

**Consideration of reports submitted by States parties under  
article 19 of the Convention**

**ADVANCE UNEDITED VERSION**

**Concluding observations of the Committee against Torture**

**Cambodia**

1. The Committee considered the second periodic report of Cambodia (CAT/C/KHM/2) at its 967<sup>th</sup> and 968<sup>th</sup> meetings (CAT/C/SR.967 and 968), held on 9 and 10 November 2010, and adopted, at its 979<sup>th</sup> and 980<sup>th</sup> meetings (CAT/C/SR.979 and 980), the following concluding observations.

**A. Introduction**

2. The Committee welcomes the submission of the second periodic report of Cambodia but it regrets that the significant delay in its timely submission has prevented the Committee from conducting an ongoing analysis of the implementation of the Convention in the State party.

3. The Committee also welcomes that the report was submitted in accordance with the new optional reporting procedure of the Committee consisting of replies by the State party to a list of issues (CAT/C/KHM/Q/2) prepared and transmitted by the Committee. The Committee expresses its appreciation to the State party for agreeing to report under this new procedure which facilitates the cooperation between the State party and the Committee.

4. The Committee also appreciates the dialogue with and the additional oral information provided by the delegation of the State party but it regrets that some of its questions have remained unanswered.

**B Positive aspects**

5. The Committee welcomes the ratification, in March 2007, of the Optional Protocol to the Convention, and the recent visit of the Subcommittee on Prevention of Torture (SPT) to Cambodia from 3 to 11 December 2009.

6. The Committee also welcomes that, in the period since the consideration of the initial report, the State party has ratified or acceded to the following international instruments:

- a) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, in October 2010;
- b) United Nations Convention against Transnational Organized Crime, in December 2005, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention, in July 2007;
- c) The United Nations Convention against Corruption, in September 2007;
- d) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in July 2004;
- e) The Rome Statute of the International Criminal Court, in April 2002.

7. The Committee further notes the ongoing efforts at the State level to reform its legislation, policies and procedures in order to ensure better protection of human rights, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, in particular the adoption of:

- a) The Anti-Corruption Law, in 2010;
- b) The new Penal Code, in 2009;
- c) The Law on Suspension of Human Trafficking and Commercial Sexual Exploitation, in 2008;
- d) The new Code of Penal Procedure, in 2007;
- e) The Law on Prevention of Domestic Violence Protection of Victims, in 2005, including criminalization of marital rape.

8. The Committee notes with satisfaction the establishment of the Extraordinary Chambers in the Courts of Cambodia (ECCC) in cooperation with the United Nations and the international community. It welcomes the fact that the Trial Chamber has delivered judgment in its first case (No. 001) on 26 July 2010 and that it has delivered indictments in its second case (No. 002), and that victims of torture and other cruel, inhuman or degrading treatment or punishment can participate in the proceedings as Civil Parties. It also urges the State party to continue its efforts to bring further perpetrators of the Khmer Rouge-related atrocities to justice (Cases Nos. 003 and 004).

9. The Committee also welcomes the establishment, in 2008, of the Refugee Office within the Immigration Department of the Ministry of the Interior, with the objective of protecting refugees, who may include victims of torture or cruel, inhuman or degrading treatment as well as the adoption, on 17 December 2009, of the Sub-Decree on the Procedure of Determination of Refugee Status and the Right to Asylum for Aliens in the Kingdom of Cambodia, as the beginning of the development of a legal framework.

## **C. Principal subjects of concern and recommendations**

### **Incorporation of the Convention into domestic law**

10. The Committee welcomes the guarantees contained in article 31 of the Constitution as well as the July 2007 decision of the Constitutional Council (Decision No. 092/003/2007) that international treaties are part of the national law and that courts should take treaty norms into account when interpreting laws and deciding cases. However, the Committee regrets the lack of information as to any cases where the Convention has been applied by the domestic courts, and it is therefore concerned that in practice, the provisions of international conventions, including the Convention, are not invoked before or directly

enforced by the State party's national courts, tribunals or administrative authorities. In this regard, the Committee notes with concern the lack of effective remedies for violations of human rights, including torture and ill-treatment. This undermines the State party's ability to meet its obligations under the international human rights treaties that it has ratified, including the Convention. (arts. 2, 4 and 10)

