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## Human Rights Council

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### Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

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 18/25, in which the Council requested the Secretary-General to report to Council at its twenty-fourth session on the 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.

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\* Late submission.

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## I. Introduction

1. The present report, submitted pursuant to Human Rights Council resolution 18/25, describes the activities of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Cambodia during the period from July 2012 to May 2013. The drafting of the present report was finalized on 23 June 2013.
2. The OHCHR presence in Cambodia, mandated by the Commission on Human Rights in its resolution 1993/6, continued to provide assistance to the Government and to the people of Cambodia in promoting and respecting human rights in five key areas: prison reform; fundamental freedoms; land and housing rights; rule of law; and promoting the legacy of the Extraordinary Chambers in the Courts of Cambodia. Work also expanded on the issue of business and human rights.
3. During the period under review, cooperation deepened with a number of key government counterparts, most notably the Cambodian Human Rights Committee, the Ministry of Justice, the Ministry of the Interior (including the General Department of Prisons) and a number of provincial governments. In addition, cooperative relations were established or renewed with other parts of government, including the Ministry of Social Affairs, Veterans and Youth, the Anti-Corruption Unit and the Ministry of the Environment. Government representatives at different levels expressed satisfaction and appreciation for the technical assistance OHCHR had been able to provide. Cooperation with the judiciary has expanded considerably (including with the Extraordinary Chambers in the Courts of Cambodia) and relations with the National Assembly and Senate have strengthened. In 2012, the Office endeavoured to amplify the impact of its work by partnering more closely with other members of the United Nations country team in Cambodia.
4. The Secretary-General is confident that the High Commissioner will continue to provide assistance and support to the Government and people of Cambodia in strengthening the protection and promotion of human rights in the country, and hopes that the two-year memorandum of understanding governing technical assistance between OHCHR and the Government will be renewed beyond 31 December 2013.
5. OHCHR also continued to support the work of the Special Rapporteur on the situation of human rights in Cambodia, Surya P. Subedi, who made country visits in December 2012 and May 2013. The Secretary-General is concerned by a number of personal attacks made on the integrity of the Special Rapporteur, including by government representatives, and urges the Government and all stakeholders to cooperate with him fully in his work, as outlined by the Special Rapporteur in his report (A/HRC/24/36).
6. Cambodia's good record in the ratification of human rights treaties was strengthened on 20 December 2012, when it ratified the Convention on the Rights of Persons with Disabilities. OHCHR was pleased to assist with the process at the national level. The Office was also able to support the Government to clear its backlog of overdue period reports to the treaty bodies, and continues to support the drafting of the next report due under the International Covenant on Economic, Social and Cultural Rights. Support was also provided in follow-up to the 91 recommendations accepted by Cambodia at its initial universal periodic review, as well as preparation for the second review in early 2014. This support has also extended to civil society groups wishing to provide reports, and to general awareness-raising of the review process. The Office was joined by a number of donors in this endeavour.
7. In addition to its technical support to the Government and civil society, the Office monitored a number of individual cases related to human rights. The number and type of

cases in which OHCHR intervened were similar to those encountered during the previous period under review.<sup>1</sup> OHCHR aims to work with authorities, civil society, communities and individuals to avoid violence and to prevent human rights violations or end continuing ones. In a number of cases, OHCHR is one of the few actors present and able to play this human rights protection role.

8. The Office's individual case work continued to be focused on disputes relating to land, limitations on freedom of expression, the right to a fair trial, and arbitrary detention and conditions in detention, including ill-treatment. Disputes relating to land continued to pose a significant challenge to the country. While a major government initiative launched in 2012 resulted in the distribution of land titles to many rural families, a number of chronic land disputes persisted. The Office monitored and intervened in demonstrations, protests, acts of intimidation, cases of detention and court proceedings arising out of these disputes. The Office also advocated the right to freedom of expression of all Cambodians, including journalists, human rights defenders and trade unionists. Allegations of impermissible restrictions on freedom of expression during the summits related to the Association of Southeast Asian Nations (ASEAN) were raised with the authorities. In the area of the right to a fair trial, the Office monitored a number of court proceedings, including high-profile cases. In some instances, the Office secured legal representation for defendants. Building on its support to the Government to address human rights protection gaps in the detention of individuals, OHCHR also systematically brought to the attention of the authorities instances of arbitrary detention and ill-treatment, which led to largely favourable outcomes, including release.

