



# International Covenant on Civil and Political Rights

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## Human Rights Committee

134th session

### Summary record of the 3854th meeting

Held at the Palais Wilson, Geneva, on Friday, 11 March 2022, at 10 a.m.

*Chair:* Ms. Pazartzis

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*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 and 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. **Mr. Meas** (Cambodia), speaking via video link, said that the Ministry of Information was tasked with supervising the media and broadcasting sector. It granted media licences and suspended or revoked them when media outlets violated the relevant laws and regulations. Its decisions could be appealed in the courts. Nevertheless, the Ministry took a flexible approach to its duties, providing explanations to outlets and journalists and allowing them to commit to avoiding mistakes in future. Legal action was taken following repeated violations of the law. Websites were not blocked because of their criticism of the Government, but because they had violated laws and regulations. Indeed, websites whose activities complied with the laws and regulations remained operational, and their licences were not suspended. Constructive criticism of the Government did not give rise to the suspension of websites, revocation of licences or the arrest of journalists. However, press freedom and freedom of expression did not equate to the right to insult, spread false information or defame; many Western countries took a similar view.
4. **Mr. Chin** (Cambodia), speaking via video link, said that appeals against decisions to revoke or suspend media licences were currently dealt with by the civil courts, although there were plans to establish a specialized court in the future. In the cases raised by the Committee, the journalists had not been the subject of legal action because of who they were, but because of what they had done. While there was ample evidence to support those prosecutions, the same could not be said for the defence put forward by the accused, who were attempting to protect themselves by means of political tools and complaints.
5. **Ms. Ouch** (Cambodia), speaking via video link, said that the independence of the judiciary was guaranteed and safeguarded by the Constitution and three laws: the Law on the Organization of the Courts, the Law on the Status of Judges and Prosecutors, and the Law on the Organization and Functioning of the Supreme Council of the Magistracy. The King was the guarantor of the independence of the judiciary, assisted by the Supreme Council of the Magistracy, which comprised current and former judges and prosecutors and took decisions on the appointment of judges and prosecutors and disciplinary measures. The adoption of the three laws had led to significant reform, establishing administrative offices within the courts, a database system to facilitate case management, specialist courts for labour and commercial disputes, and regional courts of appeal. The independence of the judiciary was further strengthened through the regulation of procedures, decision-making and resources. The independence of the judiciary referred to the independence of proceedings and mechanisms, rather than individuals, and judicial officials were therefore free to exercise their political rights, such as joining the political party of their choosing. Nevertheless, judges were required to exercise neutrality when exercising their functions, or face disciplinary action. The country's constitutional and legal provisions governing the judiciary adhered to international standards.
6. The anti-corruption unit, an independent body, had the power to investigate and make arrests, although only the courts could rule on cases. Its work, which involved education, prevention and law enforcement activities, enjoyed the support of the public, benefited from international cooperation and had led to the prosecution of two judges, two prosecutors and five court clerks. All public servants who held the rank of department head or higher must declare their assets to the unit or face a prison sentence of between one month and one year and a fine of up to 2 million riel. Recent figures had demonstrated a rate of compliance with that requirement of more than 99 per cent. Corruption was also addressed through other measures such as the adoption of a specific anti-corruption law and the establishment of the National Anti-Corruption Council.

7. **Mr. Chin** (Cambodia) said that prohibiting judges from joining political parties would constitute a violation of their political rights. Judges made decisions in accordance with the law, regardless of their personal views.

8. **Mr. Ban** (Cambodia), speaking via video link, said that the Government's work on trafficking in persons was guided by a national strategic plan and an annual action plan. The National Committee for Combating Trafficking in Persons had engaged with hotels, guest houses and entertainment venues and established telephone and online channels to receive information and complaints, as well as working with international organizations and civil society to address online child sexual exploitation. By the end of 2020, the authorities' campaigns to raise awareness of all forms of trafficking in persons had reached more than 6 million people. Police had undertaken more than 400 patrols and surveillance operations in areas where trafficking was suspected, and the number of recorded offences of trafficking in persons and sexual exploitation had increased between 2020 and 2021.