**The State party should take all appropriate measures to ensure the full applicability of the provisions of the Convention in its domestic legal order. Such measures should include extensive training on the provisions of the international human rights treaties, including the Convention, for its State officials, law enforcement and other relevant officials, as well as judges, prosecutors and lawyers. The Committee also requests the State party to report back on progress made in this respect and on decisions of national courts, tribunals or administrative authorities giving effect to the rights enshrined in the Convention.**

### **Definition and criminalization of torture**

11. The Committee notes the statement by the delegation that the State party refers to the term "torture" in a general context as any acts of causing injury on individuals and sets forth "torture" as a criminal offence. While noting the information provided by the State party that the new Penal Code imposes punishment for perpetrating the crime of torture, inciting its exercise, or approval or acquiescence thereof by any official acting in an official capacity, the Committee is concerned that the Penal Code does not contain a definition of torture. The Committee regrets that the State party did not provide it with a copy of the relevant provision on criminalization of torture. (arts. 1 and 4)

**The State party should incorporate a definition of torture into the Constitution, the Penal Code or other relevant legislation, including all elements of torture as defined by the Convention. Such action would show a real and important recognition of torture as a serious crime and human rights abuse and fight impunity. By naming and defining the offence of torture in accordance with articles 1 and 4 of the Convention and distinct from other crimes, the Committee considers that States parties will directly advance the Convention's overarching aim of preventing torture, inter alia, by alerting everyone, including perpetrators, victims, and the public, to the special gravity of the crime of torture and by improving the deterrent effect of the prohibition itself. The Committee also requests the State party to promptly provide the text of the new Penal Code, as requested during the dialogue.**

### **Corruption**

12. The Committee is deeply concerned at reports of widespread and systemic corruption throughout the country. The Committee considers that the rule of law is the cornerstone for the protection of the rights set forth in the Convention and, while welcoming the new Anti-Corruption Law and other measures taken by the State party, it notes with concern reports of political interference and corruption affecting the judicial bodies and the functioning of some public services, including the police and other law enforcement services. In this respect, the Committee expresses its concern at reports that police officers are promoted for convictions and that police stations are given special incentives for convictions, amounting to a rewards system, as well as reports of police officers benefitting financially from informal arrangements or extrajudicial settlements. The Committee is also concerned that the Anti-Corruption Unit established under the new Anti-Corruption Law has not yet taken

any steps against alleged perpetrators of corruption and is not yet fully operational. (arts. 2, 10 and 12)

**The State party should take immediate and urgent measures to eradicate corruption throughout the country which is one of the most serious impediments to the rule of law and the implementation of the Convention. Such measures should include effective implementation of the anti-corruption legislation and the expeditious operationalization of the Anti-Corruption Unit, which should consist of independent members. The State party should also increase its capacity to investigate and prosecute cases of corruption. The State party should establish a program of witness and whistle-blower protection to assist in ensuring confidentiality and to protect those who lodge allegations of corruption, and ensure that sufficient funding be allocated for its effective functioning. Furthermore, the State party should undertake training and capacity-building programmes for the police and other law enforcement officers, prosecutors and judges, on the strict application of anti-corruption legislation as well as on relevant professional codes of ethics, and adopt effective mechanisms to ensure transparency in the conduct of public officials, in law and in practice. The Committee requests the State party to report back on progress achieved, and the difficulties encountered, in combating corruption. The Committee also requests the State party to provide information on the number of officials, including senior officials that have been prosecuted and punished on account of corruption charges.**

### **Independence of the judiciary**

13. The Committee reiterates its grave concern at the lack of independence and effectiveness of the judiciary, including the criminal justice system, which hinders the full enjoyment of human rights, such as the prohibition of torture and other cruel, inhuman and degrading treatment or punishment. The Committee is also concerned that fundamental laws of reform of the judiciary have not yet been enacted. The Committee further expresses its concern at the lack of independence of the Bar Association, the limits on its size and the qualifications for these limits. The Committee regrets the failure of the State party to respond to its questions about provisions of the Anti-Corruption Law that address the independence of the judiciary and to provide examples of cases where those who engaged in exerting and complying with undue pressure on the judiciary were investigated, prosecuted and convicted. (art. 2)

