



General Assembly

Distr.: General
21 September 2011

Original: English

Human Rights Council

Eighteenth session

Agenda item 10

Technical assistance and capacity-building

Role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights*

Report of the Secretary-General

Summary

The present report is submitted pursuant to Human Rights Council resolution 15/20, in which the Council requested the Secretary-General to report to Council at its eighteenth session on the role and achievements of the Office of the High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights.

* Late submission.

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–7	3
II. Support to prison reform.....	8–18	4
III. Fundamental freedoms and civil society.....	19–29	7
IV. Land and housing rights.....	30–42	9
V. Rule of law.....	43–51	12
VI. Public information and human rights education.....	52–57	14
VII. Assistance on reporting and follow-up under the human rights treaty bodies and the universal periodic review.....	58–60	15
VIII. Staffing and administration.....	61–62	16

I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 15/20. It describes the activities of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Cambodia during the period from July 2010 to June 2011.

2. During this period, the OHCHR programme of cooperation with the Government, civil society and the development community continued to focus on four priority areas: support to prison reform; the protection of fundamental freedoms and development of civil society; the protection of rights related to land and housing; and support for legal and judicial reform. A fifth area was added with the launch, in August 2010, of the OHCHR programme on promoting the legacy of the Extraordinary Chambers in the Courts of Cambodia (ECCC).

3. In pursuing the programme of cooperation, OHCHR continued to work with government partners in a spirit of constructive dialogue. As the activities reflected in the present report demonstrate, OHCHR has proven to be a sound source of technical expertise on human rights issues that continue to pose some of the most difficult challenges faced by Cambodia. The resolution of these issues will contribute to the country's development, and the sustainability of its social and economic development. The Secretary General remains convinced that OHCHR in Cambodia can continue to make a significant and valuable contribution beyond the term of its current mandate.

4. The Government's interaction with the United Nations human rights mechanisms continues to be of a high level. The Special Rapporteur on the situation of human rights in Cambodia undertook two missions to the country during the reporting period and has stated that he continues to enjoy frank, cordial and productive relations with the Government. The reporting of Cambodia to the treaty-based bodies is now almost entirely up to date, and the Government has sought advice from OHCHR in preparing for its dialogues with the treaty bodies in Geneva. The State's high human rights treaty ratification rate continued to grow with the coming into force of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in January 2011 – noteworthy, as it is the first individual complaints mechanism accepted by the country. Finally, the laudable acceptance by Cambodia of all 91 universal periodic review recommendations has been followed by a proactive government attitude to implementation, a process in which OHCHR is closely involved.

5. The legal and institutional framework of Cambodia has further developed, in some cases strengthening human rights protection, in others not. An ambitious legislative agenda includes draft laws on police, trade unions, acid attacks, associations and non-governmental organizations (NGOs) and other areas. Some of these draft laws raise concerns in terms of compliance with international standards. The Government is working to establish a national policy on legal aid, and the fundamental laws on the judiciary, pending since 1993, appear to be moving forward. The Government has shown an openness to OHCHR and United Nations input on these initiatives, which, if accepted, would serve to strengthen human rights protection generally. Other positive developments in the reporting period include several milestones at the ECCC. The first verdict of the Tribunal was rendered in July 2010 and is now the subject of the first appeal to the Supreme Court Chamber. The Tribunal marked a second milestone with the opening of the trial in case 002 in January 2011. OHCHR welcomes these and other positive developments in Cambodia and remains committed to supporting the Government in implementing these legislative and policy advancements.

6. The human rights situation in Cambodia however remains uneven, and in some quarters is clearly regressing. The Government's sensitivity to criticism, in particular on human rights issues, stifled debate on issues of national importance. In line with its mandate, OHCHR has long maintained an approach of raising human rights concerns directly with duty bearers, with a view to preventing violations and seeking resolutions to often complex situations. In its approach, OHCHR has built strong partnerships with many parts of Government. In the relatively few cases where such dialogue is deemed exhausted or proves ineffective, there may be a need to raise matters publicly. Such public advocacy is an integral part of the mandate of the High Commissioner for Human Rights. In recent years, however, authorities in Cambodia have reacted strongly and negatively to individuals and institutions raising these challenges publicly, including the United Nations and donors. In the case of OHCHR, the Government's reaction to comments by the High Commissioner's Representative on matters of serious human rights concern during the reporting period resulted in difficulties in cooperation, although a significant degree of cooperation had resumed at the time of writing.

7. In addition to freedom of expression, OHCHR has monitored disputes related to land across Cambodia. Such disputes, the incidence of which appears to be increasing, remain one of the principal sources of concern for the Government and large parts of the population, and represent a major human rights challenge in the country. During the reporting period, there were numerous occasions where affected communities, land activists and human rights defenders voiced their concern over chronic land disputes through public protest, demonstrating discontent with the current methods and mechanisms available for resolving land disputes.

II. Support to prison reform

8. OHCHR has continued working collaboratively with the General Department of Prison (GDP), the Ministry of Interior and its other partners in the Government, development agencies and NGOs, to support prison reform in Cambodia. Support was provided in the areas of legal reform, training of prison personnel, prison monitoring and improving prison conditions and prisoners' treatment, with a focus on water and sanitation.

