



International Convention for the Protection of All Persons from Enforced Disappearance

Distr.: General
25 March 2024

Original: English

Committee on Enforced Disappearances

Concluding observations on the report submitted by Cambodia under article 29 (1) of the Convention*

1. The Committee on Enforced Disappearances considered the report submitted by Cambodia under article 29 (1) of the Convention¹ at its 473rd and 474th meetings,² held on 19 and 20 February 2024. At its 488th meeting, held on 29 February 2024, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the report submitted by Cambodia in 2021 under article 29 (1) of the Convention, which was prepared in accordance with the Committee's reporting guidelines. Furthermore, the Committee thanks the State party for its written replies³ to the list of issues,⁴ which were submitted in 2023.

3. The Committee also appreciates the constructive dialogue with the interministerial delegation of the State party on the measures taken to implement the Convention and welcomes the openness with which the delegation responded to the questions posed. It thanks the State party for the additional information and clarifications provided in its oral statements.

B. Positive aspects

4. The Committee welcomes the State party's ratification of eight out of the nine United Nations human rights treaties⁵ and the Optional Protocols thereto, and of the Rome Statute of the International Criminal Court.

5. The Committee also welcomes the progress made by the State party in areas relevant to the Convention, including:

(a) The incorporation of enforced disappearance as a crime against humanity under article 188 of the Criminal Code;

(b) The Law on Mutual Legal Assistance in Criminal Matters, promulgated by Royal Kram No. 0620/020 of 27 June 2020;

(c) The National Policy on the Child Protection System 2019–2029, adopted in 2020;

* Adopted by the Committee at its twenty-sixth session (19 February–1 March 2024).

¹ [CED/C/KHM/1](#).

² See [CED/C/SR.473](#) and [CED/C/SR.474](#).

³ [CED/C/KHM/RQ/1](#).

⁴ [CED/C/KHM/Q/1](#).

⁵ Cambodia is not a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.



(d) The national plan of action to counter trafficking in persons 2019–2023, adopted in 2019;

(e) The creation of the National Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by Royal Decree No. NS/RKT/0817/619 of 22 August 2017;

(f) The establishment of the National Committee for Countering Trafficking by Royal Decree No. NS/RKT/0614/808 of 25 June 2014.

C. Principal subjects of concern and recommendations

6. In the present concluding observations, the Committee wishes to note its concerns and recommendations to ensure that the legislation in force in the State party to prevent and punish enforced disappearance and to ensure the rights of victims, the implementation of such legislation and the conduct of the competent authorities fully comply with the Convention. The Committee therefore encourages the State party to implement the recommendations, which have been made in a constructive and cooperative spirit, with a view to ensuring that the normative framework and all measures taken by the State authorities are fully consistent with the State party's treaty obligations.

1. General information

Urgent actions

7. The Committee regrets that the State party does not have any specific mechanism for dealing with requests for urgent action transmitted by the Committee and for implementing related recommendations and requests for interim and protection measures. The Committee also notes that it has registered four requests for urgent action in relation to Cambodia,⁶ two of which remain open (art. 30).

8. The Committee requests the State party to design and implement a specific mechanism for handling requests for urgent action transmitted by the Committee under article 30 of the Convention and for implementing the Committee's recommendations and requests for interim and protection measures in that context.

Individual and inter-State communications

9. The Committee notes that the State party has not yet recognized the Committee's competence to receive and consider individual and inter-State communications and has not envisaged a specific time frame for that purpose (arts. 31 and 32).

10. The Committee invites the State party to make, at the earliest opportunity, the necessary declarations for recognizing the competence of the Committee to examine individual and inter-State communications under articles 31 and 32 of the Convention, respectively. It also invites the State party to submit information on the measures taken and the time frame set to that end.

Stakeholders' involvement in the preparation of the report

11. The Committee takes note of the information provided before and during the dialogue that the process of preparation of the report was led by the Cambodian Human Rights Committee and included two national working groups, at the technical and leadership levels, respectively. It further notes the statement by the State party that it operates an open-door policy for civil society organizations. The Committee nevertheless regrets the information provided by the delegation that no consultation process with civil society organizations was carried out for the preparation of the report to the Committee (art. 24).

⁶ Active urgent actions: 11/2014, KHM (1) and 897/2020, KHM (4). Closed urgent actions: 568/2019, KHM (2) and 782/2019, KHM (3).

