



International Convention for the Protection of All Persons from Enforced Disappearance

Distr.: General
1 March 2024

Original: English

Committee on Enforced Disappearances Twenty-sixth session

Summary record of the 473rd meeting

Held at the Palais Wilson, Geneva, on Monday, 19 February 2024, at 3 p.m.

Chair: Mr. de Frouville

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The meeting was called to order at 3 p.m.

Consideration of reports of States parties to the Convention

Initial report of Cambodia (CED/C/KHM/1; CED/C/KHM/Q/1; and CED/C/KHM/RQ/1)

1. *At the invitation of the Chair, the delegation of Cambodia joined the meeting.*
2. **A representative of Cambodia**, introducing his country's initial report (CED/C/KHM/1), said that Cambodia had suffered the consequences of colonialism, genocide and civil war. The Khmer Rouge regime had obliterated all State institutions, national infrastructure and intellectual resources. Nearly 2 million Cambodians had died at the hands of the regime, and survivors lived with traumatic memories or had been left disabled, widowed or orphaned. As part of efforts to overcome the regime's lasting effects, the Extraordinary Chambers in the Courts of Cambodia, the only tribunal to be established by a member State of the Association of Southeast Asian Nations (ASEAN) to address ongoing or past atrocities, had convicted the most senior leaders of the Khmer Rouge of genocide, crimes against humanity and war crimes. Cambodia had likewise contributed to global and domestic efforts to combat impunity for mass-atrocity crimes and had strengthened respect for the rule of law.
3. In view of its history, promoting sustainable peace to ensure the country's continued development was the Government's highest priority. It was no small feat that Cambodia had emerged from a genocidal regime and 14 years of civil war as a functional country in which its population could now thrive. Although economic growth had slowed following the outbreak of the coronavirus disease (COVID-19) pandemic, it was gradually returning to pre-pandemic levels. Millions of people had been lifted out of poverty and life expectancy in Cambodia had significantly increased. Cambodia, which was a least developed country, was on track to achieve developing country status by 2027. Going forward, the Government would prioritize the expansion of health-care services, the provision of vocational training to young people from low-income families, the roll-out of Internet services for all communes, schools and health-care centres, and the connection of all communes to the electricity grid.
4. Cambodia was likewise on track to achieve most of the targets set under the Sustainable Development Goals. It had ratified or acceded to eight of the nine core United Nations human rights treaties and actively engaged with all United Nations human rights mechanisms, including the Special Rapporteur on the situation of human rights in Cambodia and the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the country. Cambodia had accepted all requests to visit the country made by the Special Rapporteur and other partners.
5. The Constitution of Cambodia, which explicitly invoked the Charter of the United Nations and the Universal Declaration of Human Rights, protected the individual and collective rights of all citizens living in the country and stipulated that they were equal before the law, enjoyed the same rights and freedoms and were subject to the same obligations. A working group of the Cambodian Human Rights Committee, with technical assistance from OHCHR and the Asia-Pacific Forum of National Human Rights Institutions, had finalized a bill on the organization and functioning of the national human rights institution of Cambodia, which had been the subject of broad consultations and, in September 2023, had been sent to the Council of Jurists of the Office of the Council of Ministers for review.
6. Since its accession to the International Convention for the Protection of All Persons from Enforced Disappearance in 2013, no cases of enforced disappearance as defined in article 2 of the Convention had occurred in Cambodia. Cambodian citizens' rights to life, liberty and security were explicitly enshrined in the Constitution and under no circumstances could war, threats of war, internal political instability or public emergencies be used to justify enforced disappearance. Cambodia had adopted a raft of legal, judicial and administrative measures and policies to enable it to respond effectively to any cases of enforced disappearance that might occur, and remained committed to fulfilling its international obligation to protect all persons from enforced disappearance.

7. **Ms. Janina** (Country Rapporteur) said that she wished to know whether civil society, including civil society organizations working to combat enforced disappearance, had been consulted during the preparation of the State party's initial report. She would welcome details of how the bill on the organization and functioning of the national human rights institution of Cambodia had been prepared and how the State party would ensure that the institution complied with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). It would be useful to know the number of cases in which the Convention had been invoked before or applied by the national courts and whether the State party intended to recognize the Committee's competence to receive individual and inter-State communications under articles 31 and 32 of the Convention, respectively. The delegation might indicate whether there was a system in place in the State party for gathering disaggregated statistics on past or present human rights violations, including cases of enforced disappearance. She would welcome clarification as to which domestic law provisions ensured the non-derogability of the right not to be subjected to enforced disappearance and to know whether any rights had been derogated from during states of emergency declared under article 22 of the Constitution and under what circumstances the Government could restrict fundamental rights or freedoms.

