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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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SUMMARY RECORD OF THE 12th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 11 May 2009, at 3 p.m.

Chairperson: Mr. MARCHÁN ROMERO

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The meeting was called to order at 3 p.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 (continued) (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 invited the delegation of Cambodia to resume its exchange of views with the Committee, with reference to articles 1 to 5 of the Covenant.
3. Mr. SUN (Cambodia) acknowledged that the pay gap between teachers in private schools and those in public schools still persisted and said that any improvement in the quality of education or in pay in the education sector would depend on economic growth.
4. The Government was endeavouring to create an independent judiciary, as provided in the Constitution, through the 2005 plan of action for legal and judicial reform and the National Strategic Development Plan (2006-2010). Seminars, workshops and conferences had been organized in Cambodia and abroad to improve the judiciary's effectiveness. Young professionals were being attracted to work in the private and public legal sectors, as well as in legal aid NGOs. It was true that corruption was an issue but the Government had drafted an anti-corruption law, to be enacted after the adoption of the new penal code.
5. In Cambodia's legal order, the Constitution ranked first, followed by constitutional laws, royal decrees and subdecrees.
6. Since the end of the civil war, the absence of a law on NGOs had not stopped numerous international and national NGOs from working in the country. A law had nevertheless been drafted and would be debated with NGOs, human rights activists and other stakeholders.
7. Mr. KE (Cambodia) said that the list contained in paragraph 72 of the initial report (E/C.12/KHM/1) was not exhaustive and Cambodian citizens were free to invest in other areas. As a member of the World Trade Organization (WTO), Cambodia applied the principle of national treatment, which meant all sectors were open to both local and foreign investment. Most investment went to Government-supported industry, tourism and construction, although those areas had been affected by the financial crisis. Cambodia did not treat production- and consumer-based investment differently, although investment that generated jobs was naturally preferable.
8. The reference to his country being "for sale" was an insult. No doubt there was room for improvement in Cambodia's investment system but, with regard to the memorandum of understanding on trade signed with Kuwait, for example, he said that the Government was seeking to increase rice exports and investment in large-scale agriculture in order to generate jobs and thus reduce poverty. Before agreeing land concessions, Cambodia always assessed the potential impact on the local population, employment and economic development.

9. On the subject of agriculture, he said that, although Cambodia encouraged non-genetically modified products, the country's producers had to compete on the world market and could not always compete effectively with genetically modified products.

10. Ms. BONOAN-DANDAN said that, while she appreciated the delegation's efforts to respond to the Committee's questions, it was regrettable that no representatives had been sent from Phnom Penh, as the dialogue between the State party and the Committee would then have been more useful.

11. She commended Cambodia on its exemplary economic development, but she was concerned at the increase in the level of poverty and the widening gap between rich and poor. She did not question the State party's sovereign right to negotiate investment contracts, but she wondered what the impact of such contracts was on economic, social and cultural rights.

12. She noted that logging concessions had been granted in the Tonle Sap Lake basin in the Prey Long forest, which would have a huge effect on food supplies in Cambodia. She asked how the Cambodian population would benefit from those investments and what impact they would have on human rights, including the right to food.

13. Mr. ABDEL-MONEIM noted that feasibility studies were carried out before land concessions were granted, but asked whether the local communities likely to be affected were consulted.

14. Ms. BARAHONA RIERA asked whether the subdecree on indigenous land registration had been approved and, if not, when it would be approved.

15. Mr. KERDOUN asked for more precise details on the 1994 Law on Investment, including the special arrangements to attract foreign investors. He also requested figures showing the proportion of foreign to domestic investment. Lastly, he noted that consumer-based investment did not create jobs or in any way reduce poverty.

16. Mr. SUN (Cambodia) emphasized that Cambodia carried out feasibility studies to assess the environmental and other impact of any proposed investment. In respect of the Tonle Sap project, the State could address any possible transboundary issues once an international framework had been set up. The environmental impact of the project would be addressed, but there were many technical barriers to be overcome before a realistic assessment could be made of how the interests of indigenous and other communities could be protected. With regard to the Mekong River hydro-electric project, the Government had set up a system to assess its environmental impact. Overall, by comparison with other countries in the region, Cambodia had made much progress on environmental issues, but projects had to be assessed from both sustainable development and environmental standpoints.