12. **The Committee recommends that the State party ensure that civil society organizations, in particular those working on enforced disappearances and human rights protection, participate in the whole cycle of reporting to the Committee and are regularly consulted and informed about all matters relating to the implementation of the Convention.**

Applicability of the Convention

13. The Committee welcomes the information provided by the State party that, under article 31 of the Constitution, the Convention is directly applicable by national jurisdictions and that domestic courts are expected to consider national legislation in the light of the human rights treaties to which Cambodia is a party. The Committee regrets, however, the lack of information about the number of cases in which national courts have applied the Convention and about the measures taken to ensure that they have done so in compliance with the Convention (arts. 1, 4 and 12).

14. **The Committee calls upon the State party to ensure that the provisions of the Convention are directly invoked before, and applied by, national courts, and to enhance its efforts to provide systematic training for judges, prosecutors and lawyers about the Convention, including its scope and direct applicability.**

National human rights institution

15. The Committee notes that the Cambodian Human Rights Committee has finalized the draft law on the organization and functioning of the national human rights institution. It also notes that, according to the information provided by the delegation, 32 consultations were conducted with relevant stakeholders and the draft has been submitted to the Office of the Council of Ministers for its review. Nevertheless, the Committee is concerned about the delay in the process of establishing a national human rights institution.

16. **The Committee calls on the State party to speed up the process of establishing a national human rights institution in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

2. Definition and criminalization of enforced disappearance (arts. 1–7)

Statistical information and national register

17. The Committee takes note of the information provided by the State party, indicating that Cambodia does not have any cases of enforced disappearance or related statistical data, as the competent authorities have not received any complaints for that crime. While noting the information provided by the delegation that there is a case management system maintained by the Ministry of Justice concerning judgments of the courts categorized by crime, the Committee regrets the absence of statistical disaggregated data on the number of disappeared persons in the State party (arts. 1–3, 12 and 24).

18. **The Committee urges the State party to establish a national register of disappeared persons in order to generate accurate and up-to-date statistical information on those persons, disaggregated by sex, age, gender identity, sexual orientation, nationality, and racial or ethnic origin. The information should include the date, context and circumstances of the disappearance; the number of disappeared persons who have been located, whether alive or deceased; and the number of cases in which there may have been some form of State involvement in the disappearance within the meaning of article 2 of the Convention, including disappearances in the context of migration and trafficking.**

Non-derogability of the prohibition of enforced disappearance

19. The Committee regrets the lack of a legal provision that explicitly states that the prohibition of enforced disappearance may not be derogated from or restricted on the basis of exceptional circumstances. While noting the information provided by the delegation that Cambodia has never declared a state of emergency as described in the Constitution or in the

Law on the Management of the Nation in a State of Emergency of 2020, the Committee is concerned about the powers conferred by that Law to the Government that severely constrain the exercise of certain fundamental rights (art. 1).

20. **The Committee recommends that the State party expressly incorporate the absolute prohibition of enforced disappearance into national law, in accordance with article 1 (2) of the Convention, and ensure that no exceptional circumstances may be invoked to justify enforced disappearance. The State party should also review the Law on the Management of the Nation in a State of Emergency and guarantee that any measure introduced to protect the population in the context of a state of emergency is temporary, proportionate and strictly necessary, and subject to judicial review.**⁷

Offence of enforced disappearance

21. The Committee is concerned that the national legislation does not criminalize enforced disappearance as an autonomous offence and that articles 253–255 (unlawful arrest, detention or confinement) and 588–591 (abuse of power against individuals) of the Criminal Code, which the State party notes can be invoked in order to punish enforced disappearances, fail to define enforced disappearance in compliance with article 2 of the Convention. The Committee also regrets the State party's position that the existing norms are sufficient to prosecute cases of enforced disappearance and recalls that the reference to a range of existing offences and similar acts is not sufficient to encompass all the constituent elements and modalities of the offence of enforced disappearance as provided for in the Convention, or to reflect the gravity and specific nature of enforced disappearance (arts. 2, 4 and 7).

22. **The Committee urges the State party:**

(a) **To incorporate enforced disappearance into national law as an autonomous offence in line with the definition contained in article 2 of the Convention;**

(b) **To punish the offence of enforced disappearance with appropriate penalties that take into account the extreme seriousness of the offence;**

(c) **To include in its criminal law the specific mitigating and aggravating circumstances set out in article 7 (2) of the Convention.**

Criminal responsibility of superiors and due obedience

23. The Committee takes note of the information provided by the delegation that the State party will expressly incorporate into national law the criminal responsibility of superiors as set out in the Convention when it introduces an autonomous offence of enforced disappearance. The Committee also notes the State party's position that superior responsibility is criminalized under articles 28 (definition of "instigator"), 29 (definition of "accomplice") and 529 (omission to file a complaint against a felony) of the Criminal Code and that superior orders or instructions may not be invoked to justify an offence of enforced disappearance under article 32 of the Code. Nonetheless, the Committee is concerned that, under criminal legislation, officers could be exempted from any responsibility whenever they obey the order of a superior (art. 6).