## **II. Land and housing rights**

9. The OHCHR Land and Housing Rights Programme works with the Government, civil society organizations, communities, individuals, business enterprises, professional associations and multilateral and bilateral development actors to strengthen the legal framework protecting land use and ownership and housing rights, and to improve their implementation. The Programme also works with individuals, communities and authorities in relation to specific instances of threats to, harassment, and criminal persecution of individuals and communities acting to defend their rights to land and housing, as well as with the human rights defenders who work with them on land issues.

10. OHCHR operated in a context of ongoing land disputes in both rural and urban areas. While there was little change in the resolution of disputes or enhanced tenure security in most urban centres during the period under review, the Government did conduct a major campaign for private land titling on and around economic land concessions, logging concessions and areas administered by the Ministry of the Environment, and confiscated State land under the auspices of the Ministry of Land Management, Urban Planning and Construction. This campaign followed the moratorium introduced in May 2012 on the granting of new economic land concessions and a review of existing concessions (Directive 001), the full results of which are yet to be publicized. The implementation of the national land titling programme took precedence over other priorities, with cadastral officials and teams of youth being deployed countrywide to measure rural land and to issue private titles. The campaign has been successful in improving tenure security for many Cambodians. According to government figures, as at 4 May 2013, 226,252 titles had already been issued to families. One of the stated aims of the campaign is to reduce the amount of land disputes in rural areas. As a short-term initiative, however, the campaign did not holistically address

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<sup>1</sup> A/HRC/21/35.

disputed land nationwide and a number of existing disputes remained unresolved, while other dormant disputes resurfaced. Some irregularities with the process were reported to OHCHR, such as the lack of clarity with regard to why some land was being measured while other areas were excluded.

11. During the period under review, OHCHR monitored 74 ongoing and unresolved land disputes between affected communities, authorities and businesses in both rural and urban areas combined, a slight increase over the figures for 2012. Of these disputes, 32 (four of them new) related to economic and other land concessions (including 12 on land long occupied by indigenous peoples and 20 cases affected by the implementation of Directive 001). A total of 42 disputes (six of them new) related to other land transactions (including two on land long occupied by indigenous peoples and three cases affected by the implementation of Directive 001). OHCHR activities in this area took the form of facilitation of dialogue, court monitoring, and legal and procedural advice.

12. During the period under review, confrontations (at times violent) were witnessed between individuals, communities, housing rights activists and authorities, police and the military. OHCHR repeatedly monitored and intervened in demonstrations and protests in order to prevent violence, to seek a negotiated outcome and to secure the release of persons who had been arbitrarily detained. OHCHR witnessed a number of incidents of excessive use of force by the authorities. The use of electrified riot shields by the authorities was introduced during the period under review. OHCHR continued to monitor cases of individuals who in the past had been interrogated, charged or placed under judicial supervision for their involvement in land disputes but whose cases were never closed by the courts and who remained under threat of harassment and intimidation (the Office maintains a list of 177 unresolved individual cases, six of them new since June 2012).

13. OHCHR case work is specifically focused on the promotion of tenure security and the prevention of eviction and resettlement, including promoting equitable consultation processes, securing adequate compensation and, when necessary, improving planning for relocation. In addition to monitoring and following up on multiple urban housing cases, OHCHR provided financial and substantive support to a Cambodian public interest law firm that provided legal aid to three communities in the Municipality of Battambang to apply for tenure security under a pilot project (relating to Circular 03 on resolution of temporary settlements on illegally occupied land in the capital and in municipal and urban areas).

14. Despite some improvements in some sites by local authorities, donors and charity organizations, conditions overall remain poor for relocated communities, whether their resettlement was related to recent eviction or long-established resettlement sites. OHCHR monitored the right of access to safe water and sanitation at nine sites, and advocated for improved sanitation habits to help to check the spread of disease and to improve health. OHCHR, in collaboration with local civil society organizations, provided water filters to 459 families in six areas, and is currently supporting the construction of latrines for 110 families at the Phnom Bath resettlement site.

