



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination

### Concluding observations on the combined fourteenth to seventeenth reports of Cambodia\*

1. The Committee considered the combined fourteenth to seventeenth reports of Cambodia (CERD/C/KHM/14-17), submitted in one document, at its 2780th and 2781st meetings (see CERD/C/SR.2780 and 2781), held on 28 and 29 November 2019. At its 2794th meeting, held on 9 December 2019, it adopted the present concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the combined fourteenth to seventeenth reports of the State party but regrets that it was submitted with six years' delay. The Committee expresses its appreciation for the constructive dialogue with the State party's large high-level delegation. The Committee wishes to thank the delegation for the information provided during the consideration of the report and the written information provided after the review.

#### B. Positive aspects

3. The Committee welcomes the State party's ratification of the Convention on the Rights of Persons with Disabilities on 20 December 2012 and accession to the Convention for the Protection of All Persons from Enforced Disappearance on 27 June 2013.

4. The Committee further welcomes the following legislative and policy measures taken by the State party:

(a) The adoption of the National Action Plan to Prevent Violence against Women (2019–2023);

(b) The adoption of the Education Strategic Plan 2014–2018 and the Education Strategic Plan 2019–2023;

(c) The adoption of the National Action Plan on Multi-Languages Education 2015–2018 and the National Action Plan on Multi-Languages Education 2019–2023;

(d) The addition of articles 128 and 130 of the Constitution declaring the judicial power an independent power and that the legislative and executive cannot exercise judicial power;

(e) As of May 2018, 24 indigenous communities have received communal land titles;

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\* Adopted by the Committee at its 100th session (25 November–13 December 2019).



(f) The gradual resettlement of ethnic Vietnamese onto suitable lands in the Kampong Chhnang province according to a plan to resettle all floating communities onto drylands.

## C. Concerns and recommendations

### Statistical data

5. The Committee takes note of the data provided by the State party in its report and during the dialogue on certain ethnic groups. However, it regrets that the data were missing indicators such as years and were not comprehensive enough to allow an empirical basis for evaluating the equal enjoyment of rights under the Convention by ethnic groups and indigenous peoples (arts. 1 and 5).

6. **Recalling the guidelines for reporting under the Convention (CERD/C/2007/1), the Committee recommends that, in its next periodic report, the State party provide disaggregated data on the ethnic composition of the population, including of indigenous peoples, refugees and asylum seekers, and supply statistics on the enjoyment of economic, social and cultural rights, disaggregated by ethnic group, in order to provide the Committee with an empirical basis for evaluating the equal enjoyment of rights under the Convention.**

### National human rights institution

7. While noting the information provided by the State party on the upcoming draft law on the establishment of a national human rights institution is to be available for consultation in 2020, the Committee remains concerned that despite previous commitments by the State party, and efforts by civil society to create such a draft law, an independent national human rights institution has not yet been established (art. 2).

8. **The Committee recommends that the State party accelerate the establishment of an independent national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), in full consultation with civil society organizations and relevant stakeholders.**

### Definition of racial discrimination

9. The Committee is concerned that article 31 of the Constitution and articles 265 to 270 of the Criminal Code do not prohibit all grounds for racial discrimination, such as colour and descent, as stated in article 1 of the Convention (art. 1).

10. **Recalling its general recommendation No. 14 (1993) on article 1 (1) of the Convention, the Committee recommends that the State party bring the above-mentioned articles of the Constitution and the Criminal Code into line with article 1 of the Convention.**

### Anti-racial discrimination legislation

11. While welcoming the Government's consideration to draft a specific law on racial discrimination in its legal programme, the Committee regrets the current absence of anti-discrimination legislation in the State party (arts. 1, 2 and 4).

12. **The Committee recommends that the State party expeditiously adopt a comprehensive law that defines and prohibits direct and indirect racial discrimination on all prohibited grounds, in line with article 1 of the Convention, and develop a national action plan against racial discrimination.**

### Hate speech and hate crimes

13. The Committee regrets the lack of comprehensive information from the State party on hate speech and is concerned by reports of the continuation of hate speech in the State party against minority groups such as the ethnic Vietnamese. The Committee also regrets

the lack of comprehensive information on the adoption, implementation and impact of legal provisions prohibiting hate crimes and hate speech (art. 4).