17. Neither the subdecree on indigenous land nor the anti-corruption law could be passed until the new penal code had been adopted. The penal code had been drafted in conjunction with development partners as part of the legal reform process, and was currently under consideration by Cambodia's Council of Ministers.

18. Mr. KE (Cambodia) said that Government-supported industry, which comprised of around 400 factories and 400,000 employees, received most of the investment in Cambodia. Significant incentives to invest in industry were available, including a nine-year tax exemption and duty-free import of raw materials for products intended for export. While production-based investment was welcome, Cambodia could not afford to reject consumer-based investment; however, when approving investment, the Government conducted feasibility and environmental impact studies and examined the probable impact on the living conditions of people in the surrounding area in order to minimize the consequences for economic, social and cultural rights. It also took account of land ownership issues, which could be resolved by awarding compensation to the landowner. As Government-supported factories were located in urban areas, their impact on economic, social and cultural rights was minimal.

19. Mr. SUN (Cambodia) said that the 1994 Law on Investment was one of the soundest investment laws in South-East Asia, as the Government had tried to make it transparent. Investment projects could give rise to problems, for example with regard to land rights, but the Government was committed to reform of investment legislation in order to resolve the outstanding issues.

20. Mr. TEXIER suggested that the Office of the United Nations High Commissioner for Human Rights (OHCHR) country office in Cambodia could help with the drafting of future reports and written replies.

21. He asked for information on the proportion of formal to informal employment and on unemployment rates in various sectors of the population. He also asked what strategies were in place to promote vocational training and employment for young people.

22. He wondered whether the minimum wage provided workers and their families with a decent living and what percentage of the population earned only the minimum wage. He asked for further details on night-time work, which did not seem to be sufficiently protected, especially in the case of young people and children. In addition, he wondered what measures were being used to reduce gender inequalities in employment in a context of continuing discrimination against women in the form of sexual harassment in the workplace and insufficient maternity protection.

23. Turning to article 8 of the Covenant, he said that violence and threats against trade unionists and the impunity surrounding such acts were matters of grave concern. He referred to comments published by the International Labour Organization (ILO) on the murders of three trade unionists, Chea Vichea, Ros Sovannareth and Hy Vuthy. He endorsed the recommendations made by the ILO Committee of Experts on the Application of Conventions and Recommendations to the effect that the Government of Cambodia should take urgent steps to institute independent inquiries into the three murders and review the convictions of those found guilty and arrange for their release pending the outcome of those enquiries. The Committee of Experts had also recommended that the Government should take steps to ensure the independence and effectiveness of the judicial system and to allow trade unionists to exercise their activities in a climate free of intimidation and risk to their personal security and their lives. That was the essence of the right to freedom of association.

24. Ms. BRAS GOMES said that she looked forward to receiving more information on the budget allocation for the education of disabled children at the Committee's next session.
25. She asked about the national contributions to the social security system, and notably how the returns on foreign investment were used in relation to social security.
26. The State party's report (E/C.12/KHM/1) made reference to a pension and she wondered if it was an old-age pension. Was it only for civil servants and veterans, or did it also cover the private sector? She would also like to know who was covered by the social security system and what benefits they were entitled to.
27. Referring to the written reply to question 27 (E/C.12/KHM/Q/1/Add.1), she asked for examples of how ministries helped people in difficult situations.
28. Lastly, she asked for the Government's position on the lack of any comprehensive public social safety nets and on ratification of the ILO Social Security (Minimum Standards) Convention.
29. Mr. ZHAN Daode asked for full statistics on employment and unemployment.
30. Mr. ABDEL-MONEIM said that the figures on employment rates in the State party's report should cover a period of 16 years and that a base year was needed in order to allow comparison and track improvements. He wondered what "insufficient employment" in the table at paragraph 203 of the report meant: did it include disguised employment? Cambodia's employment situation in 2000 and 2001 had been very good but he wondered how long that would continue, given that industry and services were the largest employment sectors. He asked whether foreign investment really helped create jobs.
31. The decline in tax revenue from exports meant that revenue generation had become increasingly dependent on direct taxes such as VAT, which put a greater burden on the poor. He asked how the Government could solve that problem.
32. Mr. MARTYNOV asked what the current employment situation was, in particular in the garment and textile industry, which had been hard hit by the financial crisis. He asked if the Government took any measures to provide other sources of income or training to people who had lost their jobs.
33. He asked for information and statistics on the employment of people with disabilities and wondered whether there were any Government measures to provide job opportunities for them, such as incentives for employers.
34. He noted that the fishing, construction and agriculture industries were not subject to labour inspections and asked whether the Government had taken or planned to take measures to institute inspection in those industries.
35. Mr. DASGUPTA asked what steps the Government was taking to ensure that poor people could access the minimum food requirements defined by the World Health Organization (WHO). He was interested in information on immediate, short-term solutions. Projections had shown