24. **The Committee recommends that the State party incorporate into national legislation the criminal responsibility of superiors and that it ensure that no order or instruction from any public authority – civilian, military or other – may be invoked to justify an offence of enforced disappearance and that subordinates who refuse to obey an order to commit enforced disappearance will not be punished, in accordance with article 6 (1) (b) and (2) of the Convention.**

⁷ [CCPR/C/KHM/CO/3](#), para. 11.

3. Criminal responsibility and judicial cooperation in relation to enforced disappearance (arts. 8–15)

Statute of limitations

25. With respect to cases of enforced disappearance that do not amount to crimes against humanity, the Committee notes with concern that the 15-year statutory limitation stipulated for a felony under article 10 of the Code of Criminal Procedure cannot be considered proportionate to the extreme gravity of the offence of enforced disappearance. It regrets the absence of specific legal provisions regulating the statute of limitations for crimes of a continuous nature, such as enforced disappearance. In addition, the Committee is concerned that, under article 11 of the Code of Criminal Procedure, the duration of the statute of limitations commences at the point at which the offence was committed and is interrupted whenever an accusation is presented or an investigation is initiated, which could generate impunity in cases of enforced disappearance. The Committee is further concerned that the current legislation does not provide for a specific right of victims of enforced disappearance to an effective remedy during the term of limitation (art. 8).

26. The Committee recommends that the State party expressly establish in its criminal legislation that, given the continuous nature of the crime of enforced disappearance, if a statute of limitations is applied with regard to criminal proceedings or for victims to seek an effective remedy, it should be of long duration and should commence from the moment when the offence of enforced disappearance ceases.

Extraterritorial jurisdiction over crimes of enforced disappearance

27. The Committee takes note of the information provided by the delegation on article 17 of the Criminal Code concerning the application of domestic criminal law to acts initiated in the State party. Nonetheless, the Committee regrets the absence of a legal provision establishing the State party's jurisdiction when an alleged perpetrator of enforced disappearance committed abroad is present in its territory, when the alleged perpetrator is not extradited or surrendered to another State or to an international criminal tribunal, and when neither the alleged perpetrator nor the victims are Cambodian nationals (art. 9).

28. The Committee recommends that the State party establish the competence of the national courts for exercising jurisdiction over cases of enforced disappearance, in accordance with the obligations arising from article 9 of the Convention, in particular the principle of *aut dedere aut judicare* set out therein.

Independence of the judiciary

29. The Committee is concerned about the allegations received related to the lack of an independent and impartial judiciary, which is characterized by a high level of corruption and scant transparency. It notes with concern that it is stated in article 132 of the Constitution that the King is the guarantor of the independence of the judiciary and that the Supreme Council of the Magistracy is presided over by the King. The Committee is also concerned that the laws of 2014 on the organization of the judiciary, the status of judges and prosecutors and the organization and functioning of the Supreme Council of the Magistracy allow the executive to have influence over processes for selecting and promoting members of the judiciary. While noting the three-pronged approach of the Anti-Corruption Unit, which includes education, prevention and law enforcement, the Committee regrets the absence of procedural safeguards in the Anti-Corruption Law (art. 11).

30. In line with previous recommendations of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights,⁸ the Committee on Enforced Disappearances recommends that the State party guarantee the full independence and impartiality of the judiciary, including by reforming the laws on the organization of the judiciary, the status of judges and prosecutors, and the organization and functioning of the Supreme Council of the Magistracy, and ensuring that procedures for the selection, suspension, removal and promotion of judges and prosecutors are compliant with

⁸ CCPR/C/KHM/CO/3, paras. 9 and 33; and E/C.12/KHM/CO/2, para. 19.

international standards. The State party should also increase its efforts to prevent and eradicate corruption, ensuring transparency and accountability in public administration, as well as independent and thorough investigations and adequate sanctions for those found responsible in cases of corruption.

Military jurisdiction

31. The Committee notes with concern that, under article 81 of the Code of Criminal Procedure, the military authorities of the Royal Gendarmerie in the performance of their duties as judicial police are competent to investigate. While taking note of the information provided by the delegation that criminal courts would handle alleged cases of enforced disappearance, the Committee regrets that military authorities remain competent under domestic law to investigate such cases (art. 11).

32. Recalling its statement on enforced disappearances and military jurisdiction, of 2015,⁹ the Committee recommends that the State party ensure that the investigation and prosecution of cases of enforced disappearance are expressly excluded from the competence of military courts and fall within the exclusive competence of the ordinary criminal courts.