8. She would welcome an update on any investigations opened into or prosecutions brought against persons responsible for human rights violations, including extrajudicial killings and enforced disappearance, that had occurred after the signing of the Agreements on a Comprehensive Political Settlement of the Cambodia Conflict. She wished to know how the Extraordinary Chambers in the Courts of Cambodia had gone about examining the merits of cases involving such human rights violations and whether any of those cases remained unresolved.

9. She wondered what progress, if any, the State party had made towards establishing enforced disappearance as an autonomous offence in its domestic criminal law and making it punishable by penalties that took into account its extreme seriousness, as required by articles 4 and 7 of the Convention, respectively. It would be helpful to learn what penalties perpetrators of the offence of enforced disappearance would incur under the existing provisions of the Criminal Code and what mitigating and aggravating circumstances might apply in such cases. She would like to know under what circumstances superiors could be held criminally responsible for acts of enforced disappearance and whether there were any circumstances in which perpetrators, co-perpetrators or instigators of, or accomplices to, crimes against humanity, genocide or war crimes could evade criminal responsibility. The delegation might indicate whether any cases of enforced disappearance that came to light in the future and did not amount to crimes against humanity would be subject to a statute of limitations, when the applicable term of limitation would commence, whether Cambodian criminal law defined continuous offences and, if so, whether enforced disappearance fell into that category. She would also be interested to learn whether the Cambodian authorities would be competent to exercise jurisdiction over a case in which the alleged perpetrator of an act of enforced disappearance committed in another State was found to be present in the national territory and had not been extradited or surrendered to that other State. Clarification as to whether the Cambodian authorities would apply the double criminality rule in such cases would also be appreciated. Given that enforced disappearance had not yet been established as an autonomous offence in Cambodian criminal law and that mutual legal assistance in criminal matters was always based on the principle of reciprocity, the delegation might outline the legal provisions under which such assistance could be provided in cases of enforced disappearance.

10. Despite the measures taken by the State party, concerns persisted over the lack of independence of the judiciary and widespread allegations of corruption. She would appreciate additional information on the provisions of 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 that guaranteed the independence of the processes for selecting and promoting members of the judiciary, and details of the procedural safeguards introduced by the State party's anti-corruption legislation and the measures taken by the Anti-Corruption Unit to ensure the effectiveness of its investigations.

11. She would like to know whether military authorities were competent under domestic law to investigate and/or prosecute alleged cases of enforced disappearance, what measures had been put in place to protect complainants, witnesses and relatives of disappeared persons from prosecution and ill-treatment as a consequence of evidence given, and whether the Cambodian authorities were able to investigate alleged cases of enforced disappearance in the absence of a formal complaint. The delegation might explain under what circumstances judicial police officers could exercise the discretion afforded to them by article 111 of the Code of Criminal Procedure and decide not to conduct a primary investigation into alleged acts of enforced disappearance, and clarify how the exercise of such discretion was consistent with the requirement under article 12 (2) of the Convention that the competent authorities should undertake an investigation, even if no formal complaint had been filed, where there were reasonable grounds for believing that a person had been subjected to enforced disappearance. It would also be useful to know on how many occasions prosecutors, as a means of ensuring that law enforcement agencies and security forces did not participate in an investigation into an act of enforced disappearance when one or more of their officers were suspected of involvement in the offence, had used their discretion to delegate the task of investigating the act to another law enforcement agency.

