

**Kingdom of Cambodia  
Nation Religion King**



**Policy  
on  
Alternative Care for Children**



**April 2006**

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## FOREWORD

Cambodia is located in Southeast Asia, and enjoyed a prosperous culture and civilization during the Angkorian Era. Geographically, it is situated along the Mekong River on wet land favourable to agriculture.

The majority of Cambodians are farmers who are honest, hardworking and traditionally friendly and supportive of each other.

However, war and a genocidal regime have severely shattered the country. The national social infrastructure, culture, tradition and social morality which used to be good, have severely declined. Trauma, the loss of spouses, children and relatives, and in particular, the deprivation of their rights, dignity and honour have been in the heart of the Cambodian population for a full generation.

These are causes affecting the daily livelihood of Cambodians' of all ages in this generation. Physically and mentally disabled people, orphans without any support and poverty are heritage which the social affairs sector has to deal with.

Under the wise leadership of Samdech **Hun Sen**, Prime Minister of the Royal Government of Cambodia, the Kingdom of Cambodia has ended the war forever, the country has been rebuilt within a peaceful and safe atmosphere nation-wide and many achievements have been made in all sectors.

In line with the Political Platform and the Rectangular Strategy of the Royal Government of the third legislature of the National Assembly, the Ministry of Social Affairs, Veterans and Youth Rehabilitation has also developed a 6 points strategy for implementation in 3 major sectors - social affairs, veterans and youth rehabilitation. Specifically, child welfare issues have been carefully taken into account and incorporated as the second priority of the Ministry. Policies, principles and legal instruments related to child welfare have partly been reviewed and improved to suit the current context.

Alternative care is an essential service to all types of vulnerable children. So far, the Royal Government of Cambodia, the Ministry of Social Affairs, Veterans and Youth Rehabilitation, the relevant ministries and national and international organizations have conscientiously and fruitfully provided alternative care and a number of experiences. In the current situation, it is now necessary to compile these experiences in order to develop a Policy on Alternative Care for Children, to be disseminated to service providers as part of a national framework.

The Ministry has issued Prakas No. 38 MoSVY dated February 21, 2005 on the Establishment of Alternative Care Advisory Committee and 4 Technical Working Groups to assist the Alternative Care Advisory Committee.

The Policy on Alternative Care for children is a new step in implementing child rights while there are tasks that remain to be done, such as:

- Minimum Standards of Alternative Care for Children
- Draft Law on Inter-country Adoption
- Pilot Project of Models of Alternative Care for Children
- Monitoring and Evaluation of Alternative Care for Children, etc.

On behalf of the Ministry of Social Affairs, Veterans and Youth Rehabilitation, I would like to express my profound gratitude to Samdech **Hun Sen**, Prime Minister of the Royal Government of Cambodia for his support to the Policy on Alternative Care for Children through his Message dated April 11, 2006.

The Ministry of Social Affairs, Veterans and Youth Rehabilitation is committed to effectively translate the Policy into practice in the best interests of all orphans.

The Ministry gladly welcomes any constructive feedback and criticism from all sectors so as to improve this Policy and to respond to the actual situation of Cambodian orphans.

**Phnom Penh, April 26, 2006**

**MINISTER**

**Signature and Seal**

**ITH SAM HENG**



**Samdech HUN SEN**  
**Prime Minister of the Royal Government of Cambodia**

**Message of Samdech HUN SEN**  
**Prime Minister of the Royal Government of Cambodia**



- Venerable Monks!
- Dear Compatriots!

Considering and taking into account the rights and the wellbeing of children, the Royal Government ratified the *Convention on the Rights of the Child* on October 15, 1992, and the *1993 Constitution of the Kingdom of Cambodia* clearly stipulates that the State shall ensure the protection of the rights of children as mentioned in the Convention on the Rights of the Child, in particular the rights to life, education and to protection during war time and from any economic and sexual exploitation.

Besides, the Royal Government is always taking into account the protection against labour which is harmful to the child's education, health or wellbeing. At the same time, for the best interest of the child, Cambodia has ratified a number of other International Conventions such as the Conventions of the International Labour Organization (ILO) - the Convention No. 138 on Minimum Age for Admission to Employment, and the Convention No. 182 on Prohibition and Immediate Elimination of the Worst Forms of Child Labour, the United Nations Protocol on Prohibition of Using Children in Armed Conflict and Prohibition of Child Sexual Exploitation and Child Pornography.

In addition, the Royal Government has considered child issues as a priority in its Social Affairs Development Programme. This means that child issues have always been thought of and included in national policies, plans and strategies. The Royal Government is committed to increase interventions in the field of social affairs and the national budget is constantly increased for Education, Health, Rural Development, Child Welfare Promotion Programmes and the Rescue of other victims. In this spirit, I would like to call for continued attention, and to stress major stakeholders' responsibility to fulfil their obligations in order to ensure the child's physical and mental development and higher education, and that the child is living peacefully, in dignity and happiness in their family and society.

For these purposes, we do not only care for children to combat disease, to prevent children from vulnerability and exploitation as well as protecting them from drug abuse, but we also combat poverty through investment in children by creating better environment favourable to education and health care so that they can become valuable resources, bamboo shoots that will replace old bamboo, pillars and heirs of the country to develop in all sectors and to lead the Cambodian Society to prosperous progress in the future.

*The Cambodian National Council for Children (CNCC)* has strengthened its activities as a coordination mechanism between concerned institutions working on child protection. In this regard, community-based child protection networks have been enhanced and expanded to other provinces, and protection programmes for vulnerable children such as orphans, children with disabilities and children from very poor families in the community have been taken into account. All forms of child abuse, exploitation, illegal labour, prostitution, trafficking, debauchery and other immoral activities are gradually prevented and minimized. Yet, our children continue to encounter many problems such as poverty, impact of HIV/AIDS, drug use, debauchery, conflict with the law etc.

On behalf of the Royal Government and as the Honourable Chairman of *CNCC*, I would like to express my full support to the Policy on Alternative Care for Children and high appreciation to the Ministry of Social Affairs, Veterans and Youth Rehabilitation for initiating and developing this important Policy in collaboration with *UNICEF* and other relevant institutions.

