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## **ADVANCE UNEDITED VERSION**

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### **Human Rights Committee**

#### **List of issues in relation to the second periodic report of Cambodia\***

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

1. Please provide examples, if any, in which provisions of the Covenant were directly applied or used as an aid to interpret domestic law by the courts. Please provide further information on the human rights training given, inter alios, to judges and law enforcement officials with respect to the provisions of the Covenant (para. 28 of the State party's report).
2. Have any measures been adopted to establish an independent national human rights body, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134 of 20 December 1993, annex)?

##### **Non-discrimination and equality (arts. 2, paragraph 1, 3, 26 and 27)**

3. With regard to the information provided in paragraphs 56 to 60 of the State party's report, please describe the specific measures adopted to promote the effective implementation of legislation and policies aimed at establishing gender equality and ensuring the participation of women in various areas of public life. Please provide detailed information on the differences in the employment rate of men and women, and the gender wage gap. How does the State party plan to overcome the obstacles to women's full participation and advancement in the workplace? Please specify what measures are in place to promote an equal representation of women in decision-making positions, both in public affairs and the private sector. Please also indicate all the measures taken to eliminate gender stereotyping and to strengthen the mainstreaming of gender perspectives in educational curricula and textbooks?
4. Please comment on reports that anti-Vietnamese sentiments exist throughout Cambodia and that there have been instances in which these sentiments have been exploited to gain political support. Is the State party planning to develop a national action plan against racial discrimination?
5. Please describe the legislative and/or administrative measures, as well as any recent court decisions, on protection against discrimination on the grounds of sexual orientation or gender identity, including discrimination in employment and accessing healthcare. Please

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\* Adopted by the Committee at its 111th session (7 – 25 July 2014).

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also comment on reports of hate crimes, including sexual violence, and harassment against lesbian, gay, bisexual and transgender (LGBT) persons. Has the State party considered the possibility of recognizing same-sex unions.

6. Concerning the information contained in paragraph 48 of the State party's report, please indicate whether the State party has put in place awareness-raising programmes to inform persons with disabilities about their rights and how to claim them and, if so, any evaluation of the impact of these programmes.

**Violence against women (arts. 3 and 7)**

7. With regard to the different forms of violence against women, please provide information on: (a) the practical implementation of the Law on the Prevention of Domestic Violence and Protection of Victims (paras. 17 and 209 of the State party's report); (b) the achievements made by Cambodia's National Action Plan to Prevent Violence against Women (2009-2012), as well as the steps taken to develop a second national action plan; (c) existing support services for victims of domestic and sexual violence. Please also provide statistical data covering the period under review on the number of complaints filed concerning different forms of violence against women and the number of convictions handed down, including the sentences imposed and the compensation awarded to the victims. What steps are being taken to provide effective redress to victims of gender-based violence, in particular sexual violence against women committed during the Khmer Rouge regime?

**Right to life and prohibition of torture and cruel, inhuman or degrading treatment or punishment (arts. 2, para. 3, 6, 7 and 21)**

8. According to the information before the Committee, at least 12 journalists have been murdered in Cambodia in the last twenty years with none of the cases ever going to court. Please comment on the reports that journalists, human rights defenders, trade union and environmental activists, politicians and other critical civil society actors have suffered harassment and violence during the period under review. Please provide information on the measures taken to address such harassment and violence and to protect persons engaged in such activities.

9. Please comment on reports of excessive use of force during demonstrations and the use of private security guards to respond to protests. What measures has the State party taken to ensure that law enforcement officials act in a manner consistent with articles 6 and 7 of the Covenant? Please also provide information on any investigations and any disciplinary and/or criminal proceedings related to the following cases:

- a) The death on 15 September 2013 of Mr. Mao Sok Chan during a demonstration in Phnom Penh;
- b) The death on 12 November 2013 of a 49-year-old bystander street vendor, Ms. Heng Sokhon, during clashes between security forces and garment workers demonstrating for a wage increase, the reinstatement of meal breaks and the removal of military police hired by the factory as security;
- c) The death on 2-3 January 2014 of four individuals and the alleged enforced disappearance of Khem Sophath, a 16-year-old boy who was seen sustaining a bullet wound to the chest, during further clashes between security forces and garment workers. According to the information before the Committee, a further 38 individuals were hospitalized, 25 of whom having sustained bullet wounds.