12. **Ms. Lochbihler** (Country Rapporteur) said that she wished to hear more about the steps taken by the State party, upon receiving a request from the Committee for information on a disappeared person who was the subject of a request for urgent action, to develop a comprehensive strategy and establish a timeline for searching for the disappeared person and investigating his or her alleged enforced disappearance. Bearing in mind the Guiding Principles for the Search for Disappeared Persons (CED/C/7), the delegation might indicate whether such strategies were subject to a periodic review and how the State party ensured that they complied with due diligence requirements at all stages of the search process, that all staff participating in searches had the requisite professional competence and acted independently, and that search strategies included integrated, efficient and coordinated actions and were implemented using all necessary and appropriate means and procedures to locate the disappeared person and investigate his or her alleged enforced disappearance. It would also be helpful to learn more about the procedure by which the State party updated the Committee on the measures taken to give effect to the Committee's recommendations in respect of disappeared persons who were the subject of one or more requests for urgent action and about the results of those measures.

13. She would appreciate an update regarding urgent action No. 11/2014, concerning Mr. Khem Sophath, and to know on what basis it had been determined that the burned human remains found at a military base in May 2014 were not those of the disappeared child, whether the State party wished to receive technical assistance in using or gaining access to modern forensic technology and whether any member of the security or armed forces had been suspended or prosecuted in relation to that incident. She wondered what steps the State party had taken to develop an effective search and investigation strategy for cases of enforced disappearance and other gross human rights violations, in line with the benchmarks for the implementation of human rights annexed to the recent report of the Special Rapporteur on the situation of human rights in Cambodia (A/HRC/54/75). She would also welcome an update regarding urgent action No. 897/2020, concerning Mr. Satsaksit Wanchalearm, and be interested to hear about the steps taken and lessons learned in the light of closed urgent action No. 782/2019, concerning Mr. Osman Karaca, who had been deported from Cambodia after having been subjected to short-term enforced disappearance, in order to prevent similar cases from occurring in the future.

The meeting was suspended at 3.45 p.m. and resumed at 4.05 p.m.

14. **A representative of Cambodia** said that, while civil society organizations had not been consulted specifically during the preparation of the initial report of Cambodia, the working group of the Cambodian Human Rights Committee responsible for preparing the report had maintained an open-door policy and had welcomed comments and input from all relevant stakeholders. The national human rights institution would be an independent body, established by law, in accordance with the Paris Principles. To ensure transparency in drafting the bill on the organization and functioning of the national human rights institution of Cambodia, OHCHR had co-chaired 32 regional, national and international consultations

with relevant stakeholders, such as the ASEAN Intergovernmental Commission on Human Rights, the national human rights institutions of Indonesia, Malaysia and the Philippines, and the Asia-Pacific Forum of National Human Rights Institutions. Input had been received from academic institutions, the Bar Association of the Kingdom of Cambodia, associations of persons with disabilities, women, children, representatives of Indigenous Peoples and the general public.

15. **A representative of Cambodia** said that, as no cases of enforced disappearance had occurred in Cambodia since its accession to the Convention, the statistical information requested was not available.

16. **A representative of Cambodia** said that statistical information on crime was collected by a department of the Ministry of Justice, which was responsible for, inter alia, categorizing court judgments by type of offence.

17. **A representative of Cambodia** said that the Cambodian Human Rights Committee had not yet held discussions with relevant stakeholders regarding the possibility of the country's making the declarations recognizing the Committee's competence to receive individual and inter-State communications under articles 31 and 32 of the Convention, respectively. The Council of Ministers and the Ministry of Foreign Affairs and International Cooperation would need to assess the impact of making those declarations on the Government's obligations under other international human rights treaties. While the Constitution guaranteed citizens' right to liberty, there was no domestic law provision establishing in explicit terms the non-derogable nature of the right not to be subjected to enforced disappearance. A state of emergency as defined by the Constitution and the Law on the Management of the Nation in a State of Emergency had never been declared, and none of the measures that the Law authorized the Government to take during states of emergency, such as restricting freedom of movement, would create the conditions for enforced disappearance to occur.

18. The Extraordinary Chambers in the Courts of Cambodia had recognized crimes against humanity and inhumane acts through conduct characterized as enforced disappearance. In Case No. 002/02, the Supreme Court Chamber had ultimately found that the evidence provided by victims who had applied to become civil parties to the proceedings before the Extraordinary Chambers disclosed human rights violations that amounted to crimes against humanity and had affirmed the convictions of Nuon Chea and Khieu Samphân, leaders of the Khmer Rouge, for genocide and crimes against humanity, including inhumane acts through conduct characterized as enforced disappearance. At the conclusion of the proceedings before the Extraordinary Chambers, almost 30 civil parties had reported cases of enforced disappearance that had taken place before Cambodia had ratified the Convention. Although enforced disappearance was not established as an autonomous offence in Cambodian criminal law, the many other related crimes defined in the Criminal Code fulfilled the obligations of Cambodia under article 4 of the Convention.