**The State party should intensify its efforts to establish and ensure a fully independent and professional judiciary in conformity with international standards and ensure that it is free from political interference. Such efforts should include the immediate enactment of all relevant laws of reform, notably the Organic Law on the Organization and Functioning of the Courts; the Law on the Amendment of the Supreme Council of Magistracy; and the Law on the Status of Judges and Prosecutors. The State party should also ensure that those who engage in exerting and complying with undue pressure on the judiciary are investigated, prosecuted and convicted, and provide examples of such cases. In addition, the State party should take the necessary steps to ensure that the Bar Association is independent, transparent and allows for admission of a sufficient number of lawyers. The Committee further requests that the State party provide information on provisions of the Anti-Corruption Law that address the independence of the judiciary.**

## **Fundamental legal safeguards**

14. The Committee expresses its serious concern at the State party's failure in practice to afford all detainees, including juveniles and pre-trial detainees, with all fundamental legal safeguards from the very outset of their detention. Such safeguards comprise the right to have prompt access to a lawyer and an independent medical examination, preferably by a doctor of one's own choice, to notify a relative, and to be informed of their rights at the time of detention, including about the charges laid against them, as well as to appear expeditiously before a judge. The Committee is particularly concerned that the Penal Procedure Code only includes the right for a detainee to consult a lawyer 24 hours after his or her apprehension, and that access to a doctor is reportedly left to the discretion of the relevant law enforcement or prison official. The Committee also expresses its concern at the very limited number of defense lawyers, including legal aid defense lawyers, in the country which precludes many defendants from obtaining legal counsel. The Committee is further concerned at reports that persons deprived of their liberty are held for significant periods of time in police custody without being registered and that a significant number of police facilities and prisons are failing to adhere to the regulations governing detainee registration procedures in practice. (arts. 2, 11 and 12)

**The State party should promptly implement effective measures to ensure that all detainees are afforded, in practice, all fundamental legal safeguards from the very outset of their detention. To this end, the State party should amend the Penal Procedure Code so as to guarantee detainees the right to have prompt access to a lawyer from the very outset of their deprivation of liberty and throughout the investigation phase, the whole of the trial and during appeals, as well as access to an independent medical examination, preferably by a doctor of one's own choice, to notify a relative, and to be informed of their rights at the time of detention, including about the charges laid against them, and the right to appear expeditiously before a judge. The State party should, as a matter of urgency, expand the number of defense lawyers, including legal aid defense lawyers, in the country and remove unjustified barriers to entry for individuals who wish to be admitted to the Bar Association. The State party should ensure prompt registration of persons deprived of their liberty and ensure that custody records at police and prison facilities are periodically inspected to make sure that they are being maintained in accordance with procedures established by law.**

## **Impunity for acts of torture and ill-treatment**

15. The Committee remains deeply concerned by the numerous, ongoing and consistent allegations of torture against and ill-treatment of detainees in detention facilities, in particular in police stations. In this respect, the Committee is further concerned at numerous allegations of cases of sexual violence against women in detention by law enforcement and penitentiary personnel. The Committee is also concerned that such allegations are seldom investigated and prosecuted and that there would appear to be a climate of impunity resulting in the lack of meaningful disciplinary action or criminal prosecution against persons of authority accused of acts specified in the Convention. While noting the information provided by the State party that its national laws, especially the Penal Procedure Code, do not contain any provisions that can be used as a justification or means for an excuse for torture, under any circumstances, the Committee is concerned at the lack of a provision in domestic legislation expressly prohibiting the invocation of exceptional circumstances as a justification for torture. (arts. 2, 4, 12 and 16)

**As a matter of urgency, the State party should take immediate and effective measures to prevent acts of torture and ill-treatment, including sexual violence in detention, throughout the country, including through the announcement of a policy that would produce measurable results in the eradication of torture and ill-treatment by State officials, and through monitoring and/or recording of police interrogation sessions.**

**The State party should also ensure that all allegations of torture and ill-treatment, including sexual violence in detention, are investigated promptly, effectively and impartially, and that the perpetrators are prosecuted and convicted in accordance with the gravity of the acts, as required by article 4 of the Convention. The State party should enact a sentencing scheme governing convictions of torture and ill-treatment by government officials to ensure that adequate sentences are given to those who are found guilty of such acts.**

**The State party should ensure that its domestic legislation includes a provision expressly prohibiting the invocation of exceptional circumstances as a justification of torture.**