15. OHCHR contributed substantially to research and advocacy on the granting and management of economic and other land concessions (including concessions related to the agro-industry, mining, hydropower dams and other large-scale infrastructure projects) and the human rights impact of concessions, especially in recognized protected areas. In view of the absence of complete official data made available by the Ministry of Agriculture, Forestry and Fisheries and other government entities, OHCHR convened regular consultations with civil society organizations and researchers, and contributed to meetings with development partners, encouraging improved access to information and data collection. It also encouraged cooperation on advocacy issues with regard to the national land titling campaign (implementation of Directive 001) and on land concessions in

general. OHCHR provided financial support for a non-governmental open-data source, which makes available in one location information on land concessions by province and by company, and includes briefings on thematic issues. In accordance with its mandate, OHCHR supported the work of the Special Rapporteur on the situation of human rights in Cambodia on land concessions, and is following up on his recommendations in that regard.

16. At the invitation of the Ministry of the Environment, OHCHR supported the consultation process for a bill on environmental impact assessment led by the Ministry, and provided substantive comments on the harmonization of the current draft with international standards on transparency, public participation and access to information, gender, the responsibility of business enterprises, free, prior and informed consent, resettlement, and grievance mechanisms and dispute resolution processes.

17. On the promotion of indigenous peoples' land rights, OHCHR worked closely with the Ministry of Rural Development and the Ministry of the Interior. In collaboration with the International Labour Organization and other development partners, it monitored efforts countrywide for indigenous peoples to organize and be recognized as legal entities, and to apply as a community for a collective land title, as recognized in the domestic legal framework. During the period under review, policies that arose from the implementation of Directive 001 on land concessions and forestry land prioritized private land titling and deprioritized indigenous land titling programmes, diverting resources from the Ministry of Land Management, Urban Planning and Construction and hampering progress in indigenous land titling programmes in progress. In some cases, the national private land titling campaign effectively resulted in provincial level authorities placing obstacles to indigenous communities in their pursuit of collective land titles.

18. Despite the above-mentioned obstacles, OHCHR continued its ongoing support for seven villages inhabited by Phnong peoples in Bousra commune, Monduliri province, further developed its assistance to Suoy communities in five villages in Aoral district, Kampong Speu province, and expanded the programme to include support for one Por community in Samlot district, Battambang province. OHCHR also contributed to advocacy more generally for indigenous peoples' land rights and cultural and linguistic rights with the use of the media (including press statements, publications and video).

19. In order to promote more responsible business practices in the land sector and to counter inadequate regulation and oversight of businesses operating in Cambodia (also relevant to labour rights), OHCHR contributed to awareness-raising and capacity-building initiatives in the area of business and human rights. OHCHR targeted civil society organizations, government, community representatives and business actors to increase their understanding of the Guiding Principles on Business and Human Rights<sup>2</sup> and their application in Cambodia. OHCHR gave presentations at eight seminars and consultations for civil society, reaching more than 200 representatives of non-governmental organizations and indigenous communities countrywide, and supported greater capacity for civil society in its access to non-judicial mechanisms for business-related human rights impact at the operational, national and international levels.

20. OHCHR also shared information with the staff of the Government's Anti-Corruption Unit, and donors, businesses and professional associations on business and human rights, supported a monthly radio programme, and assisted with the development of a picture book on the issue for indigenous communities. One result was both increased understanding among civil society of the responsibilities of the State and business actors in the land and labour sectors, and greater interest and capacity in promoting responsible business

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<sup>2</sup> A/HRC/17/31, annex.

practices, as evidenced by the choice by local civil society of business and human rights as the theme for 2012 Human Rights Day.

### III. Rule of law

21. The OHCHR Rule of Law Programme in Cambodia is aimed at supporting the legal and judicial reform process in the country, focusing on the strengthening of the rule of law. The Programme works with a range of actors involved in the criminal justice system, mainly the Ministry of Justice, judges and prosecutors at all levels of the court system, lawyers and the judicial police. Cooperation between OHCHR and the Government is strong. In particular, the level of cooperation with the Ministry of Justice, and consequently with judges and prosecutors, markedly increased during the period under review, resulting in an increase in activities co-organized with the Ministry.

