

UPR MONITOR

International Service for Human Rights



Human Rights Monitor Series

UNIVERSAL PERIODIC REVIEW, 4TH SESSION STATE UNDER REVIEW REVIEWED ON 1 DECEMBER, AFTERNOON

Overview

The Working Group on the UPR examined the human rights situation in Cambodia on 1 December 2009. Mr. Ith Rady, the Secretary of State of the Ministry of Justice, led a very small delegation with Mr. Sun Suon, the Permanent Representative of Cambodia to Geneva doing most of the speaking in English on his behalf. The delegation did not stray far in its presentation from the national report, nor did it participate very actively in the interactive dialogue. The delegation was keen to stress its historical and socio-economic situation as the context for the review. There were sixty States on the speakers list and all, save nine.¹ had the opportunity to speak. Of the fifty-one that spoke most, with the exception primarily of Cambodia's neighbours² were quite critical in their interventions', asked questions and offered constructive recommendations, despite not being met with very constructive or informative answers. The States' questions and recommendations reflected the issues raised by civil society prior to the review, although few included timelines or plans for follow-up.

General information on Cambodia

- Cambodia is not a member of the Human Rights Council
- The members of the troika for the examination of Cambodia were Cameroon, Bahrain, and Nicaragua.³
- Cambodia held a national consultation on 17 August 2009 with six NGOs. The comments and views of the attending NGOs were summarised in an annex to the national report.

Information submitted to the Working Group

The **national report**⁴ of Cambodia focuses primarily on legislative measures and mechanisms that have been established or are being planned to promote and protect human rights. The report highlighted that 140 laws had been promulgated, along with emphasis being placed on a new Criminal Procedure Code, Civil Procedure Code, and Civil Code. There was particular attention given to the Rectangular Strategy and the National Strategic Development Plan, both aimed at combating poverty through expediting development in rural areas. The establishment and work of several Committees was also a key aspect of the report, namely the Complaints Commission of the Senate, the Complaints Commission of the National Assembly, and the Cambodian Human Rights Committee that is presently working with the Working Group for Human Rights

¹ Cameroon, Chile, Senegal, Latvia, Bangladesh, South Africa, Argentina and Mauritius.

² Nepal, Myanmar, Philippines, Indonesia, Singapore, Malaysia, Bhutan, Russia and Congo.

³ State under review requested that a member of its regional group be among its troika. There were no objections by Cambodia or by the members of the troika to the selection. To view the selection of troika members at the 12th session of the Human Rights Council on 14 September 2009, see <http://www.un.org/webcast/unhrc/archive.asp?go=090914>

⁴ A/HRC/WG.6/6/KHM/1, available at www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CKHSession6.aspx

Mechanism of ASEAN to establish a national human rights institution (NHRI). However the information presented in the national report about the effectiveness of the aforementioned legislation and mechanisms is inconsistent with the information presented in the other sources of information summarised below. There is a paragraph included in the report dedicated to the challenges facing Cambodia in upholding its human rights obligations, although they are not substantive.

The OHCHR **compilation of UN information** focuses on numerous issues, including: the lack of protection of women and children's rights⁵; the lack of independence of the judiciary,⁶ including corruption;⁷ incompetence of prosecutors;⁸ impunity for human rights violations, particularly those committed by law enforcement officials;⁹ and lack of safeguards to the right to adequate standards of living,¹⁰ including many cases of forced eviction due to a rising 'economic and military appropriation of communal lands.'¹¹

22 other stakeholders, including 17 non-governmental organisations (NGOs) acting independently and six groups of NGOs acting jointly,¹² submitted information for the OHCHR **summary of stakeholders' information**.¹³ This summary touched on various issues. Of particular concern was the situation of women's rights with reported high levels of domestic and sexual violence, trafficking and exploitation in the country.¹⁴ Children's rights were also of grave concern, as it was stated that children in Cambodia are subjected to trafficking,¹⁵ corporal punishment,¹⁶ and when detained are not separated from adults.¹⁷ Violence against and detention of human rights defenders, particularly those instigating community efforts to resist land grabbing, was also stressed in the report and it was recommended that such violations be investigated and brought to an end.¹⁸ The will of the Government to establish a national human rights institution (NHRI) in line with the Paris Principles was also questioned, based on the fact that no mandate or powers of a proposed NHRI had yet to be agreed upon.¹⁹

