

Legal questionnaire completed by Sok Siphana & Associates • March 2024

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1. What laws and regulations contain legal definitions of the following terms or corresponding terms in your local jurisdiction (links to existing U.S. legal definitions are included, where relevant, as background for comparison – please include definitions of any corresponding terms in your country):

a. child or minor (18 U.S.C. 2256(1), <https://www.law.cornell.edu/uscode/text/18/2256>)

Article 17, Civil Code 2007, and Article 7, Law on Suppression of Human Trafficking and Sexual Exploitation 2008, provide that “A minor is a person under the age of eighteen.”

b. child sexual exploitation (Missing Children’s Assistance Act of 2023, Section 2, (a)(1)(9), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)

Not defined under Cambodian laws or regulations. However, please find other related provisions below:

Article 23, Law on Suppression of Human Trafficking and Sexual Exploitation 2008 defines “child prostitution” as having sexual intercourse or other sexual conduct of all kinds between a minor and another person in exchange for anything of value.

Article 341 of the Criminal Code 2009, provides that “An indecent assault is the act of touching or exposing the sexual organs or other parts of another person’s body, or of letting another person to touch the sexual organs or other parts of the perpetrator’s body or that of a third person for the purpose of sexual arousal or satisfaction of the perpetrator.” The same article provides further that “Where an indecent assault is committed upon a minor under fifteen years of age the perpetrator shall be punishable by imprisonment from one year to three years and a fine from two million to six million Riels.”

c. sexually explicit conduct (18 U.S.C. 2256(2), <https://www.law.cornell.edu/uscode/text/18/2256>)

Not defined under Cambodian laws or regulations. However, please find other related provisions below:

Article 23, Law on Suppression of Human Trafficking and Sexual Exploitation 2008 defines “child prostitution” as having sexual intercourse or other sexual conduct of all kinds between a minor and another person in exchange for anything of value.



Article 341 of the Criminal Code 2009 provides that “An indecent assault is the act of touching or exposing the sexual organs or other parts of another person’s body, or of letting another person to touch the sexual organs or other parts of the perpetrator’s body or that of a third person for the purpose of sexual arousal or satisfaction of the perpetrator.” The same article provides further that “Where an indecent assault is committed upon a minor under fifteen years of age the perpetrator shall be punishable by imprisonment from one year to three years and a fine from two million to six million Riels.”

d. child sexual abuse (18 U.S.C. 2243(a), <https://www.law.cornell.edu/uscode/text/18/2243>)

Not defined under Cambodian laws or regulations. However, please find other related provisions below:

Article 23, Law on Suppression of Human Trafficking and Sexual Exploitation 2008 defines “child prostitution” as having sexual intercourse or other sexual conduct of all kinds between a minor and another person in exchange for anything of value.

Article 341 of the Criminal Code 2009 provides that “An indecent assault is the act of touching or exposing the sexual organs or other parts of another person’s body, or of letting another person to touch the sexual organs or other parts of the perpetrator’s body or that of a third person for the purpose of sexual arousal or satisfaction of the perpetrator.” The same article provides further that “Where an indecent assault is committed upon a minor under fifteen years of age the perpetrator shall be punishable by imprisonment from one year to three years and a fine from two million to six million Riels.”

e. child pornography or child sexual abuse material (CSAM) (18 U.S.C. 2256(8), <https://www.law.cornell.edu/uscode/text/18/2256>)

Article 40, Law on Suppression of Human Trafficking and Sexual Exploitation 2008, provides that “Child pornography in this law shall mean a visible material such as a photograph or videotape, including a material in electronic form, depicting a minor’s naked figure which excites or stimulates sexual desire.”

f. computer-generated images or videos of child pornography or CSAM (created by artificial intelligence or morphed) (18 U.S.C. 2256(8) & (9), <https://www.law.cornell.edu/uscode/text/18/2256>)

Not defined under Cambodian laws or regulations.

g. enticement or grooming (encouraging, persuading, or coercing a child to engage in sexual activity or to create child pornography or CSAM) (18 U.S.C. 2422(b), <https://www.law.cornell.edu/uscode/text/18/2422>)

Article 35, Law on Suppression of Human Trafficking and Sexual Exploitation 2008, provides that “A person who solicits another for child prostitution, or advertises child prostitution, for the purpose of acting as intermediary of the child prostitution.”

h. legal age of consent for sexual activity – are there laws and regulations, if so, what ages



are specified?

In our view, the Cambodian laws or regulations do not exactly specify which legal age of a child to be able to give consent for sexual activity.

However, we understand that the legal age of consent for sexual activity can be interpreted from related articles below as 15.

Other related articles:

- Article 239, Criminal Code 2009, provides that “Legal age for sexual activity shall be fifteen years of age.”
 - Article 42, Law on Suppression of Human Trafficking and Sexual Exploitation 2008, provides that “A person who has sexual intercourse with another person of the age of less than fifteen years shall be punished with imprisonment from 5 to 10 years.”
- i. **Sextortion (extorting money or sexual favors from a child by threatening to share sexually explicit, child pornography or CSAM images of the child) (Missing Children’s Assistance Act of 2023, Section 2, (a)(1)(8), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)**

Not defined under Cambodian laws or regulations.

