



## Economic and Social Council

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### Committee on Economic, Social and Cultural Rights

#### Forty-second session

#### Summary record of the 11th meeting

Held at the Palais Wilson, Geneva, on Monday, 11 May 2009, at 10 a.m.

*Chairperson:* Mr. Marchán Romero

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*The meeting was called to order at 10.05 a.m.*

### **Consideration of reports**

#### **(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant** *(continued)*

*Initial report of Cambodia (E/C.12/KHM/1; E/C.12/KHM/Q/1 and Add.1)*

1. *At the invitation of the Chairperson, the members of the delegation of Cambodia took places at the Committee table.*
2. **The Chairperson** welcomed the delegation of Cambodia and invited it to introduce the State party's initial report.
3. **Mr. Sun** (Cambodia), introducing the State party's initial report, briefly recalled the tragic history of Cambodia and expressed the view that it should be taken into account when evaluating the human rights situation in the country.
4. Since the conclusion of the Agreements on a Comprehensive Political Settlement of the Cambodia Conflict in Paris in 1991, Cambodia had been striving tirelessly for peace, stability, reconstruction and development, with the support of the international community, pursuant to its policy of national reconciliation. The political stability achieved after the general elections of 1993 had enabled the State party to embark on reforms in all sectors, to create a climate conducive to domestic and foreign investment and to achieve sustained economic growth that was yielding good results in terms of poverty reduction. Cambodia was currently being praised for the political, economic, social and cultural progress it was making thanks to a democratization process which had enabled it to successfully organize several national and local elections and to demonstrate that it was pursuing a path of democracy, sustainable development and respect for human rights.
5. The promotion and protection of human rights was enshrined in the Cambodian Constitution. The State party recognized and respected the human rights provided for in the Charter of the United Nations, the Universal Declaration of Human Rights and the covenants and conventions on all human rights, including those of women and children. In addition, it was party to most of the main international and regional instruments on human rights and humanitarian law. The adoption in the 1993 Constitution of the principle of the free market economy guaranteed protection of the rights and personal freedoms of all citizens, as well as the open participation of civil society and other stakeholders in political, economic and social affairs.
6. The State party had been working in cooperation with the United Nations since the opening in 1993 of a national office of the High Commissioner for Human Rights and the nomination of the Special Representative of the Secretary-General for human rights in Cambodia. A national human rights committee was attached to the Government, and a human rights commission had existed within the legislative branch since the first legislature. A large amount of new legislation, including bills of law on economic, social and cultural rights, had been adopted. At considerable effort, Cambodia had been fulfilling its reporting obligations to various treaty bodies, including the Committee.
7. Convinced of the indivisibility and interdependence of human rights, based on the principle of universality and respect for countries' historical, political, economic, social and cultural diversity, the Government had spared no effort in promoting all rights. The Rectangular Strategy (2004–2007) launched during the third legislature had enhanced the country's social fabric and its culture of peace, security and democracy and had contributed to the promotion of human rights in Cambodia. As part of that effort, the Government had set about strengthening governance by implementing reforms in public administration, the

legal system and the judiciary and by developing the public sectors capacities and effectiveness in combating corruption and in other areas.

8. Since poverty reduction was an effective way to promote and protect human rights, it had been made a priority in the Rectangular Strategy and the National Strategic Development Plan (2006–2010). The Plan was aimed at accelerating development, particularly in rural areas, which were home to 90 per cent of the poor population. The poverty rate was decreasing by over 1 per cent each year, the main social indicators were recovering and per capita income had been increasing by an average of 9.5 per cent each year since 1999.

9. For reasons linked to the State party's history and current economic challenges, land reform was a highly sensitive issue. The Government had focused on strengthening the system of land management, distribution, use and ownership; securing land rights; eradicating illegal encroachment on land; and preventing the concentration of unused and unproductive land. Systematic land registration had been welcomed by the rural population, with over 1 million property title deeds having been issued to date. Institutional and legal mechanisms for current and future land reforms had been established, and the Government had been undertaking programmes to protect the rights and interests of ethnic communities and minority groups.