Investigations of cases of enforced disappearance

33. The Committee takes note of the State party's affirmation during the dialogue that no complaints of enforced disappearance have been received, and of the provisions under the Code of Criminal Procedure on the mission of judicial police officers (articles 71–75) and on preliminary investigations (arts. 111–118). In this regard, the Committee is concerned that under article 111 of the Code of Criminal Procedure, judicial police officers may conduct a preliminary investigation at their own discretion or at the request of a prosecutor when having knowledge of an act that may qualify as a felony, a misdemeanour or a petty offence. The provisions therefore establish a higher requirement than the Convention's standard of reasonable grounds for believing that a person has been subjected to enforced disappearance. The Committee is further concerned by the insufficient legal framework for ensuring that any alleged enforced disappearance is investigated ex officio in a prompt and thorough manner, even if no formal complaint has been submitted, and for guaranteeing the right of the disappeared person's relatives to participate actively in the proceedings, as illustrated in the urgent actions registered in the cases of K.S.¹⁰ and Wanchalearm Satsaksit¹¹ (arts. 12 and 24).

34. The Committee recommends that the State party:

(a) **Ensure that all disappeared persons are searched for without delay, and that all allegations of enforced disappearance, including the cases of Mr. K.S. and Mr. Satsaksit, are investigated promptly, thoroughly, effectively and impartially, on the basis of comprehensive and inter-institutional search and investigation strategies, even in the absence of a formal complaint;**

(b) **Guarantee that a differentiated approach is adopted at all phases of the search and investigation procedures to attend to the specific needs of the victims;**

(c) **Ensure that the alleged perpetrators are prosecuted and, if found guilty, punished in accordance with the seriousness of the offence;**

(d) **Guarantee that the relatives and representatives of disappeared persons, including the families of Mr. K.S. and Mr. Satsaksit, can participate in the search and investigation at all stages of the proceedings, within the framework of due process, and that they are regularly informed of the progress and results of the ongoing investigation.**

⁹ A/70/56, annex III.

¹⁰ UA 11/2014, KHM (1).

¹¹ UA 897/2020, KHM (4). The Working Group on Enforced or Involuntary Disappearances and other special procedure mandate holders issued communications concerning the case of Mr. Satsaksit. See [KHM 7/2020](#), [KHM 5/2020](#) and [KHM 4/2020](#), available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

Long-standing enforced disappearances

35. The Committee notes that, according to the files on cases 001 and 002 of the Extraordinary Chambers in the Courts of Cambodia, acts of enforced disappearance were committed during the Khmer Rouge regime. It also notes that, through the Extraordinary Chambers in the Courts of Cambodia, Nuon Chea and Khieu Samphan, who had been high-level Khmer Rouge leaders, were convicted of genocide, crimes against humanity and war crimes, and that victims were provided with symbolic and collective reparations. The Committee regrets, however, the lack of progress in the investigation and prosecution of those responsible for enforced disappearances that occurred after the signing of the Paris Peace Agreements in 1991. It is also concerned about the termination of cases in the Extraordinary Chambers in the Courts of Cambodia without an analysis of the merits of those cases (arts. 1, 2, 12 and 24).

36. In line with previous recommendations of the Human Rights Committee,¹² the Committee on Enforced Disappearances recommends that the State party investigate without delay all enforced disappearances committed under the Pol Pot regime and after the signing of the Paris Peace Agreements. In that context, the State party should review the closure of cases by the Extraordinary Chambers; guarantee that the alleged perpetrators of enforced disappearances are prosecuted and, where found guilty, are punished with appropriate penalties; and provide full reparation to the families of the victims.

Prevention of acts that may hinder the progress of investigations

37. The Committee takes note of article 52 of the Law on Common Statute of Civil Servants, according to which, if necessary, the civil servant brought before the court may be relieved of his or her duties during the judicial proceedings. It regrets, however, that the existing legislation does not guarantee that law enforcement or security forces whose members are suspected of involvement in the commission of enforced disappearance would not participate in the investigation (art. 12).

38. The Committee recommends that the State party review its legislative and institutional framework to guarantee that those suspected of having committed or taken part in the commission of enforced disappearance are not in a position to influence the progress of an investigation. In this regard, the State party should ensure that State officials suspected of involvement in the commission of an enforced disappearance are suspended from their duties from the outset and for the duration of the investigation, without prejudice to the presumption of innocence.

Protection of persons who report or who participate in the investigation of an enforced disappearance

39. The Committee is concerned that the current legal and institutional frameworks do not include mechanisms to protect complainants, witnesses, relatives of the disappeared and their defence counsel, and others participating in the investigation of an enforced disappearance. It also notes with concern that article 220 of the Criminal Code criminalizes a narrower scope of conduct, namely intentional acts of violence, against victims or civil parties and witnesses, and excludes the defence counsel and others participating in the investigation from protection (arts. 12 and 24).