I strongly hope that through the implementation of this Policy, the rights and wellbeing of children will be promoted and rigorously respected. I would like the Ministry of Social Affairs, Veterans and Youth Rehabilitation to continue developing other relevant legal instruments in particular the Minimum Standards on Alternative Care for Children to increase effectiveness in implementing the Policy. I appeal to all Ministries, Institutions, the private sector, relevant Non-Governmental Organizations and International Organizations, the civil society as well as our compatriots to provide support, assistance and continued collaboration to the Ministry of Social Affairs, Veterans and Youth Rehabilitation in disseminating and translating the Policy into reality for the cause of Cambodian children under the slogan ***“We all support and promote the implementation of the rights of the child”***.

**Phnom Penh, April 11, 2006**

**Signature and Seal**

**HUN SEN**



Kingdom of Cambodia  
Nation Religion King  
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Ministry of Social Affairs, Veterans and  
Youth Rehabilitation  
No. 217 MOSVY

Phnom Penh, April 26, 2006

## **PRAKAS**

on

### **The Enforcement of the Policy on Alternative Care for Children**

**Minister of Social Affairs, Veterans and Youth Rehabilitation**

- Had seen the Constitution of the Kingdom of Cambodia
- Had seen Royal Kret No NS/RKT/0704/124 dated 15 July 2004 on the Appointment of the Royal Government of the Kingdom of Cambodia
- Had seen Royal Krom No. 02/NS/94 dated 20 July 1994 which Promulgates the Law on the Establishment and Operation of Council of Ministers
- Had seen Royal Krom No. NS/RKM/0105/001 dated 17 January 2005 which promulgates the Law on the Establishment of the Ministry of Social Affairs, Veterans and Youth Rehabilitation
- Had seen Sub-Decree No. 55 ANK dated 08 April 2005 on the Establishment and Operation of the Ministry of Social Affairs, Veterans and Youth Rehabilitation
- Had seen Prakas No. 038 MOSVY dated 21 February 2005 of Ministry of Social Affairs, Veterans and Youth Rehabilitation on the Establishment of Alternative Care Advisory Committee

### **Decides**

- Article 1:** To enforce the Policy on Alternative Care for Children. The Policy on Alternative Care for Children No. 907 MOSVY dated 26 April 2006 is in Annex of this Prakas.
- Article 2:** Provisions contradicting this Prakas shall be deemed null and void.

**Article 3:** Chief of Minister's Cabinet, Director General of Administration and Finance, Director General of Technical Affairs, Child Welfare Department, all Provincial/Municipal Departments of Social Affairs, Veterans and Youth Rehabilitation, national and international organizations and relevant partners have a duty to effectively implement this Prakas from the date of signing.

**MINISTER**

**Signature and Seal**

**ITH SAM HENG**

**Copied to:**

- Ministry of Royal Palace
- General Secretariat of the Senate
- General Secretariat of the National Assembly
- Prime Minister's Cabinet
- H.E. Deputy Prime Minister Tea Banh's Cabinet
- General Secretariat of the Royal Government "For information"
- All relevant ministries, institutions and organisations "For information and collaboration"
- As in Article 3 "For implementation"
- File – Chronicle



Phnom Penh, April 26, 2006

# Policy on Alternative Care for Children

## I. Introduction

Children exposed to one or more of the vulnerability situations described below have been categorized into children in need of special protection or children at risk. Children in need of special protection include:

- Orphans
- Abandoned children
- Children infected or affected by HIV/AIDS
- Abused children whether sexually, physically or emotionally
- Street children
- Children in conflict with the law
- Children victims of exploitation whether sexually or any forms of harmful labour
- Children with disabilities
- Children addicted to drugs
- Children whose basic physical needs are not being met.

The category of children at risk relates to contexts of extreme poverty, break-up of the family, alcoholism, gambling, domestic violence, dropping out from school, to life in newly-resettled areas (Internally Displaced People/migrants, returnees, demobilised soldier families), and to life with people other than biological parents. With more than 30 per cent of Cambodian population living below the poverty line and 52 per cent below 18 years of age, poverty is clearly impacting most severely on children and young people<sup>1</sup>.

The term 'orphaned children' is used to describe children below 18 years old who have lost one or both of their parents. There were 670,000 orphaned children in Cambodia by the end of 2003<sup>2</sup>. However it is not known how many are double or single orphans.

The presence of street children in major cities is a consequence of the social problems besetting children who need to be protected and cared for. Street children started to appear in the early 1990s but their number seems to have stabilised in the last few years. These are children who have completely cut ties with their families or have no family and have made the streets their home. Street children also include those who spend most of their time on the streets but are still in contact with their families. In Phnom Penh, there are 546 street children according to the survey conducted by Phnom Penh Department of Social Affairs, Veterans and Youth Rehabilitation in 2004<sup>3</sup>. The number of street children is varied, depending on the situation in the provinces.

Categorizing street children may overlap and vulnerability factors interrelate. Street children not only lack access to schooling or health care, but are also often abused or exploited, in particular by gang leaders who take advantage of them and force them to steal. Sniffing glue has become widespread among them and they are frequently victims of sexual abuse or exploitation and are thereby at risk of being infected with HIV/AIDS. They may also be on the streets as a result of HIV/AIDS infection in their family. In fact, the pervasive spread of HIV/AIDS is considered a core factor that leads children into a situation of needing care outside the family or even causing them to be orphaned. Indeed, the segment of the population with the highest HIV/AIDS rate is also the age group most likely to be raising children. According to National Center for HIV/AIDS, Dermatology and STDs<sup>4</sup>, 123,100 people aged 15-49 were living with HIV/AIDS in 2003, representing a prevalence rate of 1.9% for this age group.

In addition, commercial sexual exploitation and trafficking has been a growing problem throughout the country since the early 1990s. Although no national figures are available, a small-scale survey<sup>5</sup> estimated the number of sex workers in 2003 as 18,256. About 2000 of them were considered to be trafficked as a result of coercion and they were underage. Most of them have been lured into the trade by someone they know. The younger they are, the more it is that they are working against their will. Cross-border trafficking seems to be a growing problem. Foreign girls are trafficked into Cambodia for the sex trade and other types of exploitative labour, Cambodian children and women are trafficked into neighbouring countries to beg on the streets or to work in the sex industry.