9. A revised draft law on prisons was shared with OHCHR by the Ministry of Interior at the end of 2010; the draft appeared to have taken into consideration some of the comments previously provided by OHCHR, including attention to the specific needs of women and juveniles, though other draft provisions still fell short of international human rights standards, such as the absence of a clear framework governing the use of force in prison (i.e. limited to situations where it was strictly necessary, and proportionate to the situation). GDP invited OHCHR to continue to provide legal advice upon the future adoption of the law on prisons, for the review of secondary legislation and prison procedures, in line with the future law and international human rights standards. These, for instance, include the new United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, adopted by the General Assembly in December 2010. The female prison population has been growing at a faster rate than the overall prison population in Cambodia, and while accommodation separate from men is provided in all prisons, the specific needs of women and girls in prison remain to be adequately addressed.

10. In consultation with the Ministry, OHCHR developed proposals for a revised Royal Decree on the Separate Status of Prison Staff. The current Royal Decree provides that prison officers are recruited in the second-lowest civil servant category and does not provide for any mechanism for promotion to a higher category. This acts as a disincentive to apply for jobs as prison officers, undermines the motivation of staff already employed,

and defeats the idea of training as a tool for professional development. The proposal for a revised Decree seeks to address these concerns. It is hoped that improved terms of service will contribute to the professionalization of prison staff, with positive repercussions on the management of prisons and the treatment of prisoners. Under the auspices of the Prison Reform Support programme, OHCHR further seeks to assist in developing a system for professional prison staff training, while mainstreaming into the curriculum human rights principles, gender issues and good prison practices respectful of human rights. OHCHR developed a proposal for the new Sub-Decree on Prison Staff Recruitment, Selection and Training. It also prepared a detailed syllabus for the initial training of prison staff as part of a larger capacity-building effort. A one-year Training of Trainers programme was designed for prison trainers, and funds were secured from OHCHR and AusAID to start in the second semester of 2011.

11. In collaboration with the International Labour Organization (ILO), OHCHR also produced a briefing note on international law governing prison labour, including human rights, labour and trade law, and brought to the attention of GDP and the wider Government several pitfalls in developing prison industries. Prison workshops can provide prisoners with work and rehabilitation opportunities, and can be a source of income generation for both prisoners and the prison system. However, it is crucial for the export economy of Cambodia that prison industries, in particular in the garment sector, comply with the State's international obligations in this area.

12. Regular monitoring of prisons is an essential tool to ensure the promotion and protection of prisoners' rights. The OHCHR programme has continued to critically assess conditions of detention and prisoners' treatment, identifying local good practices for promotion nationwide, and analysing specific problems in order to address them systemically. It has also drawn the attention of the authorities to some individual cases. OHCHR carried out visits in line with the internationally agreed standard visit methodology, including unfettered access to prisons and prisoners, and reported confidentially to the authorities. During the reporting period, OHCHR conducted four initial visits to prisons in Ratanakiri, Kratie, Stung Treng and Pailin, as well as follow-up or other visits to prisons in 10 provinces and the four national correctional centres, amounting to coverage of about 80 per cent of the prison population countrywide. In addition to interventions on individual cases, the OHCHR monitoring led to a number of follow-up activities to help address the issues identified.

13. One such issue relates to the need for better communication between the courts and the prisons. Cambodia is faced with a pretrial population that increased from 26 per cent of the entire prison population at the end of 2007 to 38 per cent as at end May 2011; a backlog of cases at the Court of Appeal; and first instance courts that do not always share all necessary documents with the prisons for the proper implementation of detention orders and criminal sentences. In this context, it is crucial that prison management become more proactive in following up with the courts and managing the prison registries to reduce and prevent arbitrary detention. OHCHR supported GDP in carrying out a national census of prisoners whose appeal was pending, through the design of data collection tools in consultation with the Court of Appeal, training for relevant staff on managing prison registries and on the guidelines for the census, and the processing of the collected data. The results of the census (over 1,700 prisoners with appeals pending, with respect to over 2,300 cases) are being analysed and will be tabled later in 2011. OHCHR further promoted increased access to legal aid for prisoners in Cambodia, through support to legal aid organizations, the development of advocacy tools in Khmer, and preliminary discussions with stakeholders involved in legal and judicial reform, the Bar Association of Cambodia and legal-aid NGOs.

14. Another issue is the continued use of certain restraints despite their prohibition under the domestic legal framework. At a seminar on health in prison held under the joint auspices of the Ministry of Health and Ministry of Interior in September 2010, some directors of provincial hospitals complained that prisoners were chained to beds. OHCHR followed up with the authorities and other partners in Pursat province, and contributed to securing a hospital room for sick prisoners. Prisoners in need of hospitalization can thus be transferred to the hospital in such a way that their safe custody is ensured and their human dignity is respected. OHCHR has been seeking to assist in rolling out similar solutions in other provinces. It also liaised with other offices and agencies of the United Nations in Cambodia – including the United Nations Office on Drugs and Crime, the World Health Organization, and the Joint United Nations Programme on HIV/AIDS (UNAIDS) – as well as with the International Committee of the Red Cross and several medical NGOs, to continue promoting improved prisoner access to health services.