40. The Committee recommends that the State party establish mechanisms to ensure that all the persons referred to in article 12 (1) of the Convention are effectively protected against all ill-treatment or intimidation that may hinder their participation in the search for disappeared persons and the investigation of enforced disappearances.

Mutual legal assistance

41. The Committee welcomes the fact that Cambodia is a party to the Treaty on Mutual Legal Assistance in Criminal Matters among Like-Minded Member Countries of the

¹² [CCPR/C/KHM/CO/3](#), para. 13.

Association of Southeast Asian Nations, and takes note of the country's bilateral treaties on mutual legal assistance in criminal matters with other specific countries. Nevertheless, taking into account the fact that enforced disappearance is not criminalized in national legislation, the Committee is concerned that the assistance requested would not be provided in cases of enforced disappearance owing to the reciprocity requirement contained in the Law on Mutual Legal Assistance in Criminal Matters. It is also concerned about reports of lack of cooperation with the disappeared person's State of nationality with regard to assisting the victims and searching for, locating and releasing the disappeared person, as reflected in urgent action request No. 782/2020¹³ in the case of Osman Karaca, and allegations of authorities in the region failing to adequately investigate cases of cross-border disappearance (arts. 14 and 15).

42. The Committee recommends that the State party set up and implement effective cooperation and mutual legal assistance mechanisms whenever it receives requests from other States parties under articles 14 and 15 of the Convention. Furthermore, the State party should actively contribute to strengthening cooperation between the judicial authorities of the countries in the region, with a view to facilitating the sharing of information and evidence, searching for and identifying disappeared persons, conducting investigations, and bringing those responsible to justice, in line with the Committee's general comment No. 1 (2023) on enforced disappearances in the context of migration.

4. Measures to prevent enforced disappearances (arts. 16–23)

Non-refoulement

43. The Committee takes note that, under article 10 of the Law on Mutual Legal Assistance in Criminal Matters, a request from a State for mutual assistance should be rejected in cases where the person concerned is at risk of torture if the request is implemented. It also notes that the State party has stated that it may not accept diplomatic assurances when there is a risk that the person concerned may be subjected to enforced disappearance. Nonetheless, the Committee is concerned at:

(a) The absence of legal provisions that include the risk of enforced disappearance as a basis for prohibiting the expulsion, return, surrender or extradition of a person to another State;

(b) The lack of information as to the criteria and procedures applied for assessing a person's risk of being subjected to enforced disappearance in the country of destination before a decision is taken on expulsion, return, surrender or extradition;

(c) The absence of clear information on whether an appeal may be lodged against a decision authorizing expulsion, return, surrender or extradition, and whether such an appeal has suspensive effect;

(d) Allegations regarding the violation of the non-refoulement principle, such as in the case of the deportation of Mr. Karaca¹⁴ to Türkiye and the associated allegations that he might be subjected to enforced disappearance (art. 16).

44. The Committee recommends that the State party ensure systematic and strict respect for the principle of non-refoulement. In that regard, the State party should:

(a) **Consider explicitly prohibiting, in its domestic legislation, any expulsion, return, surrender or extradition when there are substantial grounds for believing that the person concerned may be in danger of being subjected to enforced disappearance;**

(b) **Adopt clear and specific criteria and procedures for assessing and verifying a person's risk of being subjected to enforced disappearance in the country of destination prior to his or her expulsion, return, surrender or extradition, and ensure**

¹³ CED/C/20/2, para. 37.

¹⁴ See KHM 7/2020, available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25647>.

that, if there is such a risk, the person concerned is not expelled, returned, surrendered or extradited;

(c) Guarantee that any decision authorizing expulsion, return, surrender or extradition may be appealed and that such an appeal has suspensive effect.

Enforced disappearance in the context of trafficking in persons

45. The Committee takes note of the Law on Suppression of Human Trafficking and Sexual Exploitation and the information provided by the delegation concerning statistics on trafficking in persons. Nevertheless, it is concerned at the insufficient resources and coordination among authorities to implement the national plan of action to counter trafficking in persons for the period 2019–2023. The Committee is further concerned by reported cases of trafficking of persons for sexual exploitation and forced labour that may amount to enforced disappearances, and by the limited number of convictions of traffickers. It further regrets the insufficient identification and referral to appropriate services for protecting and assisting victims of trafficking, in particular women and children (arts. 12, 16 and 24).

