



International Covenant on Civil and Political Rights

Distr.: General
16 March 2022

Original: English

Human Rights Committee 134th session

Summary record of the 3852nd meeting

Held at the Palais Wilson, Geneva, on Thursday, 10 March 2022, at 10 a.m.

Chair: Ms. Pazartzis

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant
(*continued*)

Third periodic report of Cambodia (continued)

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.



The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Third periodic report of Cambodia (continued) (CCPR/C/KHM/3;
CCPR/C/KHM/Q/3; CCPR/C/KHM/RQ/3)

1. *At the invitation of the Chair, the delegation of Cambodia joined the meeting.*
2. **The Chair** invited the delegation to continue replying to the questions raised by Committee members at the previous meeting.
3. **Ms. Long** (Cambodia), speaking via video link, said that the third national action plan on the prevention of violence against women had four pillars: prevention; legal protection and services; implementation of law and policy; and monitoring and evaluation. The plan had been adopted following consultations with a wide range of stakeholders, including members of non-governmental organizations, civil society and women who were survivors of violence. Consequently, the plan took into consideration the vulnerabilities faced by different groups of women. The plan also built on the lessons learned from the implementation of the second national action plan on the prevention of violence against women.
4. In 2017, in order to tackle victim-blaming, the Government had established an advisory group to improve media reporting on violence against women. A media code for reporting on such violence had been issued with a view to changing societal attitudes. The Ministry of Women's Affairs had also developed an information and communication strategy for all media outlets.
5. Violence against women and intimate partner violence was prohibited under the 2005 Law on the Prevention of Domestic Violence and Protection of Victims and criminalized under the Criminal Code. The Government had increased the budget allocated to legal aid services for female victims of violence, and the national budget for legal aid services had been more than doubled between 2014 and 2019. The Prime Minister had recently established a group of lawyers to provide pro bono legal services to women and girls. A legal aid policy, which the Government planned to adopt in 2022, included provisions to ensure adequate legal aid for women. The Government was planning to amend the 2005 Law; to that end, a comprehensive review process, with the cooperation of United Nations agencies and civil society, had been set to begin in 2019 but had been delayed by the outbreak of the coronavirus disease (COVID-19) pandemic and would be conducted in 2022. The Law would be amended in line with international laws and standards, including the Convention on the Elimination of All Forms of Discrimination against Women. The relevant ministries and institutions were still working on aggregating data on convictions related to violence against women.
6. There was a policy and legal framework in place to protect the rights of lesbian, gay, bisexual, transgender and intersex persons. Nevertheless, the Government was undertaking awareness-raising and educational measures with a view to eliminating discrimination against them. While same-sex marriage was not recognized under civil law, it was not criminalized. Further advocacy and awareness-raising was needed to reduce societal opposition to it before the civil law could be amended.
7. **Ms. Meng** (Cambodia), speaking via video link, said that civil society organizations had been given an opportunity in 2007 to comment on the bill establishing a national human rights institution. Following a delay related to technical issues, the Cambodian Human Rights Committee had drafted a law in collaboration with a range of international experts, including some from the office of the United Nations High Commissioner for Human Rights in Cambodia, in order to ensure the law complied with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). A first draft had been published in 2021 with a view to consultation with a wide range of stakeholders. Civil society organizations had been invited to participate in consultations co-chaired by representatives of the Office of the United Nations High Commissioner for Human Rights. However, the organizations had rejected the invitation and issued a joint statement criticizing the Government. The Cambodian Human Rights Committee continued to work with the Office of the United Nations High Commissioner for Human Rights and had held

consultations with other international organizations, non-governmental organizations, higher education institutions and the bar association. Further consultations were planned with organizations for women and persons with disabilities. Following the consultations, a second draft of the bill would be issued in April 2022. More consultations would be held throughout 2022 with a view to finalizing the bill and submitting it to the Council of Ministers at the start of 2023.

8. **Mr. Pang** (Cambodia), speaking via video link, said that Vietnamese nationals residing in Cambodia were filing applications to register as immigrants. According to statistics from 2015 and 2017, there were over 180,000 Vietnamese nationals residing in Cambodia. Around 80,000 of them were women and some 125,000 were over the age of 18 years. Children born to Vietnamese parents and living in Cambodia were considered to be Vietnamese, and were not stateless. Such children were entitled to apply for Cambodian nationality if they were born in the country and their parents were living there legally at the time of their birth.

9. The term “Khmer Krom” did not refer to origin or citizenship, but to a geographical location in the lower part of the Mekong Delta, which was currently part of Viet Nam. Most people from the Khmer Krom region who now lived in Cambodia had received national identity documents. As the Government did not distinguish between Cambodians from different regions, no data were available on the number of people from the Khmer Krom region who had received an identity document. Some applications had been rejected because the applicants did not have the necessary information and official proof needed for an identity document.

