



Parallel Report on Cambodia

2009

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2009

Submitted by the NGO Working Group, a coalition of Cambodian civil society organizations to the

United Nations Committee on Economic, Social and Cultural Rights

Prepared in collaboration with the UQAM's International Clinic for the Defence of Human Rights

April 2009

Members of the NGO Working Group

ADHOC	Cambodian Human Rights and Development Association (<i>chair of NGO Working Group</i>)
ADD	Action on Disability and Development
ACT	Alliance for Conflict Transformation
BABSEA	Bridges Across Borders Southeast Asia
Borderlands
CDPO	Cambodian Disability People Organization
CEPA	Culture and Environment Preservation and Association
CHRAC	Cambodian Human Rights Action Committee
CITA	Cambodian Independent Teachers' Association
CIYA	Cambodian Indigenous Youth Association
CLAFU
CLARI
CLEC	Community Legal Education Center
COHRE	Centre On Housing Rights and Evictions COHRE
CT	The CAMBODIAN Trust
CWCC	Cambodian Women's Crisis Center
CWDA	Cambodian Women's Development Agency
DAC	Development Association for Cambodia
DPA	Development and Partnership for Action
GAD/C	Gender and Development for Cambodia
HACC HIV/AIDS	Coordination Committee
HRTF	Housing Rights Task Force
ICSO	Indigenous Community Support Organization
KCD	Khmer Community Development
KKKHRDA	Khmer Kampuchea Krom Human Rights Association
KYA	Khmer Youth Association
LICADHO	Cambodian League for the Promotion and Defense of Human Rights
MEDiCAM
NGO FORUM	Non-Government Organization Forum on Cambodia
NPA	Norwegian Peoples Aid
Pact-Cambodia
PYD	International Cooperation, Peace and Development
STAR KAMPUCHEA	
SST	Sor Sor Troung
STT	Sahmakum Teang Tnaut
TGAFE

NB: The opinions expressed in this report do not necessarily reflect those of any specific organizations.

Acknowledgements

The NGO Working Group would like to thank the *Cambodian Office of the High Commissioner on Human Rights* for monitoring the periodic report process of the ICESCR. A special thank is necessary to Mr. Ean Karona and Mr. James Turpin for their support.

The NGO Working Group would also like to thank *UQAM'S International Clinic for the Defence of Human Rights* for its contribution in drafting this report and for the implication of Andréanne Goyette, Michelle Langlois, Julie Rose Paré, Catherine Drouin, Nicolaos Strapatsas, Mirja Trilsch, Gabrielle Dion and Marlene Yahya-Haage, who worked on the report under the direct supervision of Prof. Bernard Duhaime.

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General Framework

Review of Procedure

- I. Since becoming a party to the *International Covenant on Economic Social and Cultural Rights* [ICESCR]¹ on 26 May 1992, the State of Cambodia has been under the obligation to submit to the United Nations Committee on Economic, Social and Cultural Rights [*the Committee*], in accordance with article 16, periodic reports detailing the measures undertaken to implement the *Covenant*.² The *Committee* requested the State to submit reports on “the measures which [Cambodia had] adopted and the progress made in achieving the observance of the rights recognized”³ in the *Covenant*. According to article 17, “reports may [also] indicate factors and difficulties affecting the degree of fulfilment of obligations under the present *Covenant*”.⁴ The State repeatedly failed to comply with its reporting obligations, as noted by the *Committee*.⁵
- II. In August 2002 a coalition of civil society organizations submitted a parallel report to the *Committee* [2002 *Parallel Report*] providing information on the situation of economic, social and cultural rights in Cambodia.⁶
- III. On 10 November 2008 Cambodia finally submitted its report.⁷ On 10 December 2008, the *Committee* formulated a list of 52 questions addressed to the State in order to obtain clarifications on specific subjects.

¹ *International Covenant on Economic, Social and Cultural Rights*, 19 December 1966, 993 U.N.T.S. 3, 6 I.L.M. 360 [hereinafter *ICESCR* or *Covenant*].

² *Ibid.*, art. 16; The State of Cambodia has ratified many other international human rights law instruments in addition to the ICESCR, such as the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, 1465 U.N.T.S. 85 [hereinafter ICAT], the *International Covenant on Civil and Political Rights*, 19 December 1966, 999 U.N.T.S. 171, 6 I.L.M. 368 [hereinafter ICCPR], the *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, 1249 U.N.T.S. 13, 19 I.L.M. 33 [hereinafter CEDAW], the *International Convention on the Elimination of All Forms of Racial Discrimination*, 7 March 1966, 660 U.N.T.S. 195, 5 I.L.M. 352 [hereinafter CERD] and the *Convention on the Rights of the Child*, 20 November 1989, 1577 U.N.T.S. 3, 28 I.L.M. 1456 [hereinafter CRC]. Cambodia also ratified several International Labour Organization Conventions, such as the *Convention no. 87 on Freedom of Association and Protection of the Right to Organize* 68 U.N.T.S. 17, , *Convention no. 98 on the Right to Organize and Collective Bargaining*, 96 U.N.T.S. 257, *Convention of the International Labour Organization on minimum age, C138*, ILO, and *Convention no. 182 on the Elimination of the Worst Forms of Child Labour*, 2133 U.N.T.S. 161.

³ *ICESCR*, *supra* note 1, article 16(1).

⁴ *Ibid.*, art. 17(2).

⁵ Office of the High Commissioner for Human Rights, Reporting Status of Cambodia: CESCR-International Covenant on Economic, Social and Cultural Rights, online: UNCHR <<http://www.unhchr.ch/tbs/doc.nsf/NewhvVAlSPRByCountryOpenView&Start=1&Count=250&Expand=29.5#29.5>>.

⁶ Committee on Economic Social and Cultural Rights, Cambodia report on the International Covenant on Economic, Social and Cultural Rights: Prepared by NGO Working Group on ICESCR, Cambodia C/O, August 2002 [hereinafter *2002 Parallel Report*].

IV. The present parallel report formulated by 36 NGOs, a coalition of civil society organizations called the NGO working group,⁸ seeks to provide the *Committee* with additional information and to rectify any incorrect information submitted by the State in its report of 10 November 2008.

⁷ Committee on Economic Social and Cultural Rights, Implementation of the International Covenant on Economic, Social and Cultural Rights: Initial reports submitted by States parties under articles 16 and 17 of the Covenant Cambodia, 10 November 2008, E/C.12/KHM/1 [hereinafter *2008 State Report*].

⁸ ADHOC (chair and coordinator of the NGO Working Group), ADD Action on Disability and Development, ACT The Alliance for Conflict Transformation, BABSEA Brides Across Borders Southeast Asia, Borderlands, CDPO Cambodian Disability People Organization, CEPA Culture and Environment Preservation and Association, CHRAC Cambodian Human Rights Action Committee, CITA Cambodian Independent Teachers' Association, CIYA Cambodian Indigenous Youth Association, CLAFU, CLARI, CLEC Community Legal Education Center, COHRE Centre On Housing Rights and Eviction, CT The CAMBODIAN Trust, CWCC Cambodian Women's Crisis Center, CWDA Cambodian Women's Development Agency, DAC Development Association for Cambodia, DPA Development and Partnership for Action, GAD/C Gender and Development for Cambodia, HACC HIV/AIDS Coordination Committee, HRTF Housing Right Task Force, ICSO Indigenous Community Support Organization, KCD Khmer Community Development, KKKHRDA Khmer Kampuchea Krom Human Rights Association, KYA Khmer Youth Association, LICADHO, MEDiCAM, NGO FORUM Non-Government Organization Forum on Cambodia, NPA Norwegian Peoples Aid, Pact-Cambodia, PYD International Cooperation, Peace and Development, STAR KAMPUCHEA, SST Sor Sor Troung, STT Sahnakum Teang Tnaut, TGAFE.

Introduction

This is the second time that a group of NGOs working in field of economic, social and cultural rights have joined together to write a report for the *Committee*. Our group did not have as much time to prepare this report as we did for the report in 2002 but having gained experience from drafting the previous report we were able to accelerate the writing process. Each working group did their best to provide as much updated information as possible by elaborating, before drafting the report, a questionnaire identifying priority issues for each of the rights in this *Covenant*.

After finishing the questionnaire and sending it to the *Committee* on this *Covenant*, we started to draft the report by examining the implementation of the *Covenant* against our priorities resulting from our first-hand experience of the reality of economic, social and cultural rights in Cambodia. Subsequently we organized a broad-based consultative meeting involving some 36 NGOs and communities to provide comments on the draft report. This report is a result of joint efforts from different working groups with assistance from the OHCHR Cambodia Country Office and UQAM's International Clinic for the Defense of Human Rights based in Canada.

This report is a useful and important contribution by civil society organizations which provides members of the *Committee* information on key areas of concern which they should explore during their dialogue with Government of Cambodia. The report should also be useful for *Committee* as it pushes the Government of Cambodia to enhance the implementation of the ESCR. We, as civil society organizations, will continue to monitor closely and collaborate with our government to promote the ESCR after this dialogue and continue to encourage it to fulfill its obligation, as a state member of the *Covenant*, to submit periodic reports to the *Committee* in the future.

Phnom Penh, April 2009
ADHOC

Article 1: Right to Self-Determination

1. *All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*

2. *All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.*

3. *The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.*

1. Article 1 contains one of the most significant rights for Cambodia's people, namely the right to freely dispose of their natural wealth and resources. Despite the State's economic expansion, this right has unfortunately been poorly implemented by the Government of Cambodia and its institutions.⁹ Although there have been significant advances in terms of governmental benefits to the population, these do not sufficiently allow an equitable redistribution of wealth in order to reach an acceptable standard of living for the population.

Natural Resources

2. As indicated in the *2002 Parallel Report*, the management of natural resources was one of the main concerns expressed by several civil society groups. The main resources of Cambodia are: agriculture, fisheries and forestry.¹⁰ The rural population of Cambodia, which represents 84 % of the country's total inhabitants, depends on the exploitation of these resources both for its livelihood and subsistence. However, the Government of Cambodia has allowed many concessions to private enterprises, which has reduced the peoples' traditional access and rights to these resources.¹¹

3. Article 59 of the Cambodian Constitution provides that "the State must protect the environment, maintain the balance of the ecosystem and make clear plans for managing lands, water, air, mines, forests, fisheries, and wildlife".¹² This provision does not

⁹ World Bank Poverty Reduction and Economic Management Sector Unit East Asia and Pacific Region. *Sustaining Rapid Growth in a Challenging Environment Cambodia Country Economic Memorandum - 2009*, (January 14 2009) at para. 1-2, online: World Bank <http://siteresources.worldbank.org/INTCAMBODIA/Resources/293755-1181597132695/kh_growth_report2009full.pdf>.

¹⁰ World Bank East Asia and the Pacific Region. *Sharing growth: equity and development in Cambodia Equity Report 2007- Report No. 39809-KH*, (June 4 2007), at p. 52-53, online: World Bank <<http://siteresources.worldbank.org/INTCAMBODIA/Resources/293755-1181597206916/Full-Report-E&D.pdf>> ; 2008 State Report, *supra* note 7, at p. 26, paragraph 140.

¹¹ *2002 Parallel Report*, *supra* note 6, at p. 7.

¹² *Constitution of the Kingdom of Cambodia*, Phnom Penh, (21 September 1993), article 59.

expressly take into account the traditional right of access to these resources by persons and groups in proximity for their subsistence. Moreover, by a Royal Decree in 1996 on the protection of the environment, the Government reinforced its position on managing natural resources and administering protected areas and national parks. This Decree restricted the access of the population living near certain resources. Although the ICESCR¹³ requires the participation of the public in the management of natural resources, article 16 of this Decree does not adequately provide such a right to the local population.¹⁴

4. In the *2008 State Report*, the Cambodian Government indicated that: “State properties comprise land, mountains, sea, underwater, airspace, islands, rivers, canals, lakes, forests and natural resources”.¹⁵ It also mentioned that “citizens have the right to ownership and they are eligible to own and sell their assets freely”.¹⁶ However, these claims do not reflect reality. Concessions to private enterprises have increased in 2009. As explained below, the local population’s access to natural resources has been limited, which has seriously impacted its food security.¹⁷ The Government has granted several legal protections to private concession holders to the detriment of regular Cambodians who are not provided adequate and sufficient standards of living by existing State mechanisms. Corruption and impunity are ever present in the legal processes, and remain an important concern for civil society with regard to the management of natural resources.

5. In order to prevent the Cambodian people from being deprived of their means of subsistence, measures aimed at protecting natural resources must be adopted which ensure Cambodians an adequate standard of living and a mutual benefit from the exploitation of these resources. The existing policies on the protection of natural resources in the context of development projects must be elaborated in consultation and with the direct participation of the population and minorities groups concerned. More specifically, the State has the obligation to protect the quality of water along rivers, especially the Mekong and Ton Le Sap rivers, in order to ensure the safe exploitation of natural resources by the population. It also has the obligation to prevent and eliminate the risks of disease resulting from contamination, including those resulting from pesticides used in the agriculture industry. Thus, the current dumping practices and waste management sites have negatively impacted the health of the local population along these and other waterways.

Environmental Issues

6. With regard to environmental protection, the rights of local communities should be considered by the Cambodian authorities before concessions are granted to private companies operating in Cambodia. Unfortunately, the State has recently converted several protected zones into economic investment zones, namely the “*Morakat triasngle*” which consists of *Strung Treng*, *Ratanakiri* and *Mundulkiri*. It has granted land concessions and

¹³ ICESCR, *supra* note 1, art. 1.

¹⁴ *2002 Parallel Report*, *supra* note 6, at p. 7-8.

¹⁵ *2008 State Report*, *supra* note 7, at p. 15, para. 71.

¹⁶ *Ibid.*

¹⁷ *2002 Parallel Report*, *supra* note 6, at p. 7-8.

facilitated the development of hydro electric power plants in *Sre Pork*, the *Catamum Mountain* and *Kamchay*. It has also provided private concessions with lands situated in protected areas, such as the eco-protected area of *Kulen Prumb Tep* and the wildlife reserve of *Prey Boun Pe* in *Preah Vihear* province. Cambodia's current practices of allowing private companies to drain natural lakes which were part of wetland areas should be reconsidered in order to respect the rights of local communities. Moreover, the absence of public consultation is a fundamental problem for communities affected by the hydro electric development on the *Mekong* river and the *Sambor* and *Stung Treng* dams.¹⁸

7. In the *2008 State Report*, Cambodia claimed that “the Royal Government has been working very hard to protect the environment, manage and preserve the natural resources and biodiversities in order to substantially maintain the ecology system to ensure the social development in accordance with the rectangular strategy of the Royal Government in reducing the poverty of people, particularly the based communities and indigenous people”.¹⁹ This appears to be a political statement rather than an accurate description of the environmental protection provided for in all regions of Cambodia.

8. Environmental protection is a fundamental component of the right of peoples to ensure their development and self-sufficiency. It is therefore crucial that the Government of Cambodia adopt environmental laws on mining and forestry concessions, which are consistent with the *ICESCR*.

Land

9. The right to land and the right to access natural resources are closely linked. In a thematic report submitted in June 2007, the *Cambodian Office of the High Commissioner for Human Rights* declared that disparities in income and access to opportunities have increased, especially in rural areas, because of the heavy dependence on land and forest resources. It also indicated that landlessness has been the main cause of widespread poverty.²⁰ Moreover, the report noted that the increase in land concessions has further limited the access of rural communities to land and natural resources. Furthermore, the World Bank's 2006 “Poverty Assessment” stated that the relevant Cambodian authorities and the judicial system have not fulfilled their duty to uphold and protect rural communities' rights to own land and exploit their natural resources. It recommended that secure land titles and family-based or smallholder agriculture would improve development outcomes for rural communities.²¹

10. Based on the principles of the Cambodian Constitution, all people of all nationalities

¹⁸ *Ministry of Industry, Mines and Energy's presentation at the MRC's Regional Hydropower Consultation in Vientiane*, (September 2008).

¹⁹ *2008 State Report*, *supra* note 7, at p. 101, para. 479.

²⁰ *Economic land concessions in Cambodia A human rights perspective*, Special Representative of the Secretary-General for human rights in Cambodia (June 2007), at p. 1, online: OHCHR <http://cambodia.ohchr.org/webdocuments/reports/Thematic_rpt/Thematic%20Report%20on%20ELC_12-Jun-07_eng.pdf >.

²¹ *Cambodia - Halving poverty by 2015 - poverty assessment 2006*, at p. 86-89, online: World Bank <http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/02/22/000012009_20060222102151/Rendered/PDF/352130REV0pdf.pdf>.

who legally reside within Cambodia have the right to own property, except for certain lands which may only be owned by natural persons or legal entities of Khmer nationality. Thus, in its *2008 State Report*, Cambodia recognized the right and eligibility for all its citizens to own and sell assets freely. It stated that from 1992, land ownership has clearly been recognized.²² Accordingly, Cambodians have the right to occupy and own land, as well as inherit residential and business lands given to them by the State. However, the Government also noted that any individual's title of land may legally be confiscated if so required by the State for public purposes. Fair and proper compensation has to be paid in such cases. The Government further recognized that land disputes still existed even though the *2001 Land Law* has been reformed. These disputes have arisen in the context of land title claims, illegal sales of land, and in incidents of land occupation. The Government has continued to implement a land registration system and land ownership fees in order to resolve these problems.²³

11. Currently, the Government's Land Management and Administration Project (LMAP) has consistently failed to provide titles to those most in need of land tenure security. The failure to provide legal titles has been particularly egregious in urban areas, where the need for land tenure security is due to the high demand for urban land. According to the Government's agreement with the World Bank and other donors, the LMAP is supposed to provide some 198,000 titles in the Phnom Penh urban area, with 18,000 titles being issued in 2007 alone.²⁴ However, according to the World Bank only 24,760 Phnom Penh land titles have been distributed since the project started in 2002, with only 54 in the first half of 2007.²⁵ The right of Cambodians to possess land is a key element of the *2001 Land Law* as is the provision of land tenure security, in the absence of widespread titling, to the majority of people in Cambodia. However, the Government has repeatedly refused to grant titles to persons and/or communities with valid possession rights, and has repeatedly refused to allow any clear means for determining the validity of possession rights, which effectively renders land rights meaningless.