19. **A representative of Cambodia** said that the Criminal Code and the Code of Criminal Procedure, which had been developed with assistance from international partners, allowed for the investigation, prosecution and punishment of the offence of enforced disappearance. Therefore, Cambodia would only consider incorporating enforced disappearance into its domestic criminal law as an autonomous offence when appropriate and would keep the Committee informed of any developments in that regard. The provisions of the Criminal Code under which the offence of enforced disappearance could be dealt with were listed in paragraphs 8 and 9 of the initial report of Cambodia.

20. **A representative of Cambodia** said that article 253 of the Criminal Code provided that any person who, without judicial authorization, unlawfully carried out an arrest was liable to imprisonment. Article 96 of the Criminal Code provided that, in imposing penalties, the court should consider the seriousness and circumstances of the offence, the accused's character, psychological state, means, expenses, motives and behaviour after the offence, especially towards the victim. Article 254 of the Criminal Code stated that, if the unlawful arrest, detention or confinement of a person was accompanied by torture or acts of cruelty, was followed by the unintentional death of that person, or was committed in an attempt to secure ransom or to demand the fulfilment of other conditions, the perpetrator would face

between 15 and 30 years' imprisonment. Title 3, chapter 2 of the Criminal Code listed the aggravating circumstances for offences, and articles 93 and 94 of the Criminal Code set out the mitigating circumstances from which defendants could benefit.

21. **A representative of Cambodia** said that Cambodia would expressly incorporate into its domestic criminal law the criminal responsibility of superiors as set out in article 6 (1) (b) of the Convention if and when enforced disappearance was incorporated as an autonomous offence. Article 28 of the Criminal Code defined an instigator of an offence as a person who gave an instruction or an order to commit the offence or caused the commission of an offence by means of a gift, promise, threat, instigation, persuasion or abuse of authority or power. Instigators were normally liable to punishment only if the offence was committed or attempted and would incur the same penalties as the perpetrator. Article 29 of the Criminal Code defined an accomplice as a person who knowingly, by aiding or abetting, facilitated the commission or attempt to commit an offence and provided that accomplices to an offence would incur the same penalties as the perpetrator.

22. As enforced disappearance was not an autonomous offence in Cambodian criminal law, the applicable minimum and maximum penalties would depend on the specific category of acts committed by the perpetrator, co-perpetrator, accomplice or instigator. The maximum penalty for offences that amounted to a crime against humanity or genocide was life imprisonment.

23. The term of limitation for criminal proceedings brought for felonies, misdemeanours or petty offences commenced from the moment when the offence was committed. However, under article 11 of the Code of Criminal Procedure, the term of limitation could be interrupted by an accusation or investigation regarding the offence, and the conclusion of that accusation or investigation could mark the start of a new term, which was applicable to all those involved in the case.

24. **A representative of Cambodia** said that the legal provisions applicable to persons present in the territory of Cambodia who were alleged to have committed an act of enforced disappearance abroad were set out in paragraph 27 of the replies to the list of issues ([CED/C/KHM/RQ/1](#)).

25. **A representative of Cambodia** said that articles 51 and 128 to 135 of the Constitution guaranteed the impartiality and independence of the judiciary and established that the judiciary was separate from the executive and legislative branches. The Supreme Council of the Magistracy, which was an independent constitutional mechanism presided over by the King of Cambodia and governed by the Law on the Organization and Functioning of the Supreme Council of the Magistracy, was responsible for ensuring that the judiciary remained independent and impartial.

26. The Law on the Organization of the Judiciary governed the appointment, transfer, discharge, suspension and removal of magistrates. Perpetrators of corruption were sanctioned under the Anti-Corruption Law. In accordance with article 132 of the Constitution, the King was the guarantor of the independence of the judiciary and was assisted by the Supreme Council of the Magistracy, which comprised, inter alia, the President of the Supreme Court and the General Prosecutor of the Supreme Court.