Interactive dialogue²⁰

Presentation by the State

Mr. Sun Suon gave the State's presentation, which lasted just over thirty minutes. Mr. Suon began by emphasizing Cambodia's post-conflict circumstance in order to give context to the review. The presentation,

⁵ Committee on the Elimination of all Forms of Discrimination against Women (CEDAW), Committee on Economic, Social and Cultural Rights (CESCR), and the Committee on the Rights of the Child (CRC).

⁶ CESCR, Committee Against Torture (CAT), and the Special Representative of the Secretary-General for Human Rights in Cambodia (the Special Representative).

⁷ CESCR, the Special Representative, and CAT.

⁸ The Special Representative.

⁹ CAT.

¹⁰ United Nations Development Assistance Framework (UNDAF), CESCR, and CEDAW.

¹¹ A/HRC/WG.6/6/KHM/2, available at www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CKHSession6.aspx

¹² A/HRC/WG.6/6/KHM/2, p.12.

¹³ A/HRC/WG.6/6/KHM/3

¹⁴ A/HRC/WG.6/6/KHM/3, JS1, JS4. P. 12.

¹⁵ Friends-International (F-I).

¹⁶ Global Initiative to End All Corporal Punishment of Children (GIEACPC)

¹⁷ F-I.

¹⁸ JS1, p. 12, and Front Line: the International Foundation for the protection of Human Rights Defenders (FL)

¹⁹ Amnesty International.

²⁰ Most statements made at the UPR Working Group can be found at <http://portal.ohchr.org/portal/page/portal/UPR>. Fill in the form at www.ohchr.org/english/bodies/hrcouncil/form.htm to receive username and password. Audiovisual archives of the meetings of the Working Group 'webcast' are available at www.un.org/webcast/unhrc/index.asp.

like the national report, largely focused on legislative measures, where it was claimed that 140 relevant laws are currently being promulgated. Poverty reduction, land reform, sustainable development and gender equality were among the main issues noted in the presentation, yet all were addressed in the context of law and there was no mention of the reality on the ground in each case. The delegation specifically addressed several of the questions submitted to them via the troika, but the answers were not substantive, reiterated the historical context of the State and repeated what had already been said in the presentation and national report. Cambodia stressed its appreciation for the opportunity to appear before the UPR and expressed a willingness to cooperate and engage in dialogue, although this was not apparent in the dialogue itself.

Themes and issues

Independence of the judiciary and anti-corruption were two key issues in the interactive dialogue. Many States expressed concern over reports of Government corruption and corruption in the courts.²¹ Switzerland recommended that anti-corruption laws be put into effect immediately, with the United States wanting to see ‘tough penalties’ for Government corruption.²² Ireland and New Zealand urged the establishment of an anti-corruption law and recommended that this could be established through an ‘independent and non-partisan’ anti-corruption commission²³ while New Zealand called for a fully empowering the Government anti-corruption unit for the sole purpose of acting against **corruption within the judiciary**.²⁴ Several States recommended judicial reform and other measures to guarantee **independence and impartiality of the judiciary**²⁵, in accordance with international standards. Bosnia wanted to see training for judges, while Spain recommended improving the remuneration system for judges.²⁶ None of these issues were met with a response.