12. The Government's Annual Progress Report for 2007 stated that the Cadastral Commission resolved 1,246 land disputes involving 6,641 households relating to a land area of 2,394 hectares.²⁶ There is no information publicly available on the number of land disputes currently filed with the Cambodian judicial system or those cases which have been referred to the National Authority for Land Dispute Resolution, itself an extra-judicial and politically-oriented entity.

13. Economic Land Concessions (ELCs) are a mechanism which allows up to 10,000 hectares of State owned property to be granted to private individuals and companies for agricultural and agro-industrial exploitation. Each grant is conditional to steps being

²² *2008 State Report*, *supra* note 7, at p. 24, para. 125.

²³ *2008 State Report*, *supra* note 7, at p. 24-25.

²⁴ *LMAP Project Appraisal Document Attachment III*, (2002), online: World Bank <<http://web.worldbank.org/external/projects/main?Projectid=P070875&Type=Implementation&theSitePK=40941&pagePK=64330676&menuPK=64282137&piPK=64302789>>.

²⁵ *Aide Memoire - LMAP Project Review*, Ministry of Land Management, Urban planning and construction (May 30-June 8, 2007) at p. 3.

²⁶ *National Strategic Development Plan 2006-2011: Annual Progress Report for 2006*, (2007), online: Royal Government of Cambodia <[www.nsdpr_apr_2006_EN\[1\].pdf](http://www.nsdpr_apr_2006_EN[1].pdf)>.

undertaken for investing in agriculture, increasing employment in rural areas and diversifying local livelihood opportunities. These investments should be done within a framework of sustainable natural resources management and should generate national, provincial or communal revenues through land use fees, taxes and other charges.²⁷ Compliance is monitored by the Government through the Ministry of Agriculture, Forestry and Fisheries (MAFF). The MAFF's public log-book states that 51 ELCs representing 1,000 hectares each, totalling 811,851 hectares throughout 16 provinces or 12.5% of Cambodia's arable land, have been granted to companies.²⁸ Additional information submitted by the MAFF to the Government–Donor Coordination Committee Meeting in February 2008 stated that approximately 24,800 more hectares had been allocated across 7 provinces to 16 companies for concessions totalling less than 1,000 hectares. On 15 September 2008, *Sub-decree no. 131* was adopted by the Government which revoked the rights of provincial authorities to grant ELCs under 1,000 hectares. Provincial NGOs report that the number of operational ELCs (i.e., ELCs with contracts and ELCs with no legal documentation) is much higher. Despite the *2001 Land Law* and a series of decrees, there is still no transparent or harmonized system for the management of state land. This has resulted in large scale granting of illegal ELCs and the improper reclassification of state public property for large scale development projects, leading to illegal forced evictions, land alienation and the loss of farmlands.

14. In order to advance the implementation of article 1 of the *ICESCR*, land and natural resources in Cambodia must be managed for the benefit of all Cambodians. The Government must adopt a people-centred approach to development that encompasses economic, social and cultural well-being. According to the *Cambodian Office of the High Commissioner for Human Rights*, the challenge that faces Cambodia and its development partners establishing and implementing policies and practices that promote equitable and shared growth in Cambodia as well as managing common resources for the benefit of all Cambodians.²⁹ In order to achieve this objective the international community should support Cambodia to ensure that development is people-oriented and respects and protects the rights of Cambodians.

Indigenous People and the Right to Self-Determination

15. The right of all peoples to self-determination with regard to indigenous peoples has been expressed in the 2007 United Nations *Declaration on the Rights of Indigenous Peoples*.³⁰ Cambodia voted in favour of this Declaration. The Committee on the Elimination of Racial Discrimination has indicated that this Declaration should be used by States to interpret their obligations under the human rights treaties to which they are party.³¹

²⁷ *2005 Subdecree on Economic Land Concessions*, art. 3, online: Ministry of Agriculture, Forestry and Fisheries [hereinafter MAFF] <<http://www.elc.maff.gov.kh/laws/subdecree.html>>.

²⁸ *Report 2008*, (September 26 2008), online : MAFF <<http://www.maff.gov.kh/elc/index.html>>.

²⁹ *Economic land concessions in Cambodia A human rights perspective*, Special Representative of the Secretary-General for human rights in Cambodia (June 2007) at p. 1, online: OHCHR <http://cambodia.ohchr.org/webdocuments/reports/Thematic_rpt/Thematic%20Report%20on%20ELC_12-Jun-07_eng.pdf>.

³⁰ *United Nations Declaration on the Right of Indigenous Peoples*, Doc. UN GA A/ES/61/295, (2007).

³¹ Committee on the Convention for the Elimination of Racial Discrimination, *Concluding Observations: United States of America*, UN Document CERD/C/USA/CO/6 (May 2008), para. 29.

Accordingly, it is possible to interpret Cambodia's obligations under the *ICESCR* by reference to the Declaration. The latter highlights the right of indigenous peoples to self-determination in relation to the ownership and use of traditional territories and resources; the maintenance and development of political, economic and social systems; the right to free, prior and informed consent in connection with development projects and resettlement through the adoption of legislation; as well as the preservation of indigenous peoples' culture. The situation experienced by indigenous peoples in Cambodia has demonstrated violations of the most fundamental aspects of their basic human rights and their right to self-determination. It is essential for the Government of Cambodia to adopt mandatory measures to enable indigenous participation in decisions dealing with development initiatives which concern them. In addition to the information provided in the *2008 State Report*,³² Cambodia has the obligation to provide further information on the concrete measures adopted to recognize and protect the rights of indigenous peoples to ownership of the lands and territories which they traditionally occupy or use as traditional sources of livelihood.

16. In conclusion, Cambodia must take concrete measures to delineate and title the lands of indigenous peoples under the *2001 Land Law* in order to ensure the protection of indigenous peoples land. The State must also sanction government officials who are involved in the illegal sale and transfer of indigenous peoples' land.

Recommendations

The State of Cambodia should:

1. Implement the existing land laws effectively.
2. Ensure that pre-feasibility studies and environmental impact assessments are completed before a given project begins.
3. Ensure the population has effective access to natural resources and the benefits derived from their exploitation.
4. Ensure that the population receive fair compensation when negatively affected by development plans.
5. Adopt and implement a trade law.
6. Take immediate steps to recognize, empower and build the capacity of traditional and customary authorities to participate effectively in national decision-making processes relevant to indigenous peoples, including the drafting of laws and regulations on issues impacting on indigenous peoples' communities.
7. Ensure that communities participate in the process of development by public consultation whereby they may raise their concerns regarding development projects affecting them.
8. Take immediate steps to ensure that the lands of indigenous peoples are protected while awaiting for the titling of such lands to be completed according to the *2001 Land Law*.
9. Take immediate steps to ensure the proper and just resolution of cases of alienation and loss of traditional and customary lands in indigenous peoples' areas.

³² *2008 State Report, supra* note 7 at p. 158, para. 715.

10. Effectively prosecute offenders, including Cambodian authorities and other people of power and influence, when involved in promoting, endorsing, supporting, or when benefiting from land transactions in areas of indigenous peoples' communities.
11. Establish a mechanism whereby indigenous peoples who have been alienated from their lands, due to the issuance of economic land concessions, the sale of lands to or by politicians, or any other means, can attain full restitution of their lands, including rehabilitation of lands negatively impacted by subsequent development.
12. Provide free primary education in rural areas and encourage teachers to teach children on a full time basis without discrimination to indigenous children.
13. Provide immediate political and financial resources to establish an effective health outreach program in rural and remote areas in Cambodia, including the provision of culturally appropriate services in the languages of the indigenous peoples of Cambodia.

Article 2: Adoption of Legislative Measures & Non-Discrimination

1. *Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.*

2. *The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

17. As stated by the *Committee*, “the adoption of legislative measures, as specifically foreseen by the *Covenant*, is by no means exhaustive of the obligations of States parties”.³³ It is indeed insufficient for the State of Cambodia to adopt legislation or to entrench the international human rights conventions in its Constitution if those rights remain non-justiciable or are rendered ineffective because of corrupt judicial officials and generally weak governance. Corruption undermines every right protected by the *ICESCR* and often results in the punishment or exclusion of the poorest and most vulnerable, while protecting the rich and powerful and breeding impunity and lawlessness.

18. The *2002 Parallel Report* indicated that weak governance and corruption contribute directly to poverty and recurrent violations of economic, social and cultural rights. According to the NGO working group this phenomenon is still present today. In 2000, the International Monetary Fund recognized that governance and corruption were central obstacles to poverty reduction in Cambodia.³⁴ Moreover, the Asian Development Bank approached the question of governance as “the determining factor in whether Cambodia can achieve sustainable development or will remain dependent on aid”.³⁵ The NGO working group reported on the failure of the Government to properly collect public revenues because of corruption and embezzlement. It also reported on the State’s failure to provide proper salaries to public workers, on the lack of basic infrastructures and services and on the impoverishment of already poverty-stricken individuals and their families.³⁶

19. The *2002 Parallel Report* also stated that political interference with the judiciary, the ability to buy justice officials, and the lack of law enforcement added to the unfair practices that contribute to the establishment of illegitimate or illegal private sector business investments in Cambodia.³⁷ The NGO working group has observed the recurrence of this situation at present. In 1999, the Government of Cambodia announced

³³ *General Comment 3, The nature of State parties obligations (art. 2, par. 1 of the International Covenant on Economic, Social and Cultural Rights)*. UN Doc. E/1991/23, (14 December 1990).

³⁴ *International Monetary Fund. Cambodia - Interim poverty reduction strategy paper and assessment, 2000. Report No. 21535.*

³⁵ Asian Development Bank (2000) *Cambodia: Enabling a Socioeconomic Renaissance*, Country Operational Strategy, Manila: ADB.

³⁶ *2002 Parallel Report*, *supra* note 6, at p. 9-11.

³⁷ *2002 Parallel Report*, *supra* note 6, at p. 11.

the creation of an Anti-Corruption Commission, but no specific powers have been allocated to this body since then. Also, a number of institutional weaknesses have been observed by the NGO working group, such as 1) a system of patronage, penetrating all levels of government and systematically limiting institutional reform; 2) the failure of the Government to proceed to a transition from a military to a civilian government, allowing the just distribution of natural resources and land; 3) the failure to replace unjust sub-decrees by more transparent legislation; and 4) the failure to implement legislative measures to curb corruption of State officials. In the light of such problems, the NGO working group recommended in 2002 that the Cambodian Government show greater transparency and accountability in its administration, through the adoption of effective anti-corruption laws and mechanisms, such as a national audit authority. It also recommended greater access to information for the people regarding government revenues and expenses. The NGO working group has repeated these concerns regarding transparency and accountability in the present parallel report.

20. In the *2008 State Report*, Cambodia indicated that the rights stipulated in the *ICESCR* are completely guaranteed on its territory by their integration in its Constitution.³⁸ Many laws and other regulations have also apparently been adopted concerning non-discrimination against women and economic, social and cultural rights.³⁹ The Government of Cambodia also stated that “the main aim of the Royal Government is to achieve the equity, justice and peace in society, and to promote the livelihood of people through the growth rate of the economy”.⁴⁰ Finally, based on the statistics of the Ministry of Planning, Cambodia declared that “the statistics show the success of the Cambodian economy”,⁴¹ (with an approximate growth rate of 10% of GDP per year between 2003 and 2007). However, the reality is quite different and it is necessary to nuance these statements by the Cambodian Government. As the State itself recognizes, foreign aid is still needed to ensure human rights.⁴²

21. According to article 2 of the *ICESCR*, the State must take steps towards the full realization of the rights provided for in the *Covenant* to the maximum of its available resources. Thus, it is quite odd to see that Cambodia has had a prosperous economy but that violations of the most basic economic, social and cultural rights are still widespread and systematic. The State proudly recognizes its steady economic progress, but does not explain the extreme poverty of its population. The efforts made by the State authorities regarding economic, social and cultural rights should be commended, however the NGO working group recalls that much more could be done if it were not for corruption, which deeply permeates Cambodia's governmental institutions. In this regard, transparency and monitoring of commercial transactions need to be addressed, especially regarding natural resources and land.

22. Corruption is a monumental concern for the people of Cambodia and the international community; it is deeply rooted in almost every aspect of Cambodian society.

³⁸ *2008 State Report*, *supra* note 7, para. 96-97.

³⁹ *Ibid*, para. 98.

⁴⁰ *Ibid*, para.139.

⁴¹ *Ibid*, para.140.

⁴² *Ibid*. at para. 141.

Transparency International reported in 2006 that “the payment of unofficial fees is necessary to secure any range of services, including medical care, education credentials and even birth certificates”.⁴³ Corruption and bribery have become routine for most Cambodians who have no real alternatives and are forced to accept the situation for fear of retaliation. According to Transparency International and its *Corruption Perceptions Index* (CPI), Cambodia has been getting steadily more corrupt between 2005 (the first year Cambodia was reviewed) and 2008.⁴⁴ Indeed, Cambodia declined from 2.3 to 1.8 in its CPI score, placing it at the 166th place of a total of 180 countries. These rates shown that, in less than 5 years, Cambodia has reduced considerably the protection and stability to its population, regressing in the realization of the rights recognized by the *ICESCR*. Regarding this issue, a draft *Anti-Corruption Law* has been tabled for many years and it has still not been adopted. The Government claims that the *Anti-Corruption Law* cannot be passed until the *Criminal Code* is also adopted. This position is inconsistent with other governmental positions regarding other laws which are in a “similar” situation but have actually been passed, such as the *Adultery Law*. Thus, a judicial reform is critical to guarantee fair and impartial judgement for the citizens and government officials who would like to speak out against corruption and fraudulent behaviour.

23. The bill for an *NGO Law* in Cambodia should definitely alarm the *Committee*. Even if this bill has been tabled since 1995, it is very preoccupying that the Government has set its adoption as a high priority for the current year. The Government claims that it would help prevent terrorist activities funded through NGOs, a position which is not shared by the NGO working group because of its restrictions to NGO freedom, independence and the scope of actions, as well as shrink the space for civil society and democracy. Many legal frameworks in already ensure the effective monitoring of NGOs, such as the *Constitution of Cambodia*, the United Nations Transitional Authority in Cambodia transitional law or other regulations already adopted by the Ministry of Interior. Moreover, it is impossible to understand why the bill is ranked as a top national priority while the *Anti-Corruption Law* is urgently needed and is not similarly prioritized. As Louise Arbour, former UN High Commissioner for Human Rights, stated: “the ability of civil society actors to work freely and safely is another key indication of a functioning democracy. The professionalism and dedication of NGOs is a remarkable asset for the development of this country and one that needs to be safeguarded and supported.”⁴⁵

24. Moreover, in 2006 only 2 million USD\$ was allocated to the judicial system.⁴⁶ After years of under-funding the malfunctioning of the judiciary is self-evident: official buildings are in a pressing need of maintenance, office supplies are insufficient, the judiciary is often unable to conduct investigations, trials are constantly delayed or suspended, and the low-salaries of the judicial workers encourage corruption. The increase of judges’ and prosecutors’ salaries by the Government to an average monthly

⁴³ Transparency International: National Integrity System, *Transparency International Country Study Report, Cambodia* (2006) at p. 9.

⁴⁴ Transparency International (2008), *Corruption Perception Index* 2008.

⁴⁵ Statement by United Nations High Commissioner for Human Rights, Louise Arbour, Phnom Penh (19 May 2006), online : OHCHR <http://cambodia.ohchr.org/webdocuments/statements/2006/299_Statement_19-May-06_eng.pdf>.

⁴⁶ The Center for Social Development Court Watch Project, *Annual Report*, 2007 at p. 7.

remuneration of 360 USD\$ is still not sufficient. This becomes more obvious when one considers that the average bribe in Cambodia is 357 USD\$ per month.⁴⁷ It is important to look at the serious under-funding of the judicial system as an obstacle to the enjoyment of the economic, social and cultural rights under the *ICESCR*.⁴⁸ Article 2 of the *Covenant* requires States to take steps to fulfil the rights protected therein. The judiciary has to be able to enforce the laws, monitor their implementation and sanction the violations that may occur. Without such judicial oversight and control, massive abuses can continue with impunity at the expense of the fundamental rights of the population.

25. The high cost of filing complaints under the new *Code of Civil Procedure* is a key concern regarding the access to judicial institutions. In fact, the cost of filing a civil complaint now reaches 12 USD\$, which is a fortune in a country where the *per capita* annual income is approximately 480 USD\$ (1,32 USD\$/day).⁴⁹ The cost of a complaint affects women specifically particularly in cases of domestic violence. Although, a provision in the *Code of Civil Procedure* allows a fee exemption for the poorer, the lack of definition of “poor” people in the Code allows for arbitrary determinations by public authorities. The burden of funding the judicial system should not fall upon the most vulnerable people of Cambodian society. With respect to the right to work, it is also important to emphasize that average workers generally do not have access to the Arbitration Council or a labour court in Cambodia, as indicated by NGOs and trade unions, which have observed that courts are generally used by employers to discourage workers and to destroy their labour organizations.

26. Effective governance is the most important issue regarding the implementation of article 2 of the *ICESCR*. Cambodia, with the help of the international community, has developed a somewhat adequate set of laws. The State should now pass to the next step and solve problems related to effective governance, public accountability and corruption. There is an urgent need for political reforms, which harmonize the adoption of favourable measures for the welfare of the population, the economic development and growth of Cambodia, as well as the efficient use of international aid. The failure to adopt legislative measures to curb corruption by public officials violates the population's economic, social and cultural rights and inhibits social justice and genuine poverty reduction. As a general observation, it is essential to remind the State that adopting legislative measures is not enough if the latter are not effectively implemented and respected, and that the Government is violating towards its *ICESCR* obligations by not moving “as expeditiously and effectively as possible”⁵⁰ towards the full realization of economic social and cultural rights.

