



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination
Seventy-sixth session

Summary record of the 1979th meeting

Held at the Palais Wilson, Geneva, on Thursday, 18 February 2010, at 3 p.m.

Chairperson: Mr. Kemal

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The meeting was called to order at 3.10 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Eighth to thirteenth periodic reports of Cambodia (CERD/C/KHM/8-13; CERD/C/KHM/Q/8-13 and Add.1; HRI/CORE/1/Add.94)

1. *At the invitation of the Chairperson, the members of the delegation of Cambodia took places at the Committee table.*

2. **Mr. Sun Suon** (Cambodia) said that his country's eighth to thirteenth periodic reports (CERD/C/KHM/8-13) bore testimony to its continued commitment and sustained efforts to implement reform programmes in all fields with the aim, *inter alia*, of promoting social harmony and respect for diversity. The Committee's constructive suggestions, comments and recommendations would assist his country in assessing its achievements and shortcomings in the global fight against all forms of racial discrimination.

3. Cambodia was a country with a glorious history and rich culture, but in recent decades it had been plagued by civil war and conflicts that had left it struggling for survival. Its social and cultural fabric, including education, health and social services, had been destroyed. The Khmer Rouge regime had inflicted untold sufferings on the population and deprived the country of human capital, including that of minority groups. Cambodia had taken determined action to recover from that legacy by engaging in the processes of peacebuilding, national reconciliation, reconstruction and development, especially in the late 1990s. Any assessment of the country's human rights should take those circumstances into account.

4. Cambodia was a relatively homogeneous country, but there were a number of ethnic minorities. It was a naturally open and tolerant society, and there was an inherent tendency to respect cultural diversity. With the restoration of peace and stability, his Government was promoting political, economic social and cultural development in all spheres, including that of human rights, and attached importance to national unity and social harmony. Major progress had been achieved in many areas through the process of democratization. Moreover, high economic growth rates had been recorded during the five years prior to the global financial crisis.

5. Cambodia recognized the universality, interdependence, interrelatedness and indivisibility of human rights and fundamental freedoms. It respected the rights of minorities and indigenous groups, while preserving its historical heritage. The principle of tolerance was enshrined as a political and constitutional value and scrupulously observed in practice.

6. Article 31 of the Constitution stated that citizens were equal before the law, enjoyed the same rights and freedoms, and had the same duties without distinction on grounds of race, colour, sex, language, religious belief, political opinion, national origin, social position, wealth or other status. It thus guaranteed equality before the law and equality of opportunity, while providing for affirmative action favouring particularly disadvantaged groups. His Government had given high priority to the enactment of legislation designed to protect and enhance the right of all people to human dignity, and to reduce social, economic and political inequalities.

7. Internationally, Cambodia had supported action against racist practices and racial intolerance pursuant to United Nations instruments, including the Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference. It had joined the international struggle against apartheid in South Africa and other forms of racism around the world. It had also acceded to the core human rights and humanitarian

instruments and played an active role in international conferences and forums to promote peace, diversity, tolerance and social harmony. The Office of the United Nations High Commissioner for Human Rights (OHCHR) had established a Country Office in Cambodia and his Government had fully cooperated with the Special Representative of the Secretary-General on the situation of human rights in Cambodia.

8. His Government was continuing to give priority in its reform agenda to social integration, gender equality, the social safety net and population policy reform. It prohibited acts of encouragement or incitement of racial discrimination. Civil society participated actively in the development process, including in the advocacy of national harmony and respect for ethnic and religious interests.

9. Over the past decade Cambodia had made progress in bringing its legal system into line with international standards in the areas of political, civil, economic, social and cultural rights. Articles 494–496 of the Criminal Code focused on the prevention of racial discrimination. The Government took action, inter alia, to ensure respect for national and cultural identities, the right to protection against genocide, the right to natural resources, and the right to be free from all forms of distinction, exclusion or racial discrimination.

10. Cambodia had established a national Human Rights Committee attached to the Government which cooperated with national and international agencies and other stakeholders in addressing human rights challenges. In addition, a Human Rights Commission had been established within the legislature and the Government had set up a number of institutional and legal frameworks to address all issues pertaining to the minority and indigenous communities.

