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FEATURING CHILDREN IN COMMERCIAL AND MEDIA EVENTS: SOME CAMBODIAN LEGAL ASPECTS

As a developing country, child labor has been an important concern in Cambodia for decades. The increased power of social media has shone a new light on child exploitation. It brings up the question of to what extent it is a violation of Cambodian law to feature children in social media ads to endorse products, publicize child performers, or use the participation of children to promote products commercially.

With regard to child exploitation in general, the Royal Government of Cambodia, as well as the Ministry of Social Affairs, Veterans, and Youth Rehabilitation, the Ministry of Labor and Vocational Training, and the Cambodia National Council for Children, have issued multiple laws and regulations to protect children and prevent them from being exploited, and to secure the maximum benefit for every child in the country.

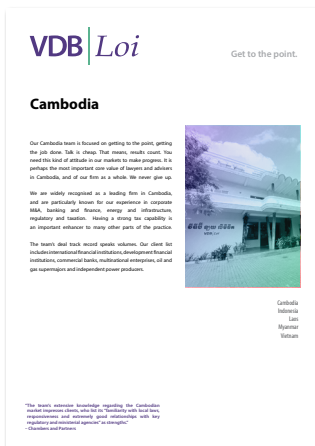
Convention on the Rights of the Child: Provision on the Protection of Children From Economic Exploitation

On 20 November 1989, the United Nations adopted the Convention on the Rights of the Child ("CRC"). After acceding to the CRC in 1992, Cambodia has ratified and adopted new laws and regulations in the spirit of enforcing the protection of the

Highlights of this note

- ▶ Convention on the Rights of the Child: Provision on the Protection of Children From Economic Exploitation
- ▶ Does Cambodia Allow Minors to Perform Work as Employees?
- ▶ Protection of Minors in the Entertainment Industry
- ▶ Child Protection Organizations in Cambodia
- ▶ Right to Privacy
- ▶ Which Governmental Institution is Responsible for the Protection of Children?

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rights of children to comply with the CRC.

Central to the question of commercial exploitation is Article 32, paragraph 1 of the CRC, which states:

“States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.”

Based on Article 32, Cambodia is required to protect children from any kind of economic exploitation. The CRC does not provide a clear definition of economic exploitation. However, in general terms, economic exploitation implies the idea of a certain gain or profit through the production, distribution, and consumption of goods and services, which might also apply to child labor in the entertainment industry.

Does Cambodia Allow Minors to Perform Work as Employees?

Adopted from the International Labour Organization’s Convention No. 138 on the Minimum Age for Admission to Employment and Work, Article 177 of the Cambodian Labor Law states that the minimum age for minors to work is 15 years old. However, in the same article, the law does allow for the employment of a child between the ages of 12 and 15, as long as it is limited to only light work and provided that:

- It is not hazardous to the minor’s physical or mental health or physical development; and
- It does not affect the minor’s regular school attendance, or participation in guardian programs or vocational training.

Based on this, it appears that in all circumstances it is illegal for a minor under the age of 12 to enter into a labor contract to perform any kind of work, including in the entertainment industry. Featuring infants or young children as part of employment is thus, in any circumstances, illegal.

Furthermore, according to the Civil Code of Cambodia 2007, minors are allowed to enter into a labor contract, but only if done under the supervision and with the approval of their legal guardian. The same law states that even if there is a valid labor contract, the State has given the power to any parent, legal guardian, or governmental institution to terminate a minor’s labor contract at any time should it in any way cause harm or be unjust to the child.

Protection of Minors in the Entertainment Industry

Under Article 13 of the CRC, minors have the right to freedom of expression, which includes the imparting of information and ideas of all kinds through any kind of media of the child’s choice. In light of this article,

to appear in the media is considered a minor’s right, as long as the minor has consented to it.

There are no regulations in Cambodia regarding the participation of minors in the entertainment industry. However, there are certain general licensing requirements and regulations addressing content.