### **Complaints and prompt, impartial and effective investigations**

16. The Committee expresses its concern at reports that torture and ill-treatment by law enforcement and prison officials are widespread, that few investigations are carried out in such cases and that there are very few convictions. The Committee is also concerned at the absence of an independent civilian oversight body with the power to receive and investigate complaints of torture and ill-treatment by police and other law enforcement officials. The Committee regrets the lack of detailed information provided by the State party, including statistics, on the number of complaints of torture and ill-treatment and results of all the proceedings, both at the penal and disciplinary levels, and their outcomes. Furthermore, the Committee is concerned at the lack of effective mechanisms to ensure the protection of victims and witnesses. (arts. 1, 2, 4, 12, 13 and 16)

**The State party should strengthen its measures to ensure prompt, impartial and effective investigations into all allegations of torture and ill-treatment of convicted prisoners and detainees, including in police stations, and to bring to justice law enforcement and prison officials who carried out, ordered or acquiesced in such practices. The State party should establish an independent law enforcement complaint mechanism and ensure that investigations into complaints of torture and ill-treatment by law enforcement officials are undertaken by an independent civilian oversight body. In connection with prima facie cases of torture and ill-treatment, the alleged suspect should as a rule be subject to suspension or reassignment during the process of investigation, to avoid any risk that he or she might impede the investigation or continue any reported impermissible actions in breach of the Convention.**

**Furthermore, the State party should establish a program of victim and witness protection to assist in ensuring confidentiality and to protect those who come forward to report or complain about acts of torture, as well as ensure that sufficient funding be allocated for its effective functioning.**

### **Prolonged pre-trial detention**

17. The Committee notes with concern that the State party's criminal justice system continues to rely on imprisonment as the default option for defendants awaiting trial and it

remains concerned about the unwarranted protraction of the pre-trial detention period during which detainees are likely to be subjected to torture and other ill-treatment. (arts. 2 and 11)

**The State party should adopt effective measures to ensure that its pre-trial detention policy meets international standards and that it is only used as an exceptional measure for a limited period of time, in accordance with the requirements under the Constitution and the Code of Penal Procedure. To this end, the State Party should reconsider its use of imprisonment as the default option for defendants awaiting trial and consider applying measures alternative to such pre-trial detention; that is supervised release prior to trial. It should also comprehensively apply and further develop legal provisions permitting non-custodial measures.**

### **Monitoring and inspection of places of detention**

18. The Committee takes note with interest of the information provided by the State party that a number of responsible bodies have the rights and power to conduct regular inspection of prisons. The Committee also notes the information provided by the State party that “relevant” non-governmental organizations (NGOs) are allowed to visit prisons. However, the Committee is concerned at the lack of information with regard to any effective monitoring and inspection of all places of detention, including police stations, prisons, as well as Social Affairs Centres, Drug Rehabilitation Centres and other places where persons may be deprived of their liberty. In this respect, the Committee is particularly concerned at the State party’s failure to provide information as to whether such visits are unannounced or otherwise controlled, as well as information on any follow-up on the results of these visits. (arts. 2, 11 and 16)

**The Committee calls upon the State party to establish a national system to effectively monitor and inspect all places of detention, including police stations, prisons, Social Affairs Centres, Drug Rehabilitation Centres and other places where persons may be deprived of their liberty, and to follow up to ensure effective monitoring. This system should include regular and unannounced visits by independent national and international monitors, including “relevant” NGOs, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.**

### **Conditions of detention**

19. The Committee takes note of measures adopted by the State party to improve conditions of detention, including through the Prison Reform Support Programme (PRSP), the issuance of a Sub-decree regulating prisoners’ rations and cell equipment, the development of draft Minimum Design Standards for Prison Construction together with international partners and the construction of new prisons. However, the Committee expresses its concern at the serious overcrowding in places where persons are deprived of their liberty, representing a threat to the safety, physical and psychological integrity and health of detainees. It is further concerned at reports of unhygienic conditions, inadequate food and health care. The Committee notes with concern that the prison population is growing steadily and is concerned at the lack of alternative non-custodial forms of punishment. Furthermore, the Committee notes with serious concern reported cases of deaths in custody and regrets the State party’s failure to provide information on this. The Committee also expresses its serious concern at allegations to which the State party did not provide information that the “prisoner self-management committees” are sometimes responsible for violent abuse and ill-treatment of other prisoners in the course of disciplinary actions,

frequently ignored or condoned by the General Department of Prisons (GDP). The Committee is further concerned that female and male detainees are at times placed together and that male prison staff continues to guard female detainees, due to the limited number of female prison staff. (arts. 1, 2, 4, 11 and 16)