11. The Government was seeking to promote a spirit of tolerance and mutual respect between the country's communities through education programmes and reconciliatory dialogue, paying particular attention to economic, educational and social development, especially for vulnerable and disadvantaged groups. Poverty reduction, especially in rural and remote areas, was given high priority in the Rectangular Strategy and the National Strategic Development Plan for 1996–2010. The Rectangular Strategy had proved highly successful during the period 2003–2008. Poverty had been reduced at a rate of more than 1 per cent per annum and improvements had been recorded in the main social indicators, especially education, health and gender equity. A Cambodian Millennium Development Goal (MDG) plan had also been formulated.

12. The Government attached considerable importance to land reform for sustainable socio-economic development. It focused on strengthening the system of land management, distribution and use, and on issues such as land ownership, security of title, eradication of illegal land encroachment, and prevention of the concentration of unused and unproductive land. Institutional and legal frameworks were being established to deal with current and future land reform issues, including the rights and interests of ethnic and minority communities.

13. Achievements since 2002 included implementation of a policy on the development, registration and land-use rights of indigenous communities, and enactment of sub-decrees on registration of land belonging to the indigenous communities, protection of indigenous land ownership, communal land-use planning and State land management. Circulars had been issued on illegal occupation of State land and implementation of the policy on the identity of indigenous peoples. Provision was also being made for land demarcation procedures in remote villages. Relevant national agencies, ministries and other stakeholders, including representatives of indigenous communities holding political office, had been involved in formulating the policies and legal framework.

14. The right to education was protected by the Constitution. The Government had published an Educational Strategy Plan for 2006–2010 as part of the Rectangular Strategy

and the National Strategic Development Plan 2006–2010. The Strategy was designed to ensure that all Cambodian children and adults, including those belonging to disadvantaged and indigenous groups, had access to basic formal and informal education without discrimination on grounds of race, colour, gender, language, religion, political affiliation, origin or social status. It also provided for action against violence, drug abuse, trafficking in children and women, and all forms of discrimination in society. Elements of intercultural education had also been introduced. The budget allocation for education had been steadily increasing in recent years. The Government had launched an education programme benefiting children from needy families in order to create more equitable access to basic education by eliminating barriers to universal enrolment in, and completion of, primary education. The measures had included the abolition of school fees in 2001 and the granting of lower-secondary-school scholarships for poor and ethnic minorities from 2002. A literacy programme was being implemented throughout the country, and bilingual education was being provided for illiterate adults living in indigenous communities in the Khmer language and their language of origin. Strategies were being implemented to ensure equitable access to education for ethnic minority groups, such as bilingual education, scholarships and training for teachers in areas with ethnic minorities.

15. Efforts were being made to reduce gender discrimination with the support of UNESCO, UNICEF and other development partners. The statistics showed that girls and women were seriously disadvantaged in the school system and that illiteracy rates were higher for women than for men. In the past 10 years the Ministry of Education had successfully managed to ensure gender parity at primary level. It would probably take a further decade to achieve the same results at secondary level.

16. Thanks to the Government's health policy, the child mortality rate had dropped from 95 per thousand live births in 2000 to 66 in 2005. Health care, rural sanitation services and the supply of clean water in rural areas were below the MDG targets. HIV/AIDS prevalence had fallen from 1.9 per cent in 2005 to 0.9 per cent and was expected to drop further to less than 0.6 per cent during the current year. The Ministry of Health had prioritized the deployment of staff to ensure that health services were available in remote areas, including for minority groups. Midwives were employed in all the new health centres, many of which had been built in indigenous communities. The ultimate goal was to deliver quality health-care services to the entire population without any form of discrimination. A new Health Sector Plan had been adopted for the period 2008–2015 and budget allocations for the health sector had remained stable or increased. Some 130 NGOs supported health-care activities, especially in remote areas, including those inhabited by indigenous communities.

17. His Government attached importance to ensuring respect for cultural diversity. The Constitution reaffirmed that the State recognized and promoted the rights of indigenous cultural communities within the framework of national unity and development. In 1993, the Government had established an inter-ministerial Committee to work with the United Nations Development Programme (UNDP) in preparing a project on the development of indigenous peoples. The Committee was chaired by the Ministry of Rural Development, which was the implementing agency. A Department of Ethnic Minorities Development had been established in the Ministry to upgrade the living standards of indigenous peoples and to safeguard their culture, customs, traditions and beliefs and the Council of Ministers had adopted a national policy on the development of indigenous peoples in April 2009. In the same context, a National Council on Ethnic and Demographic Issues had been set up to ensure consultations and coordination between governmental agencies and NGOs on the implementation of policies concerning ethnic programmes and interests.