⁴⁷ Christine J Nissen, *Living Under the Rule of Corruption: An Analysis of Every Forms of Corrupt practices in Cambodia*, Center for Social Development, 2006.

⁴⁸ On the matter see generally: Inter-American Commission on Human Rights. *Access to justice as a guarantee of economic, social, and cultural rights. A review of the standards adopted by the Inter-American system of human rights.* (OEA/Ser.L/V/II.129). Washington, OEA, (2007).

⁴⁹ World Bank 2006 estimations, online : World Bank <<http://web.worldbank.org>>.

⁵⁰ *General Comment 3, supra* note 33.

Recommendations

The State of Cambodia should:

1. Adopt the Anti-Corruption Law as soon as possible.
2. Raise the salaries of the employees of the judiciary, especially judges, prosecutors and court clerks.
3. Allocate more financial resources to the judicial system to hire more judges in a way that will reduce their workload and allow an appropriate trial time for all.
4. Ensure greater transparency and accountability of its administration and create mechanisms for a national audit authority, as well as facilitate access to information regarding government revenues and expenses.
5. Refrain from adopting the bill for an *NGO Law* in Cambodia.
6. Allocate more funds for free legal assistance services for the poor, especially women.

Article 2 (2) Non-Discrimination

27. Article 31 of the Constitution of Cambodia refers to the obligation of non-discrimination and that “[e]very Khmer citizen shall be equal before the law and have the same freedom and obligations.” Unfortunately, there is a gap between the adoption of legislation aimed at preventing discrimination and its effective implementation. In fact, public authorities often discriminate against vulnerable groups thereby limiting their enjoyment of economic, social and cultural rights protected under the *ICESCR*. The rights of ethnic minorities and vulnerable groups in Cambodia are thus a central concern. Several groups of people suffer from various forms of discrimination, which strongly affect their integrity and their living conditions.

Persons with Disabilities

28. According to the *Committee’s General comment No. 5*, “the challenge of improving the situation of persons with disabilities is [...] of direct relevance to every State party to the *Covenant*”, and “the obligation of States parties to the *Covenant* to promote progressive realization of the relevant rights to the maximum of their available resources clearly requires Governments to do much more than merely abstain from taking measures which might have a negative impact on persons with disabilities”.⁵¹ In fact, the obligation of the State with regards to such a vulnerable and disadvantaged groups “is to take positive action to reduce structural disadvantages and to give appropriate preferential treatment to people with disabilities in order to achieve the objectives of full participation and equality within society for all persons with disabilities”.⁵²

29. As indicated in the *2002 Parallel Report*, articles 31, 34, 35, 36, 65-68, 72 and 74 of the Cambodian Constitution define the State’s obligations towards people with disabilities. There are also numerous laws, decrees, and regulations that guarantee the rights of people

⁵¹ *General Comment 5, Persons with Disabilities*, UN Doc. E/1995/22, (9 December 1994), at para. 8-9.

⁵² *Ibid.*

with disabilities. However, only 2.55% of the national budget is allocated to social affairs.⁵³ The Ministry of Women's and Veterans' Affairs, does not presently have a clear policy to attain equality between disabled and non-disabled people in Cambodian society.

30. In the *2008 State Report*, the Government did not adequately address the issues affecting people with disabilities. The report lacks much information concerning the real situation in Cambodia and the needs of people with disabilities. In paragraph 459 of the report, the Government indicated its determination of completing its de-mining strategy.⁵⁴ The activities stated in this strategy have to be ensured for a longer period of time and should extend beyond 2008. In accordance with the questions submitted by the *Committee* concerning Cambodia's *2008 State Report*, the Government has the obligation to provide further details on the special educational programmes for children with disabilities and the initiatives taken to protect and promote the rights of persons with disabilities. The Government of Cambodia has not provided information on measures of social assistance for unemployed persons with disabilities.

31. In the present context in Cambodia, mainstreaming disability issues is not seen as a priority. Women, girls and children with disabilities are especially vulnerable to exploitation, abuse and neglect, and are entitled to special protection. The Government pays great attention to ensure the basic needs of veterans with disabilities but not of persons with disabilities in general. Persons with disabilities who live in the families that are below the poverty line do not have access to adequate food, housing, healthcare services and other basic material needs.⁵⁵ Therefore many of them do not have access to the assistance that is necessary for their independence on a daily basis, nor possibility of exercising their rights.⁵⁶

32. Public awareness and mass education campaigns on the inclusion of persons with disabilities in the mainstream development programmes of Cambodia are almost non-existent. Such campaigns are needed to promote awareness concerning the rights of persons with disabilities and to overcome inaccurate stereotypes to the effect that persons with disabilities cannot be productive members of society. The Government has instituted the Annual International Day of Persons with Disability, which is to be celebrated on December 3rd of every year. Government institutions work together with NGOs to organize the campaigns at national and local level. This may become one of the measures taken by the Government to eliminate discrimination against persons with disabilities. However, persons with disabilities continue to face constant discrimination, which prevents them from functioning as full members of society.⁵⁷

33. The cost of education, including informal school fees, affects children with disabilities.

⁵³ *2002 Parallel Report*, *supra* note 6, at p. 24-25.

⁵⁴ *2008 State Report*, *supra* note 7, at p. 93-94.

⁵⁵ *Study on Persons with Disabilities: Cambodia*, (February 2001) at p. 15, online: Disability Action Council and JICA-Cambodia [hereinafter DAC] <<http://www.dac.org.kh/publications/download/Country-Profile-on-PWD-2001.pdf>>.

⁵⁶ *Ibid.*

⁵⁷ *International Day of People with Disabilities*, online: Cambodian Disabled People Organization [hereinafter CDPO] <<http://www.cdpo.org/idpd.php>>.

Poor accessibility to schools for children with disabilities has several consequences on the future of these children. There is a lack of special provisions in the national laws for children with disabilities, particularly those with intellectual or severe disabilities. Although there is insufficient accurate national data on this topic, there appears to be few children with disabilities in primary schools and an extremely low number of students with disabilities at the secondary or higher levels.⁵⁸ There is a significant lack of resources, information and awareness about the rights and needs of students with disabilities.

34. The Ministry of Education Youth and Sport (MoEYS) officially adopted the Policy on Education for Children with Disabilities in February 2008.⁵⁹ This follows the adoption of the Education Law⁶⁰ in December 2007, of which articles 38 and 39 relate to the education of children with disabilities. These articles include the commitment that children with disabilities "should be able to attend school in their own communities". The Policy reiterates the right of children with disabilities to an inclusive education with their non-disabled peers. Even with the recent adoption of these legislative measures, a formal special educational program implemented by the Government remains non-existent.

35. Many people, especially the poor and persons with disabilities, have problems in accessing the Cambodian healthcare system. These problems are often due to the lack of affordable and efficient transportation as well as the distance of healthcare facilities.⁶¹ Physiotherapy and occupational therapy are not common in Cambodia.⁶² Healthcare is more than important for the population because the *per capita* rate of disability puts Cambodia as one of the highest in the world.⁶³

36. It is essential for the State to ensure that men and women with disabilities enjoy equal rights under the *ICESCR* and other international instruments. The State has the obligation to prevent the double discrimination that women with disabilities face, who often suffer from sexual abuse and domestic violence.⁶⁴ In the labour sector, people with disabilities must have an equal chance to access work and obtain equal pay for equal work, without any discrimination. The State has to take concrete actions to encourage the recruitment of people with disabilities.⁶⁵ Since 1987, some vocational training services for people with disabilities have been provided by the Government and by NGOs.⁶⁶ The

⁵⁸ *Study on Persons with Disabilities: Cambodia*, (February 2001) at p. 17, online: DAC

<<http://www.dac.org.kh/publications/download/Country-Profile-on-PWD-2001.pdf>>.

⁵⁹ Ministry of Education Youth and Sport (MoEYS) of Cambodia. *Policy on Education for Children with Disabilities*, (February 2008), online: DAC

<http://www.dac.org.kh/current_activities/childrenwd/download/Education-Policy-Eng.pdf>.

⁶⁰ *Children with disabilities*, online: DAC

<http://www.dac.org.kh/current_activities/childrenwd/childrenwithdisabilitycommittee.htm>.

⁶¹ Disability Action Council and JICA-Cambodia, *supra* note 58 at p. 28.

⁶² *Ibid.*

⁶³ *Special: Empowering the rural disabled in Asia and the Pacific Motor disabled people in the agricultural and rural sector in Cambodia*, (July 1997), online: FAO

<<http://www.fao.org/WAICENT/faoinfo/sustdev/PPdirect/PPan0011.htm>>.

⁶⁴ *General Comment 5*, *supra* note 51, para. 19 and 31.

⁶⁵ *Ibid.*

⁶⁶ *National Strategic Development Plan 2006-2011*, (2006), online: United Nations Population Fund [hereinafter UNFPA] <http://www.un.org.kh/unfpa/docs/NSDP_Final_Version.pdf>.

National Strategic Development Plan (2006-2010)⁶⁷ refers to the issues of disability, of persons with disabilities and their organizations.

Indigenous Peoples

37. Indigenous people are estimated to be the traditional occupants of over 4 million hectares of Cambodia's forest lands and ecosystems, and have been responsible for preserving stable environmental conditions for many other parts of the country such as forest conservation and supporting flood mitigation.⁶⁸ The 1998 Cambodian Population Census identified 17 different indigenous groups.⁶⁹ Population estimates for indigenous peoples range from 101,000 to 190,000 which equates to about 1.5 percent of Cambodia's population.⁷⁰ Whilst indigenous peoples welcome development opportunities in their communities, rapid changes which result from these initiatives are occurring in an environment where many indigenous people are functionally illiterate in Khmer (the national language) and where there are weak levels of local governance and transparency.⁷¹ These constitute significant barriers to indigenous peoples participation in decision-making processes. In this context, it is important that community solidarity and cohesion remains strong for the protection of indigenous peoples' lands and territories. Article 1 of the *ICESCR* requires Cambodia to ensure that "in no case may a people be deprived on its own means of subsistence". Article 11 further details the obligation of the State Party to protect the right of all people to an adequate standard of living, including adequate food, clothing and housing. The *Committee* has previously interpreted these provisions in the context of indigenous peoples as being particularly important where forced displacement may have or will occur.⁷²

Recommendations

The State of Cambodia should:

1. Ratify the UN Convention on the Rights of Persons with Disabilities⁷³, which the Government of Cambodia signed on 1 October 2007.
2. Take measures to protect persons with disabilities from any forms of abuse and exploitation, both economic and social, and ensure that offenders are sanctioned.
3. Take measures to ensure the personal security of persons with disabilities in transportation.
4. Provide free primary education in rural areas and encourage teachers to teach children on a full time basis without discrimination to indigenous children.
5. Provide immediate political and financial resources to establish an effective health

⁶⁷ *Ibid.*

⁶⁸ *Indigenous people in Cambodia*, online: Indigenous Community Support Organization [hereinafter ICSO] <<http://www.icso.org.kh/indigenous-people/>>.

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

⁷¹ *Ibid.*

⁷² *General Comment 7, The right to adequate housing (Art.11.1): forced evictions*, annex IV, UN Doc. E/1998/22, (20 May 1997), online: UNHCHR <[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/959f71e476284596802564c3005d8d50?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/959f71e476284596802564c3005d8d50?Opendocument)>.

⁷³ *UN Convention on the Rights of Persons with Disabilities*, UN GA A/RES/61/106 (13 December 2006).

outreach program in rural and remote areas in Cambodia, including the provision of culturally appropriate services in the languages of the indigenous peoples of Cambodia.

6. Take immediate steps to recognize, empower and build the capacity of traditional and customary authorities to participate effectively in national decision-making processes relevant to indigenous peoples, including the drafting of laws and regulations on issues impacting on indigenous peoples' communities.
7. Adopt a national law protecting the rights of persons with disabilities.
8. Raise public awareness in the mass media concerning the rights of persons with disabilities.
9. Allocate a budget to support people with disabilities especially those with severe disabilities.
10. Allow more opportunities for people with disabilities so they can fully enjoy their economic, social and cultural rights in Cambodia.
11. Promote campaigns that raise awareness and education related to people with disabilities in Cambodia.

Article 3: Equal Rights of Men and Women

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

38. The equal right of men and women to the enjoyment of all economic, social and cultural rights was included in the *ICESCR* in order to guarantee that “the same rights [will] be expressly recognized for men and women on an equal footing and suitable measures [will] be taken to ensure that women had the opportunity to exercise their rights”, as indicated in *General Comment No. 16*.⁷⁴ As a State party to the *ICESCR*,⁷⁵ Cambodia must ensure the realization of this equality by taking positive steps, such as adopting legislative measures or programmes, and by taking “into account that laws, policies and practice can fail to address or even perpetuate inequality”.⁷⁶ Cambodia must adopt measures, laws and policies that could ensure the equality rights of men and women.

39. Gender-based discrimination in Cambodia remains the consequences of several social problems. The “traditional attitudes towards the value of women, especially women’s work” and the increasing disparity between rich and poor constitute the most important aspects of the problem.⁷⁷ Indeed, these issues constitute the main obstacle to the full implementation of the equality rights provisions of the *ICESCR*.

40. The Constitution of Cambodia recognizes the equality of men and women in its articles 35 and 36, which declare that “men and women must receive equal pay for equal work and that housework should have the same values as work outside the home”.⁷⁸ Unfortunately, despite the commitments of the Cambodian Government, real equality between men and women is still a problem at many levels as will be detailed below.

Right to Education

41. Although the situation has improved in the last decades, education enrolment in Cambodia remains low by regional standards. In 2004, adult literacy rates of those aged 15 and above, was 73.6% lower than the world average. Moreover, female adult literacy was 64%, which is significantly lower than that of males at 84%.⁷⁹

⁷⁴ *General Comment 16, The equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc. E/C.12/2005/4, (11 August 2005), para. 2.

⁷⁵ Since October 15th 1992, Cambodia is also a party to the *Convention on the Elimination of All Forms of Discrimination against Women*, see *supra* note 2. According to the CEDAW, the State of Cambodia must produce periodic reports on the condition of women in the Cambodian society.

⁷⁶ *General Comment 16, supra* note 74, para. 8.

⁷⁷ *2002 Parallel Report*, *supra* note 6, at p. 13.

⁷⁸ *Supra* note 12, art. 35-36; *Ibid*.

⁷⁹ *World Development Indicator 2004*, online: World Bank
<http://econ.worldbank.org/external/default/mainpagePK=64165259&theSitePK=469372&piPK=64165421&menuPK=64166093&entityID=000160016_20040608153404>.

42. In the education sector, disparities are considerably high between men and women. Since Cambodia's accession to the *ICESCR*, the Government has established many strategies during the past ten years to improve the situation of women's education such as the *Five-Year Gender Mainstreaming Strategy 2002-2006*, the *Gender Mainstreaming Strategic Plan in Education 2006-2010* and the *Gender Working Group by the Ministry of Education, Youth and Sport*, but results have not been conclusive.

43. The composition of classes in certain fields of study or in some occupations indicates that less women graduate in certain fields compared to men. For example, in science and technology classes are composed of 64,23% of men and 35,77% of women.⁸⁰ Some traditional attitudes which are discriminatory towards women are carried by the traditional Cambodian textbook entitled "Chbap Srey", which translates as "The Traditional Code of Women", which is still part of the primary school curricula. In fact, this moral Code is a set of customary rules, and may even be considered to be equivalent to a law, which are implemented by public authorities as a State policy. It restricts women's full appreciation of their rights by limiting their ability to live independently. By considering women inferior to men, this Code does not recognize women's work in society, but only in their household. At the moment, Cambodian's women still live under the influence of the "Chbap Srey" in the fields of education and labour.

Right to Work

44. In the labour sector, inequalities based on gender discrimination affect Cambodian women. The Cambodian Constitution has attempted to address this issue and contains a gender perspective to this effect. The *2002 Parallel Report* indicated considerable disparities between women's and men's wages, whereby women were generally being paid one-third less than men.⁸¹ In the garment manufacturing industry 67% of all manufacturing workers are female, and women manufacturing workers are paid 30% less than men.⁸² In March 2006, USAID observed that men's wages were 33% higher than women's wages.⁸³

45. According to the *2008 State Report* almost half of Cambodia's population is composed of women. Thus 85% of women in Cambodia work in agricultural sector as compared to only 77% of men.⁸⁴ These proportions need to be assessed with great attention. NGOs surveys show that the share of women in the total workforce has declined from 52% in 2001 to 49.4% in 2004. Moreover, several women also work in the informal work sector, which is not regulated by Cambodian labour laws, and are exposed to inadequate wages and potentially abusive working conditions.

⁸⁰ *The situation of Women in Cambodia* (LICADHO, Phnom Penh, 2004).

⁸¹ *Gender Scoreboard* (Phnom Penh GAD/C 2001); *2002 Parallel Report*, *supra* note 6, at p. 13.

⁸² *Ibid.*

⁸³ *Gender Analysis & Assessment USAID/Cambodia*, Gender Assessment II, (2006) at p. 20, online : United States Agency for International Development, <http://www.usaid.gov/kh/democracy_and_governance/documents/Gender_Analysis_Cambodia_2A_Final%20Draft.pdf>.

⁸⁴ *State Report 2008*, *supra* note 7, at para. 151.

46. Due to the difficult agricultural conditions in Cambodia, many women will decide to work in the informal sector mostly because of their exclusion “from the male-dominated community network”.⁸⁵ Most of them wind up working in garment factories, which employ mostly rural women.⁸⁶ In 2008, the National Committee for Population and Development indicated that “85% of all garment factory workers are women from rural villages”.⁸⁷ In these factories health and safety conditions are generally deficient and do not reach the required basic standards. Evidence of “forced overtime work, anti-union discrimination and non-correct payment of wages”⁸⁸ has been found in garment factories. As the Ministry of Women’s Affairs has stated, women are the poorest beneficiaries of the informal sector; they cannot afford food, shelter and health care because they have to save money for their families.⁸⁹

47. Such poor working conditions may often lead to further problems such as sexual harassment and/or sexual exploitation. Poverty combined with the traditional perception that women are sexually available to men, advanced by the “Chbap Srey”, form obstacles to the access to judicial remedies for women. Most of the time, legal complaints for sexual harassment or assault are simply not filed. Moreover, the newly adopted *Criminal Code* and *Labour Law*⁹⁰ lack explicit provisions defining sexual harassment as a criminal offence in workplaces.