14. **Recalling its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention, No. 8 (1990) concerning the interpretation and application of article 1 (1) and (4) of the Convention, No. 15 (1993) on article 4 of the Convention and No. 35 (2013) on combating racist hate speech, the Committee urges the State party to prevent hate speech in the State party and ensure that any provisions prohibiting hate crimes and hate speech are in line with article 4 of the Convention. The Committee recommends that, in its next periodic report, the State party provide detailed information about the adoption, implementation and impact of legislation on hate crime and hate speech, in compliance with article 4.**

#### **Domestic implementation of the Convention**

15. The Committee regrets the lack of specific information dealing with the implementation of the Convention, and further regrets the lack of examples of court decisions based on the rights guaranteed in the Convention (art. 6).

16. **The Committee recommends that the State party provide examples of cases of the implementation of the rights in the Convention – such as court decisions based on the rights in the Convention – in its next periodic report.**

#### **Complaints of racial discrimination**

17. The Committee regrets the lack of comprehensive information and data on racial discrimination complaints filed in the State party, and their outcomes (arts. 6 and 7).

18. **The Committee reminds the State party that a low number of complaints does not signify the absence of racial discrimination in the State party, but may rather signify that barriers exist with regard to invoking the rights under the Convention before the domestic courts, including lack of public awareness of those rights and of the methods available for seeking judicial remedies. Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee requests that the State party include information in its next periodic report on cases of racial discrimination and their outcomes, and on cases where the Convention has been invoked in national courts, including statistics on the number and types of complaints of racial discrimination and on the number of prosecutions and convictions of perpetrators, disaggregated by the age, gender, ethnic and national origin of the victims, and information on compensation granted to victims. The Committee recommends that the State party undertake public education campaigns on the rights under the Convention and on how to file complaints of racial discrimination.**

#### **Independence of the judiciary**

19. The Committee notes efforts by the State party to ensure the independence of the judiciary and the data provided on the prosecution of judges and lawyers for corruption. The Committee is concerned, however, that corruption continues within the judiciary, which impacts the ability of minorities and vulnerable groups to access justice. The Committee is also deeply concerned about reports that the judiciary may be used by the executive to silence human rights defenders, including defenders of rights of minorities (arts. 5 and 6).

20. **The Committee recommends that the State party step up efforts to prevent corruption, including in the judiciary, and ensure the investigation and prosecution into acts of corruption by individuals at all levels. The Committee recommends that the State party take steps to ensure the full independence and impartiality of the judiciary in law and in practice, and prevent its misuse to suppress human rights defenders, including defenders of rights of minorities.**

### Access to justice

21. While welcoming the increase in the national legal aid budget, and the increase in numbers of underprivileged individuals receiving legal aid, the Committee is concerned about barriers in access to justice for minorities owing to remote locality, a limited understanding of laws and judicial processes, and a lack of trust in the justice system (arts. 5 and 6).

**22. Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party step up efforts to eliminate barriers and provide access to justice to minorities, including through continuing the provision of legal aid and undertaking public education campaigns on the rights under the Convention and on how to file complaints of racial discrimination, in particular among vulnerable groups, especially those in remote localities. The Committee recommends that the State party assist individuals wishing to access justice in filing their complaints.**

### Situation of ethnic Vietnamese

23. The Committee is concerned about the situation of people of Vietnamese origin, in particular about:

(a) Reports of violence against ethnic Vietnamese, including a few reported cases of mob killings;

(b) Reports of hate speech against ethnic Vietnamese, including online, and reports of hate speech during elections, including by political leaders;

(c) Ethnic Vietnamese who are being relocated from floating villages and are reportedly being discriminated against in obtaining access to adequate housing, water and electricity;

(d) Ethnic Vietnamese registered recently as permanent residents in Cambodia who do not have clear rights under their permanent resident cards, and who face discrimination, the denial of basic rights and services, and a lack of access to education, employment and legal protection in the criminal justice system;

(e) Reports that, although children born from Vietnamese parents who live legally in the State party have the possibility to obtain birth certificates, in practice such birth certificates are not being issued, which leads to challenges in accessing education, health care and services;

(f) Challenges of ethnic Vietnamese children in accessing education (art. 5).