15. The level of overcrowding remains a concern, with a total prison population of over 15,200 prisoners as of May 2011, against an estimated prison capacity of around 8,500. GDP officials associated the increased number of prisoner deaths in 2010 (83, compared to 60 in 2009) to the level of overcrowding, as it contributes to the spread of transmittable diseases, puts enormous strains on the sanitation and health facilities, and increases stress among the prisoners.

16. Although prison authorities have no control over the number of people sent to their custody, they have the power to manage conditions inside the prisons to try and alleviate the impact of overcrowding. Enabling the prisoners to leave their congested cells during day time, and granting regular and sufficient access to fresh air to all prisoners without discrimination, are two key strategies available to the prison authorities, which still need fuller implementation. OHCHR worked with GDP to facilitate increased outdoor access and enable prisoners to stay outside of their cells while addressing concerns pertaining to security and good order. OHCHR also supported GDP in developing rehabilitation activities that provide prisoners with opportunities to spend useful time outside of their cell; this included supporting training for the reinforcement of prison farming in three correctional centres in 2010-2011, and contributing to the development of a project to facilitate education and literacy programmes in prisons, through the provision of libraries in 2011.

17. OHCHR maintained a strong focus on assisting the Government in implementing its human rights obligations pertaining to access to safe drinking water and sanitation in prison. Water supply support ranged from installing rainwater harvesting systems or drilling additional wells, to improving existing water connections, increasing water storage capacities, and providing drinking water filters. Sanitation support included building additional latrines to meet the needs of an increased prison population, improving septic tanks and constructing garbage tanks. The programme also pioneered the development of biogas in the Cambodian prison system with the first biogas digester established in Siem Reap prison in 2011. The programme looked at wider issues in sanitation: windows were opened in detention buildings in two prisons to improve light and ventilation in the cells, and hygiene and cleanliness items were distributed during visits. Prison staff needs were also taken into consideration where possible, for instance through the refurbishment of shelters or the building of latrines for staff on duty.

18. As the Government pursued its programme of construction in response to prison overcrowding, OHCHR continued its advocacy for the official adoption by the Ministry of Interior of the Minimum Design Standards for Prison Construction; several improvements supported by OHCHR could have been avoided in the first place in recently built prisons, if minimum standards had been adhered to during design and construction. This would have

also alleviated the burden on prison authorities to operate in substandard facilities and had a positive impact on conditions of detention.

III. Fundamental freedoms and civil society

19. The Fundamental Freedoms and Civil Society programme is aimed at strengthening the capacity of individuals and organizations to exercise their fundamental freedoms of expression, association and assembly. The Programme works with Government, civil society and development actors to develop and monitor the implementation of legislation and policies. It focuses on the protection of individuals, advocacy, and capacity-building for both government and civil society. The vibrant civil society that Cambodia now enjoys is one positive legacy of the country's peace process. NGOs, in particular, take on a significant part of the responsibility for delivering social services across the country. They also serve as catalysts for social change, and are increasingly important monitors of the actions of the executive and private sector.

20. The Programme continued to provide training for government and civil society on monitoring and documenting human rights violations. In August 2010, in collaboration with the Cambodian Human Rights Action Committee, OHCHR held a one-day workshop on International Covenant on Civil and Political Rights shadow reporting for 34 participants from 20 NGOs working in the field of civil and political rights. In September 2010, OHCHR concluded its training course for members of the Cambodian Human Rights Committee (CHRC) on reporting under the International Covenant on Civil and Political Rights, which resulted in the completion of a first draft of the report on the State party's implementation of the Covenant. It also organized and conducted a training on human rights monitoring and investigation for 40 human rights NGO representatives. In November 2010, technical staff of the human rights commissions of both the National Assembly and the Senate, as well as CHRC staff, were trained on the methodology of human rights monitoring, analysis and evaluation. Another Human Rights Monitoring and Fact-Finding Skills training was provided to 28 human rights defenders in Battambang in March 2011.

21. OHCHR strengthened its focus on the right to access to information and on press freedom. It worked with journalists and journalist associations, United Nations agencies, NGOs and donors on ways to improve the professional ethics of journalists and the protection of their profession. In September 2010, OHCHR participated in the Press Council of Cambodia's training course on human rights reporting, held in Kampong Cham for 25 journalists from three provinces. OHCHR also supported the Cambodian Centre for Independent Media's Freedom of Expression for Journalists training, held from 25-28 February 2011, in which 30 journalists and media persons participated. Together with the United Nations Educational, Scientific and Cultural Organization (UNESCO) and local partners, OHCHR commemorated World Press Freedom Day on 3 May 2011. The event was attended by Government representatives and over 250 journalists, media persons and students.

22. Together with the United Nations Development Programme, UNESCO and the Advocacy Policy Institute, OHCHR continued to advocate for the drafting and adoption of an access to information Law. OHCHR was involved in analysing the current legal framework relating to access to information. Despite early progress, during which United Nations support for drafting such a law was welcomed by the Government, a draft policy framework initiated in 2007 has not yet been released by the Government. In April 2011, OHCHR, its partners and the Community Legal Education Center organized a one-day national consultative workshop on access to information entitled "The Need for a Legal Framework and Public Information Disclosure".