9. As part of the reform agenda of the Ministry of Justice, the backlog of cases of trafficking in persons in provincial and municipal courts had been addressed through expedited proceedings. The Ministry had also established a system for data collection at all stages of the judicial process, provided the necessary training to court officials and initiated the development of a database management system. In the first half of 2021, more than 200 victims and 40,000 persons vulnerable to trafficking had been integrated into communities, where they were subject to monitoring. The assistance provided to Cambodian victims overseas through the country's embassies and missions had been strengthened, and more than 2,300 victims had been repatriated in the first half of 2021. Foreign victims in Cambodia were repatriated to their countries of origin on a voluntary basis. The adoption of technology to enable information-sharing had ensured the continuity of services for victims during the coronavirus disease (COVID-19) pandemic.

10. **Mr. Soh** said that he remained deeply troubled by reports of widespread surveillance and criminal prosecutions in response to public comments or social media publications critical of the Government's response to the COVID-19 pandemic. The language used by the Government in its replies to the list of issues, where it labelled its critics "crooks", was deplorable. The State party had attempted to justify its actions by invoking article 19 (3) of the Covenant, without reference to the Committee's interpretation of that article, as set out in its general comment No. 34 (2011). The broad and vague language of the Law on Measures to Prevent the Spread of COVID 19 and other Severe and Dangerous Contagious Diseases (the COVID-19 Law) was also of concern, given that more than 700 persons who had criticized the Government's handling of the pandemic had been arrested, including journalist Kouv Piseth, who had used social media to question the use of Chinese vaccines. Given that the Law extended to diseases that might arise in the future, he wished to know whether the State party would amend its provisions to comply with international human rights standards, particularly in terms of necessity and proportionality.

11. **Ms. Kran**, noting that the State party's use of criminal provisions to stifle dissent and punish opposition to the Government included vague provisions contained in the Criminal Code that the State party seemed unwilling to review or repeal, said that the Committee had received reports that numerous activists and opposition supporters had been convicted or imprisoned for incitement, insult and defamation, including the politician, and founder of the Mother Nature non-governmental organization, Mu Sochua. The criminalization of expression that merely insulted or criticized public figures could not be justified, and disagreement did not constitute a threat to national security. She would like to know how many people had been imprisoned since 2015 under the provisions of the Criminal Code that related to incitement, insult and defamation and what sentences they had received; what steps were planned to make significant amendments to, or repeal, provisions that related to the defamation of institutions and *lèse-majesté* and that criminalized speech; how the harassment and arbitrary arrest of human rights defenders who expressed criticism would be prevented; and whether the State party would agree to a visit by the Special Rapporteur on freedom of opinion and expression.

12. She would like to receive a definition of "culture and tradition", since she wondered how it could be used to justify the shutting down of websites. Extensive and indiscriminate content surveillance through the National Internet Gateway gave rise to serious concerns

about privacy and freedom of expression. She would therefore like to know whether the State party had any plans to revise the relevant sub-decree to make it consistent with articles 17 and 19 of the Covenant. She would be grateful for an indication of the timeline for consultations on the bill on cybercrime and for information on the stakeholders who would be asked to participate. It was doubtful whether the requirement that persons arrested under the COVID-19 Law should sign a pledge which effectively suppressed the expression of opinion could be deemed compatible with the right to free speech embodied in article 19 of the Covenant. She would be grateful for an indication of the timeline for the enactment of the bill on access to information. Would it provide for independent oversight by a specialized administrative body to ensure that such legislation could not be used arbitrarily to target critics of the Government? She trusted that the new law would be consonant with the requirements of the Committee's general comment No. 34 in respect of requests for information. She was puzzled as to why the draft amendments to the 1995 Law on the Press had not been made public.