**The State party should intensify its efforts to effectively alleviate the overcrowding in places where persons are deprived of their liberty, including police stations and prisons, and to improve the conditions in such places, including with respect to hygiene and food supply. To this end, the Committee recommends that the State party apply alternative measures to imprisonment and ensure sufficient budgetary allocations to develop and renovate the infrastructure of prisons and other detention facilities. Furthermore, the State party should clearly frame and regulate the function and role of the “prisoner self-management committees” and ensure that cases of abuse and ill-treatment by such bodies are investigated and perpetrators punished. In addition, the GDP officials ignoring or condoning such acts should be held accountable, with the alleged suspects being subjected to suspension or reassignment during the process of investigation. The Committee also requests updated information on the circumstances surrounding the deaths of Kong La, Heng Touch and Mao Sok as well as information on investigations, prosecutions and convictions arising from these cases.**

**The State party should also review current policies and procedures for the custody and treatment of detainees, including in police stations, ensure separation of female detainees from males and that female detainees be guarded by officers of the same gender, monitor and document incidents of sexual violence in detention, and provide the Committee with data thereon, disaggregated by relevant indicators. The Committee also recommends that the State party consider compiling a reliable and accurate profile of the prison population, including details as to the length of the sentence, the commitment of offence and the age of the offender, to help inform criminal justice policy decisions.**

### **Social Affairs Centres**

20. The Committee notes the information and clarification provided by the delegation in respect of the Social Affairs Centres, including that the State party has agreed with UNICEF and the OHCHR Cambodia Country Office to conduct an assessment of the existing policies, procedures and practices in the referral, placement, management, rehabilitation and reintegration of children, women and vulnerable persons in Social Affairs Centres and Youth Rehabilitation Centres across the country. However, the Committee expresses its serious concern at continuing reports of round-ups by law enforcement officials in the streets and the subsequent holding of people, including sex workers, victims of trafficking, people who use drugs, homeless people, beggars, street children and mentally ill persons, in the Social Affairs Centres, against their will and without any legal basis and judicial warrant. In addition, the Committee notes with particular concern allegations of a consistent pattern of arbitrary detention and abuse in Prey Speu between late 2006 and 2008, including torture, rape, beatings, reported incidences of suicide, and even reported killings committed by social affairs guards against detainees. The Committee is further concerned at the lack of information as to any initiative on the part of the State party to undertake a thorough investigation into such allegations. (arts. 2, 11 and 16)

**The Committee urges the State party to put a complete end to any form of arbitrary and unlawful detention of persons, especially in Social Affairs Centres, including Prey Speu. The State party should ensure that all relevant governmental departments respect the right not to be arbitrarily detained on the basis of social status in the view of the Government and without any legal basis and judicial warrant. The State party should also ensure that officials/guards and others involved in arbitrary detention and abuse are immediately investigated and prosecuted for such acts and that redress is provided to victims.**

**The State party should, as a matter of urgency, conduct an independent investigation into the allegations of serious human rights violations, including torture, in Prey Speu between late 2006 and 2008. Furthermore, the Committee encourages the State party, in cooperation with relevant partners, to find sustainable and humane alternatives for disadvantaged and vulnerable groups, including persons living and working in the streets, and to provide such groups with the type of assistance they require.**

### **Sexual violence, including rape**

21. The Committee expresses its serious concern that, according to the State party's Neary Rattanak III Five Year Strategic Plan 2009-2013, violence against women remains widely prevalent in Cambodia with indications of increasing incidence of at least some forms of gender-based violence, particularly rape. The Committee is also concerned at reports from non-governmental sources about a growing number of rape reports, including against very young girls and gang rapes, that sexual violence and abuse particularly affect the poor, that women and children who are victims of such violence have limited access to justice, and that there is an acute lack of medical services and psychosocial support to such victims. (arts. 1, 2, 4, 11, 13 and 16)

