Human Rights Committee

List of issues in relation to the third periodic report of Cambodia*

Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to additional previous recommendations

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Bearing in mind the previous recommendation of the Committee (CCPR/C/KHM/CO/2, para. 5), please provide specific examples of the application of the Covenant in national courts, as well as additional information about training and awareness raising of the Covenant among judges, lawyers, prosecutors, parliamentarians and Government officials. Please also indicate whether the State party intends to ratify the Optional Protocol to the International Covenant on Civil and Political Rights, on individual communications and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

2. In light of the previous recommendation of the Committee (CCPR/C/KHM/CO/2, para.6), please provide additional information about the status of efforts to create a national human rights institution (NHRI) that is fully compliant with the Paris Principles. In particular, please provide further information about the status of the draft Law on the Establishment of a National Human Rights Committee, the reasons for the continued delays in the establishment of an NHRI, the current situation in relation to civil society consultation, and when it is expected that such an institution will be in place.

Anti-corruption measures (arts. 2 and 25)

3. Please provide information about the measures taken by the State party to address corruption, including in public procurement and taxation. Please provide information about the implementation of the 2010 Anti-Corruption Law, including the work of both the National Council Against Corruption and the Anti-Corruption Unit. Please provide information about the number of complaints, investigations, prosecutions and convictions for corruption, as well as any preventative measures that are in place.

States of emergency (art. 4)

4. Please provide information regarding the Law on the Management of the Nation in a State of Emergency promulgated in 2020, including detailed information about its provisions, sanctions for violating the Law, the possibility of judicial oversight of its application and its compatibility with the Covenant, the constitution and other national legal standards. Please explain whether these legal provisions have been applied as a response to the COVID-19 pandemic, including if there have been derogations from any rights under the Covenant.

* Adopted by the Committee at its 129th session (29 June – 24 July 2020).
Bearing in mind the Committee’s General Comment 29 (CCPR/C/21/Rev.1/Add.11), please provide information about whether any such derogations met the strict requirements of proportionality to the exigencies of the situation, relating to the duration, geographical coverage and material scope, as well as if other State parties were notified via the United Nations Secretary General.

The fight against impunity and past human rights violations (arts. 2, 6, 7 and 14)

5. Bearing in mind the committee’s previous recommendations (CCPR/C/KHM/CO/2, para. 11 & para.19), please provide information about what steps the State Party has taken to guarantee remedies for grave human rights violations that occurred since the 1991 Paris Peace Agreement, and to address impunity in order to fulfil their obligations under the Covenant.

6. Bearing in mind the Committee’s previous recommendation (CCPR/C/KHM/CO/2, para.19), please provide more detailed information about how the independence and efficacy of the Extraordinary Chambers in the Courts of Cambodia (ECCC) is ensured. Please also discuss how the jurisprudence of the ECCC is integrated into the national legal system.

Non-discrimination (arts. 2 and 25)

7. In light of the Committee’s previous recommendations (CCPR/C/KHM/CO/2, paras. 7-9), please describe the legislative and other measures taken during the current reporting period to combat discriminatory laws and social practices based on sex, sexual orientation, gender identity, race and ethnicity, religion, disability and indigenous status. Please include information about steps taken to collect information about minority and marginalised groups and their needs and to develop comprehensive anti-discrimination legislation, including provisions that prohibit discrimination on all relevant grounds, and measures taken to ensure equal access to government services.

Violence against women (arts. 2, 3, 6, 7 and 26)

8. Bearing in mind the previous recommendation of the Committee (CCPR/C/KHM/CO/2, para.10) please discuss the measures taken by the State party to address violence against women, including the reported high degree of societal tolerance for such human rights violations, and the culture of victim-blaming for violence. In this regard, please provide more information about (a) the results of the 2nd National Action Plan on Prevention of Violence against Women (2014–2018) and whether there is currently a national plan to combat violence against women in place; (b) the compatibility of the 2005 Law on the Prevention of Domestic Violence and Protection of Victims with the provisions of the Covenant, including in relation to its focus on non-judicial mediation and the legal definition of domestic violence; (c) the number of complaints, investigations, prosecutions and convictions for all forms of violence against women secured within the reporting period, as well as information on measures in place to protect victims.