Land issues and forced evictions were a dominating topic in the dialogue and many recommendations were given to improve the situation and protect victims. Several States stressed that there should be full implementation of the *2001 Land Law*²⁷ and the adoption of a strict legislative framework on evictions and resettlement.²⁸ There was grave concern for the victims of forced evictions and several States recommended a moratorium on evictions be held, with the Netherlands expressing the view that Cambodia should enter into a dialogue with civil society to determine how best to address unlawful land-grabbing and evictions.²⁹ Germany and New Zealand wished to see a halt to relocations to ‘uninhabitable sites’ and that the State ensure that people have access to necessary facilities.³⁰ Cambodia stated that it attached the highest priority to land reform and reminded the Committee that the Khmer Rouge had destroyed all ownerships. To rectify the situation the Government had established a national authority to resolve land issues in 2006 and more recently had established a working group to find solutions for land owners and ‘land occupants prior to eviction.’ It claimed that this mechanism had already resolved 1,400 cases.³¹

²¹ Sweden, Belgium, Netherlands, Korea, Switzerland, United States, New Zealand, Slovakia, Norway, Spain and Ireland.

²² A/HRC/WG.6/6/L.3, para. 83 (35,36).

²³ A/HRC/WG.6/6/L.3, para.83 (37).

²⁴ A/HRC/WG.6/6/L.3, para.83 (40.c)

²⁵ Sweden, Switzerland, Japan, Pakistan, Egypt, France, Netherlands, Sri Lanka, Switzerland, New Zealand, Slovakia, and Spain.

²⁶ A/HRC/WG.6/6/L.3, para. 83 (40).

²⁷ A/HRC/WG.6/6/L.3, para. 83 (64).

²⁸ Sweden, Switzerland, France, Mexico, Brazil, Canada, Australia, New Zealand, and Austria.

²⁹ A/HRC/WG.6/6/L.3, para. 83 (68).

³⁰ A/HRC/WG.6/6/L.3, para. 83 (66, 67).

³¹ A/HRC/WG.6/6/L.3, para. 55.

Limitations on **freedom of expression** were given particular attention by WEOG³² countries, along with Mexico, Hungary and the Czech Republic, resulting in several recommendations. The Czech Republic questioned if the newly adopted Penal Code is in line with the ICCPR, Switzerland expressed concern for the new criminal code providing for offenses of defamation, and France urged Cambodia to bring its policies and practises in line with international standards. Israel urged amending press laws that authorize censorship in the form of publishing suspension and imprisonment under the guise of national security,³³ while Mexico encouraged adopting legislation to protect journalists in their professional capacity and to ensure that violations on limitations of freedom of expression are not criminally sanctioned. Germany, France and Canada were particularly concerned about frequent reports of lifting the immunity of opposition parliamentarians, with France recommending that the modalities for this practise be re-examined to ensure they don't encroach on the principles of freedom of expression.³⁴ During the dialogue Australia stated that it welcomed Cambodia's commitment to freedom of expression as a way of strengthening democracy, but wanted to know how this would be applied to civil society, media representatives, political commentators and political figures. However, this inquiry was not met with a direct response. Instead Cambodia assured the Working Group that any restrictions were provided by law and intended to respect order and national security.

Many States raised the promotion and protection of **women's rights** through combating **human trafficking, sexual and domestic violence and the exploitation of women**.³⁵ Slovakia and Italy wanted to see the full implementation of the Second National Plan on Human Trafficking 2006-2010. Malaysia wanted the 'root cause' of gender-based poverty to be addressed, along with a strengthening of the role law enforcement plays in combating trafficking of women and children.³⁶ Despite numerous comments, questions and recommendations on these matter, Cambodia failed to address the issue.

Germany called on Cambodia to adopt measures to combat impunity in the culture of violence that exists regarding the intimidation, disappearance, and murder of **human rights defenders**,³⁷ Austria, Norway and Ireland called for such crimes to be investigated and for the perpetrators to be held accountable,³⁸ while Brazil urged Cambodia to develop a policy specifically to **protect human rights defenders**.³⁹ It remains unclear if these issues will be addressed by Cambodia because it didn't respond to the alarm expressed by States over the current situation for human rights defenders.