48. Employment opportunities outside garment manufacturing industries are rarely accessible to women because they require a relatively high level of education. Even in the case of educated women, it is hard for them to be employed in an important position in society. The low representation of women in the public sector illustrates this reality. Since 2003, there has been a decline in female ministers from 8% to 7.7% in 2007. Also, less than 25% of management positions in provincial and district offices are occupied by women. The situation is the same in the judiciary with a small representation of female judges (8,5%) as well as prosecutors and prosecutors-general (2,7%).⁹¹ Even after the creation of the Ministry of Women’s Affairs in 1996 and the Cambodian Council for Women in 2001, women’s representation in public and governmental administration is still extremely low.

Right to Health

49. Several inequalities persist in the field of health care, which are exacerbated by traditional societal perceptions. This is particularly the case for rural women who face severe problems with access to health care because of the location of health clinics and the expensive cost of medical services. Rural women can rarely afford such services.⁹²

⁸⁵ *Gender Analysis & Assessment USAID/Cambodia*, *supra* note 83, at p. 6.

⁸⁶ National committee for population and development, *Gender and a right-based approach to labour migration in Cambodia: A background paper* (2008) at p. 4.

⁸⁷ *Ibid.*

⁸⁸ *A Fair Share for Women: Cambodia Gender Assessment* ISBN:1-932827-00-5 (UNIFEM, WB, ADB, UNDP, DFID/UK, Phnom Penh, 2004) at p. 47.

⁸⁹ *Ibid.* at p. 48.

⁹⁰ *Labour Law*, (1997), online: Go Cambodia <http://www.gocambodia.com/laws/labor_law.asp>.

⁹¹ *A Fair Share for Women: Cambodia Gender Assessment*, *supra* note 88.

⁹² *A gender sensitive appraisal of the effectiveness of service delivery for maternal health care and budget allocations for reproductive*

Many women give birth without professional assistance and rely on the traditional birth attendants, which results in a high rate of maternal-mortality. In fact, Cambodia has the highest maternal mortality rate in the South Asia with 472 live births per 10,000.⁹³ The child mortality rate for children under the age of five has reached 83 per 1000 and the infant mortality rate was 65 per 1000 live births.⁹⁴ Thus, such high maternal and child mortality rates in Cambodia have been attributed to ignorance about proper nutrition during pregnancy, improper practices after delivery and the lack of professional health care.

50. Traditional beliefs and practices also hinder the impact of sexual education, which is vital when trying to prevent the transmission of HIV/AIDS (Human Immunodeficiency Virus/ Acquired Immune Deficiency Syndrome) and other sexually transmitted diseases. The main mode of transmission of such diseases is from husbands to their wives (consisting of 42% of all documented incidences) rather than with sex workers. Surveys show that 3% of married women have been forced to have sexual intercourses with their husband. Men often refuse to use condoms, as traditional mentalities permit them to do.

51. The elimination of discrimination against women must be the basis of a national strategy promoting women's right to health in their daily lives. The implementation of women's rights to enjoy the highest attainable standard of physical and mental health requires the elimination of all obstacles that can interfere with their access to "health services, education and information, including in the area of sexual and reproductive health".⁹⁵ Therefore, it is crucial to counteract the harmful impact of traditional attitudes and practices denying women's full reproductive rights.⁹⁶

Recommendations

The State of Cambodia should:

1. Ensure that informal workers are protected by the Labour Law from exploitation in terms of wages and working conditions.
2. Increase the employability at the rural areas by establishing labour market programmes and agriculture-oriented market programmes.
3. Take concrete action to implement *Convention on the Elimination of All Forms of Discrimination against Women* particularly the principle of improving economic policies for women by creating space for equitable benefits from new employment opportunities.
4. Consider Cambodia's accession to the *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*⁹⁷, which grants the Committee

health, Ministry of Women Affairs (2005) at p. 5.

⁹³ *Ibid*, at p. 5.

⁹⁴ *Cambodia Demographic and Health Survey 2005*, Ministry of Health and Ministry of Planning at p. 17, online: UNFPA <http://cambodia.unfpa.org/docs/CDHS_Preliminary_Report_2005.pdf>.

⁹⁵ *General Comment 14, The right to the highest attainable standard of health*, UN Doc. E/C.12/2000/4, (11 August 2000), at para. 21.

⁹⁶ *Ibid*.

⁹⁷ *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, 2131 U.N.T.S. 83, (10 December 1999).

on the Elimination of Discrimination against Women jurisdiction to consider individual complaints.

5. Promote women's participation in all agriculture diversification and support value-added and agro-processing activities.
6. Provide opportunity to smallholder farmers, especially women farmers, to have access to technical input and productive resources to increase their agricultural productivity.
7. Develop a set of activities and indicators in order to mainstream gender into LMAP. This should be integrated into the current Ministry of Land Management, Urban Planning and Construction Gender Mainstreaming Action Plan (GMAP). The MLMUPC's Gender Mainstreaming Action Group (GMAG) should be provided with both technical and financial support to be able to lead, monitor and implement the process. In addition, the Government should make sure that a procedure is in place to ensure women's full access to information on the process of systematic land registration, and that their right to land is not violated.
8. Remove the "Chbap Srey" from the primary school curriculum and replace it with an education tool that promotes gender equality in accordance with the article 3 of the *ICESCR*.

Articles 6, 7 and 8: Right to Work and Association

52. In its *General Comment No. 18*,⁹⁸ the *Committee* elaborated the different elements of articles 6, 7 and 8 of the *Covenant*, which are all related to the labour sector. Thus, the individual dimension of the right to work guaranteed by article 6 is interrelated to the right to proper work conditions guaranteed by article 7 and to the collective aspect of the right to work and to form trade unions guaranteed by article 8. The essence of these articles is present in many other international human rights instruments, which Cambodia has ratified, as stated before such as the *International Covenant on Civil and Political Rights*, the *International Convention on the Elimination of All Forms of Racial Discrimination*, the *Convention on the Elimination of All Forms of Discrimination against Women* and the *Convention on the Rights of the Child*. Cambodia is also a State party to numerous International Labour Organization instruments which also support the right to work and the freedom of association, such as *Convention no. 87 on Freedom of Association and Protection of the Right to Organize*, *Convention no. 98 on the Right to Organize and Collective Bargaining* and *Convention no. 182 on the Elimination of the Worst Forms of Child Labour*.

Article 6: Right to work

1. *The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.*
2. *The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.*

53. According to the Cambodian Prime Minister, Hun Sen, Cambodia's economic growth stood at 10,6% per annum over the past five years.⁹⁹ while the International Monetary Fund noted a 7% growth of GDP in 2008.¹⁰⁰ In all of South-East Asia and the Pacific region, Cambodia's economic growth compared only to that of China's.¹⁰¹ Cambodia has a very low unemployment rate, approximately 2,5%, as in many other South-East Asian

⁹⁸ *General Comment 18, The right to work (art. 6 of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc. E/C.12/GC/18, (6 February 2006).

⁹⁹ On February 16th 2009 in Siem Reap, the Cambodian Prime Minister, Hun Sen, said in his speech, *Over the Verge of Breakthrough*, "Amazingly, economic growth reached 10.6 percent per annum over the last 5 years, with a peak at 13.3 percent in 2005," adding that the rates stood at 10.8 percent in 2006, 10.2 percent in 2007 and 7.0 percent in 2008.

¹⁰⁰ International Monetary Fund, *World Economic Outlook Database*, (October 2008).

¹⁰¹ Regional fact sheet from the world development indicators 2008: East Asia and Pacific (2008), online: World Bank <http://siteresources.worldbank.org/DATASTATISTICS/Resources/eap_wdi.pdf>.

countries.¹⁰² However, this low unemployment rate does not provide a real indicator as to the fulfillment of the right to work of all Cambodians. Most people have found a form of work, whether formal or informal, and in many situations, revenues are not sufficient enough to ensure workers' living conditions above the poverty line. It is also alarming to see that many people, particularly disadvantaged groups, are unable to find a job and are forced to turn to the informal sector of the economy where workers work long hours for little pay and are more exposed to potential rights violations because their situation is not "recognized, recorded, protected or regulated by public authorities".¹⁰³ The lack of social security programs, unemployment benefits and family savings push the unemployed to accept any kind of work in order to survive.¹⁰⁴

54. A very large number of Cambodians live below the poverty line. This breaks down thusly: 40% of the rural population, 14% of the urban population (mostly in Phnom Penh),¹⁰⁵ totalling 34,7% throughout the entire country.¹⁰⁶ Moreover, 19,7% of the population is below the food poverty line.¹⁰⁷ Cambodia's Garment Manufacturers' Association has reported that 6% of all garment workers recently gave up their factory jobs because incomes could not support their living needs. At the same time, a high number of workers are losing their jobs due to factories being temporarily or permanently closed. In April 2008, more than 60,000 workers were affected by the temporary or permanent closing of factories.¹⁰⁸ In relation to article 6, paragraph 1, of the *ICESCR*, the NGO working group is seriously concerned about the impossibility for many Cambodian workers to gain their living by work, which severely undermines their enjoyment of other economic, social and cultural rights especially in the context of the current global economic slowdown where close to 100,000 workers are expected to lose their jobs in the next two years.¹⁰⁹

55. In spite of the impressive growth of the Cambodian economy in recent years, employment remains a serious challenge for the society and the Government. According to the national coordinator for the International Labour Organization (ILO) in Cambodia, Tun Sophorn, there are approximately 300,000 people entering the labour market each year in Cambodia.¹¹⁰ Due to a baby boom in the 1980's a large number of young people and students who have recently graduated are presently actively in looking for work. The Cambodian Federation of Employers and Business Association

¹⁰² *International Labour Organization, Where we work, Cambodia*, online: International Labour Organization [hereinafter ILO] <<http://www.ilo.org/public/english/region/asro/bangkok/child/trafficking/wherewework-cambodia.htm>>.

¹⁰³ Elizabeth Morris, "Promoting employment in Cambodia: Analysis and Options" (ILO Subregional Office for East Asia, Bangkok, January 2009) at p. 66.

¹⁰⁴ *Ibid.*, at p. 43.

¹⁰⁵ *Supra* note 102.

¹⁰⁶ *Performance against CMDG targets for 2005*, online: UN http://www.un.org.kh/index.php?option=com_content&view=article&id=45&Itemid=69>.

¹⁰⁷ *Ibid.*

¹⁰⁸ Dr Kang Chandarot, "Job losses in the garment sector" (9 October 2008) The Phnom Penh.

¹⁰⁹ According to Chea Mony, the president of the Free Trade Union of the Workers of the Kingdom of Cambodia (FTU).

¹¹⁰ Leng Bunthea. "Great expectations: Graduates may be disappointed by employment opportunities" (February 2009) 33 *Economics Today* 22.

(CamFEBA) believes this new work force presents an opportunity for economic growth and a challenge for the Cambodia labour sector to create enough employment.¹¹¹ Although unemployment rates are generally low in Cambodia, unemployment remains a serious concern for young people, who represent 72% of the unemployed in Phnom Penh, and whose unemployment rate is 2.8 times higher than adults across the country.¹¹² Only 13% of employers believe that young graduates have sufficient skills for work.¹¹³ In 2006, there were about 92,000 students in Cambodian universities and 16,000 students from vocational and technical training centers.¹¹⁴ There is a mismatch between the needs of the labour sector, which requires a high number of people with technical rather than managerial skills, and the preference young people have shown for studying in university as opposed to technical or vocational training centres.¹¹⁵

56. Concerns have been reported regarding the absence of the Cambodian National Employment Strategy's objectives and results and the Government's general attitude towards working conditions. This Strategy has not been adopted or elaborated transparently and has yet to be mainstreamed in Cambodian society, particularly with regarding to job placement and unemployment. Difficulties for young people to find jobs after their studies, combined with the lack of governmental training programs, creates a situation of vulnerability and exploitation for these youths as well as keeping them in poverty. Other youths choose to abandon their studies for lack of any incentive for continuing. Consequently, the Cambodian economy runs the risk of becoming less competitive in the long run and impoverished Cambodians have little chances to elevate themselves and their families out of poverty. The State needs to urgently adopt measures to provide productive employment and training to young Cambodians so they can contribute to their country's growth and development.

57. The lack of Government training programs available to workers and young job seekers is particularly problematic. Cambodia provides some vocational education and training in its 30 institutes and centers, but in recent years the number of people trained has dropped from 4,000 to less than 1,200 annually.¹¹⁶ Concerns have been reported about the accessibility of these training programs, especially for vulnerable groups such as women, ethnic minorities and people with disabilities. Local organizations have observed that thousands of textile workers enter the market without any skills, which forces them to accept lower levels of employment such as temporary jobs or short-term contracts. Construction workers suffer the same consequences due to lack of training. They ultimately acquire their skills through work experience rather than by "professional training". Yet, as a result of their young age and lack of "professional training", workers get paid much less than they should. NGOs and labour activists have collected many testimonies by textile, industrial and construction workers reporting exploitation by their employers. Young workers as well as other disadvantaged groups confided to local

¹¹¹ *Youth and Employment: Bridging the Gap*, Youth Employment and Social Dialogue Project (ILO/Camfeba. June 2008) at p. 15.

¹¹² *Labour Force Survey in Cambodia*, (NIS, November 2000 and November 2001).

¹¹³ *Supra* note 111, at p. 15.

¹¹⁴ *Ibid*, at p. 9

¹¹⁵ *Ibid*.

¹¹⁶ *Draft National Technical and Vocational Education and Training Development Plan, Submitted to the National Training Board for Endorsement*, Directorate General, TVET (28 February 2006).

organizations and workers unions their fear of being laid off if they were to report abuses and inadequate or dangerous work situations.

58. It is also important to emphasize the fact that teachers in the public education system are poorly trained and receive a low salary from the Government. The poor work conditions and salaries create a particularly tense environment for teachers, who become more susceptible to accepting bribes and requesting money from students, thus exacerbating the problems of poverty and corruption even with children. Local organizations have observed that the teachers' low salaries push them towards the private education system, creating a serious asymmetry between public and private education systems and affecting the right to education of thousands of poor children.

59. Even though the ILO programme "Better Factories Cambodia" has reported very few cases of underage work in the garment sector,¹¹⁷ this does not reflect reality given the fact that falsifying documents is common place and a universal birth registration in Cambodia does not exist. NGOs have reported serious cases of child labour in regions such as *Poi Pet* and in scattered production sites like rubber plantations, salt fields and brick kilns.¹¹⁸ Children between the ages of 10 and 18 are reported to work as hard as adults on heavy tasks, such as taping rubber, pulling carts and carrying salt. In Cambodia, the *Labour Law* sets the minimum employment age at 15 years, but allows children between the ages of 12 and 14 years old to perform "light work".¹¹⁹ Ministerial orders or "Prakas" complement the *Labour Law* by specifying what "light work" entails for children aged 12-14 years in certain sectors such as garments, plantations, fishing, brick making and salt production.¹²⁰ More "Prakas" have been delivered by the Government to further elaborate the conditions of work of minors in "sectors identified as hazardous under the draft National Plan of Action on the Elimination of the Worst Forms of Child Labour and which would thereby fall within the definition under ILO Convention No. 182".¹²¹ These governmental "Prakas" include child labour in rubber plantations, domestic labour, fishing and brick making.¹²²

60. Increasing concerns have been reported about the growing problem of child labour in rapidly growing economic sectors like tourism and construction. In her report entitled "Promoting employment in Cambodia: Analysis and options", Elizabeth Morris states that many factors already observed by civil society are encouraging child labour, such as rapid population growth, rural-urban migration and weaknesses in the education system.¹²³ The NGO working group has observed that work generally interferes with children's schooling, making them more vulnerable to violations of their economic, social and cultural rights in the long term, as well as diminishing their chances of getting decent jobs when they become older. Sexual exploitation and child trafficking are also very

¹¹⁷ *Twenty first synthesis report on working conditions in Cambodia's garment sector*, ILO/Better Factories Cambodia (31 October 2008) at p. 9.

¹¹⁸ *Annual Human Rights Situation Report*, (2007), [herein after *2007 Situation Report*] at p. 44, online: ADHOC <www.adhoc-chra.org>.

¹¹⁹ *Promoting employment in Cambodia: Analysis and options*, *supra* note 103, at p. 64.

¹²⁰ *Ibid.*

¹²¹ *Ibid.*

¹²² *Ibid.*

¹²³ *Ibid.*, at p. 83.

serious issues in Cambodia as they are “contemporary forms of slavery, and represent the worst forms of child labour”.¹²⁴ Local NGOs have observed that approximately 1 in 3 sex workers is a child between the ages of 12 and 17.

Recommendations:

The State of Cambodia should:

1. Implement and make more transparent the objectives and the steps taken to effectively tackle the problems of unemployment, including through the Cambodia National Employment Strategy.
2. Make communal funds a priority in order to help unemployed workers who return home to lessen the burden of the household and to help these workers start up income generating activities and other productive employment in their village.
3. Establish a central job information system in order to help reduce the cost of job seeking for unemployed workers.
4. Establish labour market programmes in order to increase the employability of unemployed workers, such as training programs, self-employment support and mobility promotions through relocation, housing and commuting allowances.
5. Take concrete measures to carry out vocational training for unemployed youth workers.
6. Ensure access to educational and vocational training programs, especially for women and other disadvantaged groups.
7. Build more schools and send enough teachers (with sufficient wages) to rural areas so that children can have access to education and stay off the job market.
8. Promote child awareness programmes, especially among villagers, and work together with NGOs to reduce the problem of child labour.
9. Enforce the 1997 *Labour Law*¹²⁵.

¹²⁴ *Cambodia Human Development Report 2000: Children and employment* (Phnom Penh, Ministry of Planning [hereinafter MOP], October 2000) at p. 37.