18. With regard to the rights of migrants, an immigration law and supporting legislation had been implemented during the post-conflict period. Measures had been progressively adopted to improve existing procedures and to protect vulnerable groups, including victims

of human trafficking. Since 2001 Cambodia had been closely cooperating with UNHCR and other relevant international organizations and partners in implementing the Convention relating to the Status of Refugees.

19. The Constitution guaranteed the right of Cambodian men and women to employment in accordance with their abilities and the needs of society. Technical and vocational education programmes had been established and promoted for the most vulnerable groups and for all races in order to meet the needs of the labour market. Guidelines had been issued to protect foreign residents working or investing in Cambodia in accordance with existing laws and regulations.

20. The Government also promoted the right of people with disabilities to social integration.

21. Cambodia's political system was based on multiparty democracy and pluralism. The 1993 Constitution guaranteed freedom of speech and expression, freedom of movement, freedom of association and assembly, freedom of religion and belief, and the right to property and security. Persons of all races and backgrounds enjoyed freedom of association under article 42 of the Constitution, and the country's many different religious groups enjoyed freedom of worship, regardless of their colour, status, or race. No serious restriction was imposed on minority religions.

22. Cambodia had made progress in the conduct of free and fair elections at the national and local levels during the past decade, ensuring a peaceful and secure electoral environment. Democracy had been consolidated at the grass-roots levels through the implementation of a decentralization programme.

23. The death penalty had been abolished by the 1993 Constitution.

24. To sum up, Cambodia had demonstrated courage and perseverance in addressing a multitude of challenges. It appreciated the cooperation and assistance extended by its development partners in those endeavours. His country remained firmly committed to global action to combat all forms and manifestations of racism, which constituted the root cause of armed conflicts and social, economic, political and cultural injustice in many parts of the world.

25. **Mr. Prosper**, Country Rapporteur, said that over recent years there had been tremendous positive change and growth in Cambodia, particularly in civil society, which was demonstrated by the numerous national NGOs that had been founded. The Committee appreciated the challenges Cambodia had faced, and commended the establishment of democracy, separation of powers and the rule of law. Although comprehensive legislation was in place and should provide ample protection for Cambodian citizens, the Committee had questions about the effective implementation of that legislation. He expressed concern that Cambodian law did not contain a provision defining racial discrimination, and while victims of racial discrimination had the right to apply for compensation under the applicable laws, he wondered how effective that procedure was in practice.

26. Turning to the issue of the independence of the judiciary, he said that the Committee had been informed that the Cambodian judiciary was susceptible to politicization and corruption. Recently, responsibility for determining the outcome of applications for refugee status had been transferred from UNHCR to the Government of Cambodia.

27. He asked how many recognized indigenous groups there were in Cambodia. While there were robust laws in place for the protection of indigenous land rights, development in Cambodia was particularly rapid, and concessions were being given to multinational companies. The consultation processes required by law for the sale of land were not being followed. Indigenous people had to go through a long and cumbersome administrative process to be granted land rights, including the need to receive official recognition by the

Ministry of the Interior. He feared there was a risk that since the procedures were so time-consuming, concessions would be granted while the process was still under way. The Committee had been informed that some indigenous people had been prevented from using their land, evicted, harassed and intimidated by the local authorities, and coerced into agreeing to the concessions proposed. He would appreciate more information on the procedures in place to ensure adequate protection of indigenous peoples' land rights.

28. On the question of citizenship of the Khmer Krom he said that, although historically the Khmer Krom were viewed as Cambodian, after the borders with Viet Nam had been redrawn they had found themselves in Vietnamese territory. When they tried to return to Cambodia, they were recognized as ethnically Cambodian but faced challenges when applying for Cambodian citizenship: they were required to have a permanent address in Cambodia and a Cambodian birth certificate, which was particularly problematic if they had been born in Viet Nam. He asked whether modifications to the policy and law on that issue might be required in order to overcome the inconsistencies between principle and practice. And he wondered whether a bilateral agreement with Viet Nam on the issue might also be required.