46. **The Committee recommends that the State party:**

(a) Ensure the effective implementation of the national plan of action to counter trafficking in persons for the period 2019–2023, guaranteeing appropriate resources and coordination among competent authorities to this end;

(b) Ensure that all allegations of trafficking in persons are thoroughly investigated, taking into account that the alleged acts may constitute an enforced disappearance;

(c) Guarantee that those responsible are prosecuted and, if found guilty, are sentenced appropriately, and that victims are provided with full reparation and appropriate protection and assistance;¹⁵

(d) Guarantee early identification of and referral to appropriate services for victims of trafficking and effective protection for them, including shelters, and assistance¹⁶ and remedies for their rehabilitation and social integration.

Enforced disappearance in the context of migration

47. **The Committee takes note of the information provided by the delegation on policies adopted for the protection of migrant workers. It is concerned, however, by the absence of information on the measures taken to prevent the disappearance of migrants and to search for them, to investigate and to provide support services to them and their relatives in the event of disappearance (arts. 12, 16 and 24).**

48. **The Committee recommends, taking into account its general comment No. 1 (2023) on enforced disappearance in the context of migration, that the State party adopt the necessary measures to prevent the disappearance of migrants, strengthen mutual legal assistance to facilitate the exchange of information and evidence for the search for disappeared migrants and for the investigation, and provide support services to them and their relatives.**

Secret detention and fundamental legal safeguards

49. The Committee takes note of the information provided by the delegation indicating that the Law on Prisons and the Code of Criminal Procedure enshrine fundamental legal safeguards for persons deprived of liberty. It regrets, however, the lack of compliance with those guarantees, including the right of persons to be informed of the charges against them, to have prompt access to a lawyer and to a doctor of their own choice, and to be able to notify a person of their choice of their detention. Furthermore, the Committee is concerned that, under article 98 of the Code of Criminal Procedure, the detainee may request to speak with a lawyer or other person of his or her choice only after a period of 24 hours has elapsed from

¹⁵ [CCPR/C/KHM/CO/3](#), para. 31.

¹⁶ [CEDAW/C/KHM/CO/6](#), para. 27 (b) and (c).

the start of the police custody. It also notes with concern that, under article 99 of the Code of Criminal Procedure, a medical examination of a detained person is a discretionary power of a prosecutor or judicial police officer (arts. 17 and 18).

50. **In line with previous recommendations of the Human Rights Committee,¹⁷ the Committee on Enforced Disappearances recommends that the State party:**

(a) **Ensure, in law and in practice, that all persons deprived of liberty, without exception and regardless of the place of deprivation of liberty, are afforded all the fundamental legal safeguards provided for under article 17 of the Convention;**

(b) **Guarantee that all persons, from the outset of the deprivation of liberty and regardless of the offence with which they are charged, have effective access to a lawyer and can communicate without delay with their relatives or any other person of their choice and, in the case of foreign nationals, with their consular authorities;**

(c) **Ensure that any person deprived of liberty is entitled to take proceedings before a court or, in the case of a suspected enforced disappearance where the person deprived of liberty is not able to exercise such a right, any person with a legitimate interest is afforded that entitlement, in order that the court may decide without delay on the lawfulness of the deprivation of liberty and order the person's release if such deprivation of liberty is not deemed lawful.**

Registers of persons deprived of liberty

51. The Committee takes note of the information provided by the State party regarding the existence of 10 different registers for prisons, as well as similar registers for social service centres and correctional facilities. It also notes that the Cambodian Human Rights Committee is competent to conduct visits to places where persons are deprived of liberty. Nevertheless, the Committee is concerned at:

(a) The inconsistency of the elements listed in article 17 (3) of the Convention that appear in the registers, and the lack of information on registration procedures in other places of deprivation of liberty, such as military or immigration detention facilities;

(b) Allegations of the lack of independence of the National Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its inability to conduct visits to prisons;

(c) Insufficient measures taken to ensure that registers are completed as soon as a person is deprived of liberty and are updated as necessary;

(d) Restrictions to the right of persons with a legitimate interest to have prompt and easy access to at least the information listed in article 18 (1) of the Convention (arts. 17, 18, 20 and 22).

52. **The Committee recommends that the State party:**

(a) **Ensure the interoperability of existing and future registers of deprivation of liberty, guaranteeing that they all contain, as a minimum, the information required under article 17 (3) of the Convention, and that all persons deprived of liberty are registered without exception and from the outset;**

(b) **Enable the National Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to fulfil its mandate independently and effectively, including conducting regular and unannounced visits to all places of detention;¹⁸**

(c) **Guarantee that information in the registers is filled out and updated promptly and accurately and is subject to periodic checks, and that, in the event of irregularities, the officers responsible are duly sanctioned;**

¹⁷ [CCPR/C/KHM/CO/3](#), para. 27.