10. Demining programmes had helped to improve socio-economic conditions for poor farmers in remote areas and thus to promote rural development. The number of mine-related accidents had decreased from 800 in 2003 to 315 in 2007. As a State party to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction, Cambodia had taken an active role in the worldwide campaign against landmines.

11. Since women played a fundamental role in the Cambodian economy and society, the Government had striven to promote their advancement through a programme entitled "Neary Rattanak", meaning "Women are precious gems", which focused on equal treatment for men and women in economic development. The Government had adopted the Law on Domestic Violence Prevention and Victim Protection (2005), the victims in question being mainly women and children, and was currently preparing a plan for raising awareness among the general public of laws relating to women and ensuring their enforcement. Since the adoption in 2008 of a law to combat trafficking in women and children, the Government had been taking all possible action to combat such abuse. The second phase of a gender mainstreaming strategy for all sectors had been launched.

12. The right to education was established in the Constitution within the framework of the Rectangular Strategy and the National Strategic Development Plan (2006–2010), the Government had drawn up an educational strategy for 2006–2010 aimed at ensuring that all Cambodian children and adults enjoyed equal rights and access to basic formal and non-formal education. That strategy was linked to education for peace and to respect for human rights, legal and democratic principles, and justice. Significant progress had been made towards ensuring that all children received nine years of basic education. The number of schools had increased by 30 per cent between the 2003/04 and 2006/07 academic years, and the number of pupils had risen at every level. At secondary level, over 45,000 pupils had been awarded scholarships, of which 63.2 per cent were girls. The number of teachers had climbed from some 70,000 in 2003/04 to nearly 80,000 in 2006/07. The education sector was now focusing on the quality of basic education in the context of economic development, and the Government had linked the educational strategy to the poverty reduction strategy.

13. In the field of health, priority had been given to prevention and treatment of all epidemic diseases, health care and nutrition. Efforts had been made to increase the well-being of the population in general and that of poor people, women and children in particular.

As a result, the maternal, child and under-five mortality rates had decreased. A health-sector plan for 2008–2015 had been formulated, and there were around 130 NGOs working in the area of health.

14. During the third legislature, the Government had provided assistance and support to a large number of vagrants, vulnerable people, people with disabilities and victims of trafficking or natural disasters. Efforts had been made to strengthen the social safety net in order to improve people's living conditions by increasing the pensions of retired civil servants and veterans. Various bills had been drawn up in that area and were due to be adopted soon. Initiatives had been launched to increase employment opportunities, both in the State party and abroad, and to expand technical and vocational training. A five-year plan (2006–2012) to eliminate the worst forms of child labour had been partially implemented.

15. In the area of culture, which had been given its place in the Constitution (art. 69), the authorities had assigned a high priority to the protection of the State party's rich cultural heritage in order to preserve and reinforce its social fabric at all levels. As a country of tolerance and tradition, the State party attached great importance to respect for diversity and considered its minorities to be an essential component of democratic development. The National Council on Ethical and Demographic Issues had recently been created.

16. The State party's economy depended on four fragile pillars (the garment, tourism, construction and agricultural sectors) and 30 per cent of the population were still living below the poverty line. It was therefore clear that much remained to be done to improve the situation, especially since the Government's efforts had been hampered by the global financial crisis and other international tensions. Recognizing all of the difficulties and the need for the Government to redouble its efforts, the Prime Minister was determined to launch the second phase of the Rectangular Strategy for growth, employment, equity and efficiency. The focus would be on social and economic policy, with the principal aims being to pursue development in all areas, reduce poverty and further the realization of economic, social and cultural rights.

17. In thanking the international community and development partners for their support and cooperation, he said that, although the initial report surely had some shortcomings, its preparation had been an excellent experience and that his delegation looked forward to holding a dialogue with Committee members and to hearing their suggestions and recommendations.

#### *Articles 1 to 5 of the Covenant*

18. **Mr. Sadi**, expressing regret that no high-level Cambodian politician had made the journey to introduce the report, asked the delegation to clarify further the role of the Covenant in the State party and to provide information on the case law concerning its application which demonstrated that economic, social and cultural rights were justiciable. He would like to know more about the national Human Rights Committee's observance of the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles), its areas of work and the cases of violations that it had addressed. While the State party was to be commended for strengthening the judiciary, it should be aware that reconstruction of the country depended on the existence of a competent, independent, corruption-free judicial power.