10. **Mr. Bulkan** said that, given that there were many minority communities in the State party who experienced discrimination, he would like to know if the Government would consider providing a legal framework to combat discrimination.

11. While the Criminal Code prohibited torture, the act of torture was not defined. Furthermore, there were reports that three detainees had died as a result of torture. He would therefore like to know if the Government would consider defining torture and prohibiting the use in judicial proceedings of any evidence obtained as a result of torture. He would welcome an indication of the current percentage of criminal convictions that were based on disputed confessions.

12. It would be useful to receive more detailed information on the work of the National Committee against Torture, including comprehensive statistics on what that body had achieved thus far. He would like to know how many investigations it had undertaken and what their outcome had been. Had anyone been charged as a result of those investigations? In the light of reports that members of the National Committee against Torture were also members of the ruling Cambodian People’s Party, he would like the delegation to explain how the independence of the National Committee was guaranteed. In the light of reports on the prevalence of torture and its use, especially by the police, in obtaining confessions, he would like the delegation to describe any measures taken or envisaged to address that problem. Would the National Committee be allowed to visit prisons and detention centres without notice?

13. There were reports of serious violations of freedom of expression in the State party. It was alleged that respected media outlets had been shut down and criminal and civil laws were used to intimidate, terrorize and silence journalists critical of the Government. While the State party had explained that journalists and activists had been charged and prosecuted for provoking unrest, the public record of those charged, convicted and imprisoned revealed that they had simply been engaged in critical reporting on current affairs. He would therefore like the delegation to explain how the targeting of the independent media and individual journalists was compatible with the State party’s obligations under article 19 of the Covenant to respect and ensure the freedom of expression of all those subject to its jurisdiction. He would also appreciate an explanation of how the existing restrictions on Internet content were compatible with international human rights law. He would like to know whether media standards were clearly defined; if so, he would appreciate an outline of their content. Were they made available to all media outfits and journalists? He would like to know the procedure for blocking or suspending a website, and which law set out the procedure. He would also

like to know at what level such decisions were taken, what oversight existed and whether there was any avenue to appeal those decisions. Was there an independent body that monitored standards in journalism and, if so, how was its independence guaranteed?

14. He would like to know whether the State party was prepared to make a commitment, in line with its obligations under the Covenant, to end its campaign against journalists, human rights defenders and members of civil society and to refrain from further criminalizing speech that was critical, or perceived to be critical, of the Government.

15. **Mr. Soh** said that the available data suggested that in 2020 the average occupancy across the country's prisons had been over 300 per cent of capacity. As a result, prisoners could no longer be appropriately segregated, which contravened article 10 (2) of the Covenant. The overuse of imprisonment was a major contributing factor to overcrowding; numerous international instruments encouraged a change of focus from punishment and isolation to restorative justice and reintegration. He would appreciate additional information on alternatives to custodial sentences, such as judicial supervision and community work, and on the number of persons who had been sentenced to such measures. He would also like the delegation to indicate whether those alternatives complied with the United Nations Standard Minimum Rules for Non-custodial Measures. Was the State party considering introducing other non-custodial options?

16. With regard to the complaints system available to detainees and the regular inspections of correctional centres, he would like to have information on the number of complaints filed by inmates during the reporting period, as well as on the number of investigations conducted, prosecutions initiated and convictions handed down as a result of those complaints or inspections.

17. With regard to pretrial detention, he wished to know whether a set of specific guidelines had been provided to judges to use in their decisions on pretrial detention. He would like the delegation to explain the judicial reasoning followed in pretrial detention decisions in the cases of women detainees, including those with young children.

18. While he appreciated the efforts made to increase funding for legal aid, reports of disregard for due process were worrisome. He would like to know what measures the State party had taken to ensure the quality and consistency of the legal assistance provided. It would also be useful to know why the adoption of a comprehensive national policy on legal aid had been delayed.

19. **Ms. Kpatcha Tchamdja** said that she would encourage the delegation to provide more detailed answers to the questions asked in the previous meeting. While she welcomed the information provided by the delegation on measures taken in respect of detainees in the context of the COVID-19 pandemic, she would appreciate information on COVID-19 outbreaks in prisons and other places of detention and on the number of deaths, the measures taken to ensure the availability of COVID-19 screening tests and treatment for detainees, and the rate of vaccination coverage of prisoners.

20. With regard to prison overcrowding, she would like an update on the implementation of the planned measures and the current situation in prisons and other places of detention in the State party.