¹²⁵ *Labour Law*, *supra* note 90.

Article 7: The right of everyone to the enjoyment of just and favourable conditions of work

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;*
 - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;**
- (b) Safe and healthy working conditions;*
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;*
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.*

61. Local organizations have reported that in Cambodia only workers of the garment sector enjoy a minimum wage applied by the State. The minimum wage is set at 45 USD\$ per month for garment workers, 84% of which are women.¹²⁶ According to the NGO working group, the minimum wage does not enable workers and their families to enjoy an adequate standard of living. The high rate of inflation which affects the Cambodian economy and the high price for basic foodstuffs such as rice and vegetables make it impossible for the workers to live adequately with only the minimum wage. More than 10 years ago, NGOs recommended that the minimum wage be increased to a minimum of 50 USD\$ per month just to keep up with the rise in consumer prices, but as of 2009 the NGO working group has observed that not much has changed.

62. According to the report: “Better Factories Cambodia”, only 44% of garment factories visited provided personal protective equipment to their workers and 50% complied with the legal requirement of needle guards on sewing machines.¹²⁷ Regarding work schedules, only 18% of garment factories limited overtime to 2 hours per day.¹²⁸ Grave concerns have been expressed about working conditions in the mines of the *Mondol Kiri* province. Local organizations have reported abuses of workers, including torture and punishment.¹²⁹

63. The informal economy includes a large segment of the Cambodian working population and, at present, no clear steps are being taken by the State to formalize this sector, such as setting a minimum wage or ensuring access to basic services and social security schemes. The NGO working group has expressed concerns about

¹²⁶ *Facts and figures*, ILO/Better Factories Cambodia online: ILO

<<http://www.betterfactories.org/content/documents/Facts%20and%20Figures.pdf>>.

¹²⁷ *Twenty first synthesis report on working conditions in Cambodia's garment sector*, *supra* note 117, at p. 7.

¹²⁸ *Ibid.*

¹²⁹ *2007 Situation Report*, *supra* note 118, at p. 40.

the State's policy regarding employment, which seems to be concentrated solely on creating the highest number of jobs regardless of human rights and working conditions. The ILO-supported “Informal Economic Project” has also raised concerns about the scale of the informal economy in Cambodia and stated that “the informal economy has been [...] left in the cold in spite of its magnitude”¹³⁰ revealing the State's inaction regarding this matter. Even though the State conducts vocational training for jobs such as carpentry and bricklaying, construction workers are still considered casual workers, which prevents them from receiving protection from the State and possibly a minimum wage.¹³¹

64. W&D, ISLANDS Glory, QMI and many other trade unions have indicated that official investigations dealing with working conditions are often inadequate or inaccurate. Local NGOs have observed that companies are prepared in advance for visits from work condition investigators. Local labour organizations have reported that in many cases, workers were chosen by the employers to speak to investigators and others were warned not to complain about the working conditions in factories, while governmental trade unions and pro-employer trade unions are allowed to converse with investigators without consequences. According to the NGO working group, the independence of labour inspectors is also a serious problem: some investigators are apparently simultaneously advisors for company owners. No effective control is provided to ensure favourable working conditions, whereas pressure and intimidation are used on workers and non-governmental trade unions to keep silent about work conditions.

65. According to local NGOs, the creation of the Arbitration Council is a good step forward and can have a positive impact on the resolution of disputes between workers and employers. However, the State should ensure that the process is transparent and accessible to all types of workers, whether unionized/partisan or not. The NGO Working Group also considers that the creation of an independent Labour court would greatly improve the workers' access to justice.

66. Gender discrimination is a major problem women face when attempting to access the labour market. Trade unions have observed that many women endure discrimination because of the traditional Khmer culture, intimidation, a lack of knowledge of labour rights, or poverty in which they live (especially in rural areas). Many women are forced and even threatened by employers to work extra shifts, particularly on weekends and holidays.¹³² Local civil society organizations have observed discrimination in the wages paid to women on construction sites. It was reported that for work of equal value, women are often paid 1,000 to 3,000 riels (0,25USD\$ to 0,75USD\$) less than their male counterparts. Indeed, for a day's work, a woman will often receive 10,000 riels (2,5USD\$) compared to 12,000 riels (3USD\$)

¹³⁰ Economic Institute of Cambodia, *The Informal Economy in Cambodia, An overview* (2005), at p. 3.

¹³¹ The term “possible” is used here to clarify the fact that no minimum wage and social security protection exists for construction workers. However, according to NGOs, the State has apparently decided to possibly act on this matter.

¹³² ILO Garment Sector Project, *Eighth Synthesis Report on Working Conditions in Cambodia's Garment Sector*, (February 2004) at p. 5.

for a man. This discrimination based on gender directly contravenes to article 7(a)(i) of the *Covenant*. Sexual harassment in the workplace is also a serious concern in Cambodia, especially for women working in the garment sector as well as in the sale and marketing of alcoholic products. It was reported by local organizations that due to the lack of awareness of their rights, most women working in the garment industry endure situations of sexual harassment in order to keep their job. The NGO working group has raised concerns regarding sexual harassment from employers, trade union leaders, local authorities and the police, who interfere with efforts aimed at raising women's wages and improving their safety.

67. The case of many women working in the sale and marketing of alcoholic products is particularly problematic. Civil society organizations reported that women suffer more direct and violent sexual abuses from drunken clients, mostly police and government officials. These women are frequently forced to drink excessively so that clients can sexually abuse them. According to the NGO working group, in some cases women workers have been beaten or killed when refusing sexual relations with clients. These situations of sexual harassment and sexual abuse are serious criminal offenses as well as violations of the right to physical and moral integrity and dignity and of the right to just and favourable working conditions. Moreover, these violations are propagated by the impunity which usually follows, particularly regarding crimes and abuses committed by State agents themselves.

Recommendations

The State of Cambodia should:

1. Set up a minimum wage that will enable all types of workers to gain their living.
2. Ensure fair and independent work conditions monitoring in all labour sectors, not only in garment factories.
3. Enforce the 1997 *Labour Law*.
4. Take legal actions against those who commit abuses such as sexual harassment on female workers, including offenders who are State agents.
5. Take immediate action to eliminate discrimination towards women and ensure equal remuneration for equal work.

The donors should:

1. Put pressure on the Government to ensure that the right to work and adequate working conditions are respected.

Article 8: The right to form trade union

1. *The States Parties to the present Covenant undertake to ensure:*
 - (a) *The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;*
 - (b) *The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;*
 - (c) *The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;*
 - (d) *The right to strike, provided that it is exercised in conformity with the laws of the particular country.*
2. *This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.*
3. *Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.*

68. The NGO working group has observed that of the 1000 and more trade unions recorded in Cambodia, at least 29 out of 33 workers' associations are affiliated with the Government. It was also reported by a number of local civil society organizations that the Labour Advisory Committee (LAC) is composed mostly of workers associations which are affiliated with the Government. The NGO working group has expressed concerns about the large number of unions who are victims of anti-union discrimination and restrictions of their freedom of expression¹³³. "Better Factories Cambodia" has reported serious incidents of government-sponsored violence against trade unionists¹³⁴ and it is "aware of allegations of corruption in Cambodian garment factories between some managers and union representatives"¹³⁵.

69. As a result of the lack of communication and cooperation between unions, members are more vulnerable to interference and pressure from outsiders. Moreover, NGOs have observed that the Government unofficially controls the formation of unions through the Ministry of the Interior and the registration of

¹³³ 2007 Situation Report, *supra* note 118, at p. 40.

¹³⁴ *Supra* note 126.

¹³⁵ Twenty first synthesis report on working conditions in Cambodia's garment sector, *supra* note 117, at p. 10.

organizations. It is said that the constitution of unions must be accepted by the Government and that the interference might even take form in direct modifications of the constitutions by the Ministry of the Interior. NGOs across the country have indicated that the State has not yet ratified the international instruments cited by the *Committee* in its November 2008 list of issues¹³⁶ because of the lack of political will.

70. The governmental *Committee for Controlling and Demonstration* often violently shuts down demonstrations and protests of workers unsatisfied with work conditions or decisions from the Arbitration Council, a tripartite committee who has the capacity of receiving collective complaints.¹³⁷ In the last months, NGOs have expressed serious concerns regarding freedom of demonstration as a number of crackdowns of worker and union demonstrations have been reported. The freedom of assembly should be safeguarded as it is a fundamental right and it is necessary to report and publicize human rights violations, especially for economic, social and cultural rights.

71. The *Labour Law's* provisions on the right of collective bargaining indicate that a majority of workers depositing a complaint must be union members, they must pay their dues and their representatives need to be certified by the Government.¹³⁸ Unfortunately, due to the long delays and the difficulty to comply with these conditions trade unions are formed often too late to begin negotiating: local organizations have observed that by the time unions are legally formed, union members are no longer employed, work sites are already completed and/or workers have already suffered accidents.

Recommendations

The State of Cambodia should:

1. Ensure that the registration of trade unions is not subjected to political interference.
2. Clarify and make public the mandate of the *Committee for Controlling and Demonstrations*.
3. Ensure that workers' rights are respected on all work sites, especially construction sites, particularly their working conditions and salaries, and allow them the freedom to be represented by trade unions.
4. Establish a Labour Court.

¹³⁶ Committee on Economic, Social and Cultural Rights, Doc. E/C.12/KHM/Q/1 (January 9th, 2009), at para. 25.

¹³⁷ The jurisdiction of the Arbitration Council is based on Chapter XII of the *Labour Law* (1997), Prakas #338 of 2002 (MOSALVY) and the Arbitration Council's Procedural Rules which form an annex to the above Prakas.

¹³⁸ *Labour Law*, *supra* note 90, articles 96-101, PRAKAS 287/01 and 305/01. See also: ILO/Better Factories, *Guide to the Cambodian Labor Law for the Garment Industry*, Phnom Penh, International Labour Office, 2005.

Article 9: Right to Social Security

*The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.*¹³⁹

72. According to the *Committee's General Comment No. 19*,¹⁴⁰ the right to social security contained in article 9 of the *ICESCR* is important in order to guarantee the dignity of all people. Social security is essential for the realization of all economic, social and cultural rights, which have been thoroughly defined in international instruments such as the 1948 *Universal Declaration of Human Rights* and the 1994 *Declaration of Philadelphia*. It is also important to note that the right to social security is encompassed by other conventions ratified by Cambodia, such as the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) and the *Convention on the Rights of the Child* (CRC).

73. The right to social security includes a number of conditions that should be respected by the State. According to the *Committee*, an adequate, accessible and sustainable social security system has to be available to protect people through the nine principal branches of social security: health care, sickness, old age, unemployment, employment injury, family and child support, maternity, disability, survivors and orphans¹⁴¹ Non-discrimination, gender equality, minority issues and the working conditions of the informal economy workers have to be specifically considered by the Cambodian social security system.¹⁴² Evidently, the right to social security has to be implemented progressively as article 2 of the *ICESCR* indicates, but some aspects of this right have to be immediately implemented, such as the obligation to take concrete and targeted steps towards the full realization of this right.¹⁴³

74. During an ILO workshop concerning the impact of the financial crisis in Cambodia¹⁴⁴, it was recognized by the UN Resident Coordinator Douglas Broderick that in the context of a worldwide financial crisis “Cambodians have almost no safety net to cope with these shocks” and that “in the absence of formal social safety nets, Cambodian households face a variety of risks” that would force families to sell their assets, fall in to a debt trap and send their children to orphanages. This particular situation would also lead to a decrease in schools’ attendance, an increase in child labour and internal rise in migration¹⁴⁵. Mr.

¹³⁹ For the purpose of this report, “social security, including social insurance” shall mean “need-based assistance offered to individuals from public funds raised through tax revenues” as well as “benefits for workers and their families raised through contributions to insurance funds”.

¹⁴⁰ *General Comment 19, The right to social security (art. 9 of the International Covenant on Economic, Social and Cultural Rights)*. UN Doc. E/C.12/GC/19, (4 February 2008).

¹⁴¹ *Ibid*, paragraphs 13 to 21.

¹⁴² *Ibid*. See also “special topics of broad application”, at para. 29 to 39.

¹⁴³ *Ibid*. See also “core obligations”, at para. 59.

¹⁴⁴ *Impact of the Global Financial and Economic Crisis on Cambodia, A rapid assessment*, (prepared for the ILO, Cambodia Institute of Development Study, 2009).

¹⁴⁵ United Nations, *Workshop of the Report of a Rapid Assessment on the Impact of the Financial Crisis in*

Broderick goes further to state that “growth and rising Government revenues in Cambodia over the last decade make social safety nets increasingly feasible. Global integration- which exposes Cambodia to new risks and opportunities- makes social safety nets increasingly important”¹⁴⁶. The key policy recommendation that came out of the workshop was to create a Multisector Social Safety Framework¹⁴⁷ to support Cambodian households throughout these particularly harsh times.

75. As previously indicated in the *2002 Parallel Report*,¹⁴⁸ article 74 of the Constitution of Cambodia provides that “the State supports the disabled and the families of deceased veterans who have died for their country”. Regrettably, this provision does not detail the nature of this support.

76. With regard to medical services and care, it was observed in 2001 that the Government budget contributed one dollar per person per year.¹⁴⁹ The NGO working group has observed that the situation does not appear to have noticeably changed.

77. The *2002 Parallel Report* noted that the national census of 1998 had revealed that physical disability affected more than 220,000 people in Cambodia, 40,000 of which had been mutilated by landmines.¹⁵⁰ For those people who were injured during their military service and whose names are on the list of invalid veterans, there is a monthly (often irregular) pension from the Government of 150,000 riels (approx. 36USD\$).¹⁵¹ Families of deceased soldiers also receive a pension of 3,000 riels per month (approx. 0,75USD\$).¹⁵² Although the government contributes to the social security of war veterans, the standard of living of disabled people is very low. As for other families, there is no State support in the event of the breadwinner’s death. In 2002, a retired civil servant received a pension of approximately 20,000 to 40,000 riels per month (between 5USD\$ and 10USD\$), which is clearly insufficient to sustain an adequate standard of living. Retired and elderly citizens usually depend on their children. According to the NGO working group, elderly widows, are particularly disadvantaged because of their age, gender and unemployment.

78. In its *2008 Report*, the State indicated that “security insurance for all people of both sexes has been stipulated by the Constitution of the Kingdom of Cambodia”.¹⁵³ In fact, the Constitution affirms the right to obtain social security

Cambodia, (12 February 2009), Phnom Penh, online: UN
<http://www.un.org.kh/index.php?option=com_content&view=article&id=130:rc-opening-remarks-workshop-on-the-report-of-a-rapid-assessment-on-the-impact-of-the-financial-crisis-in-cambodia&catid=44:un-speeches-and-statements&Itemid=77>.

¹⁴⁶ *Ibid.*

¹⁴⁷ *Ibid.*

¹⁴⁸ *2002 Parallel Report*, *supra* note 6, p. 18..

¹⁴⁹ Ministry of Planning and Ministry of Health, *Demographic and Health Survey 2000*, Phnom Penh, (June 2001) at p. 3.

¹⁵⁰ Ministry of Planning, *General Population Census (1998)*. See also *2002 Parallel Report*, *supra* note 6 at p. 19.

¹⁵¹ *2002 Parallel Report*, *supra* note 6, at p. 19.

¹⁵² *Ibid.*

¹⁵³ *2008 State Report*, *supra* note 7, p. 58.

and other benefits as determined by the law.¹⁵⁴ In reality, most of the population does not have access to any form of social security. According to the NGO working group, civil servants do have a pension programme and benefits aimed at bettering their living standards when retired, sick or injured. According to the expenses reported by the State, until 2007 a total 2,804,325,700 riels (approx. 693,000USD\$) were spent for 26,486 retired civil servants and for 6,217 professional disabled civil servants.¹⁵⁵ While the effort made by the Government are a step in the right direction, it must be highlighted that this social security program aimed at civil servants is clearly insufficient and that the pensions are often paid late, as it indicated in 2002.¹⁵⁶

79. While the case of employees in factories, industries and private establishments appears to be different because the responsibility of providing medical services rests upon the employer or the manager of the enterprise (who is also responsible for taking measures to prevent work-related accidents), the State is nevertheless responsible for the full implementation of its obligations under article 9 of the *ICESCR* in all sectors of society, even in the public sector.

80. With regard to the elderly, the State indicated in its *2008 report* that “the Government has no policy to provide monthly financial support to improve living conditions”.¹⁵⁷ It also recognized that it had not provided unemployment benefits to the Cambodian population and “encourage[d] the national and international investors to launch investments such as factories, enterprises and businesses that can absorb remarkable employment rate”.¹⁵⁸ According to the *2008 State Report*, persons with disabilities are also not covered by any sort of social security or benefits scheme and this is due to the unavailability of public resources.¹⁵⁹ However, article 2(2) regarding non-discrimination is not subject to the availability of resources and this unfair treatment of persons with disabilities therefore constitutes a violation by the State of its obligations regarding the *Covenant*.

81. Civil servants, whether retired or not, have access to some sort of social security scheme in order to support them as they age or when they become sick, pregnant or disabled. Yet, the real problem lies with the people who are not public employees: the unemployed, workers of the informal sector and their families, pregnant women, the disabled, the elderly, indigenous peoples and migrants have no access to any form of assistance from the State. The inability for some people to work creates grave consequences on the enjoyment of other economical, social and cultural rights contained in the *ICESCR*. Without a social security net, individuals and their families can be reduced to grinding poverty and all its impacts on health, education, housing, social inclusion and human dignity in general.

¹⁵⁴ *Constitution of the Kingdom of Cambodia*, *supra* note 12, art. 36.

¹⁵⁵ *2008 State Report*, *supra* note 7, at p. 59.

¹⁵⁶ *2002 Parallel Report*, *supra* note 6, at p. 19.

¹⁵⁷ *2008 State Report*, *supra* note 7, at p. 62.

¹⁵⁸ *Ibid*, at p. 65.

¹⁵⁹ *Ibid*, at p. 66.