23. OHCHR monitored demonstrations involving community representatives, housing rights activists, trade union leaders and civil society members and made protection interventions where necessary to allow peaceful protests to proceed, avoid violence, and where this failed, secure medical treatment for the injured. OHCHR largely enjoyed open and professional relations with law enforcement officials on the ground. Protest gatherings in the context of disputes related to land or industrial action were routinely refused permission, and in some instances resulted in violence by both police and protesters. On several occasions, permission was denied on the grounds of a threat to public order, as was the case with requests by teachers to celebrate International Teachers Day and by a women's organization to commemorate International Women's Day.

24. OHCHR continued to cooperate with the Ministry of Interior and other actors to contribute to fostering an environment whereby citizens can assemble and peacefully discuss and express their views. The implementation guide on the new Law on Peaceful Demonstrations, developed with the Ministry of Interior and the East-West Management Institute, was published in 2011. Its purpose is to provide practical guidance to the authorities, civil society members and end-users to implement the law in accordance with international human rights standards. A draft training of trainers manual on the Guide is being completed with a view to rolling out trainings across Cambodia with the Ministry of Interior.

25. Charges of defamation, disinformation and incitement continued to be brought against individuals peacefully expressing their views, or disseminating information. The ability of individuals and groups to peacefully exercise their rights to freedom of expression, freedom assembly and freedom of association continues to be challenged. OHCHR also monitored high-profile court cases and those affecting ordinary Cambodians. In July 2010, OHCHR monitored a defamation case against opposition member of Parliament Mu Sochua, who was convicted of defaming the Prime Minister and fined despite the lack of evidence of damage to reputation, and other deficiencies in the trial. The High Commissioner opined that the conviction showed "an alarming erosion of both freedom of expression and the independence of the judiciary in Cambodia". In February 2011, a villager and a human rights defender were prosecuted for expressing the view that a land dispute should be settled by the courts before a company cleared the disputed land. In December 2010, a World Food Programme employee was arrested, in one of the first cases under the new Penal Code, and charged with "incitement to commit a felony" for printing two alleged "anti-government" articles from a website and sharing them with his colleagues. OHCHR was unable to monitor proceedings which, from arrest to conviction and imprisonment, took place within 72 hours over the course of a weekend. A recurring feature of a number of these proceedings is the lack of evidence to support the charge and, in defamation cases, a total lack of evidence as to the damage allegedly caused. In one case (that of Moeun Sonn referred to in previous reports), an appeal against a conviction on disinformation resulted in the conviction being changed to one of incitement, with no notice to the appellant nor his lawyer. A notable development was the release of Thach Saveth who had spent almost seven years in prison for the alleged murder of a trade union leader despite a lack of credible evidence and procedural irregularities. The conviction by the trial court was overturned by the Supreme Court in March 2011. These cases are representative of those monitored by OHCHR during the reporting period.

26. A proposal by OHCHR to run a series of seminars for the judiciary on the application of international human rights law to interpreting the Penal Code in the area of freedom of association has in principle been accepted by the Ministry of Justice.

27. OHCHR monitored, investigated and undertook protection interventions in a large number of cases during the reporting period, many involving communities of hundreds of people. OHCHR undertook sustained interventions in the following cases: one in which a

Buddhist monk was harassed by local and religious authorities for his peaceful advocacy for resolutions of land disputes; a series of four cases in which the alleged distribution of “anti-government” leaflets resulted in charges of disinformation and incitement against 17 people, 12 of whom remain in prison; and the case of Boeung Kak community members arrested for protesting in relation to a land dispute in front of the Phnom Penh Municipal Hall. OHCHR identified a trend of increasing legal actions against trade unionists and workers and investigated threats against trade union leaders who participated in a strike by garment workers in September 2010. As a result of their participation in the strike, a number of trade union members had charges of incitement filed against them, which were later dropped upon the Prime Minister’s request. Over 600 union members were suspended from work, and not all have been reinstated.

28. Another form of protection work undertaken by OHCHR consisted of monthly visits to the Prey Speu Social Affairs Centre outside of Phnom Penh. Although there remain serious concerns over how individuals (including children, the mentally ill and homeless) are detained in these centres without judicial supervision, OHCHR has noted reductions in allegations of ill-treatment at the Centre since monitoring began. Building on this experience, OHCHR, the United Nations Children’s Fund (UNICEF) and the Ministry of Social Affairs, Veterans and Youth undertook an assessment, completed in June 2011, of social affairs, drug treatment and youth centres countrywide with a view to providing a firm factual basis for future interventions.

29. In December 2010, the Government released a draft law on associations and non-governmental organizations, which has been on its legislative agenda since 2008. A stakeholders’ consultation organized by the Government in December 2010 allowed civil society to raise concerns over the law’s potential impact on the ability of Cambodian and foreign NGOs to operate freely and efficiently, such as the mandatory registration regime and a lack of an appeal process. A second draft released in March 2011 included new positive and negative elements. OHCHR welcomed the fact that community-based organisations were no longer covered under the draft law, but reiterated concerns about the mandatory registration regime, the lack of an appeals mechanism in the registration process and the vagueness in many of the key terms used. Since then, a coalition of almost 600 NGOs has called for major revisions of the draft, which they see as “unacceptable”. The donor community has also expressed concern. OHCHR provided the Government with three briefs containing technical advice on the compatibility of the draft law with Cambodia’s human rights obligations. A draft law on trade unions also raised freedom of association and assembly concerns on the part of trade unions themselves. Both draft laws were under review by relevant Government ministries at the time of writing.