24. **The Committee recommends that the State party:**

(a) **Consider drafting a national action plan against racial discrimination;**

(b) **Take all necessary measures to protect ethnic Vietnamese from violence, and ensure the proper registration, investigation, prosecution and conviction of perpetrators of any cases of hate crimes, especially those involving violence;**

(c) **Prevent hate speech against ethnic Vietnamese, including through educational campaigns on tolerance and the elimination of stereotypes, as well as the proper registration, investigation, prosecution and conviction of perpetrators of hate speech, at all levels;**

(d) **Take measures to ensure that any relocations of ethnic Vietnamese are carried out following the basic principles and guidelines on development-based evictions and displacement, and ensure equal access to adequate housing, water and electricity;**

(e) **Define rights under the permanent resident cards, in order to ensure access to education, employment, health care, basic services and legal protection in the criminal justice system;**

(f) **Ensure the birth registration of all ethnic Vietnamese children born in the State party, and ensure the issuance of birth certificates in practice, to eliminate barriers in accessing education, health care and services;**

(g) **Eliminate barriers in accessing education.**

#### **Situation of Khmer Krom**

25. While taking note of the information provided by the State party on identity documentation for Khmer Krom, the Committee remains concerned that some Khmer Krom continue to be denied legal documents in practice, which puts them at risk of statelessness and leads to discrimination and barriers in accessing land, employment, education, health care and basic services. The Committee is also concerned that Khmer Krom are still not able to record their true name and place of birth in their identification documents (arts. 2 and 5).

26. **The Committee recommends that the State party ensure that the National Strategic Plan on Identification (2019–2026) addresses the specific challenges faced by minorities, including Khmer Krom, in accessing identification documents. The Committee also recommends that the State party take measures to ensure identification documents are provided to Khmer Krom, recognizing their citizenship, and allow Khmer Krom to record their true name and place of birth in their identification documents. The Committee further recommends the State party ensure equal access of Khmer Krom to land, employment, education and basic services.**

#### **Situation of indigenous people**

27. While welcoming the State party's recognition of and efforts to support indigenous peoples, including some improvements in the rights of indigenous children in different fields, such as education, the Committee is still concerned about challenges facing the situation of indigenous peoples, in particular about:

(a) The lack of detailed information, including data on the enjoyment of socioeconomic rights by the 24 indigenous groups;

(b) Reports that indigenous peoples continue to be affected by a lack of access to education, health care and an adequate standard of living;

(c) The insufficient free, prior and informed consent with affected indigenous communities, while natural resource extraction, industrial and development projects continue;

(d) Reported intimidation and attacks against indigenous peoples as they seek to exercise their rights as it relates to communal lands;

(e) The current land titling process, which is too lengthy and bureaucratic and therefore prevents some indigenous groups from being able to efficiently register their collective land;

(f) Prolonged land disputes that reportedly leave affected indigenous individuals homeless during settlement and make indigenous lands susceptible to land grabbing for commercial purposes (arts. 2 and 5).

28. **Bearing in mind its general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee welcomes the Government's development of a strategic plan for the development of indigenous peoples 2020–2024, and recommends that the State party:**

(a) **Provide detailed information and statistical data on the 24 indigenous groups identified in the State party;**

(b) **Take measures to ensure access to education, health care and an adequate standard of living by all indigenous peoples;**

(c) **Take measures to ensure free, prior and informed consent with indigenous communities in matters that impact them, in accordance with international standards;**

(d) **Protect indigenous peoples from attacks and intimidation from government agents and private companies as they seek to exercise their rights as it relates to communal lands;**

(e) **Simplify the procedure of land titling allowing for indigenous peoples to gain recognition and claim their land;**

(f) **Expedite the settling of land disputes and take measures to prevent the displacement of and homelessness among indigenous peoples.**

#### **Situation of minority women**

29. The Committee is concerned that minority women face multiple and intersecting forms of discrimination on the basis of ethnic origin and gender, including barriers in access to employment, education, health care and justice. The Committee is concerned at reports that indigenous women are particularly vulnerable to violence (arts. 2 and 5).

30. **Recalling its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party eliminate all barriers faced by minority women in access to employment, education, health care and justice. To this end, it recommends that the State party incorporate a minority-women perspective in all policies and strategies. The Committee also recommends that the State party ensure that violence against ethnic-minority and indigenous women are incorporated into its national action plans and efforts to end violence against women.**

#### **Trafficking in persons**

31. The Committee notes efforts by the State party to prevent trafficking in persons, such as the National Plan of Action to Counter Trafficking (2019–2023), to monitor places of prostitution and to disseminate information to business owners on issues related to trafficking. However, the Committee is deeply concerned that the State party remains a source, destination and transit country for trafficking in persons, in particular of women and girls, for purposes of sexual and labour exploitation. The Committee is particularly concerned about trafficking in children (arts. 2 and 5).