**The State party should take effective measures to prevent and combat sexual violence and abuse against women and children, including rape. To this end, the State party should establish and promote an effective mechanism for receiving complaints of sexual violence and investigate such complaints, providing victims with psychological and medical protection as well as access to redress, including compensation and rehabilitation, as appropriate. The Committee requests the State party to provide statistics on the number of complaints of rape as well as information on investigations, prosecutions and convictions in such cases.**

### **Human trafficking**

22. The Committee welcomes the information provided by the delegation on measures taken to repatriate and protect persons subjected to trafficking, the adoption, in 2008, of anti-trafficking legislation and the Second National Plan on Human Trafficking and Sex Trafficking, 2006-2010, the activities of the Department of Anti-Human Trafficking and Juvenile Protection of the Ministry of Interior as well as other legislative, administrative and police measures to combat trafficking. However, the Committee notes with serious concern reports that a high number of women and children continue to be trafficked from, through and within the country for purposes of sexual exploitation and forced labour. The Committee is also concerned at the lack of statistics provided by the State party, including the number of complaints, investigations, prosecutions and convictions of perpetrators of trafficking, and the lack on information on practical measures adopted to prevent and combat such phenomena, including medical, social and rehabilitative measures. (arts. 1, 2, 4, 12 and 16)

**The State party should intensify its efforts to prevent and combat trafficking in human beings, especially women and children, including by implementing the anti-trafficking legislation, providing protection for victims and ensuring their access to medical, social, rehabilitative and legal services, including counseling services, as appropriate. The State party should also create adequate conditions for victims to exercise their right to make complaints, conduct prompt, impartial and effective investigations into all allegations of trafficking and ensure that those who are found guilty of such crimes are punished with penalties appropriate to the nature of their crimes.**

### **Children in detention**

23. The Committee welcomes the efforts made by the State party to reform its juvenile justice system, including the draft juvenile justice law and the establishment, in 2006, of an inter-ministerial working group on child justice. However, the Committee expresses its concern at reports of a high number of children in detention, and at the lack of alternatives to imprisonment. The Committee is also concerned that children are not always separated from adults in detention facilities. (arts. 2, 11 and 16)

**The State party should, as a matter of urgency, establish a separate juvenile justice system, adapted to the particular needs of juveniles, their status and special requirements. To this end, the State should expeditiously enact the draft Law on Juvenile Justice and ensure that this Law is in conformity with international standards, and develop corresponding guidelines and directives for judges, prosecutors and judicial police on the concept of a child-friendly justice system. The State party should further take all necessary measures to develop and implement a comprehensive system of alternative measures to ensure that deprivation of liberty of juveniles is used only as a measure of last resort, for the shortest possible time and in appropriate conditions. In addition, the State party should take the necessary measures to ensure that persons below 18 years of age are not detained with adults.**

### **Refugees, non-refoulement**

24. While welcoming the State party's adherence to the 1951 Convention relating to the Status of Refugees, the Committee expresses its concern at the lack of information on domestic legislation guaranteeing the rights of refugees and asylum-seeking persons, including unaccompanied children in need of international protection. It is also concerned at the absence of any legal provisions that would explicitly prohibit the expulsion, refoulement or extradition of a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture. The Committee is further concerned that numerous individuals have not been afforded the full protection provided for by article 3 of the Convention in cases of expulsion, return or deportation. Such cases include the 674 Montagnard asylum seekers who are no longer in the State party and the forcible repatriation of 20 Uighur asylum seekers to China in December 2009, as well as the lack of information on any measures taken by the State party to follow-up on their status. (arts. 3, 12 and 13)

**The State party should formulate and adopt domestic legislation guaranteeing the rights of refugees and asylum-seeking persons, including unaccompanied children in**

**need of international protection. The State party should also formulate and adopt legal provisions to implement article 3 of the Convention into its domestic law. Under no circumstances should the State party expel, return or extradite a person to a State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture or ill-treatment. The Committee requests the State party to ensure appropriate follow-up with regard to the status of the 674 Montagnard and 20 Uighur asylum seekers and to provide the Committee with information as to these cases.**