13. The prior notification requirement contained in the Law on Peaceful Demonstration was clearly being interpreted to require organizers of demonstrations to seek permission from the authorities, thereby enabling the latter to prevent protests. It was unclear how prohibiting peaceful gatherings could be considered consistent with freedom of assembly. On what basis were applications to hold a demonstration rejected? She asked whether the State party had any plans to revise the bill on public order to render it less ambiguous and to bring it into line with article 21 of the Covenant. In view of the fact that the Code of Conduct for Law Enforcement Officials allowed force only in exceptional circumstances, she wished to know what steps the State party would take to protect peaceful protesters from being targeted by the police and ensure that investigations into the use of force by the police at peaceful protests were conducted independently and adjudicated fairly, and that victims received adequate compensation.

14. She was also curious to know what steps would be taken by the Government to address restrictions on the formation of trade unions and ensure that private businesses protected trade union rights. She failed to understand how dispersing the peaceful protesters against layoffs at the NagaWorld hotel could be regarded as compatible with articles 21 and 22 of the Covenant. Would the victims of excessive police force on that occasion receive adequate compensation? She would like to know when the trials of the protesters would take place and how the right to due process would be guaranteed. Noting that the Law on Associations and Non-Governmental Organizations made it possible to target human rights activists and contained onerous financial reporting requirements, she would like to know what would be done to ensure that that Law was consonant with article 22 of the Covenant and what steps would be taken to address non-governmental organizations' concerns with regard to mandatory registration.

15. **Mr. Furuya** said that he would be grateful for an explanation of how the fact that the Cambodian People's Party held all the seats in the National Assembly could be considered compatible with article 25 of the Covenant or the principles of a liberal multiparty democracy. He would like to have information on the measures taken, or planned, by the State party to guarantee the free and equal participation of all political parties in the forthcoming municipal elections, as well as on any measures taken to guarantee the independence and impartiality of the National Election Committee.

16. **Mr. Bulkan** said that he would appreciate an explanation of how the ongoing campaign of prosecution and harassment of members of the opposition could be deemed compatible with article 25 of the Covenant. He would also be grateful for an explanation of the rationale, or legal basis, for treating the legitimate exercise of freedom of expression, peaceful protest and the right to dissent as treason or a threat to State security. He asked whether the State party was prepared to offer an assurance that it would refrain from further persecution of opposition and civil society organizations which were merely exercising their civil and political rights. He wished to know if the State party would restore the passports of persons who had been associated with the Cambodian National Rescue Party and ensure that all Cambodians were free to enter the country. He also wished to know if the State party would commit itself to withdrawing all criminal charges against opposition activists, release all those who had been detained and restore their civil and political rights. What would the

State party do to ensure that the political opposition, including newly formed parties, would not face reprisals and thereby ensure that elections were truly democratic?

17. He asked whether the delegation could provide the Committee with examples of specific development projects which had obtained the free, prior and informed consent of indigenous communities before they had been carried out. How much compensation had they received? He wondered if there were any plans to streamline the process of registering land titles in order to ensure that indigenous communities' land ownership was recognized and respected. He would appreciate an outline of steps to resolve land-use conflicts and to ensure that land historically owned or occupied by indigenous communities was recognized as communal land. What was done to ensure that legal and procedural safeguards were scrupulously observed when indigenous communities were relocated?

18. **Ms. Kpatcha Tchamdjia** said that she would like the delegation to explain why the State party had not managed to bring minors in pretrial detention before the courts. She would be grateful for statistics showing the total number and status of minors in detention throughout the country. She would like to know if consideration was given to detaining minors in locations near to their family, where they could be given moral and material support. Lastly, she would like to know if, generally speaking, the procedures applicable to minors could be said to be consistent with national and international standards.