IV. Land and housing rights

30. Under its Land and Housing Rights Programme, OHCHR works with all stakeholders to monitor, promote and implement the right to adequate housing and an adequate standard of living, prevent forced eviction, and realize security of tenure. Through the Programme’s monitoring component, OHCHR intervenes in relation to threats to, and harassment, and criminalization of communities and individuals claiming their rights to land and housing and other human rights defenders. OHCHR works with the Government, civil society organizations, private companies, communities, United Nations agencies and multilateral and bilateral development actors to strengthen the legal framework protecting land ownership and housing rights, and improve their effective and fair implementation.

31. The Programme’s activities take place in a context of ongoing and widespread historical land disputes, persistent land grabbing by powerful individuals or groups, economic land concessions (ELCs) for primarily agro-industrial purposes (such as rubber

and cassava plantations), mining and oil extraction, infrastructure upgrades and industrial power generation (e.g. dams), and rapid high-end urban development.

32. The lack of procedural and legal safeguards administered when implementing some projects has created a climate of unregulated development characterized by a lack of transparency, consultation and inclusive planning, which is unsustainable. At the root of these trends is poor enforcement of and compliance with the State's relatively well-developed domestic legal framework governing land issues and the right to adequate housing, including the 2001 Land Law, the 2005 Sub-decree on Economic Land Concessions, and the 2010 Law on Expropriation. For example, ELCs accorded by the Government often do not comply with the requirements to consult with affected communities or to conduct environmental and social impact assessments.

33. Consequently, demonstrations and protests in the capital and provinces are common, as a growing marginalized and dispossessed sector of the population attempts to have a voice and take part in the decision-making process. Women are often on the frontlines at protests, as communities surmise that women are less likely to be targeted by authorities, but there have been cases of violence against women in the context of demonstrations, and of arbitrary detention of female protesters. OHCHR has repeatedly intervened to secure the release of persons wrongfully accused or held arbitrarily in detention due to their role in demonstrations, and has provided good offices to facilitate dialogue between communities and authorities to help them reach negotiated settlements.

34. OHCHR works to assist in the further development of procedural and legal safeguards, as well as to promote their implementation. In early 2010, the Government released a draft housing policy, which is awaiting approval by the Council of Ministers. OHCHR supported the policy's vision that all citizens have a right to adequate housing and its recommendation to impose a temporary moratorium on the eviction of dwellers in informal settlements, and provided technical input to the Ministry of Land Management, Urban Planning and Construction in this process.

35. Following the Government's adoption of the Circular on resolution of temporary settlements on illegally occupied land in the capital, municipal and urban areas (Circular 03) in May 2010, OHCHR has been supporting technical assistance efforts for communities to map their territorial boundaries and basic services and infrastructure needs, and to understand their tenure rights in the Cambodian legal framework. These efforts commenced with 12 communities in Battambang province and are likely to be extended to communities in Phnom Penh and Siem Reap. While it offers some solutions to support settlers to improve their housing and ensure minimum standards for relocation, Circular 03 does not provide for a mechanism that determines the legality of urban settlements subject to the Circular, and does not provide for a fully developed dispute mechanism in case of disagreement.

36. The complexities of the legal framework and accompanying procedural requirements in Cambodia have put indigenous communities at particular risk of land grabbing and of losing their livelihood due to deforestation. Progress on land titling has been slow since the adoption of the Sub-Decree on indigenous land registration in April 2009. In order to help protect the traditional livelihoods of indigenous peoples, OHCHR supports networks of Government, United Nations organizations, civil society and communities to strengthen their capacity to use the domestic legal framework with regard to security of land tenure, through trainings and the provision of technical advice.

37. OHCHR provided financial and institutional support so that seven villages inhabited by the Phnong (Bunong) indigenous peoples in Bousra commune, Mondulhiri province could undergo registration as legal entities with the Government to enable them to apply for collective land titles in the future. OHCHR also monitors the project, whereby more than

800 families could protect themselves against the threat of ELCs, in cooperation with relevant ministries and the ILO.

38. The judiciary has not been effective in upholding the rights of many people affected by disputes concerning land ownership. Various communities have indicated informally that they favour non-judicial mechanisms, as they lack faith in the court system. The existing mechanisms for land disputes, such as the cadastral commissions and the National Authority for Land Dispute Resolution, are reportedly lacking in resources and prone to political interference. Coupled with an indefinite number of claims arising from a lack of documentation or official land title, the result has been an unabated case load of land disputes among individuals, communities, private companies and the Government.

39. During the reporting period, OHCHR was called for assistance in 42 land disputes between affected villagers and companies, 18 of which related to ELCs,¹ (including seven on indigenous land) while 24 disputes were related to other land transactions² (two on indigenous land). OHCHR interventions took the form of assistance and legal advice to provincial and local authorities, as well as to affected communities and the NGOs supporting them. Upon request, OHCHR also mediated or facilitated discussions or negotiations among stakeholders to resolve disputes.