## **Training**

25. The Committee takes note of the information included in the State party's report on training and awareness-raising programmes on human rights for law enforcement personnel, including the police and judicial police, judges and prosecutors. However, the Committee regrets the lack of information on targeted and practical training regarding the obligations under the Convention, notably on the prohibition of torture, the prevention of torture or investigation of alleged cases of torture, including on sexual violence, for these groups as well as penitentiary personnel. The Committee also regrets the lack of information on any training for police and other relevant officials in witness interviewing, witness protection, forensic methods and evidence gathering. Furthermore, the Committee is concerned at the lack of information on targeted training for all relevant personnel, such as forensic doctors and medical personnel dealing with detained persons, including methods to document physical and psychological sequelae of torture, as well as methods to ensure health-related and legal responses. The Committee is further concerned at the lack of information as to whether professional codes of ethics form part of such trainings, and if these include prohibition of torture etc. (art. 10)

**The State party should further develop and strengthen educational programmes, including in cooperation with NGOs, to ensure that all officials, including law enforcement and penitentiary personnel, are fully aware of the provisions of the Convention, that reported breaches, including cases of sexual violence, will not be tolerated and will be investigated, and that offenders will be prosecuted. Furthermore, police and other relevant officials should receive training in witness interviewing, witness protection, forensic methods and evidence gathering and all relevant personnel should receive specific training on how to identify signs of torture and ill-treatment, including those officials that will investigate and document these cases. Such training should include the use of the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). In addition, the State party should ensure that related professional codes of ethics and the importance of respecting such codes be made an integral part of training activities. Furthermore, the State party should assess the effectiveness and impact of its training/educational programmes.**

## **Redress, including compensation and rehabilitation**

26. While noting that article 39 of the Constitution entitles citizens to claim for damage caused by state organs, social organs, and the staff of these concerned organs, the Committee is concerned at the lack of information and data on fair and adequate compensation awarded to victims of torture. The Committee is also concerned at the lack of

information on the provision of treatment and social rehabilitation services, including medical and psychosocial rehabilitation, to all victims of torture. (art. 14)

**The Committee underlines that it is the responsibility of the State to provide for redress to victims of torture and their families. To this end, the State party should strengthen its efforts to provide these victims with redress, including fair and adequate compensation and as full rehabilitation as possible. The State party should further strengthen its efforts to improve the access to medical and psychological services for victims of torture, especially during and after imprisonment, and assure that they receive effective and prompt rehabilitation services; raise awareness on the consequences of torture and the need for rehabilitation for victims of torture among health and social welfare professionals in order to increase referrals of these victims from the primary health care system to specialized services; and increase the capacity of national health agencies in providing specialized rehabilitation services, based on recommended international standards, to victims of torture, including their family members, specifically in the field of mental health.**

27. The Committee notes with concern that the Internal Rules of the ECCC only provide for moral and collective reparation, precluding individual financial compensation. While noting the existence of the Victims Support Section, the Committee is concerned that rehabilitation and psychosocial support to those testifying in the ECCC is largely provided by NGOs, with limited support from the State, and it regrets the very limited information provided on treatment and social rehabilitation services, including medical and psychosocial rehabilitation, provided to victims of torture under the Khmer Rouge Regime. (art. 14)

**The State party should strengthen its efforts to provide victims of torture under the Khmer Rouge Regime with redress, including fair and adequate compensation and as full rehabilitation as possible. To this end, the ECCC should amend its Internal Rules to permit reparation to victims consistent with article 14 of the Convention, including, as appropriate, individual financial compensation. Furthermore, the State party should provide information on redress and compensation measures ordered by the ECCC and provided to victims of torture, or their families. This information should include the number of requests made, the number granted, and the amounts ordered and actually provided in each case.**

### **Coerced confessions**

28. The Committee expressed its concern at reports that the use of forced confessions as evidence in courts is widespread in the State party. The Committee is also concerned at the lack of information on any officials who may have been prosecuted and punished for extracting such confessions. (arts. 1, 2, 4, 10 and 15)

**The State party should take the necessary steps to ensure inadmissibility in court of confessions obtained as a result of torture in all cases in line with the provisions of article 15 of the Convention. The Committee requests the State party to firmly prohibit admissibility of evidence obtained as a result of torture in any proceedings, and provide information on whether any officials have been prosecuted and punished for extracting such confessions as well as examples of cases that were set aside because of a confession having been coerced. Furthermore, the State party should ensure the provision of training to law enforcement officials, judges and lawyers with regard to identification and investigation of forced confessions.**