19. **Mr. Kerdoun**, referring to paragraph 72 of the initial report, requested details on the size of the investments made in the State party, including their breakdown into national and foreign investment, on which sectors had benefited the most from such investment over recent years and on its impact on the population. He requested confirmation of a rumour that the country was "for sale" and enquired about the large concession granted to Kuwait

for the production of rice for export back to Kuwait. In that connection he raised the question of possible repercussions on observance of the Covenant, on the food situation, on the environment in terms of genetically modified organisms and on development. He wondered whether the State party had any framework law on investment which identified investment sectors and established incentives for foreign direct investment. It would be of interest to know whether the State party favoured investments in consumer goods or in production.

20. **Mr. Tirado Mejía**, noting it would have been preferable for the State party's delegation to have included representatives with greater knowledge of the technical situation in the country, raised the issue of a lack of independence on the part of the judiciary and its resulting ineffectiveness, which had been discussed by the Special Representative of the Secretary-General in his reports. Apart from the question of corruption, the very composition of the Supreme Council of Magistracy, which included a Government minister and a permanent member of the ruling party, hindered the administration of justice and the exercise of economic, social and cultural rights. The State party should therefore furnish more details on how the judiciary worked.

21. **Mr. Pillay** expressed surprise that the head of the Cambodian delegation had not mentioned the problems of housing and forced eviction in his opening statement, given the fact that four out of five citizens were living in shanty towns and that evictions were on the increase. While the Covenant was, under article 13 of the Constitution, an integral part of the domestic legal order, it seemed that, in practice, no legislation had been adopted to give effect to economic, social and cultural rights and that no remedy was offered to the victims of violations of those rights. According to several information sources, the judicial system was neither independent nor impartial and was so corrupt that it favoured the wealthiest and highest strata of society. Some victims of forced eviction had brought legal proceedings, but, while awaiting a decision from the courts, had been forced to abandon their land and possessions by decision of the Government. In the absence of legal aid, many were unable to exercise their right to justice. He requested further details on the situation of human rights defenders, who had allegedly suffered harassment and, in some cases, imprisonment. He invited the State party to provide further information on all those points and to give a precise answer to question 32 of the list of issues.

22. **Mr. Kedzia** asked what measures had been taken by the Government to reinforce the rule of law and what remedies were offered to those claiming to have suffered violations of their economic, social and cultural rights. He requested further details about access to legal aid for the poorest and most disadvantaged sectors of society, particularly those in rural areas and members of ethnic minorities. He asked what action had been taken in response to the recommendation made by the Special Representative of the Secretary-General for human rights in Cambodia in his 2008 report (A/HRC/7/42) to adopt anti-corruption legislation as a matter of urgency. According to paragraph 63 of the periodic report, the national Human Rights Committee acted on behalf of the Government to investigate and collect information on the implementation of human rights, which was not in compliance with the Paris Principles. He asked whether the State party was planning, as requested by the Human Rights Council, to extend an open-ended invitation to all special-procedure mandate-holders, since the Government could greatly benefit from their suggestions and observations.

23. **Ms. Brás Gomes** noted that, according to the information provided by the State party, all of the main development projects were undergoing a rigorous process of evaluation and monitoring, and yet, according to other information sources, the Government had taken decisions on its development policy without having consulted the persons concerned. As a result, concessions covering almost 1 million hectares of arable land had been granted to private companies, with serious consequences for the indigenous

communities living in the area and for natural resources development. Other sources attested to the progressive militarization of indigenous territories and had reported cases in which indigenous people in rural areas who attempted to oppose their eviction had suffered harassment and intimidation, as well as other even more serious repercussions. She requested further information on the legal framework governing forced evictions and on the land leased to the Kuwaiti Government for a period of between 70 and 90 years. She would, in particular, like to know whether the people living on that land had been consulted in advance and offered other means of subsistence. She expressed regret at the absence of legislation expressly prohibiting discrimination, noting several cases in which children with disabilities had suffered from it, and asked what percentage of the education budget was allocated to implementing the policy to improve access to education among children with disabilities.