40. The rights of NGOs and communities involved in land disputes or facing forced eviction to freedom of expression and assembly are often curtailed. Criminal charges continued to be brought against villagers and human rights defenders. In relation to the 42 dispute cases assisted by OHCHR, 116 people were arrested and detained and questioned by the court, mostly on charges of dissemination of disinformation and incitement. OHCHR

¹ These cases include but are not limited to the following: in Mondulakiri province, Pichreada district, Bousra commune, a dispute between 800 families of the Phnong (Bunong) indigenous community and Socfin-KCD and partners; in Kratie province, Snoul district, Sre Char commune, a dispute between 224 families and the CIV Development Company; in Kampong Speu province, Tpong district, Amleang commune, a dispute between 1,000 families and the Phnom Penh Sugar Company and Kampong Speu Sugar Company; in Pursat province, Kravahn and Krakor districts, two disputes between 5,000 families and Pheapimex, and in Veal Veng district, Thmar Da commune, a dispute between 57 families and the MDS company; in the city of Phnom Penh, Boeung Kak Lake community, a dispute between 3,000-4,000 families and Shukaku Inc.; and in Battambang province, Phnom Prek district, Sampov Loun commune, a dispute between 1,203 families and the Soun Mean Sambath company.

² These cases include but are not limited to the following: in Ratanakiri province, Oyada district, Pate commune, Kong Yuk village, a dispute between 46 families of the Charay indigenous community and the wife of a Government official; in Siem Reap province, Chikreng district, Kampong Kdei village, a dispute between 250 families and an individual business owner; in Kandal province, Kean Svay district, Samrong commune, a dispute between 149 families and the deputy governor of Kratie province; in Kampong Chhnang province, Kampong Tralach district, Taches commune, Lorpeang village, a dispute between 64 families and the KDC International Company; in Kampong Speu province, Oudong district, Damnang Raing and Phnom Touch villages (border of Kandal), a dispute between 88 families and the Meng Keth Company; in Battambang province, Battambang town, a dispute between 55 families and the Asian Development Bank (ADB) Railway Rehabilitation Project, in Prek Preah Sdach village, a dispute between 1,000 families and provincial authorities (garden project), in Bovil district, Ovoipreng village, a dispute between 38 families and an individual business owner, in Samlot district, Kampong Lpov commune, a dispute between 78 families and a military operation in region 5, and in Kos Krolor district, Daun Bar and Preah Phos communes (three cases), a dispute between 550 families and multiple military personnel; in Banteay Meanchey province, Poipet town, a dispute between 943 families and the ADB Railway Rehabilitation Project; in Phnom Penh city, Borei Keila community, a dispute between 1,776 families and the Phan Imex Company, and in Sen Sok district (formerly Russei Keo district), a dispute between three families and an individual business owner.

advised the relevant authorities in several instances to ensure due process of law, which resulted in the release of several of these individuals.

41. For forcibly evicted communities, OHCHR continues to advocate for the adoption of a policy on resettlement to improve current practices. This recommendation is in part based on an extensive assessment conducted by OHCHR, entitled “Eviction and resettlement in Cambodia: human costs, impacts and solutions,” which examines several examples of evictions and relocation, both positive and negative, and analyses their impacts on the living conditions of the affected families with regard to access to housing, water, education and health care, and on the opportunity to generate income and recreate a livelihood. The particular effects on women and children are highlighted. The study has been presented to the Government as a basis for discussion on a resettlement framework that builds on domestic law and local and international good practices.

42. OHCHR continues to incorporate general principles on business and human rights into its Land and Housing Rights programme, and advocates for State responsibility in relation to human rights abuses by third parties, including private enterprises. In addition, OHCHR works with selected companies to encourage them to apply human rights standards to their activities. Future activities will build on the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, drafted by the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises and endorsed by the Human Rights Council at its seventeenth session (see Council resolution 17/4).

V. Rule of law

43. Respecting the rights of individuals to have access to justice and to participate fully in the democratic process remains a cornerstone of the Government’s legal and judicial reform strategy. Yet despite this commitment, progress towards reforming the court system, strengthening the independence of institutions and promoting a transparent legislative process remained slow during the reporting period. Systemic challenges in the justice system, including a lack of resources at the disposal of the Ministry of Justice and courts, ongoing corrupt practices, and the widespread influence of the executive in the court system, continue to pose significant challenges to securing public trust in the legal system and entrench a cynicism on the part of NGOs towards the Government. Despite these setbacks, the OHCHR Rule of Law programme continued to support the work of both the Government and civil society to promote and protect Cambodians’ civil and political rights within the State’s existing legal framework, as well as to encourage ongoing reform of State institutions and the ratification of human rights instruments.

44. A key role of OHCHR is to support the strengthening of the rule of law by developing the legal basis for the promotion and protection of human rights through the adoption of international standards under Cambodian law. In 2010, the programme prioritized working with the Government to move towards the ratification of individual complaints mechanisms under the human rights treaties to which Cambodia is party and eventual ratification of the Convention on the Rights of Persons with Disabilities. The programme supported organizations working with persons with disabilities to adopt a rights-based approach to their work. This included a training for the Cambodian Disabled People’s Organization in June 2011, and the production of accessible versions of human rights documentation, including in Braille.

45. Complementing its work on the adoption of international instruments, OHCHR continued to assist in making laws publicly available and accessible, as well as to increase

the accessibility of the laws in compilations for legal and judicial professionals. More information about these efforts is set out in section VI below. OHCHR also continued to support efforts towards increasing access to justice for juveniles and women, and ensuring that their rights are upheld in the criminal justice system. This included conducting joint trainings with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-WOMEN) for women's NGOs to ensure they are fully cognizant of their rights under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, as well as advocating for the adoption of a law on juvenile justice. Additionally, OHCHR supported the Joint Working Group on Juvenile Justice in its efforts to promote and protect the rights of children and youth.

