⁹

135 Cambodia Center for Human Rights. *CCHR Briefing Note: Judicial Reform*. February 2013. 5-6. Available at http://www.cchrcambodia.org/admin/media/analysis/analysis/english/2013-02-18-CCHR%20Briefing%20Note%20-%20Judicial%20Reform_en.pdf (last visit 28 March 2014)

136 Toshiyasu Kato, Jeffrey Kaplan, Chan Sophal and Real Sopheap. *Cambodia: Enhancing Governance for Sustainable Development, Working Paper No 14*. Phnom Penh: Cambodian Development Resource Institute, May 2000. 17-18.

137 Although most of this is in-class training, the weekly schedule for the current 6th batch of trainees indicates that there is a time slot for in-class simulation of court hearing. See schedule for week 32, published at the RSM's website.

138 This is confirmed by the weekly schedule posted on the RSM's website and an interview with a current trainer at the school. See for example the weekly schedules (in Khmer) at <http://www.rajp.gov.kh/Books/schedule29.pdf>

139 Cambodian Human Rights Action Committee and Bar Association of the Kingdom of Cambodia. "Implementation of the ECCC Legacies for Domestic Legal and Judicial Reform: Workshop Report." March 2013. Available at http://www.kas.de/wf/doc/kas_34774-1522-1-30.pdf?130620061847 (last visited 2 April 2014)

1. Content of Training Curriculum: Specific Topics

a.) Judicial Ethics

The Supreme Council of Magistracy adopted the Code of Ethics for Judges and Prosecutors in Cambodia in 2007.¹⁴⁰ It applies to all judges in Cambodia. This Code of Ethics seems to be part of the RSM's training curriculum, although it is not possible to assess from the available information the extent and exact content of this curriculum.¹⁴¹

b.) Human Rights and/or Fair Trial Rights

In 2010, the Special Rapporteur on human rights situation in Cambodia made a recommendation that judges and prosecutors should receive adequate training on human rights law and on interpreting domestic laws in compliance with international human rights standards under international human rights treaties to which Cambodia is a party.¹⁴² More recently, a human rights training for RSM trainees was provided with support from Sweden. Fifty-five trainees in the 6th trainee intake received a weeklong intensive training on human rights with a special focus on fair trial rights from 24-28 March 2014. The training was a requirement for all and counted as credits for their study. The trainers were both national and international experts and guest speakers. At the end of the training, there were exams.¹⁴³

c.) ASEAN Instruments

From interviews and available information, it seems that the current RSM training curriculum does not incorporate training on the ASEAN legal framework.

d.) International or Comparative Law and Conflict of Laws

Article 31 of 1993 Cambodian Constitution recognizes the importance of international human rights law. In addition, the Cambodian Constitutional Council ruled in a decision that, in making decisions, judges shall not only consult national laws, but also international laws applicable to Cambodia.¹⁴⁴ However, it appears that the current training curriculum focuses mainly on Cambodian national law and its legal system. Conflict of laws is not systematically dealt with at the university or judges training level.

e.) Continuing Judicial Education

It has been stated that, through the Royal School for Magistracy, RAJP offers an in-service training for judges (judges who are practicing in provincial-municipal courts and all levels of trial courts), although it has not been possible to assess the extent of these in-service trainings.¹⁴⁵ In addition, judges and other judicial professional are invited to participate in various short-term trainings or workshops that relate to recent developments in the legal framework laws. These are often implemented in collaboration with the RAJP.

140 See also Cambodian Center for Human Rights. *Fair Trial Rights in Cambodia*. Phnom Penh, July 2010. 3. Available at http://sithi.org/tmp/admin/article/files/2010-07-14%20First%20Fair%20Trial%20Rights%20in%20Cambodia_EN.pdf (last visit March 30, 3024).

141 See H.E. Tep Darong. "Cambodia and the Rule of Law." In *KAS Occasional Papers: Rule of Law*. 35.

142 "Report of the Special Rapporteur on the Situation of Human Rights in Cambodia." 16 September 2010. Para. 100. Available at http://cam-bodia.ohchr.org/WebDOCs/DocReports/3-SG-RA-Reports/A_HRC_CMB16092010E.pdf (last visit March 30, 2014).

143 Raoul Wallenberg Institute of Human Rights. "Intensive Human Rights Course at the Cambodian Royal Academy for Judicial Profession." Available at <http://rwi.lu.se/events/intensive-human-rights-course-cambodian-royal-academy-judicial-profession/> (last visit March 30, 2014).

144 The Constitutional Council. "Case No. 131/003/2007 of June 26, 2007. Decision No. 092/003/2007 C.C.D of July 10, 2007." Available at http://www.ccc.gov.kh/english/dec/2007/dec_003.html (last visit March 30, 2014).

145 See H.E. Tep Darong. "Cambodia and the Rule of Law." In *KAS Occasional Papers: Rule of Law*. 34-35.