21. In the light of information provided by the Government that persons who suffered from serious drug addiction were deprived of their liberty and forced to undergo medical treatment, she would like to know how those individuals were identified. She would welcome information on the legal safeguards in place to ensure that people who were dependent on drugs were not subjected to arbitrary deprivation of their liberty, as well as information on any measures taken to treat drug addiction as primarily a human rights and health issue. She would also like to know how many detention and rehabilitation centres there were for drug addicts in the State party and whether the use of such centres had reduced the consumption of drugs.

22. The Committee had received reports that homeless people, including persons with mental disabilities and street children, were often detained against their will and placed in the Prey Speu Social Centre in Phnom Penh. She wished to know what measures were in place

to prevent the arbitrary detention of such people. It would also be useful to have specific information on the living conditions in the Centre.

23. She would welcome further details of the State party's efforts to combat corruption in the judiciary, including figures for the number of complaints of corruption lodged against judges and the number of judges sanctioned by the Disciplinary Council of the Supreme Council of the Magistracy. The State party had indicated that the anti-corruption unit had arrested and prosecuted some court staff for corruption. She would like to know what positions the accused had held and what sentences they had received.

24. The Committee had received reports that some judges, prosecutors and court staff were openly members of the ruling party and that the courts were the weapon of choice for the ruling party in its continued targeting of its perceived opponents. She would like to know whether the independence of the judiciary vis-à-vis the executive power was guaranteed in practice and whether measures had been taken to make judicial decisions available in order to allow the parties to a trial to exercise their right to legal remedies.

25. **Mr. Furuya** said that he would like to receive in writing comprehensive data from 2015 to 2022 concerning the number of complaints, investigations, prosecutions and convictions related to trafficking and labour exploitation, as well as the number of victims who had received protection. In the light of reports that the cooperation framework agreed with Thailand to eliminate trafficking and exploitation was not proving very effective, he would welcome information on any concrete results of the cooperation, including data on the repatriation and reintegration of victims, particularly child victims.

26. The Committee had received information that there were many instances of child debt-bondage, particularly within the brick industry. It would like to know what measures had been taken by the Ministry of Labour and other authorities to inspect and monitor the situation of those workers. He would also appreciate data in writing on the number of investigations, prosecutions and convictions related to forced labour, including child labour, under labour or anti-trafficking legislation.

The meeting was suspended at 11 a.m. and resumed at 11.20 a.m.

27. **Mr. Chin** (Cambodia), speaking via video link, said that the National Committee against Torture had been established in 2017 and had been investigating cases of torture, ill-treatment and death during detention. Its investigations involved interviews with witnesses and law enforcement officials. The Government had no plans to introduce specific legislation on torture as the Criminal Code contained anti-torture provisions; it was, however, looking into whether such legislation might be useful from a technical point of view. The National Committee against Torture had legal independence and officials serving on the Committee had to resign from their positions in public service.

28. Confessions made under duress could not be used as proof of guilt. Under the Constitution and the Criminal Code, confessions made as a result of ill-treatment or torture were not valid in a court of law. State officials were prohibited from using torture, and perpetrators, including law enforcement officers, were criminally liable. Law enforcement officers had received training in that regard. It was the responsibility of the courts to impose penalties in cases of torture and the prison authorities were bound to uphold their decisions.

29. With regard to the deaths of three detainees, the Department of Prisons had initiated investigations. Prison officials had been investigated and a range of documents had been examined, including forensic documents, the detainees' medical records, witness statements and the death certificates. The Cambodian Human Rights Committee had investigated those cases and found that, in two of the cases, no torture had been involved. In the last case, two military police officers had been found guilty of torture and placed in pretrial detention.

30. Prison and penal reforms were under examination. The Government was considering alternatives to imprisonment and community-based treatment of offenders, with an initial focus on juvenile offenders.

31. It was the prerogative of the judiciary to decide on the length of pretrial detention in accordance with the provisions of the Criminal Code. Cambodia had ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment and had established an official mechanism to prevent torture in 2009. In order to ensure that the rights of detainees were protected, the Government had allowed several United Nations experts to visit the country. The Cambodian Human Rights Committee also conducted regular inspections of places of detention to ensure that the rights of detainees were being respected. During those inspections, the Committee also disseminated information on the rights of detainees and intervened in cases where the rights of detainees were not being respected.

32. Releasing prisoners when there were no legal grounds for doing so and without going through the necessary legal procedures, as called for by various civil society organizations, would not be an appropriate response to overcrowding and the spread of COVID-19 in prisons. Rather, those issues should be addressed through existing mechanisms, such as the commutation and suspension of sentences and conditional release. Measures had been adopted to address the spread of COVID-19 in prisons; during the recent outbreak, detainees had been transferred to other facilities and early release had been considered for those imprisoned for minor offences. Prisoners had received the first two doses of the COVID-19 vaccine.