46. Under the programme, OHCHR also promoted external scrutiny by independent State institutions. Independent institutions are crucial to human rights protection: they provide the critical impartial advice needed to arrive at policymaking decisions on the basis of accurate and unbiased information. The programme is aimed at supporting the creation of two independent institutions: a national preventive mechanism (NPM) on torture, as required by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and a national human rights institution (NHRI). OHCHR continued to provide internal advice to the inter-ministerial body established as a precursor to the creation of an NPM, including by assisting in its consideration of various options for an independent institution, in close cooperation with the Ministry of Interior on this issue. Progress towards the establishment of an NHRI slowed significantly after steps towards its creation had been made during the reporting period. Discussions between NGOs and the Government on a draft law for its creation have largely resulted in consensus; NGOs would now like to see the draft made the subject of a public consultation process. OHCHR supports open dialogue on the creation of an NHRI, including the consideration of options for public outreach on the issue.

47. OHCHR continued to assist in strengthening the capacity of national actors to monitor human rights violations. This included providing support to the Prosecutor General to conduct unannounced visits to places of detention. OHCHR also responded to several instances of alleged police brutality and torture in prisons and places of custody, adopting a targeted approach to intervention aimed at complementing existing efforts undertaken by NGOs and development partners. This included facilitating dialogue with members of the judiciary and government counterparts to ensure that duty bearers adhere to due process. Over 15 cases were investigated by the Battambang regional branch of OHCHR, dealing with instances of alleged abuse in the north-east provinces of Cambodia. In addition, the programme in Phnom Penh continued to intervene in cases of alleged brutality both in the capital and in surrounding provinces.

48. During the reporting period, a long-standing OHCHR project to help prevent arbitrary detention by increasing the capacity of the Court of Appeal was implemented. To date, a lack of such capacity has been a major cause of excessive detention, since many accused people wait excessive periods for appeals to be heard. OHCHR has advocated for the building of new courtrooms for the Court of Appeal as the first step in a plan to increase its capacity (further steps include the appointment of additional judges, better file management and the decentralization of the court). Following consultations with the President of the Court of Appeal and various donors, funding was secured from the Australian Agency for International Development (AusAID) for a new building; construction began in the second quarter of 2011. OHCHR is also contributing financially to the project.

49. The Penal Code, replacing the criminal provisions enacted by the United Nations Transitional Authority in Cambodia in 1992, came into force in December 2010, marking the complete adoption of the criminal codes of Cambodia. OHCHR has emphasized the

need for independent monitoring of the criminal justice system. Local monitors found improvements in legal representation and in the handling of evidence in cases in Phnom Penh Municipal Court and the nearby Kandal Provincial Court: legal representation in cases where accused were charged with felonies increased from 95 to 97 per cent, and the number of trials in which evidence was presented increased from 77 to 96 per cent. However, a continued lack of data relating to cases in the other provinces made it difficult to assess accurately the extent to which accused persons' rights were being upheld nationally. OHCHR is supporting the monitoring of two additional courts – one of which deals with a prevalence of trafficking cases (Banteay Meanchey) and another which deals with cases relating to land and housing rights, particularly in relation to indigenous peoples (Rattanakiri), in order to improve access to information about the conduct of criminal trials and provide greater monitoring of currently contentious human rights issues. OHCHR planned, with the Ministry of Justice, a review conference on the implementation of the Cambodian Criminal Procedure Code to be held four years after its coming into force. At the Ministry's request, this conference has been postponed until later in 2011.

50. The ECCC continued its proceedings in 2010 and 2011, with the Trial Chamber issuing its verdict in its first case (Case 001) against Kaing Guek Eav, alias Duch, on 26 July, 2010. Duch was sentenced to 35 years' imprisonment for war crimes and crimes against humanity committed at S-21, a security prison located in the heart of Phnom Penh. Appeal hearings in the case were held in March 2011. At the same time, the Closing Order in Case 002, against Nuon Chea, Khieu Samphan, Ieng Sary and Ieng Thirith, was issued in September 2010, sending the case to trial. Initial hearings in that case were conducted from 27-30 June 2011.

51. OHCHR continues to follow the ECCC proceedings. In keeping with its 2008 policy document, *Rule-of-Law Tools for Post-conflict States: Maximizing the Legacy of Hybrid Courts*, OHCHR has encouraged the use of good practices from the Court and seeks to ensure that the ECCC leaves a positive legacy in the Cambodian justice system. The programme, which has the strong support from Sok An, Deputy Prime Minister and Chair of the Khmer Rouge Tribunal Task Force, seeks to ensure that the knowledge, skills and practices obtained by Cambodian judicial and legal professionals working at the Court translate into tangible and systemic changes in practice in the domestic criminal justice system. Together with the Council for Legal and Judicial Reform and the ECCC Office of Administration, OHCHR is implementing a series of judicial round tables, which are aimed at providing a forum for discussion among Cambodian judges and prosecutors about ways in which the practices of the Court can be used to further the Government's legal and judicial reform strategy (as identified in its National Strategic Development Plan) in accordance with international human rights norms and standards. In addition to the judicial round tables, OHCHR engages in a number of activities aimed at increasing the demand for justice in the domestic sector, such as public lectures, supporting civil society's efforts at legacy programmes, and working with students. OHCHR is also supporting lawyers actively engaged in ensuring the rights to a defence and to civil party participation in the criminal justice system.