82. In this regard, it is important to bear in mind the obligations of the State regarding the right to social security. The progressive nature of article 9 as well as the other rights of the *ICESCR* does not diminish the necessity to take steps towards the full realization of the right to social security.

83. While the Government's efforts in the cases of war veterans and civil servants are to be encouraged, it is necessary to take concretely steps towards the full implementation of article 9 of the *ICESCR* through a national strategy, which will include disadvantaged groups especially people living in rural areas. While the realization of the right to social security can be costly for the State, it must be recalled that more could be done in order to ensure the full respect for the right to social security.

Recommendations

The State of Cambodia should:

1. Pay social security pensions on time and investigate fraudulent practices existing within the system.
2. Develop an unemployment insurance fund.
3. Take measures to ensure that social security is accessible and affordable for all categories of persons, with special attention to casual workers and the self-employed.
4. Monitor closely the medical insurance scheme provided by employers to their workers in the event of sickness, accidents or maternity.
5. Take special measures to assist disadvantaged persons such as unemployed workers, the elderly, the disabled, widows, minority groups and migrants.
6. Take a more active role in encouraging rural communities, which take care of their members in need.
7. Take action to support workers who are affected by factories closures resulting from the current world economic crisis.
8. Promote awareness about social security schemes through trade unions, NGOs and the media.

Article 10: Protection of the family, mothers and children

The States Parties to the present Covenant recognize that:

The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

84. Cambodia has ratified the following international instruments that concern vulnerable groups such as women and children.¹⁶⁰ In order to fulfill its international obligations, the State must take concrete actions to ensure the rights of minorities and vulnerable groups and reaffirm its commitment towards these instruments. The overall situation of discrimination against vulnerable groups and minorities calls upon the international community to dedicate greater attention to this issue. This context of inequity in Cambodia continues to be an area where much needs to be done.

Women

85. As indicated in the *2002 Parallel Report*,¹⁶¹ women are often confronted with several social problems. Marriages involving underage spouses are a result of ignorance of the law; they are often not registered. The 1989 *Law on Marriage*¹⁶² was adopted in order to respect the interests of Cambodian families and to protect the rights of women and children. The 1981 Constitution outlawed bigamous marriages and forced marriages.¹⁶³ These provisions to prevent marriage involving underage and bigamous marriage were maintained in the Constitution of 1993.¹⁶⁴ Nevertheless, the real problem lies in the implementation of these provisions, specifically in rural areas where forced marriages are common and have grave

¹⁶⁰ *Convention on the Rights of the Child*, Doc. UN GA A/RES/44/25, (12 December 1989).

Convention of the International Labour Organization on minimum age, C138, ILO (1973).

¹⁶¹ *2002 Parallel Report*, *supra* note 6, at p. 22-25.

¹⁶² *Law on Marriage and Family*, (26 July 1989), online : Go Cambodia
<http://www.gocambodia.com/laws/law_marriage.asp>.

¹⁶³ *2002 Parallel Report*, *supra* note 6, at p. 22-23.

¹⁶⁴ *Ibid.* at p. 23.

consequences on the lives of women and children.¹⁶⁵

86. Although the *Law on Marriage* requires the official registration of marriages, this is not generally the rule.¹⁶⁶ Of the 375 cases recently investigated by staff of a leading Cambodian human rights organization, only 25.8% of marriages had been officially registered.¹⁶⁷ Ignorance of the law and failure to register a marriage creates problems which can seriously disadvantage children should the marriage fail and the wife be left to raise the children by herself.¹⁶⁸ Ignorance of the law also allows for many underage marriages, particularly of young women.¹⁶⁹

87. Article 73 of the 1993 Constitution makes provision for State daycare facilities and for support to mothers with many children.¹⁷⁰ Article 186 of the *Labour Law* requires enterprises employing a minimum of 100 women or girls to establish a nursing room and a daycare centre.¹⁷¹ If the enterprise is unable to set up a daycare centre for children over eighteen months of age, women workers can place their children in any daycare centre and the charges will be paid by the employer.¹⁷²

88. In the work place, women have the right to maternal leave in accordance with the *Labour Law* and the Constitution.¹⁷³ However, many private companies do not apply this legislation and women are placed in an even more vulnerable position. Also, a large proportion of women workers in the factories are not aware of their rights in this regard.¹⁷⁴

Maternal, Child, and Reproductive Health and Nutrition

89. A report published by UNIFEM in 2004 entitled *A Fair Share for Women* cites a maternal mortality rate of 437 per 100,000 live births, based on the data compile in 2000 by the Cambodian Demographic and Health Survey (CDHS).¹⁷⁵ According to a report by USAID published in 2000, the prevalence rate for modern methods of contraception by women living in urban areas or those with secondary education was 19% whereas women in rural areas or those with no secondary education were less likely to use modern contraception methods.¹⁷⁶

90. According to USAID: “poor nutrition and increased vulnerability to disease among women, as well as problems encountered in sanitation and food preparation are part of the complex of factors contributing to high maternal and infant

¹⁶⁵ *Ibid.*

¹⁶⁶ *Ibid.*

¹⁶⁷ *Minutes of the Seminar on Law on Marriage and the Family* (Phnom Penh, 4 December 2001).

¹⁶⁸ *2002 Parallel Report*, *supra* note 6, at p. 23.

¹⁶⁹ *Ibid.*

¹⁷⁰ *Constitution of the Kingdom of Cambodia*, *supra* note 12, article 73.

¹⁷¹ *Labour Law*, *supra* note 90.

¹⁷² *2002 Parallel Report*, *supra* note 6, at p. 23.

¹⁷³ *Ibid.*

¹⁷⁴ *Ibid.*

¹⁷⁵ *A Fair Share for Women: Cambodia Gender Assessment*, *supra* note 88, at p. 9.

¹⁷⁶ *Gender Analysis & Assessment: Volume I Gender Analysis*, *supra* note 83, at p. 25.

mortality rates as well as low life expectancies”.¹⁷⁷ Moreover, UNIFEM stated that in 2000 about one third of pregnant women delivered their babies with the help of a skilled birth attendant and about 85 percent of children were born at home.¹⁷⁸ Demand for information and methods for birth spacing and contraception are radically less frequent in rural areas.¹⁷⁹ UNIFEM also cites the use of “traditional” methods to terminate pregnancies as a major cause of maternal mortality in Cambodia, which are often done in private homes.¹⁸⁰

91. The USAID report indicates that current health services do not reach rural areas, especially rural women and girls.¹⁸¹ “At 437 per 100,000 live births, Cambodia’s maternal mortality is one of the highest in the region, and improvements have been slow”.¹⁸² The main reasons given by women for not accessing the health care system were time for travel and costs of such care. These services need to be closer and more accessible for women and more adequate for reproductive health.¹⁸³

Children

92. The exploitation of children has been a constant problem in Cambodia for decades.¹⁸⁴ The economic and sexual exploitation of Cambodian children is directly related to poverty within families, exposure to domestic violence, sickness, debt and the death or absence of a parent.¹⁸⁵ The risks of exploitation of children could be reduced significantly by direct and concrete actions from the State, in accordance with its international obligations under the *ICESCR* and the *Convention on the Rights of the Child*. On 2 January 2002, Cambodia’s National Assembly identified sexual exploitation of children, child pornography and trafficking of children as major social problems, which affected the honour and reputation of the State and the future of its people.¹⁸⁶ As indicated in the *2002 Parallel report*, “NGOs working in the *Mekong* sub-region estimate that hundreds of thousands of women and children are being trafficked from rural areas to cities and between neighbouring countries such as Vietnam and Thailand for the purpose of prostitution”.¹⁸⁷ Also, “according to one NGO that works with women in crisis, between 400 and 800 Cambodian women and children are trafficked to foreign countries for sex each month. It is estimated that there are 80,000 – 100,000 commercial sex workers in Cambodia of whom about 30% are thought to be under 18 years of age”.¹⁸⁸

¹⁷⁷ *Ibid.*

¹⁷⁸ *A Fair Share for Women: Cambodia Gender Assessment*, *supra* note 88, at p. 92 and 96.

¹⁷⁹ *Gender Analysis & Assessment : Volume I Gender Analysis*, *supra* note 83, at p. 25.

¹⁸⁰ *A Fair Share for Women: Cambodia Gender Assessment*, *supra* note 88, at p. 96.

¹⁸¹ *Gender Analysis & Assessment : Volume I Gender Analysis*, *supra* note 83, at p. 25.

¹⁸² *Ibid.*

¹⁸³ *Ibid.*

¹⁸⁴ *2002 Parallel Report*, *supra* note 6, at p. 23.

¹⁸⁵ *Ibid.*

¹⁸⁶ *Ibid.*

¹⁸⁷ *Ibid.*

¹⁸⁸ David Kihara, “Enforcement key to stopping child trafficking”, *The Cambodia Daily*, (3 August 2001).

93. The *2008 State Report* indicates that some measures have been taken, including the adoption of legal provisions, to improve the condition of women and children. According to this Report, the Ministry of Women's and Veterans' Affairs has provided support in promoting women's capacity and improving the family's living conditions through income generating activities. With regard to the sexual exploitation of the children, the Article 46 of the Constitution states that "[t]he commerce of human beings, exploitation by prostitution and obscenity which affect the reputation of women shall be prohibited".¹⁸⁹ Nevertheless, the situation in Cambodia is quite different than that which the State alleges and that which is provided for by law.

94. Cambodia presently faces a difficult and situation for women and children, which is essentially the same as that described in the *2002 Parallel Report* despite the increasing national budget that the Government of Cambodia has dedicated to these issues.¹⁹⁰ Despite de positives declarations of the Government in its *2008 State Report*, women and children are confronted to poor standards of education, inadequate nutrition and basic health care, rural debt and landlessness, and the lack of awareness of the law.¹⁹¹ Cambodian women do not fully enjoy their rights and cannot ensure their judicial protection. Severe social problems such as the trafficking of children, the sexual exploitation of children, and child labour persist. During the past decades, no concrete efforts have been made by the public authorities to improve the global situation of women and children and their specific needs.

Recommendations

The State of Cambodia should:

1. Review the *1989 Law on Marriage and the Family*¹⁹² to eliminate all vestiges of gender-based discrimination, to ensure that registration of marriages, which are freely entered into by both spouses takes place and to ensure that the people understand the value of registering their marriages. Official birth certificates or the family book should accompany applications for the registration of a marriage.
2. Must protect maternal rights. It must also make provisions for free daycare centres which are close to the places of work and/or residence of poor women.
3. Must ensure special assistance to children most at risk, especially orphans, the mentally and physically disabled children, street children and members of street gangs. The State should widely inform the public about the availability of its child protection services and encourage the people to make use of them.

¹⁸⁹ *Constitution of the Kingdom of Cambodia*, *supra* note 12, art. 46.

¹⁹⁰ *2002 Parallel Report*, *supra* note 6, at p. 22-24.

¹⁹¹ *2008 State Report*, *supra* note 7, at p. 67-75.

¹⁹² *Law on Marriage and the Family*, *supra* note 165.

Article 11: The Right to an Adequate Standard of Living

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programs, which are needed:

- 1. To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;*
- 2. Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.*

95. According to the international obligations set out by the *ICESCR*, Cambodia must take the necessary steps, such as implementing programmes, adopting laws etc., to fully respect and improve the right to an adequate standard of living of the people under its jurisdiction. Accordingly, the State must develop and reform its agrarian and forestry systems of exploitation as well as achieve the most efficient development and use of the natural resources on its territory. The Government has not demonstrated its commitment to take measures to fulfill the right to an adequate standard of living, which includes food security, clothing, adequate housing, and the improvement of living conditions of the population of Cambodia. The State urgently needs to adopt such a legal framework, in compliance with its obligations under the *ICESCR*.¹⁹³

Right to Food

96. By ratifying the *ICESCR* Cambodia has recognized the international obligation to ensure "the fundamental right to freedom from hunger and malnutrition". According to the *Committee's General Comment No. 12*, the human right to adequate food is of crucial importance for the enjoyment of all other rights.¹⁹⁴ The *Committee* has clearly stated that the root of the problem concerning hunger and malnutrition is not the actual lack of food, but the lack of access to available food. This clearly represents the situation in Cambodia, which is plagued with high levels of poverty.

97. The *2002 Parallel Report* indicated that the Government of Cambodia was not

¹⁹³ Contrary to the government's claim in its *2008 State Report*, *supra* note 7, at para 513. See also *Housing and Land Rights Issues in Cambodia*, Annex III to Parallel Report Submitted to the Committee on Economic, Social and Cultural Rights, concerning article 11 of the Covenant, April 2009, case 4: Drey Krahorn, Tone Bassac, Phnom Penh, at p. 9.

¹⁹⁴ *General Comment 12, The Right to Adequate living standard, right to food* (Art. 11 of the Covenant), UN Doc. E/C.12/1999/5, (12 May 1999), at para 1.

fulfilling its obligation to ensure food security for all. At least 18% of the population experience serious food shortages yearly, and hunger and malnutrition chronically affect children and women.¹⁹⁵ Despite the stability of rice production in Cambodia, yields per hectare are among the lowest in the world. The increasing demand for rice globally has resulted in locally grown rice to be exported, which has endangered the food security of a large part of the Cambodian population.¹⁹⁶ In surveys conducted in 2001 several families faced food shortages in *Svay Rieng* (40%), in a commune in *Siem Reap* (70%), and in one quarter of *Phnom Penh* (more than half of all families).¹⁹⁷

98. A food security and humanitarian assessment published by the World Food Program in 2007 found the food in most provinces in Cambodia to be chronically insecure. The assessment identified 4.6 million individuals living below the poverty line facing chronic food insecurity and about 2.6 million living in extreme poverty as very likely to face food deprivation.¹⁹⁸ Those most at risk of hunger and malnutrition are women and children in rural families, subsistence farmers and fishers, landless families and migrants. The Cambodian Government's website on food security and nutrition states that 44% of children are stunted and 15% are wasted.¹⁹⁹

99. According to the United Nations Development Programme's (UNDP) 2007 *Human Development Report in Cambodia*, approximately 20% of Cambodians live in poverty and do not have sufficient food to feed themselves and are unable to reach the minimum nutritional requirements of 2100 kilocalories per day.²⁰⁰ As some organizations have indicated, the existence of such food shortages is a clear sign that the Government has not ensured the right of Cambodians to access sufficient food supplies, a situation which is mainly due to the lack of official State policy and monitoring programmes ensuring sustainable and long-term agriculture. The authorities have failed to provide technical assistance and to allocate sufficient resources to address the economic situation of poor families.²⁰¹ As indicated in the *2007 Situation Report*, the right to adequate food continues to be jeopardized due to an increase in the number of landless people.²⁰² Short-term measures cannot ensure a sustainable implementation of the population's the right to food. The current economic global crisis will provoke serious and urgent needs for the population, which is already in vulnerable position.

¹⁹⁵ *2002 Parallel Report*, *supra* note 6, at p. 28.

¹⁹⁶ *Ibid.*

¹⁹⁷ PADEK (Partnership for Development in Kampuchea) *Implementation Plan 2002*, Cambodia; *2002 Parallel Report*, *supra* note 6, at p. 29.

¹⁹⁸ Issa Sanogo, Rita Bhatia, Dipayan Bhattacharyya, Tobias Flaemig and Brian Bogart with input from Yon Fernandez, *Integrated Food Security and Humanitarian Phase Classification (IPC) Pilot in Cambodia. Final Report*, (April 2007) at p. 5, online: World Food Programme <<http://documents.wfp.org/stellent/groups/public/documents/ena/wfp128541.pdf>>.

¹⁹⁹ *Cambodia*, online: World Food Programme <<http://www.foodsecurity.gov.kh/CamSituation.aspx>>.

²⁰⁰ United Nations Development Programme (UNDP); *2007 Situation Report*, *supra* note 118, at p. 35-36.

²⁰¹ *Ibid.*

²⁰² *2007 Situation Report*, *supra* note 118, at p. 35-36.

Recommendations

The State of Cambodia should:

1. Ensure the construction of more small and medium-size irrigation systems, which will allow food to be harvested 2 or 3 times per year.
2. Provide direct support and alternative income generation opportunities to displaced farmers to ensure adequate access to food at all times.
3. Strictly enforce the sub-decrees in place vis-à-vis agricultural material standards, particularly with regard to pesticides.
4. Conduct education programmes on the safe use of chemical products and on progressive conversion to organic processes.
5. Establish standards controlling food quality in order to ensure that food products are safe for consumption.

Right to Water

100. The right to water is not enjoyed equally by all Cambodians. Access to drinkable water is insufficient in rural areas.²⁰³ According to the Center for Economic and Social Rights (CESR), less than 12% of residents in *Pursat* province have access to drinkable water compared to more than 90% of *Phnom Penh* and *Prey Veng* residents.²⁰⁴ Also, the proportion of urban people with access to safe water is declining. Despite significant economic growth in Cambodia, the proportion of urban residents with access to safe water has been steadily declining.²⁰⁵ The CESR has observed that this may reflect a lack of investment in water infrastructure in urban areas to keep up with the rising number of Cambodians migrating to urban areas. Almost 80% of Cambodia's urban residents live in urban slums where access to safe water is much lower than in other urban areas.²⁰⁶

101. The *Committee's General Comment No. 5* states that the human right to water is indispensable for leading a dignified life and is a prerequisite for the realization of other human rights.²⁰⁷ Accordingly, State should improve its water infrastructure in order to guarantee its population with access to drinking water.

Right to Housing

102. The Cambodian Government has stated in its *State Report 2008* its willingness to comply with its obligations under the *Covenant*. Yet, measures taken have been insufficient to ensure the implementation of Article 11(1) on the right to adequate housing, as a component of the right to an adequate standard of living. The Government has failed in its obligations to protect, respect and fulfil the right to adequate housing as interpreted by the *Committee* in its *General Comments No. 4* on the right to adequate housing and *General*

²⁰³ *Fact sheet no. 7 Cambodia*, online: Center for Economic and Social Rights [hereinafter CESR] <<http://cesr.org/downloads/cambodia%20WEBFINAL.pdf>>.