## **National Human Rights Institution**

29. The Committee notes with concern the absence in the State party of an independent national human rights institution in conformity with the Paris Principles (General Assembly resolution 48/134 of 20 December 1993). (art. 2)

**The State party should expedite its efforts to establish an independent national human rights institution that conforms to the Paris Principles. The Committee requests the State party to ensure that the envisioned national human rights institution be mandated to protect and promote the human rights provisions of the Convention, and that adequate financial resources be provided for its independent operation. In this regard, the State party may wish to seek technical assistance from the OHCHR Cambodia Country Office.**

## **National preventive mechanism**

30. The Committee takes note of the creation by Sub-decree, in August 2009, of an inter-governmental committee as a temporary body towards the establishment of a national preventive mechanism (NPM). However, the Committee notes with concern that the inter-governmental committee, consisting of senior officials and chaired by the Deputy Prime Minister and Minister of Interior, does not comply with the requirements of the Optional Protocol, in particular with regard to its independence and the lack of participation from civil society. The Committee is also concerned at the information provided by the delegation that the current NPM mandate does not provide for unannounced visits. (art. 2)

**The State party should take all necessary measures to ensure that its NPM will be established in accordance with the Optional Protocol to the Convention. To this end, the State party should ensure that the NPM will be created by constitutional amendment or organic law and that it will be institutionally and financially independent and professional. The State party should also ensure that the law establishing the NPM will specify that the NPM will have the ability to make unannounced visits to all places where persons are or may be deprived of their liberty and conduct private interviews with such persons, and that this law will provide for an transparent selection procedure aimed at appointing independent members to the body.**

**The Committee encourages the State party to consider the publication of the report of the Subcommittee on Prevention of Torture (SPT), following its visit in December 2009.**

## **Cooperation with civil society**

31. While noting the State party's emphasis on working in partnership with NGOs, the Committee is concerned at the lack of information provided as to whether the draft law regulating NGOs might in any way hinder the operation and activities of civil society monitoring groups and thus their capacity to function effectively, including NGOs working to prevent and combat torture and ill-treatment. (arts. 2, 11, 12 and 13)

**The State party should ensure that civil society organizations, including NGOs, are not restricted with respect to their establishment and operations and that they are**

**able to function independently of the Government. In particular, the Committee urges the State party to provide an enabling environment for the establishment and active involvement of NGOs in promoting the implementation of the Convention.**

### **Data collection**

32. Despite the Committee's requests for specific statistical information in the list of issues prior to reporting and the oral dialogue with the State party, the Committee regrets that such information was not provided. The absence of comprehensive or disaggregated data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment by law enforcement and prison personnel, trafficking, and domestic and sexual violence severely hampers the identification of many abuses requiring attention (arts. 2, 12, 13 and 19).

**The State party should compile statistical data relevant to the monitoring of the implementation of the Convention at the national level, disaggregated by gender, age and nationality, as well as information on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, trafficking, and domestic and sexual violence, and outcomes of all such complaints and cases. The State party should, without delay, provide the Committee with the above-mentioned detailed information, including on the number of complaints of torture, assault and other ill-treatment that have been submitted since 2003, the date of the consideration of the previous State party's report, as well as the number of investigations, prosecutions and convictions arising from such complaints.**

33. The Committee recommends that the State party consider making the declarations under articles 21 and 22 of the Convention.

34. The Committee invites the State party to consider ratifying the core United Nations human rights treaties to which it is not yet a party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance.

35. The State party is encouraged to disseminate widely the reports submitted by Cambodia to the Committee and these concluding observations, in appropriate languages, through official websites, the media and NGOs.

36. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 12, 14, 16, 26 and 27.

37. The Committee invites the State party to present its next periodic report in accordance with its reporting guidelines and to observe the page limit of 40 pages for the treaty-specific document. The Committee also invites the State party to submit an updated common core document in accordance with the requirements of the Common Core Document contained in the Harmonized Guidelines on reporting under the international human rights treaties (HRI/GEN.2/Rev.6), approved by the Inter-Committee Meeting of the human rights treaty bodies, and to observe the page limit of 80 pages for the common core document. The treaty-specific document and the common core document together constitute the reporting obligation of the State party under the Convention.

38. The State party is invited to submit its third periodic report by 19 November 2014.

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