10. With regard to the information provided in paragraphs 75 to 84 of the State party's report, please provide information on the measures taken to ensure that the legislative framework for prosecuting perpetrators of torture is in compliance with the relevant

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international standards. Please comment on reports that there have been instances of torture and ill-treatment of detainees, particularly during police custody. Please indicate the number of complaints of torture and ill-treatment lodged and provide information on the resulting investigations, prosecutions, convictions, sentences and compensation offered. Please also outline the steps taken to establish an independent external monitoring mechanism to investigate allegations of unlawful acts committed by law enforcement officials. What progress has been made with regard to setting up an independent National Preventive Mechanism for the prevention of torture?

**Liberty and security of the person and treatment of prisoners (arts. 7, 9 and 10)**

11. Concerning the information contained in paragraph 103 of the State party's report, please describe the measures adopted and progress made in improving prison conditions, including those taken to lower the high levels of occupancy, upgrade health services, oversee the prison food supply chain and distribute personal hygiene items to inmates. Please provide updated information on the number of persons held in pretrial detention and prisoners serving sentence, as well as the occupancy rate of all the detention centres. Please include information on the number of prisoners for whom there are no final and enforceable judgements and on measures taken to facilitate the sharing of final judgements with prisons. Furthermore, please indicate the measures the State party has taken to guarantee the separation of persons awaiting trial from those serving sentence, and that juvenile offenders are held separately from adults, and males from females. What measures are in place to ensure that the rights of children living in prison with a parent are respected?

12. Please comment on reports that the lack of mental health services often results in persons with psychosocial disabilities being incarcerated in prisons. What measures are in place to resolve that situation? What is the situation with respect to alternative forms of treatment, such as community-based rehabilitation services and other forms of outpatient treatment programmes?

13. Please provide information on the number of persons deprived of their liberty in social affairs, youth rehabilitation and drug-rehabilitation centres. Please comment on reports that homeless, beggars, people who use drugs, street children and sex workers are regularly rounded up by law enforcement officials and arbitrarily detained in these centres. Please also comment on allegations of torture, ill-treatment and other abuses committed by law enforcement officers and staff at social affairs, youth rehabilitation and drug-rehabilitation centres. Include information on the outcome of the investigations and any disciplinary and/or criminal proceedings related to these allegations.

**Prohibition of slavery and forced labour (art. 8)**

14. Please provide updated information, disaggregated by age, sex and ethnicity of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of human trafficking since the consideration of the State party's initial report. Please provide information on the measures taken to ensure effective implementation of the Law on the Suppression of Human Trafficking and Sexual Exploitation, in particular to strengthen and effectively enforce appropriate mechanisms aimed at prevention, early identification, referral, assistance and support of victims of trafficking. Please describe the results of the 2011-2013 National Plan of Action on the Suppression of Human Trafficking, Smuggling, Labour and Sexual Exploitation. Has the State party evaluated the effectiveness of measures taken to raise awareness of trafficking in persons?

**Right to a fair trial, equality before the law, remedies and administration of justice (arts. 7, 14 and 26)**

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15. Further to the information provided in paragraph 74 of the State party's periodic report, please comment on reports of the government's alleged obstruction, non-cooperation and interference in the Extraordinary Chambers in the Courts of Cambodia.

16. In the light of the information provided in paragraphs 123 to 136 of the State party's report, please indicate whether, and to what extent, the State party envisages ensuring that all persons held in detention are afforded fundamental legal safeguards including the right to have access to a lawyer –including, when necessary, a public defence counsel – from the very outset of their deprivation of liberty.

17. Please provide information on the legislative and practical measures taken to guarantee the independence and impartiality of the judiciary. In this regard, please indicate the content of the following draft legislation: the Law on the Organization and Functioning of the Courts; the Law on the Supreme Council of Magistracy; and, the Law on the Status of Judges and Prosecutors. Information before the Committee alleges shortcomings in judicial institutions in the State party, due, in particular to lack of personnel and financial resources. What measures are in place to resolve that situation?