2. Please explain any legal or regulatory requirement or recommendation for Online Platforms to undertake any of the following activities on their systems to protect children online from sexual exploitation:

a. review, screen, moderate, or detect content to identify child pornography or CSAM content

There are no such legal requirements or recommendations from Cambodian laws or regulations.

b. review, screen, moderate, or detect content to identify enticement, grooming, or sextortion of a child

There are no such legal requirements or recommendations from Cambodian laws or regulations.

c. report child pornography, CSAM, enticement, grooming, or sextortion that they become aware of or are notified about on their systems to a law enforcement or government agency or nongovernmental organization

Legally Required.

Article 530, Criminal Code 2009 (Omission to file complaint against mistreatment of minor) provides that “Any person who, having knowledge of maltreatment or sexual assaults inflicted upon a minor under fifteen years of age, omits to inform the judicial authority or other competent authorities shall be punishable by imprisonment from one to three years and a fine from two million to six million Khmer Riels.”



Article 25(1)(b), Law on Electronic Commerce 2019, provides that “If an intermediary or an electronic commerce service provider is aware that that the information in an electronic record gives rise to civil or criminal liability, the intermediary or the electronic commerce service provider shall immediately take measure as bellow:

[...]

- b. Preserve the information as evidence and notify the Ministry of Posts and Telecommunications or relevant competent institutions about the facts and the identity of the suspected person.”

Article 25 (2), Law on Electronic Commerce 2019, provides that “In the event that an intermediary and an electronic commerce service provider is aware of any facts or circumstances which may lead to the civil or criminal liability, the intermediary and the electronic commerce service provider shall preserve the information evidence and notify the Ministry of Posts and Telecommunications or relevant competent ministries institutions.”

Link to the Law on Electronic Commerce 2019:

<https://commerce-cambodia.com/wp-content/uploads/2021/06/eCommerceLawEN.pdf>

- d. **remove or take down any child pornography, CSAM, enticement, grooming, or sextortion that they identify, become aware of, or are notified about**

Legally Required.

Article 25(1)(a), Law on Electronic Commerce 2019, provides that “If an intermediary or an electronic commerce service provider is aware that that the information in an electronic record gives rise to civil or criminal liability, the intermediary or the electronic commerce service provider shall immediately take measure as bellow:

- a. Remove the information from any information system within the intermediary’s or the electronic commerce service provider’s control and cease to provide services in respect of that information;

[...].”

- e. **review content by human moderators to screen or moderate for child pornography or CSAM**

There are no such legal requirements or recommendations from Cambodian laws or regulations.

However, please note the following related regulation:

Article 7, Prakas (a governmental proclamation) No. 170 on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia 2018, requires “all internet service providers, operating in the Kingdom of Cambodia, to install software programs and equip internet surveillance tools to easily filter and block any social media accounts or pages that run their business activities and/or publicize illegally.”

- f. **remove child pornography, CSAM, enticement, grooming, or sextortion from their systems when notified of its presence by a victim, nongovernmental organization, law**



enforcement, or government agency

Legally Required.

Article 25(1)(a), Law on Electronic Commerce 2019, provides that “If an intermediary or an electronic commerce service provider is aware that that the information in an electronic record gives rise to civil or criminal liability, the intermediary or the electronic commerce service provider shall immediately take measure as bellow:

- a. Remove the information from any information system within the intermediary’s or the electronic commerce service provider’s control and cease to provide services in respect of that information;

[...]”

Further, Article 25: Article 25(3), Law on Electronic Commerce 2019, provides that “When it is acknowledged or notified in respect of any information of electronic record which may be subject to civil or criminal liability, the Ministry of Posts and Telecommunications and relevant competent ministries-institutions may give an instruction to the intermediary or electronic commerce service provider to perform any operation as follows:

- (a) Remove the electronic record from the system which is under its control;
[...]”

- g. **use any specific technology to detect, remove, block, or take down any child pornography, CSAM, enticement, grooming, or sextortion, including:**
 - i. **“Hashing technology”** (<https://www.thorn.org/blog/hashing-detect-child-sex-abuse-imagery/>). Many Online Platforms hash and tag images and videos of child pornography or CSAM and then use hashing technology to scan content on their systems to detect the distribution of child pornography or CSAM online so it can be removed.
 - ii. **Artificial intelligence or machine learning tools to detect the presence of child pornography, CSAM, enticement, grooming, or sextortion.**

For both questions g(i) and g(ii) above, there are no such legal requirements or recommendations from Cambodian laws or regulations.

- h. **if the applicable laws or regulations require some, but not all, Online Platforms to perform any of the above activities, describe how the differing requirements apply. For example, are differences based on the number of online users, types of services offered, etc.?**

Not applicable.

3. **Are Online Platforms legally required or recommended to implement any method to verify the age of a user before allowing access to an online platform?**

There are no such legal requirements or recommendations from Cambodian laws or regulations.