²⁰⁴ *Ibid.*

²⁰⁵ *Ibid.*

²⁰⁶ *Ibid.*

²⁰⁷ *General Comment 15, The Right to water* (Art. 11 and 12 of the Covenant), UN Doc. E/C.12/2002/11, (November 2002), para. 1.

Comment No. 7 on forced evictions. While this failure has occurred with respect to most or all elements of the right to adequate housing, this report focuses on one of the most severe violation of the right, the failure to guarantee legal security of tenure and the resulting epidemic of forced evictions across Cambodia.

Legislative Framework on Security of Tenure and Forced Evictions

103. Article 31 of the Constitution of Cambodia seems to incorporate the *Covenant* rights into Cambodian domestic law, including the right to adequate housing. Article 44 of the Constitution and Article 5 of the *Land Law (2001)* provide legislative protections against the arbitrary expropriation of property. Expropriations can only be carried out in the public interest with prior provision of fair and just compensation. In recognition of the absence of widespread land registration and titling system in Cambodia, *the Land Law* recognises possession rights when such possession commenced prior to 2001, which can be converted into full ownership rights through the issuance of a title.²⁰⁸ *The Land Law* also recognises collective ownership rights of indigenous communities over their land, including all of the rights and protections of ownership enjoyed by private owners.²⁰⁹

104. These legislative provisions provide a basis for the guarantee of secure tenure for legal possessors and owners as required by the *Covenant*. However there is a notable absence of legal guarantees for secure tenure for renters, informal settlements and other groups.

105. The Government claims in its *2008 State Report* that “[a]ll people in Cambodia are well protected by law” with respect to forced evictions.²¹⁰ However, in contradiction to this claim, comprehensive laws and regulations setting out the rules and procedures to govern land expropriation and evictions, the definition of ‘public interest,’ the valuation and payment of compensation conditions of resettlement do not exist. Cambodia urgently needs such a legal framework in order to comply with its international obligations under the *Covenant*. The failure of the Government to take steps to enact a comprehensive and *Covenant*-compliant legislative framework on security of tenure for all households and on evictions constitutes a violation of the State’s obligation to progressively fulfill the right to adequate housing.

Absence of Secure Tenure

106. Despite the recognition of possession rights in the *Land Law* and the legal rights to convert possession rights into full ownership rights, these provisions are being implemented in an arbitrary manner. In effect, possession rights are not being recognised for those households most vulnerable to forced evictions because they live on land that is sought after by powerful individuals and companies. Authorities have also refused to issue titles to such households despite evidence of valid possession rights.

²⁰⁸ *Land Law 2001*, Chapter 4, <http://www.gocambodia.com/laws/pdf/LAW-01-Land%20Law-E.pdf>.

²⁰⁹ *Ibid*, art. 26. It is important to note that the legal and policy framework for the registration of collective titles for indigenous communities is yet to be finalized.

²¹⁰ *2008 State Report*, *supra* note 7, at para. 513.

107. The land registration and titling system under the donor-funded Land Management and Administration Project (LMAP), which commenced in 2002, has thus far failed to provide secure tenure to many of the most vulnerable households. The failure to recognise and respect possession rights, including the right to acquire title, is particularly prevalent for poor urban households situated on prime real estate. Such households are commonly labelled by the Government and land-grabbers as ‘anarchic’ and ‘illegal squatters without title’, despite their possession rights under the *Land Law*.²¹¹ Both possession rights and the titling system are thus ineffective in terms of guaranteeing tenure security for the most vulnerable of households.

108. In 2003, the Government committed itself to upgrading urban poor settlements and ensuring their tenure security. This commitment, however appears to have been abandoned in the face of rapid urban development spurred by an influx of foreign investment. As indicated in the *2008 State Report*,²¹² the Government chose four sites for land-sharing projects: *Dey Kraborm* and *Borei Keila* as well as Train Station-A and Train Station-B. While these urban poor areas were indeed designated in 2003 as social land concessions with plans to improve housing conditions through land-sharing projects, the Government failed to mention in its *2008 State Report* what has become of these projects since 2003.

109. Rather than providing on-site upgrading and tenure security, three out of the four areas were sold or leased to private companies for commercial development with local residents and communities being forcibly evicted and/or resettled to peri-urban areas. On 24 January 2009, just two months after the submission of the *State Report* to the *Committee*, over 400 families (including approximately 150 with possession rights that could not access the titling system) were forcibly evicted from *Dey Kraborm* and relocated to a distant resettlement site with inadequate basic services and facilities. As of April 2009, the remaining residents of the Train Station A and B communities have received “final eviction notices.” Community leaders of the *Dey Kraborm* and Train Station A and B communities have been convicted on spurious criminal charges because they have advocated for their rights to fair compensation.

110. Of the four urban poor communities mentioned above, only the *Borei Keila* land-sharing project has gone forward. While this was a positive development in some respects, namely because long-term renters were among the beneficiaries, the *Borei Keila* land-sharing project was marred by corruption and poor planning. Scores of families have been left “off the list” to receive housing and hundreds of families live in deplorable temporary shelters on the site’s construction zone as they wait for their flats to be constructed.

²¹¹ See, for example, Bethany Lindsay et al, ‘Experts Dispute Boeng Kak Impact Report,’ *The Cambodia Daily*, 26 March, 2009 at p. 1. See also, *NGO Position Papers on Cambodia’s Development in 2007-2008: Monitoring the implementation of 2007 CDCF Joint Monitoring Indicators and the National Strategic Development Plan 2006-2010* (The NGO Forum on Cambodia, Phnom Penh, 2008).

²¹² *2008 State Report*, *supra* note 7, at para. 537.

111. The Government has also failed to uphold the legal protections for indigenous communities in the *Land Law* and has illegally granted economic land concessions and mining licences over indigenous land. This has led to the displacement of communities and has hindered their access to forests traditionally used as a source for food and other basic needs.

Forced Evictions

112. The absence of security of tenure, in the context of endemic corruption and a rapid influx of foreign investment and economic development, has resulted in a land rights crisis in Cambodia. At least 150,000 Cambodians currently live under the threat of forced eviction, including approximately 70,000 in *Phnom Penh*.²¹³

113. The rate and scale of land-grabbing and forced evictions has increased in recent years. In *Phnom Penh*, between 1990 and 1996 3,100 families were displaced, between 1997-2003 9,200 families were displaced, and between 2004-2008 14,300 families were displaced. In total approximately 133,000 *Phnom Penh* residents, or eleven percent of the city's population of 1.2 million, have been evicted since 1990.²¹⁴ While precise nationwide figures are difficult to ascertain, the rate of forced evictions appears to have increased in conjunction with the granting of concessions over vast lands to private investors. Rural landlessness, often caused by forced evictions, rose from 13 percent in 1997 to between 20 and 25 percent in 2007.²¹⁵

114. The causes of evictions include the granting of economic land concessions (ELCs), extractive industry licenses/concessions, infrastructure development, so-called "city beautification", private development projects, including tourist industry development, and land speculation.

115. The instigators of forced evictions throughout the country include well-connected private individuals, domestic and foreign companies, and Government authorities including the Royal Cambodian Armed Forces (RCAF). The Government is not only failing in its obligations to protect people against forced evictions but Government authorities are often actively involved in illegal land-grabbing.

116. The Government claims in its *2008 State Party Report* that forced evictions are carried out only when necessary, in the public interest; that evictees are provided with fair and just compensation in advance;²¹⁶ and that those evicted are provided with financial

²¹³ Amnesty International, *Rights Razed: Forced Evictions in Cambodia*, AI Index: ASA 23/002/2008, February 2008 at p. 7.

²¹⁴ Sahmakum Tean Tnaut, Report prepared for UN OHCHR [unpublished], 2008.

²¹⁵ *Cambodia - Halving Poverty by 2015 - Poverty Assessment 2006* (prepared for the Consultative Group Meeting by the World Bank, February 2006) at p. 85, online: World Bank <http://www.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/02/22/000012009_20060222102151/Rendered/PDF/352130REV0pdf.pdf> ; World Bank East Asia and the Pacific Region, *Sharing Growth: Equity and Development in Cambodia Equity Report 2007*, Report No. 39809-KH, June 4, 2007, online: World Bank <<http://siteresources.worldbank.org/INTCAMBODIA/Resources/293755-1181597206916/Full-Report-E&D.pdf>>.

²¹⁶ *2008 State Report*, *supra* note 7, at para. 513, 516, 518, 528 and 529.

support or re-housed in development areas with full access to necessary public services and amenities.²¹⁷ The reality completely contradicts the Government's claims. In fact, Cambodia is consistently failing to meet the international human rights law requirements as set out in the *General Comment No. 7*. Evictions are carried out in the absence of exceptional circumstances, and very often for private developments or land speculation for private profit. Feasible alternatives to eviction are not explored. Those affected by evictions have had no opportunity for genuine participation and consultation beforehand – rather, “take it or leave it” offers are made, in the form of monetary compensation or resettlement, which are consistently inadequate and well below the market value of people's house and/or land.

117. Information about the eviction or the purpose for which the land will be used is generally scant or non-existent. While eviction notices are issued in some cases, these often do not correlate with the actual date that the eviction is carried out. In other cases, communities hear about the pending eviction through other sources such as the media or NGOs. In many cases no concrete plans for the site appears to exist, and so various conflicting and erroneous information is given about what the site will be used for. In cases of private land disputes, eviction notices are frequently issued by local and provincial authorities on behalf of powerful parties to the dispute, despite a requirement in the *Land Law* that a court order be issued prior to an eviction in such cases.²¹⁸

118. Evictions are often carried out violently by police, military police and with the use of private armed forces, despite prohibitions under the *Land Law*.²¹⁹ In cases in which government officials are present, their role does not appear to be to provide protection to the community and ensure the avoidance of violence. Forced evictions frequently begin in the middle of the night or the early hours of the morning.

119. Those affected by evictions are often made homeless and landless. In rural areas, families are deprived of farming land for their livelihood as well as shelter. In urban areas, people are either evicted without any form of compensation, or are offered inadequate cash payments and/or inadequate resettlements on the outskirts of the city without access to basic services and facilities.

Forced Evictions, Housing Rights Defenders and the Courts

120. The absence of an independent uncorrupted judicial system has meant that effective legal remedies for victims of forced evictions are unattainable. Instigators and perpetrators of forced evictions consistently act with impunity. Rather than upholding the rule of law and punishing violators, the court system has instead been used as a tool by land-grabbers, including Government authorities, private companies and powerful individuals to legitimize forced evictions and falsely prosecute housing rights defenders.

121. In its *2008 Report*, the State claims that it has supported all NGOs and associations in furthering the “rights and freedom of the people” and that “there is no reason for the

²¹⁷ *Ibid*, at para. 534.

²¹⁸ *Supra* note 208, art. 35.

²¹⁹ *Ibid*, art. 253 and 254.

Royal Government to compress and constrain the citizen's rights and freedom".²²⁰ In stark contradiction to this claim, in recent years there has been a reduction in the democratic space available to oppose land-grabbing and forced evictions. While attacks and threats against human rights defenders in Cambodia are generally increasing, intimidation and persecution of land and housing rights activists now constitutes the largest category of such attacks documented by civil society organisations. One of the most worrying emerging trends involves the abuse of the Cambodian court system to press unwarranted criminal charges against housing rights defenders.

Conclusion

122. The absence of secure tenure and resulting forced evictions represent clear violations of Article 11 of the *Covenant* with respect to the right to adequate housing by the Cambodian Government. The absence of a comprehensive legislative framework and the failure of other mechanisms to guarantee tenure security, including an independent and effective court system, constitute a failure of the Government to fulfill its *Covenant* obligations. The arbitrary and often violent evictions that occur in the absence of suitable procedural protections such as genuine consultation, the provision of adequate compensation and the opportunity for legal remedies, constitute a violation of the immediate duty to prevent illegal forced evictions. Furthermore, the Government is failing in its obligation to protect against forced evictions by third parties, including private individuals and companies. The poor conditions at resettlement sites constitute a failure by the Government to fulfill minimum core obligations of the right to adequate housing for those subject to resettlement.

Recommendations

The State of Cambodia should:

1. Incorporate all aspects of the right to adequate housing as set out inter alia in *General Comment No. 4* (1991) on the right to adequate housing and *General Comment No. 7* No (1997) on forced evictions into domestic law.
2. End the illegal practice of forced evictions and implement a moratorium on all evictions until there is a satisfactory human rights regulatory framework, including a mechanism to monitor implementation and ensure accountability. The regulatory framework should ensure that development projects that will result in displacement and other adverse consequences are only implemented where they are genuinely in the public interest and after feasible alternatives to displacement are fully explored, based on meaningful consultations with affected groups.
3. Ensure that persons that will be evicted from their houses and land, or will otherwise be adversely affected by development projects, are offered adequate compensation and resettlement options in accordance with guidelines adopted by the *Committee* in its *General Comment No. 7* (1997) on forced evictions. The Government should ensure

²²⁰ 2008 *State Report*, *supra* note 7, at para. 187.

- that resettlement sites are located in suitable areas, close to employment opportunities, and that all households have access to adequate housing, including basic services (including drinking water, electricity, washing, sanitation and waste disposal services) and facilities (including schools, health care centers and transportation), at the time resettlement takes place.
4. Ensure that there are effective, fair and timely legal remedies for victims of housing, land and natural resource rights violations. Moreover the Government should end impunity for those implicated in violations of these rights, including government and military officials and private individuals and companies.
 5. Guarantee legal security of tenure to all households, including those in informal settlements, communal or cooperative arrangements and renters. The Government should adopt and implement a National Housing Policy, without further delay, which actualizes the Government's 2003 commitment to upgrading urban poor settlements and ensuring their tenure security.
 6. Guarantee that, in accordance with the *Land Law (2001)*, all legal possessors have equal access to the titling system, irrespective of their background, social status, wealth or the neighbourhood they live in. Any denial of title must be justified by the law and legitimate reasons must be provided to the applicant. The Government should ensure that the land registration system targets vulnerable households and communities (in particular, households in disputed areas and areas targeted for development, urban poor households, households at resettlement sites and indigenous communities) as a priority, in order to ensure their land tenure security.
 7. Take steps to ensure that the legal and regulatory framework on land concessions, including the mitigation of adverse impacts to local communities, is made consistent with the *Covenant* and is effectively implemented. The Government should suspend all land, tourist industry and mining concessions, in particular:
 - a. in areas populated by indigenous communities until it can guarantee their secure land tenure through *inter alia* registration of their land according to the *Land Law (2001)*, and
 - b. in or near protected areas and protected forests until land classification, registration and zoning is fully implemented and the *Protected Area Law (2008)* is properly applied.
 8. Take urgent steps to protect defenders of economic, social and cultural rights, including by adopting the principles of the *United Nations Declaration on Human Rights Defenders (1998)* and ensuring human rights defenders are not made subject to false prosecutions or other acts of intimidation and pressure.

The bilateral and multilateral donors providing support to the land and natural resources sector should:

1. Use the *Covenant* and guidelines adopted by the *Committee*, including in its *General Comments No. 4 (1991)* on the right to adequate housing and *No. 7 (1997)* on forced

evictions, as a framework for development assistance and make their development assistance contingent on Government compliance with the *Covenant*. Donors should ensure that accountability for these projects is significantly improved, including through the implementation of rigorous monitoring systems and by making representations to the Government on the illegality of serious violations of the *Covenant* when they occur.

Article 12: Right to Enjoyment of the Highest Attainable Standard of Physical and Mental Health

1. *The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.*
2. *The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:*
 - (a) *The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;*
 - (b) *The improvement of all aspects of environmental and industrial hygiene;*
 - (c) *The prevention, treatment and control of epidemic, endemic, occupational and other diseases;*
 - (d) *The creation of conditions which would assure to all medical service and medical attention in the event of sickness.*

123. By its accession to the *ICESCR*, Cambodia has recognized the right of its population to the highest standard of physical and mental health.²²¹ In order to respect, protect and fulfill this right a State party must ensure the implementation of other closely linked human rights such as the right to food, housing, work, education and equality.

124. Under the *ICESCR* Cambodia also has an immediate obligation to ensure that no form of discrimination may affect anyone's right to enjoy the highest attainable standard of physical and mental health.²²² The State must therefore take concrete actions to guarantee the access to healthcare to all people, regardless of their race, colour, sex, language, religion, national or social origin, birth status, political affiliation or opinion. The *Committee* has emphasized in its *General Comment no. 14* the need for States to ensure that nothing constitutes "a threat to the availability, accessibility, acceptability and quality of health facilities, goods and services".²²³ The obligations established by article 12 of the *ICESCR* also require the State to adopt the necessary legislative measures at all the administrative levels in order to ensure that the right to health is recognized, respected and implemented.

125. The enjoyment of the highest attainable standard of physical and mental health is provided for in article 72 of the *Constitution of Cambodia*, which stipulates that:

[t]he health of the people shall be guaranteed. The State shall give full consideration to disease prevention and medical treatment. Poor citizens shall receive free medical consultation in public hospitals, infirmaries and maternities. The State shall establish infirmaries and maternities in rural areas.

²²¹ *The right to the highest possible standard of health is also found in article 11.1 and 12 of the Convention on the Elimination of All Forms of Discrimination against Women, supra note 2, and in article 24 of Convention on the Rights of the Child, supra note 2, which have both been ratified by the Kingdom of Cambodia on 15 Oct. 1992.*

²²² *ICESCR, supra note 1, art. 2.2.*

²²³ *General Comment 14, supra note 95, at para 35.*

126. In its *2008 State Report*, Cambodia referred to the establishment of a strategy to improve the public health care system in the country.²²⁴ In this respect, the government allowed for some improvements regarding the right to health. The NGO working group appreciates some achievements made by the Cambodian Ministry of Health on various health issues.