that Cambodia would not be immune to the global recession and that could lead to increased unemployment and, consequently, increased poverty. In that context, the question of access to food was likely to gain in significance and he wondered how the Government would cope.

36. Mr. SUN (Cambodia) said that the Kingdom of Cambodia attached great importance to gender affairs and women's and children's rights, and drew the Committee's attention to the Government's written replies (E/C.12/KHM/Q/1/Add.1, paras. 30 ff.).

37. With regard to the implementation of the Labour Law of 1997, he referred Committee members to the mechanisms listed in paragraph 39 of the written replies.

38. Cambodia's informal economy was not large, and mechanisms had yet to be implemented to guarantee the rights of informal workers. The non-formal education programmes created by the Ministry of Education, Youth and Sport to provide training and information on job-hunting were also aimed at vulnerable groups such as people with disabilities and workers in the informal economy.

39. Mr. KE (Cambodia) said that foreign investment helped to create jobs and the fact that the majority of people in rural areas worked in agriculture indicated that more foreign investment was required.

40. As a result of the economic crisis, a number of workers had been laid off and factories had been closed. As Cambodia was a least developed country, the Government was not in a position to compensate those laid off, but it provided support in the form of training. The Government had taken measures to reduce production costs in Cambodia to make it more attractive to foreign investors. At the Sixth World Trade Organization (WTO) Ministerial Conference in Hong Kong in 2005, developed countries had agreed to provide duty-free, quota-free market access to products from least developed countries and the Cambodian Government was urging them to follow through on their commitment.

41. He said that the Government set aside around 20 per cent of the budget to deal with crises, but he had no detailed information on how it was allocated.

42. Mr. SUN (Cambodia) said that Cambodia was suffering from the impact of the global financial crisis. It was a small country with a small economy and many workers were being laid off. It was also a least developed country, so the effects were not only economic but social. As a result of the crisis, the Government was shifting its focus from industry to agriculture, as part of the Rectangular Strategy.

43. For its future reports, the Government would seek assistance from OHCHR Cambodia country office.

44. The minimum wage established by the Ministry of Labour and Vocational Training was the same for men and women.

45. The Government planned to establish a labour court and was drafting a law on trade unions in consultation with stakeholders. The judicial system needed to be reformed and the Government was committed to such a reform.