18. Please comment on reports of continuing use of forced confessions as elements of evidence in court proceedings despite the illegality of such practices.

**Freedoms of expression and association and right to peaceful assembly (arts. 19, 21 and 22)**

19. Please comment on how freedom of expression is guaranteed in Cambodia, in particular since the entry into force of the new Criminal Code. Please give details of the changes introduced by the new Criminal Code in respect of defamation, disinformation and incitement. Please also comment on allegations that human rights activists and journalists continue to be subjected to intimidation and harassment, including politically motivated accusations. Please indicate the number of criminal proceedings brought during the period under review against human rights defenders, journalists and other civil society actors for defamation, malicious denunciation and incitement.

20. With reference to the information provided in paragraphs 175 to 199 of the State party's report, please provide further information on legislative and/or administrative restrictions placed upon the right of peaceful assembly, including criteria for prohibiting an assembly, as well as any cases recorded during the reporting period where the holding of an assembly was prohibited, and the reasons invoked. Concerning the information contained in paragraph 167 of the State party's report, please provide further information on the regulations governing the use of "freedom parks". Please also comment on reports that indicate that roadblocks had been set up to prevent access to the Freedom Park in Phnom Penh. Please clarify the legal status of municipal security guards and their role in policing demonstrations. Please also comment on reports that indicate the practice of detaining peaceful demonstrators until they sign or thumbprint a document agreeing to refrain from participating in future demonstrations.

21. Please provide information on the suspension of the NGO Sahmakum Teang Tnaut (STT) ordered by the Ministry of Interior for a period of five months in August 2011. Please also supply information on the alleged refusal of the Minister of Labour to register branches of the Free Trade Union in February 2014. In this regard, please indicate the status of the following draft legislation:(1) the draft law on associations and non-governmental organisations (para. 198 of the State party's report); and, (2) the draft law on trade unions.

**Right to marriage and equality of the spouses (art. 23)**

22. According to the information before the Committee, article 950 of the Civil Code provides that a woman shall not remarry until 120 days have elapsed from the day of the dissolution or annulment of her previous marriage. Please comment on the content of this

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provision in the light of article 23, paragraph 4, of the Covenant. Please provide also information on the legal basis for restricting the right to marriage between foreign men and Cambodian women on the basis of the men's age and income.

**Rights of the child (arts. 7 and 24)**

23. Please indicate what steps the State party has taken to establish a juvenile justice system in accordance with international standards.

24. With reference to the information provided in paragraphs 85 to 88 and 220 of the State party's report, please provide information on the practical measures adopted to eradicate child labour and to combat child abuse, including corporal punishment in all contexts, including in the home, alternative care settings and in day care?

25. Please indicate what measures have been taken to ensure that all children are properly registered at birth, including in particular at the commune level and in remote areas.

**Participation in public affairs (art. 25)**

26. With reference to the information provided in paragraphs 227 to 240 of the State party's report, please provide detailed information on the mechanisms that exist in the State party to ensure that elections are transparent and fair. According to the Special Rapporteur on the situation of human rights in Cambodia most of his recommendations with regard to electoral reform have not been acted upon. Please comment. Please indicate also whether there have been any investigations or prosecutions in connection with allegations of numerous irregularities, including bias in the election machinery, during the 2013 national elections.

**Statelessness (arts. 2, 24 and 26)**

27. With regard to the information provided in paragraphs 46 and 47 of the State party's report, please clarify how the State party ensures citizenship to Khmer Krom –ethnic Khmer from the Mekong Delta region in Vietnam–, and ethnic Vietnamese, who migrated to and have been residing in Cambodia for generations, and their descendants, but who are reportedly left stateless as a result of the lack of identification documentation.

**Rights of persons belonging to minorities (art. 27)**

28. With reference to the information provided in paragraphs 271 to 274 of the State party's periodic report, please provide information on the measures taken to ensure effective consultation with indigenous peoples in decision-making areas having an impact on their rights, including measures taken to develop the technical capacity of indigenous people to ensure their effective participation in decision-making processes. In particular, please provide information on the measures taken to improve indigenous participation in decision-making relating to traditional sites and objects, including management of their communal lands and the allocation of land for extractive industries and agribusiness.