¹⁸ [CCPR/C/KHM/CO/3](#), para. 23 (b).

(d) **Ensure that any person with a legitimate interest, such as a relative of a person deprived of liberty or his or her representative or counsel, has prompt access to all the information listed in article 18 (1) of the Convention.**

Training on the Convention

53. The Committee welcomes the steps taken by the Cambodian Human Rights Committee with the support of the Office of the United Nations High Commissioner for Human Rights to reinstate training on human rights law in the curriculum for judges and prosecutors. The Committee also notes with interest the human rights training provided by the Cambodian Human Rights Committee to civil servants, law enforcement officials and members of the armed forces. The Committee is, however, concerned about the absence of a specific training programme on enforced disappearances and the Convention (art. 23).

54. **The Committee recommends that the State party ensure that all law enforcement personnel and security personnel, civil and military, medical personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty, including judges, prosecutors and other officials responsible for the administration of justice, receive specific and regular training on enforced disappearances and the Convention, in accordance with article 23 thereof. The Committee further recommends that the State party contribute, with the support of the Committee, to the campaign for ratification of the Convention by all member States of the Association of Southeast Asian Nations.**

5. Measures to protect and guarantee the rights of victims of enforced disappearance (art. 24)

Definition of victim and rights to the truth and to receive reparation and prompt, fair and adequate compensation

55. The Committee notes the State party's position that, when enforced disappearance is criminalized as an autonomous offence, Cambodia will provide a definition of "victim" in accordance with the Convention. The Committee also takes note of the general rule of defining a victim as a civil party and the regulation of compensation for injury under article 14 of the Code of Criminal Procedure. Nonetheless, it is concerned that such provisions remain at the drafting stage and that the current legal framework does not provide for the recognition of the right of any victim to have access to the truth, and that a criminal conviction is required for victims to have access to compensation and reparation. There is also no system of reparation to ensure that all persons who have suffered direct harm as a result of an enforced disappearance receive prompt, full and adequate reparation (art. 24).

56. **The Committee recommends that the State party:**

(a) **Adopt a definition of "victim" that is in line with the definition in article 24 (1) of the Convention;**

(b) **Recognize in domestic law the right of victims of enforced disappearance to know the truth, in accordance with article 24 (2) of the Convention;**

(c) **Ensure that any individual who has suffered harm as the direct result of enforced disappearance has access to a system of full and adequate reparation that complies with article 24 (4) and (5) of the Convention and other relevant international standards, that is applicable even if no criminal proceedings have been initiated and that is based on a differentiated approach, taking into account the gender dimension and the specific needs of the victims.**

Legal situation of disappeared persons whose fate has not been clarified and that of their relatives

57. The Committee takes note that, under article 41 of the Civil Code, in the case of disappeared persons whose fate remains unknown for five years, the court may, upon the petition of a relative or a person with legal interest, make a judicial "declaration of disappearance". Nonetheless, it observes that the State party's system governing the legal

situation of disappeared persons whose fate has not been clarified does not take sufficient account of the situation of social and economic vulnerability in which enforced disappearance places the families of disappeared persons (art. 24).

58. **The Committee recommends that the State party review its domestic legislation to ensure that the legal situation of disappeared persons whose fate or whereabouts have not been clarified and that of their relatives is regularized in accordance with article 24 (6) of the Convention, in fields such as social welfare, financial matters, family law and property rights, within a reasonable time and without requiring that the disappeared person be declared dead. In this regard, the Committee encourages the State party to provide, by law, for the issuance of declarations of absence, whatever the duration of the disappearance.**

Search for disappeared persons, and genetic databases

59. The Committee notes the information provided by the State party indicating that the judicial police have a duty to administer alleged cases of enforced disappearance in order to guarantee that the search continues until the fate of the disappeared person has been clarified. It regrets, however, the absence of a genetic database, and the lack of information on the measures in place to search for and identify disappeared persons (arts. 19 and 24).

60. **The Committee calls on the State party to develop comprehensive search strategies, in line with the Committee's Guiding Principles for the Search for Disappeared Persons, and ensure that all persons who have disappeared and whose fate is not yet known are searched for and located and that, in the event of death, their remains are identified, respected and returned to their families. The State party should guarantee that investigations continue until the fate of the disappeared person has been clarified, in line with article 24 (6) of the Convention, and establish a genetic database to facilitate the identification of disappeared persons. The State party should also provide mutual legal assistance and promote international cooperation between countries in the investigation and prosecution of cases of cross-border disappearance.**

Right to form and freely participate in organizations and associations

61. The Committee takes note of the ongoing process to amend the Law on Associations and Non-Governmental Organizations and of the associated comments received from civil society organizations. It also notes the data on registrations of those associations and organizations provided by the State party during the dialogue. Nonetheless, it is concerned at allegations of difficulties in the registration procedure imposed by the Law and at reports concerning acts of intimidation and surveillance of human rights defenders. Furthermore, the Committee regrets that, according to the information provided by the delegation, the royal government working group had not received additional civil society input on the amendment of the above-mentioned Law before submitting the final comments to the Ministry of the Interior for consideration (art. 24).