127. Despite these few improvements, health conditions are still deficient compared to other countries in the region. Poverty in Cambodia remains extremely high with 36% of the population living below the poverty line.²²⁵ Consequently, a vast majority of the population does not have access to a basic level of health care in order to ensure its survival and well-being. In 2002 a household's expenditure for health care was on average 29 USD\$ (while its annual income was 258 USD\$).²²⁶ According to the WHO, the *per capita total expenditure on health* was 29 USD\$ in 2005.²²⁷

Structural Obstacles

128. The low salaries attributed to the public health workers are one of the reasons for the inadequate health conditions in Cambodia.²²⁸ The Government must provide a higher budget to the Ministry of Health to allow the latter to further invest in the public health system and its workers and to ensure a higher quality and availability of health care services. Public funds must also be disbursed entirely and in a timely manner.

Poor Quality of Health Care Services

129. The State should consult NGOs, health centers and hospitals and allocate the necessary resources toward human resources, essential drugs, health commodities, modern medical equipment as well as skilled professional workers.²²⁹

130. There is a significant decrease of students completing their studies to become nurses or midwives.²³⁰ Additionally, it is very difficult for the health care workers living in the rural areas get to the health care centers or hospitals because of transportation problems. This insufficiency of skilled health care staff has often resulted in problems of professionalism and work ethics. While these problems are not contrary to national health service standards, there is no actual efficient complaint mechanism regarding health care services. This phenomenon of unprofessional treatments combined with the shortage of

²²⁴ *2008 State Report*, *supra* note 7, at p. 119.

²²⁵ *Parallel Report 2002*, *supra* note 6, at p. 30.

²²⁶ Ministry of Health, *Joint Health Sector Review : main findings, issues and options*, (Phnom Penh, 2001).

²²⁷ *Core Health Indicator*, (2007) online: World Health Organization [hereinafter WHO] <http://www.who.int/whosis/database/core/core_select_process.cfm?country=khm&indicators=nha&language=fr>.

²²⁸ WHO and Ministry of Health Kingdom of Cambodia, *Scaling up for better health in Cambodia*, WHO/HDS/2007.1, 2007, at p. 6.

²²⁹ MEDiCAM, *Position Paper 2008*, at p. 2, online: MEDiCAM <<http://www.medicam-cambodia.org/activities/ac/mmp/2008/index.asp>>.

²³⁰ *Ibid*, at p. 3.

essential drugs, modern medical equipment and other commodities negatively affects the right of every Cambodian to access health care and to obtain quality medical services.²³¹

131. The numerous problems affecting the public health system have contributed to the development of private clinics. It is estimated that 90% of public health care providers simultaneously run their own private clinics.²³² The increase of the private clinics limits the public health system's capacity to develop and improve the quality of its services. Local NGOs have observed that only 21,6% of patients use public services, while an average of 69% of the population uses the private sector and the non-medical sector. The informal private sector and the use of non-prescribed medical products constitute a major health danger. In fact, a study has revealed that 49% of private practitioners' prescriptions are hazardous.²³³

Maternal, Newborn and Child Healthcare

132. Maternal, newborn and child healthcare remains an important issue in implementing article 12 of the *ICESCR*. Despite certain efforts made to improve the situation, the ratio of maternal mortality remains 472 per 100,000 live births.²³⁴ The situation is similar for child and infant mortality for which the rates are very high due to the increase of chronic diseases. In 2005, the rate of child mortality under the age of five reached 83 per 1,000 and the infant mortality rate was 65 per 1,000 live births.²³⁵ These rates are partly due to the lack of access to sanitary infrastructure. It is thus vital to improve the accessibility and quality of emergency obstetric care services to counteract these problems. The Ministry of Health has acknowledged that emergency obstetric care in Cambodia has set the improvement of maternal health as its priority, however provincial and national referral hospitals are only able to deliver this service.

The Health Status of Indigenous Peoples and Ethnic Minorities in Cambodia

133. Article 12 of the *ICESCR* requires Cambodia to take steps ensuring that the right to the enjoyment of physical and mental health is realized, while article 2 requires that it be recognized without discrimination. However, it has been observed that indigenous peoples' and ethnic minorities' health status in Cambodia remains below the national average. Children mortality rates in *Mondulkeiri* and *Ratanakiri* provinces which are mainly composed by indigenous peoples²³⁶ are at 165 deaths per 1,000 live births, compared with the national average of 83 deaths per 1,000 live births.²³⁷ According to the Constitution of the *World Health Organisation*, the right to health and well-being does not only mean being free from disease but includes access to preventive health education and counselling.²³⁸ In

²³¹ *Ibid.*

²³² *Ibid.*

²³³ Chris Vickery, Greg Rose, Steve Dixon, Lo Veasna Kiry and Sharon Wilkinson, *Private Practitioners in Phnom Penh, a Mystery Client Survey* (November 2001).

²³⁴ Ministry of Health of Cambodia, World Health Organization, *MoH-WHO Report*. See also WHO, *Country Index Cambodia*, <http://www.wpro.who.int/countries/2008/cam/>

²³⁵ *Cambodia Demographic and Health Survey 2005*, *supra* note 94, at p. 17.

²³⁶ *Indigenous people in Cambodia*, (2007), online : ICSO <<http://www.icso.org.kh/indigenous-people>> .

²³⁷ *Cambodia Demographic and Health Survey 2005*, *supra* note 94, at p. 17.

²³⁸ *Preamble to the Constitution of the World Health Organization* as adopted by the International

the case of indigenous peoples, linguistic and cultural barriers with the public health service providers form major obstacles to the right to health. Money, transportation, language, discrimination, low levels of education and traditional beliefs/obligations have all been cited as the main barriers to accessing health services and information.²³⁹

134. According to local NGOs, there is still a significant imbalance in the distribution of public health service personnel, between indigenous and non-indigenous regions. For example, NGOs have observed in both the *Mondulkeiri* and *Ratanakiri* provinces, most of the medical personnel are Khmer workers and very few come from indigenous groups. This imbalance may explain the origin of the continuous restrictions to access to health services and information. Observations by local NGOs in *Ratanakiri* also indicate that some of the indigenous health centers personnel have been replaced by a majority of Khmer employees.

135. In 2007 the *United Nations Population Fund* (UNFPA) funded an extensive research project dealing with health-related priority issues identified by indigenous peoples in the *Ratanakiri* region.²⁴⁰ These issues are mainly associated with the health sector and education sector.²⁴¹ Local NGOs have observed that insufficient action is being taken by national and provincial health authorities to meet the health needs of Cambodia's indigenous peoples and to ensure their equal access to public services.

Recommendations

The State of Cambodia should:

1. Ensure a real and rigorous collaboration between the health system, NGOs, communities and other civil society actors to foster good governance in the health sector.
2. Increase the Ministry of Health's budget and improve the management of the health care system.
3. Establish an effective complaint mechanism for users of the public health system.
4. Address basic needs for reproductive and child health services, supplies and infrastructure with particular emphasis on community-based health care, increasing the skill of birth attendants and emergency medical obstetrics care services.
5. Provide free maternal health services to all poor and marginalized women.
6. Create regional training centers, which are well equipped and have good capacity.
7. Increase wages and incentives for outlying areas.
8. Provide scholarship programmes to local communities and minority groups.

Health Conference (New York, 19-22 June, 1946); signed on 22 July 1946 by the representatives of 61 States (Official Records of the World Health Organization, no. 2 at p. 100) and entered into force on 7 April 1948.

²³⁹ NGO Forum on Cambodia, *Indigenous People in Cambodia*, (April 2006) at p. 11.

²⁴⁰ *Statement for the UN Permanent Forum on Indigenous Issues*, (21 May 2007) at p. 4-5, online : UNFPA <http://www.unfpa.org/rights/docs/indigenous_issues_speech.doc>.

²⁴¹ Cambodia Country Profile, at p. 7, online: International Work Group for Indigenous Affairs [hereinafter IWGIA] <<http://www.iwgia.org/graphics/offentlig/pdf/cambodia.pdf>>.

9. Recruit local staff in rural and indigenous areas.
10. Amend the Drug Control Law and decriminalize crimes related to the simple use of drugs. The Government needs to provide care and treatment instead.
11. Provide enough infection medication to areas where they are most needed.
12. Expand and strengthen positive prevention programs in order to meet the need of the growing number of People Living with HIV/AIDS (PLHIV) on Antiretroviral Therapy (ART).
13. Increase the coverage of the Prevention of Mother-To-Child Transmission (PMTCT) services in order to ensure better access to Voluntary Confidential Counseling and Testing (VCCT) services for pregnant women and increase the number of HIV positive pregnant women who received antiretroviral drugs to reduce mother-to-child transmission.
14. Improve prevention programs and in particular those targeting at-risk populations such as brothel sex workers, women working in entertainment establishments, Men Who Have Sex with Men (MSM) and Injecting Drug User (IDU). Ensure that these programs help prevent the transmission of diseases from the mother to the child.
15. Expand care and treatment for PLHIV and place more emphasis on improving the quality of services.
16. Improve impact mitigation programs for PLHIV, orphans and vulnerable children affected by AIDS.
17. Strengthen the coordination and management of the national response through institutional and technical capacity building for key ministries and civil society organizations.
18. Continue strengthening the legal and policy framework, in particular the dissemination, implementation and enforcement of existing laws and policies.
19. Improve the quality of life for people living with HIV/AIDS.

Article 13: Right to Education

1. *The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.*
2. *The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:*
 - (a) *Primary education shall be compulsory and available free to all;*
 - (b) *Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;*
 - (c) *Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;*
 - (d) *Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;*
 - (e) *The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.*
3. *The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.*
4. *No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.*

136. By virtue of articles 2 and 13 of the *Covenant*, the State must ensure that the right to education “will be exercised without discrimination of any kind”. Despite the progressive realization of some aspects of the right to education, the State must adopt effective measures to ensure its full implementation. Thus, Cambodia must avoid measures that can negatively affect the enjoyment of this right.

Availability & Accessibility

137. In spite of considerable efforts toward the improvement of the education system by the Government, donors and NGOs, the majority of children still fail to complete their basic schooling. Although the rate of adult literacy increased from 7% in 1998 to 74% in 2004, a flagrant inequality remains between the literacy rates of adult men (85%) and

women (64%).²⁴² Also, registration in primary schools has increased but important inequalities remain between the rich and the poor, as well as between rural and urban regions.²⁴³

138. The availability of schools is an important aspect of the realization of the right to education. In order to implement this aspect of the right, the State must ensure the existence of sufficient institutions all over the country, including in rural areas. This is far from the case in Cambodia. For example, residents of the province of *Ratanakiri* can only have access to one secondary school and many of them must travel to the country's capital, *Phnom Penh*, to access higher education.²⁴⁴

139. National literacy remains considerably low considering that 54% of citizens have not completed their primary education and 82% of literate citizens aged 25 years and up have not continued their studies after finishing primary school.²⁴⁵ As mentioned above, access to education varies between urban and rural areas. For example, 60% of girls from rural communities live too far to attend their schools.²⁴⁶

140. Poverty also limits the capacity of poorer families to send their children to school. Thus, 52 % of children from 7 to 14 years of age are forced to abandon school and join an economic activity.²⁴⁷ Moreover, many of the children who manage to attend primary school are often prevented from continuing on to secondary school because of their family's lack of resources and incapacity to move closer to the schools.

141. Article 31 of *Cambodia's Constitution* ensures the right to a free basic education of quality provided by public schools. However, a survey conducted in 2006 in four Cambodian provinces by the *Citizen Center for Development and Peace* indicates that 66% of citizens aged 10 to 25 had to pay for a private teacher to obtain an education.²⁴⁸ This is another example of the poor quality of the public education system which is mainly due to the low wages received by teachers.

Quality of Education

142. Cambodian teachers, particularly in rural areas, are unable to ensure a decent standard of living with their wages and often supplement their income with other types of employment. This situation inevitably hinders their capacity to prepare their classes and class materials, and has decreased the quality of the education overall. In addition, many children must pay their teachers to attend class.²⁴⁹

143. The form and the substance of education are usually below the acceptable quality

²⁴² *Population, Gender and Reproductive Health, Cambodia at A Glance*, (2005) at p. 9.

²⁴³ *Equity and Development Report 2007*, (World Bank, 2007).

²⁴⁴ *2002 Parallel Report*, *supra* note 6, at p. 34; Ministry of Education Youth and Sport [hereinafter MoEYS], *Education Sector Development: A Strategic Analysis*, (January 2001).

²⁴⁵ Cambodia Inter-Censal Population Survey 2004, *Provinces Profil*, (2004).

²⁴⁶ *NGO Statement to the 2006 Consultative Group Meeting on Cambodia*, (Cambodia, 2006).

²⁴⁷ *ILO-IPEC Report*, (20 April 2006).

²⁴⁸ *Citizen Center for Development and Peace Survey*, (Cambodia, 2006).

²⁴⁹ *Ibid.*

standards because of the scarcity of teachers but also because of the content of schools' curricula.²⁵⁰ For example, it has been observed that the “Chbap Srey”, is still part of most primary school curricula²⁵¹. This traditional Cambodian text contains moral principles justifying discrimination against women²⁵² and is in patent contradiction with the substance and objectives of the *ICESCR*.

Discrimination of Vulnerable Groups; Education in Rural Areas; Unequal Access to Education (rural/urban and rich/poor)

144. The *Committee* has previously explained that, under articles 10 and 13(2) of the *ICESCR*, States must take “positive measures to ensure that education is culturally appropriate for minorities and indigenous peoples”.²⁵³ Moreover, the UN *Declaration on the Rights of Indigenous Peoples* indicates that this right extends to the provision of culturally adapted education systems and bilingual curricula.²⁵⁴ Local NGOs have observed that there have been some positive steps towards the expansion of bilingual education in the formal education system with the Ministry of Education, Youth and Sport (MoEYS), supporting such initiatives. The new *Education Law*²⁵⁵ also allows measures to be developed for the use of non Khmer languages as the language of instruction in indigenous areas. The MoEYS has also indicated that a bilingual education policy can be developed under the Child Friendly Schools policy, which came into effect March 2008.²⁵⁶

145. During the South East Asian Ministers of Education Organization (SEAMEO)²⁵⁷ conference held in Bangkok 24-26 February 2009, the Cambodian Government committed itself to expand this programme in North-East Cambodia. Many SEAMEO member States have followed suit and committed themselves to develop and pilot bilingual education programmes. Cambodia is the only State that has implemented this programme in community and state schools over a number of years, and has been actively supporting non formal bilingual education in many villages.

²⁵⁰ Save the Children Norway in Cambodia [hereinafter SCN-CO], *Problem Note Early Childhood Care and Development in Cambodia* at p. 1.

²⁵¹ See also *2007 Situation Report supra* note 118 at p. 39.

²⁵² *Committee on the Elimination of Discrimination against Women*, 34th session, 16 January – 3 February 2006, Supplement No. 38 (A/61/38) at p. 3, para. 35, online: CEDAW <http://un.org/womenwatch/daw/cedaw/cedaw25years/content/english/CONCLUDING_COMMENTS/Cambodia/Cambodia-CO-1-3.pdf>.

²⁵³ *General comment 13: The right to education (art. 13)*, UN Doc. E/C.12/1999/10 (8 December 1999), at para. 50.

²⁵⁴ UN *Declaration on the Rights of Indigenous Peoples, supra* note 30.

²⁵⁵ *Education Law*, (8 December 2007).

²⁵⁶ The Child Friendly Schools policy was promulgated in December 2008.

²⁵⁷ The Southeast Asian Ministers of Education Organization (SEAMEO) is an international and intergovernmental organization established in 1965 to promote regional cooperation in education, science and culture. It is a group of 11 member states, namely Brunei, Cambodia, Indonesia, Myanmar, The Philippines, Singapore, Thailand, Lao PDR, Malaysia, Timor Leste, Vietnam.

Recommendations

The State of Cambodia should:

1. Ensure that the allowed national budget is adequate for all levels of education, especially for basic education.
2. Increase the transparency of the allocation and disbursement system for the implementation of the right to education.
3. Expand activities that raise public awareness related to the importance of young girls' education and encourage families to enrol their children on time. The Government should also develop strategies for widening discussion of this issue at the community level.
4. Ensure adequate budget allocation for the education sector to meet gender responsive priorities and targets like scholarships, dormitories, non-formal education and value-added benefits of girls' education.
5. Expand non-formal education programs, particularly for out-of-school girls and women of childbearing age.
6. Increase the salaries of teachers.
7. Ensure that teachers stop taking money or other bribes from pupils and their parents.

Conclusion

146. In regard of the present report, the international obligations imposed by the *ICESCR* on Cambodia have not been respected. In general, the national NGOs remain very concerned by the general situation of human rights throughout Cambodia. NGOs urge the Government to adopt immediate and progressive measures to secure adequate living conditions for all Cambodians in accordance with its international human rights obligations.

147. The present report has the central objective to inform about the context of implementation of the *International Covenant of economic social and cultural rights* in Cambodia. The purpose of this document is to examine the status of realization of these rights as an important component of human dignity. Cambodia is facing important challenges in the establishment of democratic and juridical institutions. The Government of Cambodia is confronted of the generalized weakness of national policies to support the respect and the implementation of economic social and cultural rights.

148. The fragility of the institutional and legal framework in Cambodia affects the realization of human rights and the implementation by the relevant authorities of international obligations. The Government has the obligation to mobilize its efforts for the development of policies and actions to face the crucial issues as poverty, discrimination, corruption, and inequality. The Government should adopt an indivisibility approach for all its international obligations.

149. NGOs which participate to the elaboration of the present parallel report would like to submit the following recommendations to the *Committee*:

1. The *Committee* should call upon all the treaties bodies and subsidiaries organs of the United Nations to help Cambodia to implement its international obligations and investigate the situation of the realization of these obligations in the country.
2. The *Committee* should investigate on the formal obligation of the Government of Cambodia to document, to establish adequate statistics and indicators about the situation of economic, social and cultural rights in the country.
3. The international community should be aware and conscientious of the situation of human rights, specifically economic social and cultural rights in Cambodia, and integrate discussion and diplomatic efforts about these crucial issues.

ANNEXES

**ANNEX I: Cambodian Report on the International *Covenant* on Economic,
Social and Cultural Rights, 2002 Parallel Report**

ANNEX II: The Right of Indigenous People in Cambodia

ANNEX III: Housing and Land Rights Issues in Cambodia