46. The Government had not yet ratified the ILO Social Security (Minimum Standards) Convention but was discussing the possibility with the International Labour Organization (ILO) and indeed was already implementing some of its provisions. Cambodia had to take account of economic realities when adopting programmes and policies on social security. It had already ratified the eight ILO fundamental conventions.
47. Mr. KE (Cambodia) said that it was easier to enforce the legal provisions on the protection of workers' rights in the formal sector than in the informal sector.
48. Mr. SUN (Cambodia) said that workers had the right to form trade unions. There was no restriction on the number of unions that could exist and over 1,000 had already been established. Under the Constitution, workers had the right to strike and demonstrate. The forthcoming bill on trade unions would focus more on workers' rights.
49. With regard to the murder of the trade unionist Chea Vichea, he said that the Government regretted what had happened but remained committed to the judicial process.
50. He would provide written information on the unemployment rate and the size of the labour force.
51. Mr. TEXIER said that the answers provided had not been entirely satisfactory. According to the delegation, freedom of association existed in Cambodia. However, according to ILO, the International Trade Union Confederation (ITUC) reported that trade unionists in Cambodia continued to face repression of all kinds, with virtually no intervention from the authorities. Anti-union acts included beatings from hired thugs, death threats, blacklisting, the bringing of trade unionists before the courts on false charges, wage deductions and exclusion from promotion. ITUC also referred to the continued obstruction of trade union activities and non-recognition of trade unions. That was not what he understood by freedom of association, and the Government needed to make more of an effort in that area.
52. As to child labour, especially the worst forms of child labour, research carried out by ILO, the United Nations Children's Fund (UNICEF) and the World Bank estimated that a considerable number of children aged between 5 and 14 were working. He drew the delegation's attention to the seriousness of the situation and, recalling that Cambodia had ratified the ILO Minimum Age Convention and the ILO Worst Forms of Child Labour Convention, said that the Government must step up its efforts to deal with the problem.
53. Mr. SUN (Cambodia) said that the right to social security was guaranteed and protected by the Constitution; however, the country's economic situation made it difficult to realize that right. The Government had established a six-point priority plan relating to social services. He would try to obtain data on social security for the Committee. The Government was cooperating with various agencies, including ILO, on the subject of social security.
54. The CHAIRPERSON invited comments and questions from members regarding articles 10 to 12 of the Covenant.

55. Mr. RIEDEL said that piped water was apparently a luxury available only to a small number of people living in affluent urban areas. Urban residents also had access to water vendors, which meant that waterborne diseases were less prevalent there than in poorer, rural areas. Rural households were less likely to have access to safe water sources and sanitation. How was the Government addressing those problems? More detailed information should be provided in the next State party report, in accordance with the Committee's new guidelines and its general comments Nos. 14 and 15.

56. As to the right to health, he expressed concern at the large number of unlicensed private clinics. The written replies (E/C.12/KHM/Q/1) mentioned several measures to eradicate counterfeit medicines and illegal health service providers, and to ensure an adequate supply of medicines to medicine warehouses and health centres and he commended the State party on its efforts. However, there were no details of the impact of those measures during the reporting period. Had the situation improved during the reporting period and if not, why not? Were medicines securely distributed to the most vulnerable sectors of society? He wondered what targets had been set in that regard for the forthcoming reporting period and he asked the State party to focus on results in its next report. Although he recognized the difficulties Cambodia was facing, it was not possible to assess its human rights performance without such data.

57. The Committee would appreciate statistics on access to emergency obstetric services, including details of how specific sectors of society were affected by access or lack of access to those services, particularly in rural areas.

58. It was difficult to assess from the written replies to the list of issues whether the situation regarding HIV/AIDS had improved or deteriorated. In introducing the initial report, the head of the delegation had said that the rate of HIV infection had dropped from 1.9 per cent in 2005 to 0.9 per cent. While that was an extraordinary success, it nonetheless remained true that, with over 100,000 people already infected, the rate of infection was still high. He would welcome the delegation's comments on that situation.

59. He asked how many people were suffering from mental health problems as a consequence of the prolonged war and genocide. Data should be provided on the provision of mental health care for the rural and urban populations.

60. The Committee would be interested to learn how the State party differentiated between psychiatric treatment and traditional healing methods. The forthcoming periodic report should include disaggregated data on that issue, including annual statistics for rural and urban areas, and focusing particularly on marginalized groups.

61. He would welcome further details of services to people disabled by mines, particularly children. It would be useful to know whether the State party had sought assistance from donor countries in that regard.

62. Mr. TIRADO MEJÍA asked for additional information on how the State party was tackling the issue of mine clearance, and how many mines remained on its territory. Given that it could cost around US\$ 150 to clear a mine, he wondered whether the State party had requested international cooperation to spread the financial burden.