An increasing number of cases of children in conflict with the law are being reported, especially in Phnom Penh. They include street children involved in petty crime as well as members of gangs. Although there are juvenile related legislations, it is necessary to push for law on juvenile justice and children's court.

So far some of children who involved in petty crime are sent to a Youth Rehabilitation Centre operated by the Ministry of Social Affairs, Veterans and Youth Rehabilitation and some of them are jailed together with adults.

Children at risk and children in need of special protection may at some point in their lives be in need of alternative care. Indicative of the magnitude of the problem is the number of children already in care. It was estimated that 20,348 children were living in alternative care as of November 2001, 11,470 of them were in residential care<sup>6</sup>.

This policy document first introduces some of the concepts in alternative care (Chapter II) before defining the different forms of care as they are understood by the partners working in Cambodia (Chapter III). The internationally accepted principles informing alternative care intervention in the country are laid out (Chapter IV) followed by the main features of the Royal Government general policy (Chapter V). The following chapter (Chapter VI) of the document is devoted to specific objectives in relation with the different types of alternative care and vulnerability. The next one (Chapter VII) addresses government responsibilities and alternative care providers' commitments. The last chapter (Chapter VIII) attends to definitions and issues related to particular types of vulnerability.

## II. Concepts in Alternative Care

As mentioned in the introduction, a variety of children, some still under the authority of their parents, may be in need of alternative care at some point in their life. In this policy alternative care is defined as care for orphaned and other vulnerable children, who are not under the care of their biological parents. There are two broad categories of alternative care: institutional or residential care, and non-institutional or non-residential care or family/community based care.

- ***Institutional or residential care*** is “a group living arrangement for children in which care is provided by remunerated adults for service provision”<sup>7</sup> e.g. orphanages, recovery centres, child protection centres. Children in such settings receive full-time care for appropriate length of time. In practice, institutional care is established and operated by the State or by non-governmental organizations. Institutions generally address a genuine need by providing both short-term and long-term care to children. Nevertheless, several studies have shown that the placement of children in long term institutional care can have a negative impact in terms of development and expose them to discrimination, exploitation etc, thus highlighting the need to promote non-residential care.
- ***Non-institutional or non-residential care*** relates to family-/community-based cares. Generally, there are many forms of this type of care such as adoption, fostering, kinship care and pagoda-based care. Another form of alternative care which has recently emerged in the wake of the HIV/AIDS epidemic is the child-headed household care.

Non-residential care can also refer to part-time care provided by unrelated adults e.g. drop-in centres, day care centres, outreach activities. This type of care is not considered under this policy.

### **III. Models of Alternative Care for Children**

Alternative care for children comprises 2 services, non-residential and residential care.

#### **1. Non-residential care**

##### **a. Foster care**

Foster care is a form of temporary placement in which a family agrees to take an unrelated child in. It is usually for a short-term duration and does not involve the permanent transfer of parental rights and responsibilities (see adoption). Its main aim is the eventual reunification of the child with the birth family or the child's adoption into a permanent family. This practice is deeply rooted in Cambodian society and generally does not involve any legal agreement. It may however be based on a written agreement between parents, foster parents, local or central authorities and an organization.

##### **b. Kinship care**

Kinship care is a situation in which extended family members take an orphaned or other child in. Carers could be grandparents, aunts, uncles or other relatives of the child. This common practice also is deeply rooted in Cambodia. This type of care may however be based on a written agreement between parents, extended family, local or central authorities and an organization.

##### **c. Adoption**

Adoption is a type of permanent family placement in which the rights and responsibilities of the child's biological parent(s) are transferred to adoptive parent(s) and the adoptive child acquires the same status, rights and obligations as if born to the adoptive parent(s). Adoption may involve a complete severing of ties and contact with the child's birth family, if it is a full adoption. The full adoption creates a permanent parent-child relationship between the child and the adoptive parent(s) and terminates the rights and obligations between the child and his/her biological parents or guardian. An adoption may also be either a local adoption or an inter-country adoption. Under the Law on Marriage and Family<sup>8</sup>, an adoption is established by entering into a written contract between the adoptive parent and the adoptee-child (through the child's biological parents or guardian), certified by the Commune/Sangkat Council of the place where the adoptive parent(s) or child resides. The adoption may, however, be rescinded by the court upon a complaint by the child or other person/organisation for the child's best interests.

A local adoption, whether a simple adoption or a full adoption, must be done through a court petition by the adoptive parent(s) and the child's biological parents or guardian. An adoption may be dissolved by the court upon agreement of the parties in the case of a simple adoption, or upon a finding of cruelty, abandonment or other extremely detrimental conduct by the adopter in the case of full adoption (Under the draft Civil Code<sup>9</sup>).

A single person or married couple who are permanent residents in another country may adopt a child provided that the child is a resident in an orphanage or a long term residential care centre run by the Ministry in charge of Social Affairs or by a non-governmental organisation which is recognised by the Ministry in charge of Social Affairs. Adoption applications must be submitted to and approved by the Ministry in charge of Social Affairs before an adoption petition is heard and decreed by a Cambodian court (Under the draft Inter-country Adoption Law<sup>10</sup>).

#### **d. Pagoda (Wat) and other faith-based care**

Pagodas play an important role in alternative care provision in Cambodian society where most of the population is Buddhist. Buddhist monks (Preah Sang), nuns (Donjis) and lay clergy (Achars) provide children with food, shelter, education, etc. From these experiences, there should be now considering exploring similar approaches for children among population from different ethnic backgrounds, religions and beliefs.

#### **e. Children headed households**

A child-headed household is a group of sibling orphans living under the responsibility and care of older children due to passing away or disability of their parents and other relatives. HIV/AIDS epidemic is partly a reason of growth of such households. Some partners have recommended taking necessary measures to reduce the growth of child-headed households and to introduce mechanisms to support existing ones.

#### **f. Group-home based care**

Group-home based care is a form of alternative care, whereby a limited number of children are housed in a family environment under the supervision of small group of caregivers unrelated to the children. A group home is integrated into a community setting, but is not run by the community.