27. **A representative of Cambodia** said that the Anti-Corruption Unit was an independent body with the power to investigate, arrest and exercise other special powers established in the Anti-Corruption Law. The Anti-Corruption Unit, whose staff were judicial police officers, sought to combat corruption through a three-pronged approach: education, prevention and law enforcement.

28. **A representative of Cambodia** said that the members of the Royal Gendarmerie were judicial police officers who were competent to conduct criminal investigations under the Code of Criminal Procedure.

29. Article 220 of the Criminal Code stated that intentional acts of violence carried out to prevent victims from reporting an offence or from seeking reparation, and to prevent witnesses from testifying, were punishable by 2 to 5 years' imprisonment.

30. **A representative of Cambodia** said that, when a criminal complaint was filed, the Prosecutor's Office ordered the judicial police to conduct a primary investigation to determine whether a crime had taken place. If sufficient prima facie evidence was gathered, the prosecutor would then petition the investigating judge to open an investigation. The investigating judge was required to collect and consider evidence in an impartial manner and, on the basis of that evidence, decide whether to order a trial.

31. **Ms. Janina** said that she would be curious to know whether civil society had not been consulted during the preparation of the State party's initial report because it was uninterested in the Convention in particular or because it lacked awareness of the international human rights treaties ratified by the State party in general. She would welcome an indication as to when the bill on the organization and functioning of the national human rights institution of Cambodia would be signed into law and as to the level of financial support that the institution would receive from the Government in order for it to function effectively.

32. She would be grateful if the delegation could provide data on past human rights violations, such as the number of cases of enforced disappearance that had occurred during the Khmer Rouge regime, and further details of the process to be completed before the State party could decide whether to make the declarations provided for under articles 31 and 32 of the Convention, including the entity that would take the final decision.

33. She would like to encourage the State party to consider adopting specific domestic legal provisions to guarantee the right not to be subjected to enforced disappearance and to provide for the mitigating and aggravating circumstances listed in article 7 (2) of the Convention. It would be useful to know whether the State party's Criminal Code covered the scenario where a superior failed to exercise his or her full authority and control over a subordinate in order to prevent an act of enforced disappearance from occurring. She would welcome examples of the minimum and maximum penalties that could be imposed on perpetrators of acts of enforced disappearance.

34. The Committee would be interested to know which entity had the power to interrupt the term of limitation for criminal proceedings and whether an investigation into an act of enforced disappearance could be launched after the applicable term of limitation had expired. She would be interested to learn whether the State party, like the Committee, took the position that cases of enforced disappearance should not be tried by military courts. Lastly, she wished to know whether a formal complaint had to be filed in order for an investigation to be opened into an alleged case of enforced disappearance.

35. **Ms. Lochbihler** said that she would like to know whether the State party possessed the technical capacity necessary to set up a genetic database. It would be helpful to hear about the steps taken to combat corruption and the lack of transparency in the judiciary, and to know what measures the State party had taken or planned to take to restore respect for the rights of civil society and whether it intended to revise the Law on Associations and Non-Governmental Organizations.

36. **Mr. Diop** said that he would be interested to know whether the State party had any kind of register or database of involuntary or other types of disappearance that had taken place in suspicious circumstances and whether those disappearances were routinely investigated.

37. **Ms. Villa Quintana** said that she wondered what was preventing the State party from establishing enforced disappearance as a separate offence and from aligning its domestic criminal law with the international standards set by the Convention. She would be interested to know whether the State party agreed that, since many cases of enforced disappearance in Cambodia had only come to light years after the events in question had occurred, establishing a term of limitation for criminal proceedings could open the door to impunity.

38. She would welcome further details of the procedure for appointing judges and prosecutors, including how their suitability and impartiality were ensured in practice. It would be interesting to know which entity was responsible for investigating judges accused of corruption and whether the investigators assigned to such cases were independent of the judiciary.

39. She wondered what role prosecutors played in the inquisitorial process and whether a judge's decision to dismiss a case could be appealed. Was there a judicial body competent to review decisions to dismiss criminal complaints?

40. **Mr. Ayat** said that it would be interesting to know which one of the nine core United Nations human rights treaties the State party had yet to ratify and the reasons for which it had not yet done so. He would appreciate further information on the effect that an order given by a superior had on the criminal responsibility of a subordinate.