VI. Public information and human rights education

52. Public communications, education and awareness-raising continued to be a key means for OHCHR to bring human rights into the everyday lives of Cambodians. In recognition of this, OHCHR Cambodia established a communications unit in late 2010 to handle publications, press and media and the OHCHR Cambodia bilingual website, as well as interpretation and the translation of materials.

53. Public information campaigns were carried out in partnership with civil society organizations and arts institutions to promote human rights among a cross-section of society. OHCHR provided project grants to four organizations that sought to popularize human rights concepts utilizing different forms of media. These included film screenings and live drama performances watched by thousands of people in at least 20 remote provincial locations.

54. For Human Rights Day 2010, OHCHR supported strategic activities to deliver key human rights messages to various audiences, which included an annual human rights march in Phnom Penh, free legal consultation in Banteay Meanchey Provincial Prison, evening street parades in Battambang, video shows, theatre plays, community dialogues in 19 provinces, segment features on television programmes, and the production of three Khmer songs on human rights in CD format.

55. OHCHR continued to disseminate its human rights publications, with 24,000 copies of printed materials distributed to students, school libraries and institutions, and during trainings, workshops, community meetings and public events. The OHCHR Resource Centre in Phnom Penh opened every Friday afternoon to the public, and has welcomed students, NGOs, government officials and monks, among others.

56. In partnership with the Bar Association of the Kingdom of Cambodia, OHCHR compiled an electronic version of Cambodian laws in an updatable CD format as an alternative to the book series previously published. Printed copies of the Office's Annual Report in English and Khmer with comments by the Government were widely circulated to key partners, as well as copies in Khmer of the Special Rapporteur's report to the Human Rights Council (A/HRC/15/46). *Human Rights: A Handbook for Parliamentarians*, co-published by OHCHR and the Inter-Parliamentary Union, was translated into Khmer and printed for distribution to members of the parliament and other relevant government offices.

57. Efforts at advancing human rights education proved more challenging. A joint OHCHR, UNESCO and UNICEF project with the Ministry of Education, Youth and Sports, aimed at piloting a human rights curriculum in primary schools in two provinces, encountered obstacles in terms of finance and logistics. A modified project will be launched in August 2011.

VII. Assistance on reporting and follow-up under the human rights treaty bodies and the universal periodic review

58. Cambodia has one of the strongest records of ratification of human rights treaties in the region. It has ratified six of the nine core international human rights treaties, and the Optional Protocols to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child. This record was strengthened with the entry into force for Cambodia of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in January 2011. In doing so Cambodia became the 100th State to ratify the protocol and only the third among the members of the Association of Southeast Asian Nations (ASEAN). In March 2011, OHCHR and UN-Women held trainings on the Optional Protocol for Government, civil society, and United Nations agencies.

59. Similarly, with sustained support from OHCHR, Cambodia has seen significant progress in reducing its backlog of reports that are due to the treaty bodies. From a total of 15 overdue reports in 2008, Cambodia now has only 1 overdue report, that under the International Covenant on Civil and Political Rights. OHCHR also helped civil society in the preparation of shadow reports for presentation to the treaty bodies. OHCHR continued to support the Government in preparations for its dialogues with the treaty bodies, and

during the reporting period, preparation sessions were held for delegations to sessions of the Committee against Torture and the Committee on the Rights of the Child. The Government's decision to send delegations from the capital to these treaty body sessions, after a hiatus, is to be welcomed. In May 2010, the Government received the confidential report of the December 2009 visit by the Sub-Committee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. At the Government's request, OHCHR translated the Subcommittee's report into Khmer and discussed possibilities for implementation, including the establishment of an NPM.

60. The reporting period saw significant developments in the Government's follow-up to the 91 universal periodic review recommendations accepted by Cambodia in December 2009. OHCHR, together with the Embassy of the United Kingdom of Great Britain and Northern Ireland, the Swedish International Development Cooperation Agency and the European Union, supported the CHRC to develop a series of steps towards a national action plan for the implementation of the universal periodic review recommendations and those of the recent treaty body reviews. In September 2010, the follow-up process under the universal periodic review was introduced and explained to all relevant ministries, following which the Government allocated responsibility for groups of recommendations among the various ministries. OHCHR brought an expert from Indonesia in April 2011 to share experiences on structures to ensure the implementation of the recommendations of the universal periodic review, and a national universal periodic review workshop with all stakeholders is planned for July 2011.

VIII. Staffing and administration

61. OHCHR maintains a head office in Phnom Penh and a regional branch in Battambang. The office maintained 8 international staff positions (and 1 international United Nations Volunteer) during the reporting period, and increased the number of national posts to 27, with the additional recruitment of 3 national professional officer positions.

62. The United Nations regular budget covers the office's operational expenses, including the salaries of 7 international and 20 national staff members. Voluntary contributions to the United Nations Trust Fund for a Human Rights Education Programme in Cambodia cover all other expenditures, including substantive programme activities and the remaining salaries of staff members.