## **2. Residential care**

#### **a. Recovery or child protection centers**

Recovery or child protection centres are centres catering for children who have been affected by abuse, exploitation, drug use, street life or any other difficult circumstances. In addition to the basic development needs, these centres may provide specialised services such as counselling in relation to the disturbing episode in the child's life, education and vocational training.

#### **b. Orphanages**

Generally, orphanages are long term residential centres that provide all basic developmental needs for children who have lost one or both biological parents. In reality, they also admit a variety of children at risk and children in need of special protection, but are often unable to provide specialised services.

### **3. Minimum Standards of Alternative Care**

Taking into account these practices and their main features, the Royal Government and partners have adopted the following terminology in developing minimum standards for alternative care:

#### **a. Community and family based care**

Community and family based care is defined as an approach designed to enable children either to remain with their own family or to be placed with a foster family, if possible within their community. Family in this context comprises the extended family offering kinship care, child-headed households and foster families unrelated to the child.

#### **b. Pagoda and other faith-based care**

Pagodas play an important role in alternative care provision in Cambodian society where most of the population is Buddhist. Buddhist monks (Preah Sang), nuns (Donjis) and lay clergy (Achars) provide children with food, shelter, education, etc. From these experiences, there should be now considering exploring similar approaches for children among population from different ethnic backgrounds, religions and beliefs..

#### **c. Group-home based care**

Group home based care is a form of alternative care, whereby a limited number of children are housed in a family environment under the supervision of small group of caregivers unrelated to the children. A group home is integrated into a community setting, but is not run by the community.

#### **d. Residential care**

Residential care includes orphanages and recovery centres. In this short or long-term living arrangement, remunerated adults provide care to children on a full-time basis.

## **IV. Principles of Alternative Care**

The Royal Government of Cambodia has paid attention to providing support to meeting the needs of the most vulnerable children through the provision of appropriate services and protection from harm. The Royal Government ratified the Convention on the Rights of the Child<sup>11</sup> on 15 October 1992. According to this Convention, the Royal Government has developed this Policy to ensure that children without a family, home receive alternative care. In accordance with the Second Stockholm Declaration on Children and Residential Care<sup>12</sup> in May 2003 and the Post-Stockholm Conference organized in Phnom Penh in October 2003 by the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation<sup>13</sup> (MOSALVY), the Royal Government of Cambodia decided to issue the following principles:

- Family care and community care are the best option for alternative care

- Institutional care should be a last resort and a temporary solution
- Specific strategies and measures shall be established to support parents to raise their own children and send them to school
- These strategies and measures shall also be directed to families, relatives and communities caring for children where parental care is not possible, in order to avoid institutionalisation
- Where institutional care cannot be avoided, minimum standards and guidelines for residential care shall be implemented, monitored and evaluated in accordance with the four overriding principles of the Convention on the Rights of the Child:
  - The principle of the *best interests* of the child
  - The principle of *non-discrimination*
  - The principles of the right to *survival, development* and *protection*
  - The principle of *participation* by the child in her/his own development
- Residential care and or community or family based care are requested to strive to meet minimum standards developed within the framework of this Policy. Ministry of Social Affairs, Veterans and Youth Rehabilitation is the competent institution responsible for leading and implementing this Policy. NGOs which provide alternative care service shall request permission from and sign agreement with the Ministry of Social Affairs, Veterans and Youth Rehabilitation.

A hierarchy of options held to safeguard the long-term best interests of the child shall be respected while deciding any child care measure:

- **Family solutions** such as return to the birth family, foster care, adoption should be preferred to institutional placement
- **Permanent solutions** such as return to the birth family, adoption should be preferred to provisional solutions
- **National solutions** such as return to birth family, adoption within the community, national adoption should be preferred to international solutions

While implementing these principles and following this hierarchy, it is necessary to integrate other aspects of the Convention on the Rights of the Child:

- Due regard needs to be given to the continuity of a child's upbringing and her/his ethnic, cultural, and linguistic background
- Contact between children in alternative care and their families need to be encouraged whenever possible hence the need for accurate and up-dated records and files
- The child has a right to review his/her treatment and other circumstances
- The child should not be deprived of her/his right to liberty
- Alternative care providers' staff shall be carefully selected, trained and appropriately remunerated
- Each child is unique and his/her uniqueness shall be taken into consideration in any decisions taken which affect the child's life
- Siblings shall not live separately or be separated by placement except under unavoidable circumstances

## **V. General Policy on Alternative Care for Children**

### **1. Vision**

All children have access and right to care which respects and fulfils their rights to survival, protection, development and participation. The primary role in protecting and caring for children rests with their family.

### **2. Mission**

To implement the Royal Government of Cambodia's Political Platform and Rectangular Strategy, the Ministry of Social Affairs, Veterans and Youth Rehabilitation and other relevant Ministries and Institutions are committed to implement Policies and programmes on alternative care, to build the capacity of staff working with and for children and to establish a monitoring and evaluation system that ensures effective implementation and appropriate relations between the community and children without primary caregivers.

In compliance with the recommendations of the Concluding Observations of the United Nations Committee on the Rights of the Child issued in the Committee's 641<sup>st</sup> Session in May 2000, the Kingdom of Cambodia has following commitments:

- To undertake effective measures to promote, through counselling and community-based programmes, the family as the best environment for the child and to empower parents to care for their children in order to avoid placement in residential care
- To develop policies and regulations regarding residential care and other forms of alternative care. Particular attention will be paid to children orphaned by the HIV/AIDS epidemic in order to increase their access to non-residential care such as foster families
- To continue with the process of developing legislation on inter-country adoption and local adoption

### **3. General Objectives**

The general objectives of this Policy are to protect the rights of the child and to ensure the physical and psychosocial long-term development of orphans and other vulnerable children. The policy aims:

- To ensure that children benefit from national and international legal instruments, in particular from the Convention on the Rights of the Child and its four overriding principles
- To ensure that children grow up in a family and in a community, in particular with biological family and community of origin
- To ensure access to health services, free education and psychosocial support for the child's survival and development