Many States drew attention to the **education system and illiteracy**, noting that improvements need to be made at all levels, from primary to advanced education, with a special emphasis on ensuring that there are education programs for vulnerable groups, including women, persons with disabilities and minority children.⁴⁰ In Cambodia's opening statement and national report it highlighted that it has developed a National Strategic Development Plan 2006-2010 to ensure that all Cambodian children have equal access to education and stated that the number of children enrolled in school had increased. However there has been no evidence that this has decreased illiteracy rates or that female enrolment has increased. To this end Turkey recommended that making primary education be compulsory be added to the 'National Strategic Development Plan'.⁴¹

³² Canada, United States, Germany, France, Israel, Switzerland, Australia, New Zealand and the United Kingdom.

³³ A/HRC/WG.6/6/L.3, para. 83 (46).

³⁴ A/HRC/WG.6/6/L.3, para. 83 (48).

³⁵ Slovakia, Austria, Norway, Philippines, Italy, Belarus, Malaysia, Spain, Germany, Egypt, France, Sweden, and Belgium.

³⁶ A/HRC/WG.6/6/L.3, para. 83 (32).

³⁷ A/HRC/WG.6/6/L.3, para. 83 (53 a).

³⁸ A/HRC/WG.6/6/L.3, para. 83 (53 b, c, d).

³⁹ A/HRC/WG.6/6/L.3, para. 83 (52).

⁴⁰ A/HRC/WG.6/6/L.3, para. 83 (85, 86, 87, 88).

⁴¹ A/HRC/WG.6/6/L.3, para. 83 (85).

Cambodia received recommendations by Pakistan, Egypt, Thailand and the Philippines to expedite the establishment of an NHRI in accordance with the Paris Principles, with the Philippines recommending this should be done in ‘consultation with all relevant actors.’⁴² Cambodia did not respond to this.

States also engaged Cambodia in discussion on the following themes: defamation charges;⁴³ poverty reduction;⁴⁴ the National Strategic Development Plan;⁴⁵ children’s rights;⁴⁶ ratification of outstanding instruments,⁴⁷ specifically the *International Convention for the Protection of All Persons from Enforced Disappearance* (CED) and the *Convention on the Rights of Persons with Disabilities* (CRPD), the two Optional Protocols to the *International Covenant on Civil and Political Rights* (ICCPR), the Optional Protocols to the *Convention on the Elimination of All Forms of Discrimination against Women* and CRPD, and *Convention No. 169* of the International Labour Organization; accomplishing the human rights goals set by Human Rights Council *Resolution 9/12*; the rights of disabled persons, including equal treatment and access to education;⁴⁸ trade union workers rights;⁴⁹ and landmine clearance.⁵⁰

The United Kingdom and Austria acknowledged that **civil society** had been consulted to in the process of drafting the national report and suggested that these consultations be built on as part of a follow up to the review process.

There were 91 recommendations and response of Cambodia to these recommendations will be included in the outcome report adopted by the Human Rights Council at its thirteenth session in March 2009.⁵¹ The delegation closed the adoption of the outcome report on 3 December by expressing its sincere appreciation, thanking the Human Rights Committee for its constructive recommendations.

⁴² A/HRC/WG.6/6/L.3, para. 83 (7).

⁴³ United Kingdom, Mexico, Switzerland, Australia, New Zealand, Israel, and Germany.

⁴⁴ Myanmar, Algeria, Brunei, Turkey, Malaysia, Lao, Brazil, Egypt, Vietnam, Thailand, and India.

⁴⁵ Algeria, Malaysia, Brazil, Belarus, Thailand, Cuba, China, Netherlands and Korea.

⁴⁶ Algeria, Brazil, Morocco, United States, Israel, Slovenia, Germany, and Czech Republic.

⁴⁷ Brazil, Thailand, India, New Zealand, Spain, Mexico and Slovakia.

⁴⁸ Belarus, India, and New Zealand.

⁴⁹ United States and Austria.

⁵⁰ Thailand.

⁵¹ A/HRC/WG.6/6/L.3, para. 83.

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