62. **The Committee recommends that the State party accelerate the review process for the Law on Associations and Non-Governmental Organizations through a transparent consultation with civil society organizations and any other relevant stakeholders, in full compliance with article 24 (7) of the Convention. The State party should also guarantee an open civic space for the activities of civil society organizations, including those working on issues related to the Convention.**

6. Measures to protect children from enforced disappearance (art. 25)

Wrongful removal of children

63. The Committee takes note of the legal safeguards concerning the unlawful removal of children under the Criminal Code and the Law on Suppression of Human Trafficking and Sexual Exploitation. Nevertheless, the Committee is concerned that domestic legislation does not include specific provisions penalizing the wrongful removal of children, as provided for in article 25 (1) of the Convention. It also regrets the absence of information on measures taken to locate children who have been victims of wrongful removal or enforced

disappearance, including measures of cooperation with other States parties and for prosecuting those responsible (art. 25).

64. **The Committee recommends that the State party incorporate all the acts described in article 25 (1) of the Convention as specific offences, establishing appropriate penalties that take into account the extreme seriousness of the offences. The State party should prevent the disappearance of children, and search for and identify children who may have been victims of wrongful removal within the meaning of article 25 (1) (a) of the Convention and establish specific procedures for returning such children to their families of origin.**

Illegal intercountry adoptions

65. The Committee takes note of the Law on Intercountry Adoption of 2009, that Cambodia is party to the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption and that a drafting process is under way for a law to strengthen child protection. The Committee is, however, concerned by allegations of illegal intercountry adoptions that have taken place since 2000, in many cases linked with corruption and trafficking in persons. It is also concerned by the lack of legal procedures to review and, where appropriate, annul any adoption, placement or guardianship of children that originated in an enforced disappearance, as well as by the lack of information on the measures taken to restore a child's identity in this context (art. 25).

66. **Recalling the joint statement on illegal intercountry adoptions,¹⁹ the Committee urges the State party to harmonize its Criminal Code with article 25 (4) of the Convention and establish specific procedures for reviewing and, where appropriate, annulling any adoption, placement or guardianship that originated in an enforced disappearance and for restoring the true identity of the children concerned, taking into account the best interests of the child. Moreover, the Committee stresses that the State party should investigate and prosecute those involved in illegal adoptions of children that may amount to enforced disappearance, ensuring transparency in the assessment and review of adoption processes.**

D. Fulfilment of the rights and obligations under the Convention, dissemination and follow-up

67. The Committee wishes to recall the obligations undertaken by States when becoming parties to the Convention and, in this connection, urges the State party to ensure that all the measures it adopts, irrespective of their nature or the authority from which they emanate, are in full accordance with the Convention and other relevant international instruments.

68. The Committee emphasizes the particularly cruel effect of enforced disappearance on women and children. Women who are subjected to enforced disappearance are particularly vulnerable to sexual and other forms of gender-based violence. Women who are relatives of a disappeared person are particularly likely to suffer serious social and economic disadvantages and to be subjected to violence, persecution and reprisal as a result of their efforts to locate their loved ones. Children who are victims of enforced disappearance, either because they themselves were subjected to disappearance or because they suffer the consequences of the disappearance of their relatives, are especially vulnerable to numerous human rights violations, including identity substitution. In this context, the Committee places special emphasis on the need for the State party to ensure that gender issues and the specific needs of women and children are systematically taken into account in implementing the recommendations contained in the present concluding observations and all the rights and obligations set out in the Convention.

69. The State party is encouraged to widely disseminate the Convention, its report submitted under article 29 (1) of the Convention, the written replies to the list of issues

¹⁹ CED/C/9.

drawn up by the Committee and the present concluding observations, in order to raise awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the State party and the general public. The Committee also encourages the State party to promote the participation of civil society, in particular organizations of relatives of victims, in the process of implementing the recommendations contained in the present concluding observations.

70. Under article 29 (3) of the Convention, the Committee requests the State party to submit, by no later than 1 March 2027, specific and updated information on the implementation of all its recommendations and any other new information on the fulfilment of the obligations contained in the Convention. The Committee encourages the State party to consult civil society, in particular organizations of victims, when preparing this information, on the basis of which the Committee will determine whether it will request additional information under article 29 (4) of the Convention.