41. To a certain extent, a comparison could be drawn between enforced disappearance and genocide, since they were both crimes of a unique nature that could not be equated with other offences. Just as the offences of murder or assassination could never reflect the seriousness of genocide, the extreme seriousness of enforced disappearance could only be adequately captured if it was established as an autonomous offence in domestic criminal law and made punishable by appropriate penalties, as required by the Convention.

42. **Mr. Albán-Alencastro** said that he would like to know how the State party could, in practice, ensure respect for the principle of legality in cases of enforced disappearance, given that it was not defined as an autonomous offence in domestic criminal law. In other words, he wondered whether persons prosecuted under related provisions for acts amounting to enforced disappearance could not simply argue that the case brought against them violated the principle of legality. It would also be useful to learn what discretion judges had in determining which aggravating or mitigating circumstances would apply in cases of enforced disappearance. Lastly, he would be interested to know whether there was any way of bringing a perpetrator of enforced disappearance to justice for acts that had been committed over 15 years previously and that had never been investigated. How did the State party ensure that such a person did not effectively enjoy impunity for his or her actions?

43. **Mr. Ravenna** said that the State party might wish to consult the reports produced by Mr. Manfred Nowak in his former role as independent expert charged with examining the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearances. Mr. Nowak's work, which had, to some extent, helped to frame the International Convention for the Protection of All Persons from Enforced Disappearance, clearly illustrated the reasons why States must establish enforced disappearance as an autonomous offence.

44. The fact that the statute of limitations for any new cases of enforced disappearance that might occur would commence from the moment when the offence was committed and not from the moment when the offence ceased, even though the term of limitation for criminal proceedings could be interrupted, did not take into account the crime's continuous nature.

45. **A representative of Cambodia** said that the delegation had taken note of the Committee's comments concerning the need to define enforced disappearance as an autonomous offence in domestic criminal law. The Government maintained that the existing provisions of the Criminal Code provided citizens with adequate protection from enforced disappearance. It nonetheless looked forward to receiving the Committee's recommendations on the matter, to which it would give due consideration.

46. With regard to the urgent action cases that had been mentioned, the Turkish authorities had confirmed that they knew the whereabouts of Mr. Osman Karaca. Mr. Sum Mouen had fled following a visit from the authorities in relation to suspected illegal logging activities, but he had later been located in Phnom Penh and his case was not considered to have involved enforced disappearance. The delegation could offer no further information on the cases of Mr. Khem Sophath and Mr. Satsaksit Wanchalearm, since they remained under investigation and any related information was confidential. Neither was being treated as a case of enforced disappearance, however, since there was no evidence pointing to the involvement of State actors.

47. Under the Code of Criminal Procedure, the Royal Gendarmerie had the same investigative powers as the police. Although it was a branch of the armed forces, the Royal Gendarmerie was not obliged to refer the cases it investigated to the military courts. Unless they concerned actions by military personnel, any cases of enforced disappearance investigated by the Royal Gendarmerie could only be brought before a civil or criminal court.

48. As a general principle of law, the judicial police were given the discretion to decide which cases they referred for prosecution. If the investigating officer did not consider there to be reasonable grounds to believe that an offence had been committed, he or she could choose not to recommend the case for prosecution. Complainants nonetheless had the constitutional right to appeal such a decision before the Prosecutor General at the Court of Appeal.

49. **A representative of Cambodia** said that the judicial police had the authority to conduct a preliminary investigation into suspected criminal acts at their own discretion. However, they were obliged to keep prosecutors abreast of their investigations, particularly if they wished to make an arrest or carry out searches. There were also cases where the judicial police were instructed by prosecutors to conduct an investigation on their behalf and to report back with their findings. In cases where there were reasonable grounds to believe that an offence had been committed, the Minister of Justice and the Prosecutor General at the Court of Appeal also had the power to order the arrest and investigation of the person or persons involved.

50. **A representative of Cambodia** said that Cambodian law provided for the suspension from duty of a State official suspected of breaking the law or acting in an improper manner. The disciplinary sanctions for officials found guilty of such conduct were set out in the Law on Common Statute of Civil Servants.