24. **Mr. Atangana** asked what measures the Government had taken to pursue its commitment to combating corruption. He expressed regret at the absence of legal aid and the exorbitant nature of court costs, and asked how the poorest Cambodians could exercise their right to justice.

25. **Mr. Zhan** requested more detailed information on the competence, mandate and activities of the national Human Rights Committee.

26. **Mr. Texier** said that he was pleased that the Government had decided to enter into a dialogue with the Committee 17 years after having ratified the Covenant. There was a striking difference between the information provided by the State party, according to which judges were independent and impartial, and the many concerns discussed by the Special Representative of the Secretary-General in his previous reports. In the absence of an independent, impartial and effective legal system, there could be no respect for economic, social or cultural rights. He expressed regret, in particular, that those responsible for human rights violations went unpunished while human rights defenders suffered harassment. He asked the State party to comment on the particularly disturbing observations made by the Special Representative of the Secretary-General regarding the lack of interest on the part of the Government in reforming the legal and judicial system because the international community continued to make generous financial contributions regardless of the extent of human rights violations. He asked how international aid was being used, as it was apparently not going towards promoting respect for human rights in the State party.

27. **Ms. Barahona Riera** asked how indigenous peoples could exercise their right to own property while the Government pursued a policy of granting extensive concessions of land, particularly indigenous land, to private investors. Although the Constitution guaranteed gender equality, it seemed that women encountered particular difficulties in gaining access to land ownership. She noted with satisfaction, however, the existence of a policy to promote gender equality and asked whether it was accompanied by positive action to encourage participation by women in political and economic affairs. She would also like to know, in particular, whether quotas were in place to ensure that a certain number of political posts were held by women. Noting cases of discrimination against women with disabilities and women belonging to ethnic minorities, she asked whether the State party planned to adopt framework legislation to combat discrimination.

28. **Ms. Bonoan-Dandan** asked for further details on the steps taken to ensure that the significant amounts allocated to Cambodia for reform of its institutions and legal system were managed transparently and responsibly. She expressed surprise that a bill on NGOs was being examined as a matter of priority at a time when no anti-corruption legislation had yet been adopted. She requested clarification on the relative importance in the legislative hierarchy of sub-decrees and royal decrees in relation to laws and decrees.

29. On the environment, she asked whether the moratorium imposed on logging, particularly in the north of the country where destruction of the rainforest continued, was still in force. She requested confirmation of reports that concessions were going to be granted for hydroelectric projects without prior consultation with the population, despite the fact that those projects would not benefit Cambodians, since they were designed to provide electricity to neighbouring countries. She asked for information on the status of draft legislation — a sub-decree and a law — on expropriation. She also asked for clarification on rights of possession, which were a precondition for obtaining land title deeds, and on the process by which a right of possession was converted into a title deed. She further requested more details on how the boundaries of public land were demarcated in view of reports that concessions had been granted for the use of public lands without advance warning and that, in some cases, the people living on that land had been evicted.

*The meeting was suspended at 12.05 p.m. and resumed at 12.20 p.m.*

30. **Mr. Sun** (Cambodia) said that a relatively short amount of time had passed since the end of the Khmer Rouge period, which had had a deeply traumatic effect on Cambodian society, and he emphasized the difficulties that Cambodia was facing in closing that chapter in its history. The tribunal created to try those responsible for genocide, comprising judges from the State party and the international community, would contribute to that task.

31. The issue of creating a national human rights commission that conformed to the Paris Principles was being pursued by the Government. Several meetings and seminars had been held on the subject, and the authorities had been approached by human rights defenders regarding means of creating such a commission.

32. The Covenant had been incorporated into domestic legislation through article 31 of the Constitution. All the fundamental rights enshrined in the Covenant had been integrated into specific provisions of the Constitution, and a number of the articles of the Constitution had been inspired by the Covenant. Article 150 of the Constitution provided that legislation passed and decisions taken by State institutions must be in strict conformity with the Constitution. By virtue of that important principle, all legislation related to economic, social and cultural rights (for example, labour laws and the laws relating to marriage and the family) was governed by the fundamental principles of the Constitution. The courts did not have direct recourse to the Covenant, since they first referred to domestic legislation; however, domestic legislation complied with the Constitution, which incorporated the fundamental principles of the Covenant.