Right to life (art. 6 and 24)

9. Please respond to reports of extrajudicial killings, including of opposition leaders, human rights defenders, journalists and those involved in protests over land rights. Please provide information about the number of investigations, prosecutions and convictions for such categories of killings during the reporting period. Please also provide detailed information on the status of high profile cases, including information about (a) whether an independent inquiry has been initiated into the circumstances of the murder of Kem Ley on 10 July 2016; and (b) how many of those charged in the murder of journalist Soun Chan have been apprehended or detained.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment and treatment of persons deprived of their liberty (arts. 6, 7, 9 and 10)

10. In light of the Committee’s previous recommendation (CCPR/C/PHL/CO/4, para.17), please discuss the State party’s efforts to combat the practice of torture and other cruel, inhuman or degrading treatment or punishment, including whether the State party intends to
enact specific legislation on torture that will clarify and strengthen its legal definition. In this regard, please provide information about (a) how full independence of the National Committee against Torture, Other Cruel, Inhuman or Degrading Treatment or Punishment from the Ministry of the Interior is ensured; (b) the total number of complaints, investigations, prosecutions and convictions for torture, ill treatment and deaths in detention within the reporting period, including any cases taking place in police custody and mandatory drug treatment centres; (c) the number of judicial proceedings in which forced confessions have been excluded from evidence within the reporting period; and (d) the alleged practice of physically compelling individuals to thumbprint documents and take mandatory urine tests.

11. In light of the previous recommendation of the Committee (CCPR/C/KHM/C/2 para.14), please provide further information about efforts to reduce severe overcrowding and improve poor conditions within the prison system, including lack of access to food, clean water and medical care. Please respond to allegations that the national anti-drug campaign launched in 2017 has led to exponential increases in the prison population and worsened overcrowding within the reporting period. Please explain (a) what, if any, human rights compliant alternatives to detention, including non-custodial sentences for non-violent offenses, have been used, including to address overcrowding in prisons; (b) any measures taken to address corruption and abuse by “room leaders” and official staff in the prison system; and (c) the use of presumptions such as association with individuals who possess drugs and presence of drug paraphernalia in arrest decisions.

12. Please provide information about whether the State party’s COVID-19 response has addressed the risks to detained populations, including amongst the most vulnerable detainees, and whether there have been any outbreaks of the virus in the prison system or other places of detention, and, if so, what the Government response has been.

Deprivation of liberty (art. 9, 10 and 14)

13. Please respond to reports that a large proportion of the prison population is being held in pre-trial detention, that a large proportion of women, including those with young children, are held in such conditions, that pre-trial detainees are incarcerated with convicted detainees, as well as that pre-trial detention is used for extended periods of time.

14. Please respond to reports that fundamental procedural safeguards, including the use of arrest warrants and the rights of individuals detained to be informed of the charges against them, to have prompt access to a lawyer, to have access to a medical assessment and to be brought before a judge in a prescribed timeframe are not consistently upheld within the State party. In this regard, and bearing in mind the Committee’s previous recommendations (CCPR/C/KHM/CO/2, para.1), please provide additional information about efforts to increase legal aid, including the exact status of the National Policy on Legal Aid, as well as how continued barriers to access such support will be addressed.

15. Bearing in mind the Committee’s General Comment 35 (CCPR/C/GC/35), please discuss whether individuals, who are caught using drugs, have been subjected to mandatory drug treatment and deprivation of their liberty without their free, informed consent following the launch of the national anti-drug campaign in 2017. If so, provide information about the number of individuals held in such programmes and the conditions in such centres. Please clarify whether persons in such programmes are free to leave when they choose, and if not, what is the legal basis for such deprivation of their liberty. Finally, please provide an overview of how the due process rights of those who are subjected to state mandated drug treatment are respected, including the degree of judicial oversight.

Elimination of slavery, servitude and trafficking in persons (arts. 2, 7, 8 and 26)

16. Please elaborate on the steps taken to address all forms of exploitation, including trafficking and labour exploitation, within the State party, including cases impacting women and children. In this regard, please (a) provide details on the number of complaints, investigations, prosecutions and convictions for trafficking and labour exploitation, including situations of debt bondage in brick kilns, fisheries, and plantations; (b) respond to reports that efforts to eliminate these phenomena have led to the imprisonment of women who have acted as surrogates or engaged in prostitution; (c) discuss whether the State party has addressed
increased vulnerability to trafficking and exploitation in the context of COVID-19, including amongst migrants.

Judicial independence (art. 14)

17. Following the Committee’s previous recommendation (CCPR/C/KHM/CO/2, para.20), please provide information about steps taken to address corruption within the judiciary and ensure full judicial independence from executive government. Please provide details about any work undertaken by the Anti-Corruption Unit to address judicial corruption, as well as clarify the status of the judicial integrity survey. Also, please indicate whether the State party intends to take measures to ensure public access to full transcripts of judicial decisions.

Freedom of expression, association and assembly (arts. 19, 20, 21 and 22)

18. Please respond to reports of the systemic violation of the freedom of expression within the State party. In this regard, please include information about (a) the shut down of multiple national and international media outlets, including the closure of 17 news websites in the 48 hours before the 2018 elections; (b) the use of criminal and civil legal action to suppress the freedom of expression of national and foreign individuals, including human rights defenders and journalists such as Ros Sokhet, Sok Oudom, Rath Rott Mony, Uon Chhin and Yeang Sothearin, Aun Pheap and Zsombor Peter, as well as organisations, including Free Radio Asia and the Cambodia Daily; (c) reports of violations of online freedom of expression, such as the blocking of websites that are critical of the Government, the harassment and intimidation of online activists and the threat of and use of criminal charges for online content, including in the period preceding the 2018 election.