29. He drew attention to instances of anti-Thai sentiment which had been used by some politicians as a means of galvanizing support. In some cases such discourse had led to violence. He asked what steps were being taken to restrain that kind of activity, since political rhetoric should not become a tool to fuel violence.

30. **Mr. Avtonomov** said that while Cambodia had faced many difficulties, and was currently witnessing particularly rapid development, it had ratified the majority of the core human rights treaties, which was testament to the Government's commitment to the promotion and protection of human rights. There was considerable ethnic diversity in Cambodia, with many indigenous peoples, and he wondered whether the Government intended to accede to the United Nations Declaration on the Rights of Indigenous Peoples. He asked whether the situation of citizenship for indigenous peoples had been rectified or whether difficulties still remained. He wished to know what guarantees were in place to protect indigenous peoples' land rights, and whether they were awarded compensation in the event that they lost their land. He asked what measures were being taken to ensure that legislation was implemented effectively, and what further steps could be taken to improve the situation for indigenous peoples. He wondered whether the only means for foreigners to obtain Cambodian citizenship was to marry a Cambodian, or whether the children of foreign families who were born in Cambodia were able to acquire citizenship through *jus soli*.

31. **Mr. Huang Yong'an** observed that while Cambodia had made great efforts in the promotion of human rights, much work remained to be done in that regard. The most pressing issues were equal rights for Khmer Krom and for hill tribes in terms of land distribution, education and equal employment opportunities.

32. He hoped that Cambodia would resolve its border dispute with Thailand peacefully and improve bilateral relations between the two countries. That was not just a political issue but also a human rights issue, and the people affected by the conflict were mainly from ethnic minorities.

33. **Mr. Cali Tzay** said he welcomed Cambodia's vote in favour of the United Nations Declaration on the Rights of Indigenous Peoples at the General Assembly in September 2007. While Cambodia had made great legislative efforts to defend the land rights of indigenous peoples, the laws must be implemented effectively with the full participation of indigenous communities in the land registration process. Some land had been given as concessions to multinational corporations. He wondered what the Government's view was on the sale or concession of indigenous lands and whether it was willing to take measures

to protect indigenous lands in the interim while awaiting implementation of the land laws throughout the country.

34. He wondered why Cambodia had deported the Khmer Krom monk Tim Sakhorn to Viet Nam in 2007, when the Government had asserted that all Khmer Krom were Cambodian citizens. He wished to know if Cambodia was prepared to ratify the ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169). He also wondered what Cambodia's policy was on the recognition of minority languages and what kind of education was provided for indigenous peoples.

35. **Mr. Thornberry** asked for clarification of the Cambodian land rights system, and specifically on whether indigenous communities could own natural resources or only had the right to use them.

36. He noted that the Committee on Economic, Social and Cultural Rights had expressed concern in its latest concluding observations (E/C.12/KHM/CO/1) about the destruction of the Prey Long forest in northern Cambodia, which had led to the displacement of people without just compensation or resettlement. He wondered whether there had been any follow-up on that issue.

37. He observed that in some cases so-called sub-decrees seemed to be inconsistent with primary legislation, and he wondered what the relationship was between the two and who ensured consistency. Regarding land laws, Cambodian legislation provided for "collective title" for indigenous peoples. He wondered whether that in fact meant ownership, and if so, what it was ownership of. He asked whether any titles had yet been assigned.

38. He asked for a response to suggestions by some NGOs that indigenous people were seen as a temporary feature of the cultural landscape of Cambodia. He welcomed the 2007 decision of the Constitutional Council that judges should interpret legislation and make decisions in the light of Cambodia's United Nations human rights obligations. He wished to know how the boundaries of indigenous territories were demarcated and who participated in such demarcation.

39. He noted that, according to the law on mineral resource management of 2001, when land was given over to mining, compensation must then be offered to a private landowner. That provision could discriminate against indigenous people who had not yet received the title for their land.

40. In response to the delegation's answer (CERD/C/KHM/Q/8-13/Add.1) to the question whether Cambodia envisaged making the declaration under article 14 of the Convention, he explained that the declaration was no kind of comment on the ability of local bodies to address racial discrimination issues. It was simply another affirmation, rather than a diminution, of the State party's sovereignty.