33. With regard to the conversion of protected zones into investment zones or special economic zones, the Government had adopted a policy of liberal investment in order to attract foreign capital and to create employment for Cambodians. That policy had met with success, especially in the agricultural sector. Investors who could prove that their projects were likely to promote economic development in Cambodia and to create employment were granted a concession for a period of up to 99 years. There were currently 15 such zones. Most of them were situated in strategic regions, either Phnom Penh or border towns that were easily accessible for foreign companies and investors, which facilitated the transport of goods over the border.

34. An inter-ministerial committee, whose members included representatives of the Ministry of the Environment, undertook a feasibility study each time the possibility of creating a new special economic zone was raised. Any projects that could have negative effects on the environment or on the local populations were systematically rejected, while projects that could prove beneficial for the country's economic development were accepted, as long as they were environmentally sound. If a given project contravened the land rights of a population group, that group would be compensated.

35. Cambodia needed foreign investors to help drive its economic development and prosperity, and had therefore agreed to allow Kuwait to invest in the agricultural sector. No bilateral agreement had yet been concluded between the two countries, however.

36. The issue of land reform was delicate, since it had political, economic, social and historical dimensions. Under the Khmer Rouge regime, all land had been nationalized. After the end of that regime, land had been put up for sale, but investors had not been interested until the country's economy had recovered. It was at that point that speculation, which the Government must combat, had begun.

37. As part of the land reform effort, the Government had devised a legal framework aimed at protecting indigenous peoples' land rights and reclaiming the land, rainforests and other natural resources necessary to their survival. The Government was therefore combating poverty, deforestation and the illegal settlement of land in an effort to protect the interests of future generations.

38. Other measures had already been taken to protect the land rights of indigenous peoples, including the sub-decree on registration of land belonging to indigenous groups, a draft policy on the land evaluation system and the creation of an authority to resolve land disputes. In 2008, the land registry commission had already ruled on 1,400 cases involving 2,500 hectares and over 7,500 households. It was therefore essential to continue with land registration procedures. In 2007, land titles had been granted for 37 per cent of the country's family farms. Between 2002 and 2007, 12,000 hectares of demined land had been distributed to some 27,000 landless families, thanks to Cambodia's increasingly transparent and effective land evaluation system.

39. It was understandable that the donor community should want to evaluate annually the programmes in place in the State party on an annual basis, whether with respect to land title deeds, measures to combat corruption or respect for the rule of law or human rights.

40. To combat the illegal settlement of land and to prevent large amounts of land from being held by persons who were not working it, the Government was reviewing all large concessions to determine their size and to take back plots that were in protected zones or that had been granted in error, to the detriment of small landowners. It would continue that review and ensure that public land registration procedures conformed to the provisions of the sub-decree on public land registration and the sub-decree on the registration of indigenous land. Speculators had been identified, and the land that they had been illegally using had been taken away from them and given to needy households to encourage social development. The Government also levied a tax on uncultivated land. A strategic development plan had been devised for land situated in areas with a great deal of economic potential in order to prevent the concentration of land; a total of 10,000 families were to benefit under that plan by 2010.

41. There were many hydroelectric projects in the Mekong Valley. However, they were run not by Cambodia, but by other countries along the river, including China, Thailand and the Lao People's Democratic Republic. Nevertheless, in accordance with principles agreed to by those countries with respect to the sustainable development of the Mekong region, any development plans must be discussed at the regional level before being launched. In addition, a feasibility study was to be undertaken in order to determine what economic, social and environmental effects each project would have on communities along the river. The aim of such discussions and studies was to preserve the natural resources of the peoples concerned. If, however, there was a risk of harm to the villagers concerned, they would be evacuated and receive compensation. Cambodia was far behind neighbouring countries in the construction of dams.

*The meeting rose at 1 p.m.*