- To enhance the capacity of the community to care for and to protect vulnerable children through the promotion and the strengthening of all community safety nets

#### **4. Constraints**

Implementation of comprehensive and complete programmes to assist vulnerable children will meet a number of challenges:

- The limited awareness of the rights of the child
- The limited understanding of social issues at all levels
- The lack of resources for all programmatic areas
- The difficulty to prioritise issues and set achievable goals and objectives
- The partially developed legal framework
- The inadequate enforcement of national laws and ratified international legal instruments
- The limited coordination among government agencies as well as with civil society organisations working with vulnerable children
- The lack of integrated monitoring and follow-up systems at all levels and poor access to information
- A number of consequences of modernisation such as individualism, the erosion of traditional values and of solidarity, etc

Vulnerable children and alternative care providers willface the following specific challenges:

- The lack of family support and family environment
- The exposure to sexual abuse and exploitation
- The lack of training methodology on love and sexuality which are appropriate with children's age and national tradition
- The lack of access to education, health and recovery services
- The lack and the limited awareness of new forms of alternative care
- The difficult access to inheritance and heritage
- The discrimination and marginalisation of children exposed to vulnerability factors
- The increasing numbers of vulnerable children due to HIV/AIDS
- The burden of early responsibility and the ensuing loss of opportunities in education, play and socialization in particular for children in child-headed households and residential care
- The limited geographic coverage of alternative care programmes
- The lack of knowledge among children, families, communities and professionals of existing support and referral services
- The lack of trust of some children towards official structures
- The limited geographic coverage of the Ministry of Social Affairs, Veterans and Youth Rehabilitation which stops at district level
- The Commune Councils lack experience in social work because they are only in their first term.

## **5. Opportunities**

A number of opportunities listed below have the potential to contribute towards an improved assistance to vulnerable children:

- The political will for the protection of children and the promotion of their rights exists at all levels
- The decentralisation of the Royal Government functions support the establishment of participatory community-based structures, and Commune Councils have received a social work mandate and capacity building opportunities
- The Royal Government of Cambodia's Millennium Development Goals, Poverty Reduction Strategy and Rectangular Strategy address the need for poor households to receive better supports
- The Royal Government has ratified several conventions and protocols related to rights of the child<sup>14</sup>
- The Royal Government has a commitment to family, permanent and national solutions

## **6. Strategies**

To implement specific objectives and strategies related to particular forms of alternative care, it is necessary to have general strategies to address the needs of orphans and other vulnerable children in a cross-cutting manner:

- Conducting regular needs assessment of sectors affecting orphans and other vulnerable children
- Developing a child rights focussed policy framework regulating and formalising programmes and services that promote the wellbeing of orphans and other vulnerable children
- Increasing orphans and other vulnerable children access to basic services
- Undertaking regular monitoring and evaluation to ensure that programmes targeting orphans and other vulnerable children meet their needs and that programme development is an on-going process

# **VI. Specific Objectives for Alternative Care**

## **1. Children in foster care**

- a. To develop a policy framework regulating and formalising foster care, including access to, roles and responsibilities, standards of care and guidelines. Particular provisions need to ensure children in foster care have access to their inheritance
- b. Within the policy framework, to promote foster care amongst governmental, non-governmental programs and families including through direct support to child care and education

- c. To formalize, establish and monitor standards based on the policy framework
- d. To develop community based supervision and protection mechanisms for children in foster care, taking into account the royal government's decentralised structures and responsibilities
- e. To build capacity of MOSVY and other relevant ministries central, provincial and district personnel, alternative care providers' staff focusing on the implementation of the policy framework
- f. Prior to placement in foster care, children are listened to, informed about the placement (rights and responsibilities of the family as well as of the child) and that families meet criteria set by the policy framework
- g. To review earlier cases of children who have lived in and received foster care against the policy framework

## **2. Children in kinship care**

- a. To develop a policy framework regulating and formalising kinship care, including access to, roles and responsibilities, standards of care and guidelines. Particular provisions need to ensure children in kinship care have access to their inheritance
- b. Within the policy framework, to promote kinship care amongst governmental, non-governmental programs and families including through direct support to child care and education
- c. To formalize, establish and monitor standards based on the policy framework
- d. To develop community based supervision and protection mechanisms for children in kinship care, taking into account the royal government's decentralised structures and responsibilities
- e. To build capacity of MOSVY and other relevant ministries central, provincial and district personnel, alternative care providers' staff focusing on the implementation of the policy framework
- f. Prior to placement in kinship care, children are listened to, informed about the placement (rights and responsibilities of the family as well as of the child) and that families meet criteria set by the policy framework
- g. To review earlier cases of children who have lived in and received kinship care against the policy framework

## **3. Adopted children**

- a. To develop a policy framework regulating and formalising national and international adoption, including access to, roles and responsibilities, standards of care and guidelines. Particular provisions need to ensure adopted children have access to their inheritance
- b. Within the policy framework, to promote adoption amongst families, governmental and non-governmental programs, including through direct support to child care and education
- c. To formalize, establish and monitor standards based on the policy framework

- d. To build capacity of MOSVY and other relevant ministries central, provincial and district personnel, alternative care providers' staff focusing on the implementation of the policy framework. MOSVY personnel need to be made aware of its responsibilities with regards to supervision and protection mechanisms for adopted children
- e. To protect the child's right to identity by ensuring that all possible efforts are made to return a child to his/her biological family prior to adoption
- f. Prior to adoption, children are listened to, informed about the placement (rights and responsibilities of the family as well as of the child) and that adopting families meet criteria set by the policy framework
- g. To review earlier cases of children who have been adopted against the policy framework