19. **Mr. An** (Cambodia) said that no country was free from human rights challenges. Some countries had placed too high expectations on Cambodia, which had enjoyed democracy for less than 30 years and peace for only 20 years. He was concerned that some Committee members appeared to be trying to portray certain opposition politicians and non-governmental organizations as human rights martyrs instead of condemning their wrongdoing. He wondered whether the Committee members thought it was legitimate to spread fake news, to incite racial hatred and xenophobia and to instigate foreign-funded sedition. In 2019, none other than the Special Rapporteur on the situation of human rights in Cambodia had criticized Mr. Sam Rainsy, the leader of an attempted coup, for his defamatory language; in that connection, he recalled that defamation was an offence punishable with a prison sentence in several European Union countries, among others. He also recalled that the World Health Assembly, in its resolution 73.1 on the COVID-19 response, had called on all member States to take measures to counter misinformation and disinformation.

20. **Mr. Chin** (Cambodia) said that he wished to dispel any misapprehensions that might have been created by inaccurate data contained in opposition or civil society organizations' reports. According to the report of the Subcommittee on Law Enforcement under the COVID-19 Law, most of the people who had violated that law had just been fined, cautioned and allowed to return home. Only 44 cases concerning 115 persons had been referred to court; 30 of those persons had been detained on the grounds that they had committed a serious offence and 85 had been released. The sanctions under the aforementioned law for obstructing and violating government measures were no more severe than those imposed in many other democracies and were necessary for effective law enforcement. Harsher penalties were reserved for actions that had serious consequences, such as intentionally transmitting the disease or escaping from treatment centres or hospitals.

21. With regard to civil society space and non-governmental organizations, he said that some non-governmental organizations were making impossible demands: they wanted freedom to disregard the law but were asking to be allowed to formulate legislation that would be binding on the Government and public officials. The Ministry of the Interior considered all requests from civil society organizations for cooperation with the national and provincial authorities. Local authorities were required to provide support for national associations in their area. Overall, the law safeguarded the freedom to establish associations and non-governmental organizations in order to promote the development of Cambodian society. A government working group had held two meetings with non-governmental organizations to review the amendments proposed by the latter to the Law on Associations and Non-Governmental Organizations. At the same time, the Government was studying practice with regard to civil society in other countries to see how it could be adapted to the Cambodian context. Unfortunately, many non-governmental organizations did not want transparency with regard to their funding or their activities. They did not want to report to

the Government on those matters. It was, however, the Government's duty to maintain national security and public order and to prevent money-laundering.

22. The criminal law of Cambodia had been drawn up on the advice of French legal experts and was based on the French legal system and Criminal Code. The Ministry of Justice was currently reviewing the Criminal Code, the Code of Criminal Procedure, the Civil Code and the Code of Civil Procedure to make them consistent with international human rights standards and responsive to the social context in Cambodia. The *lèse majesté* provisions of the Constitution chimed with Cambodian culture. The aim of the amendment of the Criminal Code was to make insulting the monarchy an offence punishable by up to five years' imprisonment, or fines ranging from US\$ 2,500 in the case of individuals to US\$ 12,500 in the case of legal entities. Under article 7 of the Constitution, the King was inviolable. The motto of the Kingdom of Cambodia was "Nation, Religion, King". It was therefore the Government's duty to defend the King's inviolability. The new rules were lenient compared with those in some other countries. The concerns of the opposition were based on journalists' obsessions rather than on sound reasoning. Nevertheless, the Government was ready to review and revise the aforementioned laws after consultation with all stakeholders.

23. Law enforcement was not targeted at any particular groups but at activities that violated the law. There were no political prisoners or prisoners of conscience in Cambodia. Some politicians had been given prison sentences because there was clear evidence that they had broken the law. For example, an independent court had found that certain environmental activists had engaged in criminal activities such as inciting violence in order to cause social unrest, insulting the King and conspiracy. The arrest, charging and conviction of those persons had been in accordance with the law of Cambodia.