19. Please provide information about reports of further derogations from freedom of expression in the context of COVID-19. In this regard, please provide information about (a) the revocation of the licenses of media outlets publishing information about the pandemic; (b) the arrest of individuals for expressing views that are critical of the Government’s COVID-19 response; (c) reports that journalist Sovann Rithy was arrested for directly quoting Prime Minister Hun Sen about COVID-19 and provide information about the status of charges against him.

20. Please provide information about the State party’s legal framework on freedom of expression, including online expression. Please provide information about (a) whether there are plans to revise provisions in the Criminal Code that penalise defamation, public insult, incitement and insult, bearing in mind the Committee’s previous recommendation (CCPR/C/KHM/CO/2, para.21); (b) revision to the Criminal Code in 2018 to include a lèse majesté offence, and the compatibility of such changes with provisions in the Covenant; (c) the compatibility of powers afforded by the 2016 Law on Telecommunications and the 28 May 2018 Prakas by the Ministry of Information and the Ministry of Posts and Telecommunications to control websites and social media with provisions of the Covenant; (d) the current status of draft legislation relating to freedom of expression, including efforts to revise the 1995 Press Law, the draft Law on Access to Information and the Draft Cybercrime Law.

21. Please provide information about efforts within the State party to protect and promote the right to freedom of assembly and association. Please provide information about (a) whether provisions contained in a 2017 circular requiring three days prior notification from civil society organisations before holding activities are still being implemented despite its formal revocation and whether monitoring of assemblies continues; (b) reports that peaceful assemblies, like the one sought by the Prey Lang Community Network (PLCN), have been restricted in contravention of the Law on Peaceful Demonstration and that excessive force has been used to disperse protests, including reports of the lethal use of force during land protests in the Sihanoukville province; (c) reports that individuals, including human rights defenders and opposition figures, such as Tep Vanny and Meach Sovannara, have faced criminal charges for exercising their rights to freedom of association and assembly; (d) reports that the Trade Union Law does not provide protections for workers and civil servants, that certain trade union face legal challenges to their operation and that there have been instances in which trade union activists were threatened or attacked.
22. Please discuss the compatibility of the 2015 Law of Associations and NGOs with the Covenant, as well as the status of amendments to the law following consultative meetings held by the Joint Working Group of the Royal Government and Civil Societies.

Right to vote and take part in public life (arts. 25, 2 & 10)

23. Please respond to reports on the suppression of the right of Cambodian citizens to vote, and the lack of free and fair elections in 2018. In this regard, please provide information about (a) the November 2017 Supreme Court decision to dissolve the Cambodia National Rescue Party and the subsequent reallocation of their seats to the ruling party without further elections and its compatibility with the Covenant; (b) the impact of this ruling on political pluralism in the 2018 elections and the compatibility of the Cambodian People’s Party gaining every seat with provisions in the Covenant; (c) reform to the Law on Political Parties allowing the Government to dissolve political parties and ban party members, and the compatibility of such provisions with the Covenant; and (d) attempts to punish individuals who did not vote.

24. Please respond to reports alleging persecution of members of the Cambodia National Rescue Party and its supporters by the ruling party. In this regard, please provide information about multiple instances of criminal charges, including insult, incitement and treason, against members of the opposition, such as Kon Mass and Kem Sokha, and respond to complaints that passports belonging to CNRP members and activists were revoked. Please also respond to reports of political opponents being threatened, subjected to violence and intimidation, including in the period before the 2018 elections.

Rights of the child (arts. 23, 24 and 26)

25. In light of the Committee’s previous recommendation (CCPR/C/KHM/CO/2, para.15), please provide additional information about reform of the juvenile justice system. Please include further details about how the State party intends to ensure full and effective implementation of the 2016 Law on Juvenile Justice. Please also comment on whether minors continue to be housed with adult prisoners and whether they are held in pre-trial detention.

Indigenous peoples (arts. 2, 25, 26 and 27)

26. Bearing in mind the previous recommendations of the Committee (CCPR/C/KHM/CO/2, para.28) please discuss the protections in place to ensure the rights of indigenous persons in Cambodia. In particular, please provide information about (a) reports that indigenous populations have been relocated without sustainable access to durable/long-term solutions and essential services; (b) efforts to protect and ensure the rights of indigenous peoples’ to own and occupy their traditional lands through the simplification of the existing communal land titling procedure; (c) the measures the State party has taken to provide indigenous populations with comprehensive protection from COVID-19.