#### **4. Children in Pagoda and other faith-based care**

- a. To develop a policy framework regulating and formalising Pagoda and other faith-based care, including access to, roles and responsibilities, standards of care and guidelines, in collaboration with the Ministry of Cults and Religion
- b. Within the policy framework, to promote Pagoda and other faith-based care amongst governmental, non-governmental programs and lay clergy including through direct support to child care and education
- c. To formalize, establish and monitor standards based on the policy framework
- d. To develop community based supervision and protection mechanisms for children in Pagoda and other faith-based care, taking into account the royal government's decentralised structures and responsibilities
- e. To build capacity of participating Monks, Nuns and lay clergy, other faith-based persons, MOSVY and other relevant ministries central, provincial and district personnel, alternative care providers' staff focusing on the implementation of the policy framework
- f. Prior to placement in Pagoda or other faith-based care, children are listened to, informed about the placement (rights and responsibilities of the Pagoda as well as of the child) and that Pagodas and other structures meet criteria set by the policy framework
- g. To review earlier cases of children who have lived in and received Pagoda and other faith-based care against the policy framework

#### **5. Children living in households headed by children**

- a. To develop a policy framework regulating and formalising care in children headed households, including access to, roles and responsibilities, standards of care and guidelines. Particular provisions need to ensure children in children headed households have access to their inheritance
- b. To provide adequate support mechanisms to existing children headed households
- c. To formalize, establish and monitor standards based on the policy framework

- d. To develop community based supervision and protection mechanisms for children in households headed by children, taking into account the royal government's decentralised structures and responsibilities
- e. To build capacity of MOSVY and other relevant ministries central, provincial and district personnel, alternative care providers' staff focusing on the implementation of the policy framework
- f. Prior to placement in children headed household, children are listened to, informed about the placement (rights and responsibilities of the household as well as of the child) and that households meet criteria set by the policy framework
- g. To review earlier cases of children who have lived in children headed household against the policy framework

## **6. Children living in recovery centres, in orphanages and in group-home based care**

- a. To develop a policy framework regulating and formalising care in recovery centres, orphanages and group-home based care, including access to, roles and responsibilities, standards of care and guidelines
- b. To raise awareness on the rights of children in recovery centres, in orphanages and in group-home based care, and on the risks inherent to residential care
- c. Within existing policy framework, to reduce the number of children living in centres and orphanages through tracing, reunification with families, reintegration into community and group-home based care at the earliest possible moment
- d. To develop sustainable alternative models to residential care
- e. To encourage centres and orphanages to provide an environment as close as possible to family and community life e.g. group-home based care, interaction with the community
- f. To formalize, establish and monitor standards based on the policy framework
- g. To develop community based supervision and protection mechanisms for children in recovery centres, orphanages and group-home based care, taking into account the royal government's decentralised structures and responsibilities
- h. To build capacity of MOSVY and other relevant ministries central, provincial and district personnel, alternative care providers' staff focusing on the implementation of the policy framework
- i. Prior to placement in recovery centres, orphanages and group-home based care, children are listened to, informed about the placement (rights and responsibilities of the centres, orphanages, group-homes as well as of the child) and that recovery centres, orphanages and group-home based care meet criteria set by the policy framework

Other vulnerable children not under the above forms of care may also be at some point in need of alternative care. Specific objectives for children in prison and or in conflict with the law, children with disabilities and children affected by HIV/AIDS are outlined in the paragraphs 7, 8 and 9. Definitions and issues related to a broader range of vulnerabilities are discussed in chapter VIII of this Policy. Besides this policy, it is necessary to have

other approaches to care for children since these children might suffer from several and overlapping vulnerabilities and need multi-faceted interventions.

## **7. Children in conflict with the law**

- a. To develop a policy framework regulating and formalising care for children in conflict with the law living in prison and other juvenile facilities including access to, roles and responsibilities, standards of care and guidelines
- b. To promote the development of an appropriate juvenile justice system e.g. special police unit for the protection of children in conflict with the law and the prevention of juvenile delinquency, juvenile court
- c. To formalize, establish and monitor standards based on this policy framework and other relevant international/national laws and instruments on juvenile justice
- d. To develop community based supervision and protection mechanisms against abuse and exploitation of children in conflict with the law, taking into account the royal government's decentralised structures and responsibilities. This applies only to children in conflict with the law who are diverted by the courts to community-based or managed programmes
- e. To build capacity of judicial officers, lawyers, prison personnel, MOSVY and other relevant ministries central, provincial and district personnel, alternative care providers' staff focusing on the implementation and the monitoring of the policy framework
- f. To raise awareness regarding the alternatives to juvenile imprisonment and the rights of children in prison/juvenile facilities and children in conflict with the law
- g. To promote prevention and early intervention programmes, addressing the commission of crime and or the repetition of crime by children
- h. Children in conflict with the law are placed in appropriate care with regards to their age, moral, mental, physical integrity and inform them about the placement (rights and responsibilities of personnel of juvenile facilities and community based programs as well as of the child)
- i. To reduce the number of children living in prison/juvenile facilities by promoting alternatives to juvenile imprisonment at the earliest possible moment e.g. reintegration within families or by placement in community
- j. To encourage juvenile facilities and community based programs for children in conflict with the law to provide an environment as conducive as possible to community-reintegration, in particular through fostering contact with families and the provision of psycho-social and educational support

## **8. Children with disabilities**

- a. To raise awareness on the rights and abilities of children with disabilities
- b. To promote early childhood disability prevention programmes
- c. To develop a legislative framework for people with disabilities, including children with disabilities e.g. the law on "The Rights of People with Disabilities"<sup>15</sup>

- d. To increase children with disabilities access to rehabilitation services particularly through the development of community based rehabilitation programmes ensuring that children with disabilities remain in their community while receiving the necessary support
- e. To promote formal and non-formal education for children with disabilities either in mainstream schools, special schools, special classes or at home
- f. To improve access to vocational training, jobs and income generating activities benefiting children with disabilities and their families

## **9. Children affected and or infected by HIV/AIDS**

- a. To integrate assistance for children affected and or infected by HIV/AIDS in mainstream alternative care policies and programmes to avoid stigmatisation
- b. To raise community awareness on issues of discrimination and stigmatisation of children affected and or infected by HIV/AIDS including discriminatory practices such as access to inheritance and heritage
- c. To increase access to nutritional and health assistance on the long run for children affected and or infected by HIV/AIDS
- d. To ensure socio-economic support to children affected and or infected by HIV/AIDS and their families, including early intervention with children of infected parents so that they have access to counselling, alternative care, education, vocational training, inheritance and heritage, income generation and protection.