51. The delegation was unaware of any time frame that had been set for the enactment of the bill on the organization and functioning of the national human rights institution of Cambodia. Many government departments were in the process of trying to push through reforms, and the bill in question was just one of many legislative proposals currently under review.

52. The Government was responsible for deciding whether Cambodia would make the declarations recognizing the Committee's competence to receive individual and inter-State communications provided for in articles 31 and 32 of the Convention, respectively. Such a decision could only be made once consultations had taken place with all relevant stakeholders, including the Ministry of Foreign Affairs and International Cooperation, which would announce any decision taken in that connection.

53. No domestic law provision explicitly prohibited the Government from derogating from its duty to protect persons against enforced disappearance during a state of emergency. However, the Law on the Management of the Nation in a State of Emergency listed the exceptional measures that the Government could take in those circumstances and there was nothing in the Law's provisions that could authorize the Government to commit acts of enforced disappearance.

54. **A representative of Cambodia** said that the Government was obliged to report to the National Assembly and the Senate on all measures taken in response to a state of emergency. It was the duty of the two houses to review and assess those measures with a view to ensuring that no personal liberties or constitutional rights would be violated as a result of their imposition. It was also explicitly stated in the Law on the Management of the Nation in a State of Emergency that public servants found guilty of abusing their authority or acting contrary to the law during a state of emergency would be held accountable for their actions.

55. **A representative of Cambodia** said that judges were given a certain level of discretion in respect of the penalties that they imposed on convicted persons.

56. **A representative of Cambodia** said that the Criminal Code provided for a number of sets of aggravating circumstances that applied to different categories of offences. For example, article 210 of the Code provided that torture and acts of cruelty were punishable by between 7 and 15 years' imprisonment. However, under article 211, the applicable prison sentence would be increased to between 10 and 20 years if the act was committed against an obviously vulnerable person such as an older person or a pregnant woman. Under article 213 of the Criminal Code, acts of torture or cruelty were punishable by lengthier prison sentences if they were committed by a public official in the performance of, or in connection with, his or her duties.

57. **A representative of Cambodia** said that a superior who contributed to the commission of an offence by acting as an instigator or an accomplice could be held criminally liable for his or her actions. A subordinate could not be held criminally responsible if he or she performed an act prescribed or authorized by law or if he or she performed an act ordered by a lawful authority, unless the act was manifestly unlawful.

58. **A representative of Cambodia** said that any public official who knew about a crime and failed to inform a competent authority was liable to imprisonment. Crimes against humanity were punishable by a maximum penalty of life imprisonment. Different maximum penalties applied depending on the nature and category of the offence in question, including offences related to enforced disappearance, such as unlawful confinement.

59. **A representative of Cambodia** said that, under the Law on the Organization of the Judiciary, citizens had the right to submit a complaint to the Supreme Council of the Magistracy or the Ministry of Justice if they had concerns regarding the impartiality or competence of a judge or prosecutor. Although investigations into such complaints had resulted in the imposition of disciplinary sanctions on many occasions, the specific details of those cases had not been made public. A number of judges and prosecutors had also been brought to trial on corruption charges. The judicial reforms undertaken to date were focused on streamlining the criminal justice system and on eliminating procedural irregularities.

60. **A representative of Cambodia** said that the Cambodian authorities took appropriate measures to investigate all crimes, including acts related to enforced disappearance committed by persons acting without the authorization, support or acquiescence of the State. However, according to the statistical data held by the Ministry of Justice, no investigations had been conducted into cases of enforced disappearance.

61. **A representative of Cambodia** said that details of all the judgments and sentences handed down by the courts were sent to a central authority. That information was categorized in accordance with the type of offence committed, and the resulting data were published and used, among other things, to prevent crime and to enforce the law.

62. **A representative of Cambodia** said that it was possible for the police to launch an investigation in the absence of a formal complaint. The Cambodian courts used a civil law inquisitorial system, under which the police had the duty to report flagrant crimes to prosecutors.

63. **A representative of Cambodia** said that judges conducted thorough investigations into all the cases submitted to them by prosecutors. The activities carried out as part of those investigations included interviews with accused persons, victims and witnesses, as well as cooperation with the national police and judicial police to ensure that judges had access to all available evidence. Appropriate steps were taken to ensure that all ongoing judicial investigations remained strictly confidential.

The meeting rose at 6.05 p.m.