41. He wondered whether the dissemination of ideas based on racial superiority or hatred was prohibited under Cambodian law. He also asked about Cambodia's position on racist organizations and whether they were illegal.

42. He requested recent statistics on the ethnic composition of the population, including estimates on the scale of immigration in recent years, particularly from Viet Nam.

43. **Mr. de Gouttes** said he hoped that the process of reconstruction and the restoration of the rule of law in Cambodia would be completed. He asked for a response from the delegation to NGO allegations of violent attacks against indigenous communities. It was not enough to create institutions to protect against racial discrimination; effective implementation was also necessary. The fight against corruption in the judiciary was a key condition for anti-discrimination laws to be effectively enforced. International norms must be respected to protect the rights of ethnic minorities, refugees and migrants.

44. Cambodia needed to improve social and health aid, along with aid for people with disabilities, such as mine victims. He wished to know the current status of the incipient prosecutions of those responsible for crimes against humanity during the Khmer Rouge era.

45. He noted that, according to a definition from a Khmer dictionary quoted in the report, discrimination meant “accepting or claiming anything in order to satisfy someone’s wishes”. That seemed to be an erroneous definition and he requested clarification.

46. **Mr. Lahiri** observed that while Cambodia had made excellent progress in enacting laws to protect human rights, the independence of the judiciary needed to be improved. The report did not contain enough statistical detail on the population, considering the multi-ethnic nature of Cambodia. He requested a clearer version of the table in the annex, as it was not legible.

47. He requested further clarification of the process by which Khmer Krom could obtain national identity cards. As estimates seemed to vary widely on the number of Vietnamese, Khmer Krom and other minorities in Cambodia, he asked the delegation to clarify that as well. He wondered whether Cambodia intended to set up a national human rights institution.

48. **Mr. Saidou** requested additional information on the roles of the National Assembly Commission for Human Rights and the Cambodian Human Rights Committee. It would also be interesting to have further details on the role and composition of the Cambodian Human Rights Committee. He asked whether the State party’s criminal law included the concept of banishment and what process was followed in the case of expropriation.

49. **Mr. Lindgren Alves** said that there appeared to be an error in paragraph 42 of the report, which contained a definition of the term “discrimination”. He asked when the State party planned to update its domestic legislation in order to introduce the prohibition and punishment of racial discrimination, thus bringing it into line with the provisions of the Convention. It would be useful to learn whether people who practised a religion other than Buddhism, or no religion at all, could hold posts as public servants.

50. **Mr. Peter** asked how the Government planned to resolve the dilemma posed by the need to protect the land rights of indigenous communities while encouraging multinational investment by granting land concessions. Reports indicated that the State party was failing to meet the conditions established for granting the concessions, such as carrying out social and environmental impact assessments, avoiding the involuntary resettlement of lawful landholders and restricting access to private land. Reports from successive Special Representatives of the United Nations Secretary-General on the situation of human rights in Cambodia indicated that indigenous peoples had indeed been removed from their lands, and in some cases their houses burnt. He would welcome more information on the fate of those people.

51. **Mr. Ewomsan** requested additional information on the situation of people of African descent living in the State party.

52. **Mr. Diaconu** said that the State party’s report was a clear indication of the need for the Government to renew its dialogue with the Committee. The definition of discrimination in paragraph 42, contrary to the assertion in that paragraph, bore no resemblance to that established in the Convention. The definition of racial discrimination quoted in paragraph 70, while closer to that of the Convention, nonetheless made no mention of equal rights. The delegation should ensure that the Government was aware of the need to amend its definitions in line with that contained in article 1 of the Convention.

53. He would welcome the delegation’s comments on reports the Committee had received that the procedures for obtaining land titles were so complex and time-consuming that many indigenous communities were likely to fail in that endeavour. Moreover, the

Government allegedly did not ensure that social and environmental impact assessments were conducted, or that the local population was consulted before granting land concessions to investors, thus violating the rights of indigenous communities occupying the land in question.

54. The forthcoming periodic report should contain information on the level of enjoyment of the rights enshrined in article 5 of the Convention by the State party's ethnic groups.

55. **Ms. Dah** commended the delegation for renewing the State party's dialogue with the Committee and urged it to ensure that it was maintained in future. She recommended that the Government should take note of NGO reports and encourage their work.

The meeting rose at 5.50 p.m.