The Ministry of Culture and Fine Arts (“MCFA”) licenses movie and video production, and has prior review authority of all media material before publication. Other media businesses, such as broadcasting, and newspapers, are only allowed to operate with the approval of and a license from the Ministry of Information.

With regard to the internet and social media platforms using the internet in Cambodia, an Inter-Ministerial Prakas issued jointly by the Ministry of Information, the Ministry of Interior, and the Ministry of Posts and Telecommunications on 28 May 2018 regulates online activity in Cambodia and the content published by users on electronic platforms, especially social media, to, among others, protect the national culture and traditions.

The above regulations offer a general level of protection for children in the entertainment industry, but they do not specifically address what a minor can and cannot do, promote, or appear in with regard to the entertainment industry.



Right to Privacy

There are no specific regulations that govern child privacy and appearances in the media. However, there are several regulations that govern and protect privacy in general that also apply to children. In the Law on Press, the Cambodian government restricts the publication of the identities of minors in civil and criminal suits, but the law does not mention any restriction on a minor's appearance in the media. However, the Civil Code

does define privacy as an individual right to be protected under the law, and the Criminal Code does restrict the image recording of individuals without their prior consent.

Which Governmental Institution is Responsible for the Protection of Children?

The Ministry of Social Affairs, Veterans and Youth Rehabilitation, along with the Cambodia National Council for Children, the Ministry of Labor

and Vocational Training, and other inter-ministerial committees, are the authorized governmental bodies to protect the rights of children.

There are also a number of non-governmental organizations operating in Cambodia tasked with the protection of children, such as Save the Children, UNICEF, Plan International Cambodia, ChildFund Cambodia, Terre des Hommes, etc.

CHILD PROTECTION ORGANIZATIONS IN CAMBODIA

GOVERNMENTAL INSTITUTIONS

Ministry of Social Affairs, Veterans and Youth Rehabilitation

- ▶ Building 788, Monivong Blvd, Sangkat Boeung Trabek, Khan Chamkamorn, Phnom Penh
- ▶ (+855) 23 218 437
- ▶ info@mosvy.gov.kh

Cambodia National Council for Children

- ▶ #788, Building B 5th floor, Preah Monivong Blvd., Sangkat Boeng Trabek, Khan Chamkarmorn, Phnom Penh
- ▶ (+855) 23 213 004

Ministry of Labor and Vocational Training

- ▶ Building 3, Russian Federation Blvd, Sangkat Terk Laok, Khan Toul Kork, Phnom Penh
- ▶ (+855) 23 884 375

NON-GOVERNMENTAL ORGANIZATIONS

Save the Children

- ▶ #5, St. 242, Sangkat Chaktomouk, Khan Daun Penh, Phnom Penh
- ▶ (+855) 23 224 403/4/5/6
- ▶ info.cambodia@savethechildren.org

UNICEF

- ▶ Exchange Square, 5th floor, Bldg. no. 19&20, Street 106, Sangkat Wat Phnom, Khan Daun Penh, Phnom Penh
- ▶ (+855) 23 260 204
- ▶ phnompenh@unicef.org

Plan International Cambodia

- ▶ Room 411, 4th floor, Block A of Phnom Penh Centre, Corner of Sihanouk Boulevard and Sothearos Street, Sangkat Tonle Basac, Khan Chamkarmorn, Phnom Penh
- ▶ (+855) 23 217 214
- ▶ JanJaap.Kleinrensink@plan-international.org
- ▶ Andrew.Hill@plan-international.org
- ▶ Chantarasoleil.Mom@plan-international.org

ChildFund Cambodia

- ▶ #30, Street 228, Sangkat Chaktomuk, Khan Daun Penh, Phnom Penh
- ▶ (+855) 23 224 158
- ▶ info@childfund.org.kh

Terre des Hommes

- ▶ #55, Street 348, Sangkat Tuol Svay Prey Ti Muoy, Khan Chamkarmorn, Phnom Penh
- ▶ (+855) 23 222 553
- ▶ asia@tdh.nl

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