4. **Are Online Platforms legally required or recommended to implement any method to obtain parental consent before a child uses the services of such Online Platforms?**

None of the existing and relevant laws and regulations neither address nor prescribe any

requirement for the online platforms to implement methods to obtain parental consent before a child uses the services.

5. **Are there legal remedies for children who have been victimized by online child sexual exploitation? This may include children who are victimized by the distribution of child pornography or CSAM imagery in which they are depicted, or children victimized by enticement, grooming or sextortion. If such legal remedies exist, do they include:**

YES

- a. **The ability to stop the publication of the pornography or CSAM imagery by the Online Platform?**

Yes.

Article 25(1)(a), Law on Electronic Commerce 2019, provides that "If an intermediary or an electronic commerce service provider is aware that that the information in an electronic record gives rise to civil or criminal liability, the intermediary or the electronic commerce service provider shall immediately take measure to remove the information from any information system within the intermediary's or the electronic commerce service provider's control and cease to provide services in respect of that information"

- b. **An obligation on the part of the Online Platform to take active steps to remove the pornography or other imagery from their servers?**

Yes.

Article 25(1)(a), Law on Electronic Commerce 2019, provides that "If an intermediary or an electronic commerce service provider is aware that that the information in an electronic record gives rise to civil or criminal liability, the intermediary or the electronic commerce service provider shall immediately take measure to remove the information from any information system within the intermediary's or the electronic commerce service provider's control and cease to provide services in respect of that information"

- c. **An ability to get an injunction or other court order against the Online Platform to stop them from publishing the pornography or imagery?**

Yes, based on the following articles.

Article 2 (2), Civil Procedure Code 2006, provides that "The right of access to the courts in a civil dispute shall be guaranteed to all persons."

Article 530, Civil Procedure Code 2006, provides that "Should there be a risk that the compulsory execution will become impossible or extremely difficult due to alteration of the state of the property by the Debtor-in-Execution, or that significant damages or imminent risk will arise affecting the status of one of the parties in respect to the rights in dispute, a person wishing to preserve his/her rights may apply for preservative dispositions pursuant to the provisions of this Book as well as special provisions of other laws."



Article 531 (3), Civil Procedure Code 2006 (provisional disposition establishing a provisional status) provides that "Disposition establishing a provisional situation until a judgment becomes final and binding where this is necessary in order to avoid significant damages or imminent risk arising to the creditor [victim] with regard to the legal relations in dispute."

d. A protective order or other court order that prohibits the person who posts the pornography or imagery from doing so in the future on the same or other Online Platform?

Yes, based on the following articles.

Article 2 (2), Civil Procedure Code 2006, provides that "The right of access to the courts in a civil dispute shall be guaranteed to all persons."

Article 530, Civil Procedure Code 2006, provides that "Should there be a risk that the compulsory execution will become impossible or extremely difficult due to alteration of the state of the property by the Debtor-in-Execution, or that significant damages or imminent risk will arise affecting the status of one of the parties in respect to the rights in dispute, a person wishing to preserve his/her rights may apply for preservative dispositions pursuant to the provisions of this Book as well as special provisions of other laws."

Article 531 (3), Civil Procedure Code 2006 (provisional disposition establishing a provisional status) provides that "Disposition establishing a provisional situation until a judgment becomes final and binding where this is necessary in order to avoid significant damages or imminent risk arising to the creditor [victim] with regard to the legal relations in dispute."

e. the ability to seek financial damages or any sort of monetary recovery from an offender who has shared the child's image or video, either in a civil or a criminal proceeding?

Yes, there are such legal remedies that children may seek damages from the offender who has shared the child's image or video through either civil or criminal proceeding under the Cambodian law.

1. Article 15, Criminal Procedure Code 2007, provides that "A civil action can be filed on behalf of a victim by his/her guardian if the victim is a minor or an adult under legal guardianship."
2. Article 14, Criminal Procedure Code 2007, provides that "An injury can be compensated by paying damages, [...] the damages must be proportionate to the injury suffered."

f. the ability to seek any other forms of victim compensation/recovery/services provided for under the law and/or by a government-funded source?

None.

g. notification to a victim when an offender is arrested for distributing child pornography or CSAM in which the child is depicted?

None.

6. “Safety by Design” is defined as tools or processes that are built into an Online Platform to protect children by making it easier for the relevant Online Platform to detect or prevent the distribution of child pornography or CSAM.

a. Are Online Platforms legally required to incorporate “Safety by Design” into their systems?

There is no such requirement under Cambodian laws or regulations.

i. If so, must these steps be taken before the launch of an Online Platform?

There is no such requirement under Cambodian laws or regulations.

ii. If so, if an Online Platform has already been in public use, when must they have incorporated “Safety by Design” measures?

There is no such requirement under Cambodian laws or regulations.

iii. For each of 6(a)(i) or (ii) above, please describe the legal requirement or recommendation.

There is no such requirement or recommendation under Cambodian laws or regulations.

b. Please include information about the parameters for monitoring, management, and enforcement of any legal or regulatory requirements for the Online Platform’s incorporation of “Safety by Design”?

There is no such requirement under Cambodian laws or regulations.