33. The Prey Speu Social Centre provided homeless persons, pregnant women and other vulnerable individuals not only with accommodation, food, training and counselling, but also with a safe environment and a range of services, including health care in the Centre's own medical facilities or in a hospital if necessary. The Centre's residents were never prosecuted or tortured. Some were assisted in returning to their places of origin, where they received temporary means of support.

34. Decisions on pretrial detention were taken in accordance with the law, which stipulated that such detention should be avoided where possible but was permissible in certain circumstances. Pretrial detention could last for six months and could be renewed twice, for a further period of six months on each occasion, while investigations were being conducted. It could not last longer than 18 months in total, except in the case of felonies, when it could last 24 months or more. The large number of arrests, along with a lack of judges, prosecutors and defence attorneys, meant that pretrial detention could be lengthy. A failure to communicate court judgments to prison authorities had sometimes led to excessive periods of pretrial detention and the arbitrary detention of prisoners after they had completed their sentences. In response, prison directors had been instructed to work closely with the courts so as to issue release papers in a timely manner.

35. Although the crimes of torture and discrimination were already addressed fully in the Constitution and criminal legislation, the Government was considering whether separate legislation on those issues might be useful for technical reasons. Work was already under way to address the backlog of court cases, including through the introduction of provisions for alternative forms of dispute resolution, with a particular focus on community-based mediation. As for alternatives to custodial sentences, a significant effort would be needed to raise public awareness of community-based sentences before they could be introduced.

36. **Mr. Meas** (Cambodia), speaking via video link, said that the Government was committed to improving respect for the rights of those working in the media, who should be free from discrimination, intimidation and political bias. The Government viewed journalists as vital partners in strengthening governance and promoting democracy. The Ministry of Information took the decision to close media outlets and websites that failed to act professionally and adhere to the law. The Constitution and the Law on the Press upheld freedom of expression on the Internet provided that the honour and dignity of others was not harmed. Furthermore, the Criminal Code provided that verbal or written statements or images, including those posted online, that harmed the honour or dignity of individuals or institutions constituted defamation, not freedom of expression. That was in line with article 19 of the Covenant, which permitted restrictions to freedom of expression in some circumstances.

37. The *Cambodia Daily* owed US\$ 6 million in taxes and had closed its doors in the wake of a tax audit. The audit had been one of many undertaken each year and had not constituted political discrimination. As a private enterprise, the *Phnom Penh Post* was free to make changes to its ownership or management without government interference. The 17 websites

that had been closed prior to the 2018 elections had been permitted to operate as normal after election day. The media licence of Sok Udom had been revoked because he had breached standards of professionalism; he had purposefully spread false information and sparked public outrage for personal gain, exceeding the limits of freedom of expression. He had lodged an appeal against his sentence of 18 months' imprisonment and a fine of 2 million riel, and the case remained before the courts. Rath Rott Mony had produced and disseminated a documentary containing untruths that had damaged the country's honour and dignity. The arrest of Uon Chhin for supplying information to a foreign State did not constitute a restriction of press freedom or the persecution of a journalist. He had since been released on bail. Sovann Rithy had not simply reported a statement by the Prime Minister; he had misled the public with regard to measures adopted by the Government. Following a period of pretrial detention, he had been sentenced to 18 months' imprisonment for incitement to commit a crime. He had been released on the day of his sentencing, the remainder of his sentence having been suspended; his media licence had been reinstated and he had returned to his work as a journalist.

38. **Mr. Mam** (Cambodia), speaking via video link, said that the Ministry of Labour and Vocational Training undertook monitoring and inspections, including unannounced inspections to entities in a range of industries, with a view to improving general working conditions and occupational safety and health and addressing debt bondage and other forms of forced labour, of which there had been no cases in Cambodia. Additionally, it ran a number of campaigns across the country that aimed to disseminate information on debt bondage, forced labour and child labour, including an annual campaign on child labour that had reached more than 7,500 workers in their workplaces. More than 1,200 contracts had been signed between employers and parents to prevent children entering the workplace. The Ministry had targeted children in several hazardous sectors by providing education and vocational training for them and jobs for their family members. During the COVID-19 pandemic, it had intervened in 350 cases in five target areas and promoted online education for children vulnerable to labour exploitation.

39. **Mr. Bulkan** said that, while article 19 of the Covenant did permit restrictions to freedom of expression, disagreements with the Government were natural and helped to promote democracy. Moreover, many of the journalists who had faced charges had simply been commenting on public affairs. He asked whether the State party, given its stated commitment to human rights, would consider permitting criticism of the Government. He would welcome information on oversight of the closure of websites: did the process involve an independent body and an appeals mechanism, and was any part of the process enshrined in law?

40. **Ms. Kpatcha Tchamdja** said that she wished to hear the delegation's comments on the independence of the judiciary.

The meeting rose at 12.05 p.m.