32. **The Committee recommends that the State party continue its efforts to prevent trafficking in persons, and in particular:**

(a) **Investigate all instances of trafficking in persons brought to its attention, prosecute the perpetrators and punish them appropriately, and ensure that victims receive reparation;**

(b) **Strengthen protection and assistance for victims and facilitate the lodging of complaints, in particular by ensuring that victims have effective access to legal and psychological assistance, and social services, including housing, in cooperation with civil society organizations;**

(c) **Conduct training and awareness-raising activities for law enforcement officials, including border immigration officials, on the identification of victims of trafficking in persons;**

(d) **Take measures to prevent trafficking in children in conjunction with the United Nations Children's Fund.**

#### **Statelessness**

33. The Committee is concerned by the lack of sufficient protections to ensure that children born in the State party, who would otherwise be stateless, can acquire nationality and have access to identity documents (art. 5).

34. **Recalling its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party take measures to ensure that children born in the State party who would otherwise be stateless have the ability to acquire nationality and have access to identity documents. The Committee recommends that the State party ratify the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.**

#### **Refugees and asylum seekers**

35. The Committee is deeply concerned at reports that the principle of non-refoulement is not fully respected in law and in practice. The Committee is also concerned at the lack of procedural safeguards for applicants for asylum and refugee status, in particular those whose applications are denied (art. 5).

36. **The Committee recommends that the State party take all measures to ensure the full respect of the principle of non-refoulement. Recalling its general recommendation No. 22 (1996) on refugees and displaced persons in the context of article 5 of the Convention, the Committee recommends that the State party ensure judicial appeals procedures for asylum seekers and allow asylum seekers and refugees to have access to basic rights.**

#### **Civil society organizations**

37. The Committee regrets the reportedly difficult and complex registration procedures for civil society organizations, namely those working on the rights of ethnic minorities and indigenous peoples, which lacks procedural safeguards to challenge the denial of registration, and is concerned about the advance notification required by civil society organizations for certain activities (art. 5).

38. **The Committee recommends that the State party ensure an open space for the operation of civil society organizations, and remove complex registration procedures and limitations on their ability to operate, with a view to facilitating the work of human rights defenders.**

#### **Human rights training**

39. The Committee notes the educational initiative mentioned by the State party in order to encourage tolerance and eliminate prejudice stereotypes and hatred in a post-conflict context. However, the Committee remains concerned about the continuance and prevalence of prejudice and discrimination in the State party (art. 7).

40. **The Committee recommends that the State party increase its efforts to provide human rights training, including in schools, and to raise public awareness of the importance of tolerance, coexistence, ethnic and cultural diversity and the fight against racial discrimination, and to provide human rights training, in particular on the rights under this Convention, among law enforcement officials, members of the judiciary, prison officers, lawyers and teachers.**

### **D. Other recommendations**

#### **Ratification of other treaties**

41. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

#### **Amendment to article 8 of the Convention**

42. The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

#### **Declaration under article 14 of the Convention**

43. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual communications.

#### **Follow-up to the Durban Declaration and Programme of Action**

44. In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

#### **International Decade for People of African Descent**

45. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies in collaboration with organizations and persons of African descent. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

#### **Consultations with civil society**

46. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

#### **Dissemination of information**

47. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all State bodies entrusted with the implementation of the Convention, including municipalities, and publicized on the website of the Ministry of Foreign Affairs in the official and other commonly used languages, as appropriate.

#### **Common core document**

48. The Committee encourages the State party to update its common core document, which dates to 1998, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of

General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

**Follow-up to the present concluding observations**

49. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 8 (national human rights institution) and 40 (human rights training) above.

**Paragraphs of particular importance**

50. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 14 (hate speech and hate crimes), 24 (situation of ethnic Vietnamese), 26 (situation of Khmer Krom), and 28 (situation of indigenous peoples) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

**Preparation of the next periodic report**

51. The Committee recommends that the State party submit its combined eighteenth to twentieth periodic reports, as a single document, by 28 December 2022, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports and 42,400 words for the common core document.

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