63. He would welcome the delegation's comments on the possible advantages of introducing more small-scale farming in order to increase production and therefore reduce hunger and poverty.
64. It would be useful to learn to what extent urban and semi-urban populations had been able to enjoy the right to own land as a result of the 2001 Land Law.
65. Mr. KEDZIA asked for the delegation's comments on reports that there had been evictions in rural and urban areas, despite the provisions of the Land Law. Victims had allegedly been harassed, and compensation under the Law was exposed to manipulation, resulting in unjustly low payments. It would be useful to know whether the State party had taken measures to implement the recommendations of the United Nations Special Rapporteur on adequate housing as a component of the right to an adequate standard of living in his 2006 report (E/CN.4/2006/41/Add.3). The delegation should also comment on reports of evictions in the Dey Krahom Area in January 2009, and the current threat of eviction to those living with HIV/AIDS in the Borei Keila Area and to the so-called "Group 78".
66. It would be useful to have data on proceedings taken against State officials held accountable for irregularities while carrying out evictions. The Committee would also welcome more detailed information on the involvement of the affected persons and communities in procedures in relation to land ownership and evictions and on the amounts received in compensation by those evicted, particularly in the light of reports that consultations had been non-existent or insufficient.
67. He would welcome details of any decisions taken following the call made in January 2009 by the United Nations Special Rapporteur on adequate housing for a national moratorium on evictions until the Government's policies and actions in that regard had been brought into full conformity with its international human rights obligations.
68. It would also be useful to have information on any measures taken in response to the recommendations of the Special Representative of the Secretary-General for human rights in Cambodia on access to land and livelihoods after his visit in March 2006.
69. He noted that paragraph 546 of the State party's report (E/C.12/KHM/1) described the goals of the Ministry of Health using the language of economic growth, rather than representing the right to health as a legal entitlement. He recommended that the authorities should strive for a more rights-based approach to the issue in future.
70. Ms. BRAS GOMES asked for updated information on the prevalence of domestic violence, particularly given that the State party's report cited official figures for 1996, according to which an estimated 95 per cent of men used violence against women (para. 348). It would be useful to know what measures the Government had taken to educate men and women on that issue.
71. She failed to understand why corporal punishment of children was still not banned by law.
72. Mr. ZHAN Daode asked for statistics on the results of the measures taken to eradicate child labour and combat the sexual exploitation of children.

73. Mr. SADI said that the Committee required specific details of the measures the State party had taken to combat domestic violence, particularly as the problem was so widespread. The future plans and intentions detailed in the report were of little use to the Committee in assessing the current situation and the effectiveness of steps taken. Similarly, the Committee needed precise information on the measures implemented to prohibit corporal punishment of children and trafficking in persons.

74. The State party should consult the Committee's general comment No. 14 on the right to the highest attainable standard of health and general comment No. 15 on the right to water, which gave detailed information on the steps the Government should take in order to guarantee those rights.

75. Ms. BARAHONA RIERA said that the State party should consider criminalizing domestic violence as a means of tackling the problem. The punishments should be severe enough to bring about a change in behaviour. Likewise, in order to combat the crime of trafficking in persons, all perpetrators should face serious consequences.

76. She asked what type of health system was in place in the State party, and what system would be most useful. She would appreciate more details on the State party's policy on maternity care and its plans to reduce the maternal mortality rate.

77. Given that 25 per cent of women were heads of households, she would like to know what measures were taken to guarantee that women exercised full enjoyment of their land rights.

78. Mr. DASGUPTA asked what steps were being taken to ensure that the entire population enjoyed the right to adequate food, particularly since, in 2002, over one third of the population had been living below the poverty line. Given that the situation was likely to deteriorate as a result of the global recession, the issue was particularly pressing.

79. He would appreciate additional information on the environmental impact assessment of deforestation in the Prey Long area. In cases where forests were being destroyed, he asked what measures were being taken to ensure transparency over the granting of concessions. It would be useful to know whether the Government published details of concessions before they were granted, whether it invited consultation with all the affected communities, and whether the results of environmental impact assessments were made available to the public.

The meeting rose at 6 p.m.