## **VII. Royal Government's Competent Institutions' Responsibilities and Alternative Care Providers' Commitments**

### **1. Royal Government's Competent Institutions' responsibilities**

- a. Review the development and the adoption of policies, laws and other legal instruments in keeping with the Convention on the Rights of the Child, the Stockholm Declaration on Children and Residential Care, the Declaration on Social and Legal Principles relating to the Protection and Wellbeing of Children with special reference to Foster Placement and Adoption Nationally and Internationally<sup>16</sup>, the United Nations Principles for the Protection of Juveniles Deprived of their Liberty<sup>17</sup>, and other relevant international legal instruments
- b. Disseminate and ensure the effective implementation of these policies, laws and other relevant legal instruments
- c. Lead the development and adopt minimum standards and guidelines on alternative care
- d. Monitor, evaluate and grant approval to governmental and non-governmental alternative care providers according to their compliance with minimum standards and guidelines

- e. Allocate budget to alternative care in keeping with number of beneficiaries, national policies, minimum standards and guidelines with particular attention to the role of its civil servants in operating, monitoring and evaluating alternative care programmes
- f. Assist non-governmental alternative care service providers in raising funds and contribute to the identification and the implementation of sustainable solutions
- g. Foster coordination and cooperation among partners

## **2. Alternative care providers' commitments**

- a. In collaboration with the royal government's competent institutions, contribute to the revision, the development and the dissemination of policies, laws, minimum standards and guidelines on alternative care in keeping with the Convention on the Rights of the Child, the Stockholm Declaration on Children and Residential Care and their principles
- b. Implement policies, laws, minimum standards and guidelines on alternative care
- c. Monitor and evaluate own activities, report to and facilitate monitoring and evaluation by Ministry of Social Affairs, Veterans and Youth Rehabilitation according to policies, minimum standards and guidelines on alternative care
- d. Seek approval from and sign an agreement with the Ministry of Social Affairs, Veterans and Youth Rehabilitation
- e. Raise funds adequate for the number of beneficiaries and allocate budget to programs in keeping with national policies, minimum standards and guidelines
- f. Contribute to the development and the implementation of sustainable solutions with particular attention paid to the promotion of family and community based solutions
- g. Contribute to the promotion of alternative care principles through staff policy (roles and responsibilities, recruitment, training, salary and management) and children admission policy (target groups, criteria, procedures)
- h. Contribute to coordination with other civil society organizations and royal government's competent institutions

## **VIII. Definitions and Issues Related to Particular Types of Vulnerability**

A wide range of contexts increase the risk of a child needing alternative care. Some situations put children at risk because parents or guardians are not there and or unable to carry out their duties e.g. orphans, substance abuse, and other factors. These increase the likelihood of parental authority to cease or to be withdrawn by competent authorities.

### **1. Orphans**

Orphan is defined as "a child below the age of 18 years who has lost one or both parents"<sup>18</sup>

According to this definition, the total number of orphans is the sum of maternal orphans and paternal orphans minus the double orphans counted in both categories.

## **2. Children in conflict with the law**

Children in conflict with the law are children alleged to have, been accused or convicted of committing a crime (whether felony or misdemeanour). Children in conflict with the law who live in prison/juvenile facilities are either children on pre-trial detention (on remand while awaiting trial) or children who have already been sentenced. Due to the lack of juvenile facilities, some children, whether convicted or on remand, are placed together with adult prisoners. This affects their right to appropriate care.

## **3. Children in very poor households**

Extremely poor families are not able to provide appropriate care to children in the families. When faced with a problem such as illness, accidents, they can do something inappropriate with their children such as abandoning, exploiting, selling or renting their children to traffickers. In such circumstances, the child may run away.

## **4. Children with disabilities**

A person with disability is any citizen who lacks any physical organ or capacity or suffers any mental impairment, which restricts his/her daily life or activities such as physical, visual or hearing impairment or mental handicap, etc, and obtains a certified document issued by Ministry responsible for Health.<sup>19</sup> For the World Health Organisation, disability is a restriction or lack of ability, because of impairment, to perform a daily activity in the manner within the range considered normal for the human being. Categories of disabilities relate to behaviour, communication, personal care, locomotion, dexterity, and particular skills. With regards to alternative care, it is not uncommon to find disabled children in residential care partly because there are more likely than others to be abandoned and less likely to be placed in family or community based care.

## **5. Children affected and or infected by HIV/AIDS**

Though a small proportion of children affected by HIV/AIDS, the HIV/AIDS pandemic and parents dying of AIDS are causing an increase in orphans and children living in children headed households. Even when parents are still alive, health related expenses affect households' economy and children caring for sick parents are likely to drop out of school. Yet the psychological and emotional needs of children affected by HIV/AIDS are as important as their practical needs such as food, education, healthcare, shelter, etc. For children affected by HIV/AIDS to enjoy the same opportunities as other children, these needs cannot be ignored. Community based approaches have been found to be effective

in establishing safety nets and supporting large number of cases but related strategies need to be strengthened.

## **6. Children affected by domestic violence**

Children exposed to domestic violence may develop particular interlinked feelings and behaviours, such as:

- Fear during parent's quarrels
- Powerlessness and feeling of guilt at not being able to stop the violence witnessed
- Loss of concentration at school
- Violence, mirroring what is being observed at home
- Hyperactivity
- Nightmares and insomnia
- Sadness and depression

Domestic violence is a common cause for children to run away from home and it can also lead authorities to withdraw parental authority and transfer it to an alternative care provider.

## **7. Children affected by addiction and vices**

Addiction and vices in a family, whether through alcoholism, drug abuse or gambling, puts a child at risk in several ways. Substance abuse in adults and children affects health and creates physical dependence, often resulting in physiological and psychological damage. Like alcohol or drug, gambling is addictive, and traps the whole family in a vicious debt cycle that affects living and economic circumstances. Alcoholism, drug abuse and gambling can trigger disputes and domestic violence threatening all family members. Moreover such situations potentially cause households to pawn or sell productive assets to fulfil their addiction demands, further jeopardizing family's livelihood. In such case, parents can even be tempted to sell their child.