24. The organizers of the protests at the NagaWorld hotel had been prosecuted not for exercising their right to freedom of expression but because the organizers had failed to notify the authorities in advance. The law did not require them to seek permission; notification was necessary to enable the Government to cooperate with the organizers to guarantee public safety, health and order. Without such notification and cooperation, protests could pose a threat to public security, safety and health; they could cause violence and social unrest; and they could undermine public order, national security and the rights and freedoms of others. For that reason, the authorities must take all possible measures to enforce the law. There had been clear evidence that the organizers of the protest had intended to destroy company property, incite violence and cause social unrest with the financial, material and strategic support of outside political activists and illegal organizations. Three of the organizers had been arrested and sent for trial, in accordance with articles 494 and 495 of the Criminal Code. Another three protesters had been arrested and charged with obstruction of health measures under the COVID-19 Law.

25. The purpose of the sub-decree on the National Internet Gateway was not to restrict the right to privacy and freedom of expression, but, among other things, to help maintain social order and protect national culture. No provision in the sub-decree authorized the collection of consumers' data or individual surveillance. The Gateway was designed to foster fair competition and transparency and to thwart illegal cross-border network connections, online gambling, pornography, child abuse, fraud and other cyber threats. The sub-decree abided by the principles of legality, necessity and proportionality. A bill on cybercrime was still under discussion in a government working group.

26. Regarding the electoral success of the ruling party, a multiparty system did not mean that many parties had to be represented in parliament. Multiparty democracy implied due electoral process; if the electorate voted for one party, that was democracy.

27. The Cambodian National Rescue Party had been dissolved in accordance with the law, because there had been overwhelming evidence that the party had been conspiring with a foreign power to overthrow the legitimate Government of Cambodia. Such an act was illegal. It would have harmed national security and threatened the peace of the country, and it patently violated several articles of the Law on Political Parties. The Supreme Court had held a public hearing at which the Cambodian National Rescue Party had neither filed defence submissions, nor appointed a defence lawyer. Its abandonment of its right to defend itself before the Court amounted to an admission of guilt.

28. **Mr. Pang** (Cambodia), speaking via video link, said that teachers, domestic workers and civil servants could exercise their right to freedom of association by joining various professional organizations. The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), of the International Labour Organization, did not require all individual workers to be covered by a single trade union. The Cambodian legal system broadly ensured freedom of association and provided a realistic option for the exercise thereof. The freedom to join a trade union was implicitly guaranteed by article 31 of the Constitution, and the State party did not restrict anyone's exercise of that freedom.

29. **Mr. Bulkán** said that, according to information from reputable international observers, when the Cambodian National Rescue Party had been dissolved in 2017, 40 per cent of its votes had simply been assigned to the ruling party. Such a practice was not what was meant by democracy, as the persons who had cast those ballots had not voted for the ruling party. The refusal to register new opposition parties resulted in a restriction of civil space and was antithetical to the State party's obligations under article 25 of the Covenant.

30. **Mr. Chin** (Cambodia) said that, as far as civil space was concerned, 45 political parties were currently registered with the Ministry of the Interior. The country's recent past had left it with many challenges which could not be overcome overnight. However, the State party was striving to improve the human rights environment. Even during the COVID-19 pandemic, it had not swerved from its commitment to safeguarding the political rights and freedoms of the people of Cambodia. His Government looked forward to receiving the Committee's concluding observations so that it could address any shortcomings in its implementation of the Covenant.

31. **The Chair** said that the Committee had entered into the interactive dialogue with a desire to contribute to the State party's efforts to enhance respect for human rights in Cambodia. The Committee had noted the State party's description of its wide-ranging action to build democracy over the previous 30 years, but in order to gain a full picture of the state of affairs in any State party, it drew on numerous sources of information, including civil society and international bodies. The Committee had likewise taken note of the State party's idea of pluralism, but drew attention to the need to allow free discussion and even disagreement within society. As far as the issue of freedom of association and expression was concerned, she wished to remind the State party that the only permissible restrictions of those freedoms were those specified in the Covenant and in the Committee's jurisprudence. She agreed that no State was free from human rights challenges. She hoped that the interactive dialogue would help to intensify the State party's endeavours to ensure full compliance with the Covenant and to promote and protect human rights, in particular civil and political rights, within its territory.

*The meeting rose at 12.15 p.m.*