## **8. Street children**

The term street children encompass different situations:

- Children living on the street have usually cut ties with their families and live all their time unsupervised on the streets
- Children spend a significant amount of time on the streets to provide income for their families or for themselves. They usually have a home to return to at night
- Children are members of homeless families and live with them on the streets

The reasons for coming to the streets are rural poverty, domestic violence, remarriage, etc.

All these children, to some extent, depending upon the level of parental support available, can be exposed to physical and emotional dangers including violence, gambling, delinquency, substance abuse, trafficking and prostitution that need to be taken into account in defining effective interventions.

## **9. Abused children**

Abused children refers to:

- Children seriously hurt through physical or emotional abuse
- Children victims of sexual abuse such as rape, incest, indecent exposure or sexual relations with an adult. Paedophilia and debauchery are a form of sexual abuse by an adult of a child below the age of puberty.

Child abuse is a common cause for children to run away from home and it can also lead authorities to withdraw parental authority and transfer it to an alternative care provider.

## **10. Exploited children**

Exploited children refers to:

- Children victims of sexual exploitation in cases of prostitution or involvement in the pornography industry. Commercial sexual exploitation of children refers to sexual use of children by adults in exchange of cash or in-kind to the child or a third person.
- Child labour when children work long hours each day for a petty wage under conditions detrimental to physical and emotional development of children and prevents them from going to school. Such work is harmful to physical, cognitive, emotional and social development of children. It can separate children from families and denies them of a future. (Convention 182 of the International Labour Organization and Prakas No. 106 of Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation on the Prohibition of Children Working in Hazardous Workplaces)
- Children who are systematically prevented from going to school because she/he has to work on family farm or to perform domestic chores for relatives for instance. As in many countries, Cambodian culture and tradition values tolerate and even encourage children participation to family survival. The contribution of children to family survival is usually admired and it is seen as an essential part of a child's socialisation process and a means of transmitting acquired skills from one generation to the next. These cases are not considered as child labour if the child is

allowed to study and if the work is not harmful to physical, emotional, intellectual and social development of the child.

- Children who are trafficked. Trafficking is defined as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat, use of force, or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of a position of vulnerability or of the giving or receiving payments or benefits to achieve the consent of a person having control over another person, for purpose of exploitation. Exploitation shall include the exploitation of others through prostitution or other forms of sexual exploitation, forced labour or service, slavery or practices similar to slavery, servitude or removal of organs; The consent of a victim of trafficking in children and women to the intended exploitation ... shall be irrelevant where any of the means set forth ... have been used”<sup>20</sup>.

Child exploitation is a common cause for children to run away from home and it can also lead authorities to withdraw parental authority and transfer it to an alternative care provider.

**MINISTER**

**Signature and Seal**

**ITH SAM HENG**

## Annex of Policy on Alternative Care for Children

- <sup>1</sup> UNICEF (2004). Annual Report. Phnom Penh: UNICEF Cambodia
- <sup>2</sup> UNAIDS, UNICEF, USAID (2004). “Children on the brink 2004. A joint report of new orphan estimates and a framework for action”. New York: UNICEF
- <sup>3</sup> Survey of Phnom Penh Department of Social Affairs, Veterans and Youth Rehabilitation on Street Children in 2004.
- <sup>4</sup> Surveillance Unit (2004). HIV Sentinel Surveillance (HSS) 2003: Results, Trends and Estimates. Phnom Penh: National Center for HIV/AIDS, Dermatology and STDs
- <sup>5</sup> Steinfatt, T. M. (2003). Measuring the Number of Trafficked Women and Children in Cambodia: A Direct Observation Field Study. Phnom Penh: USAID
- <sup>6</sup> Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation (2001) “The National survey of providers of alternative care for children in Cambodia”. Phnom Penh: MOSALVY with technical support from UNICEF
- <sup>7</sup> Tolfree, D. (1995). Roofs and Roots. The care of separated children in the developing world. London: Save the Children UK
- <sup>8</sup> Cambodian Law on Marriage and Family (1989) article 103
- <sup>9</sup> Draft Civil Code (2003)
- <sup>10</sup> Draft Inter-Country Adoption Law (2006)
- <sup>11</sup> Convention on the Rights of the Child, Article 20
- <sup>12</sup> Second International Conference on Children and Residential Care (May 2003). Stockholm Declaration on Children in Residential Care
- <sup>13</sup> Ministry of Social Affairs, Labour, Vocational training and Youth Rehabilitation (2003). Report on the Post-Stockholm International Conference “Children and Residential Care”, October 14-15, 2003. Phnom Penh: MOSALVY
- <sup>14</sup> Convention on the Rights of the Child (1992); Optional Protocols on the Sale of Children, Child Prostitution and Child Pornography (2000), on the involvement of Children in Armed Conflict (2000); Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (accession in 1957); Forced Labour Convention (accession in 1970); 2000 Convention Against Transnational Organised Crime, Protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Protocol I) and Against the Smuggling of Migrants by Land, Sea and Air (Protocol II) (2001); International Covenant on Economic, Social and Cultural Rights (1980); Convention Concerning Minimum Age for Admission to Employment (1973); Convention on the Elimination of All Forms of Discrimination Against Women (1992); Optional Protocol to the CEDAW (2001)
- <sup>15</sup> Draft law on the rights of people with disabilities (2006)
- <sup>16</sup> Declaration on Social and Legal Principles relating to the Protection and Welfare of Children with special reference to Foster Placement and Adoption, Nationally and Internationally
- <sup>17</sup> United Nations Rules for the Protection of Juveniles Deprived of their Liberty
- <sup>18</sup> UNAIDS, UNICEF, USAID orphans are defined as follows:
- Maternal orphans are children whose mothers have died. Fathers are either alive or their situation is unknown (includes double orphans).
  - Paternal orphans are children whose fathers have died. Mothers are either alive or their situation is unknown (includes double orphans).
  - Double orphans are children whose both parents have died
- <sup>19</sup> Please see footnote 15
- <sup>20</sup> Memorandum of understanding between the government of the Kingdom of Cambodia and the government of the Kingdom of Thailand on bilateral cooperation for eliminating trafficking in children and women and assisting victims of trafficking (May 2003)