22. Cambodia has already ratified a number of international human rights treaties. During the period under review, Cambodia also became a State party to the Convention on the Rights of Persons with Disabilities on 20 December 2012. OHCHR provided support during the ratification process by, for instance, giving extensive advice on the drafting of the statement of reasons submitted to Parliament for ratification. The Ministry of Social Affairs, Veterans and Youth has requested the Office's assistance in training government officials on the Convention.

23. During the period under review, OHCHR continued to assist relevant stakeholders in implementing the Criminal Code and the Code of Criminal Procedure in accordance with human rights standards and practice. In November 2012, OHCHR co-organized with the Ministry of Justice a national conference on the implementation of the Criminal Code, which was attended by judges, prosecutors, judicial police officers and lawyers from all provinces. The discussions focused on the provisions of the Code with a potential impact on freedom of expression (such as on incitement and defamation), as well as provisions concerning alternative sentencing. The conference provided an important opportunity to raise the awareness of participants of international human rights standards with regard to freedom of expression. To that end, OHCHR translated the general comment No. 34 of the Human Rights Committee on article 19 of the International Covenant on Civil and Political Rights, on the freedoms of opinion and expression<sup>3</sup>, into Khmer, and published it as a booklet. A member of the Committee was invited to discuss the general comment with participants.

24. In parallel, OHCHR continued to work on the implementation of the Code of Criminal Procedure and to meet regularly with court presidents and chief prosecutors in the provinces to discuss the challenges that they faced in the implementation of the Code and the administration of justice. As a follow-up to the Conference on the implementation of the Code, held in June 2012, OHCHR worked closely with the Ministry of Justice to revise the relevant court forms on pretrial detention in order to ensure that judges issued reasoned decisions when ordering pretrial detention. A consultative meeting with a group of judges was organized in May 2013 to review these forms before final submission to the Minister for Justice.

25. In the light of the five successful judicial round tables held in 2012, the Ministry of Justice agreed to renew the initiative for 2013. This is a joint programme organized in the provinces to discuss with local judges, prosecutors, court clerks and lawyers challenges in the implementation of the Code, with particular reference to the practice of the

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<sup>3</sup> CCPR/C/GC/34.

Extraordinary Chambers in the Courts of Cambodia. During the period under review, the judicial round tables allowed Extraordinary Chambers practitioners to share their experiences with colleagues from 17 (of 24) provinces. Discussions focused on pretrial detention and investigation techniques. OHCHR also continued to support regular meetings between the police, the courts and prisons in the provinces, especially in the North-West, through its Battambang regional office, to improve cooperation within the criminal justice system and to discuss issues related to the implementation of the Code. During the period under review, OHCHR supported 12 meetings involving the police, the courts and prison authorities across the country, including in four provinces, where such coordination mechanisms had not previously been put in place.

26. Prosecutors play a central role in the implementation of the Code of Criminal Procedure, since they are involved in every stage of the criminal procedure. In order to provide an opportunity for prosecutors to discuss how they play their role under the Code and more specifically how they could better promote respect for human rights in the criminal justice system, OHCHR partnered for the first time with the Prosecutor-General of the Supreme Court to organize the first national gathering of prosecutors from across Cambodia, in March 2013. Discussions focused on the role of the prosecutor at the pretrial and trial stages, the supervision of the judicial police, and the monitoring of excessive detention. Participants agreed on a set of recommendations, which will be included in a report on the meeting, to be published.

27. Following OHCHR assistance to the Bar Association in finalizing the text for a revised Code of Professional Conduct, the Code was adopted by the Bar Council in September 2012 and shared with all lawyers. It is worth noting that the revised Code now provides that all lawyers have the mission to protect human rights. Under the new Code, lawyers no longer need to inform or consult the Bar President before they speak to the media, unlike under the previous Code. OHCHR and the Bar Association organized a public launch of the new Code in April 2013.

28. In 2012, OHCHR established the post of Legal Advocacy Officer with the purpose of enhancing lawyers' skills in using international human rights standards in court, and to pursue strategic litigation. In September 2012, OHCHR organized an initial training session with a group of lawyers on how to use international human rights law and jurisprudence before the courts. The Legal Advocacy Officer also worked directly with lawyers in seven cases with a view to assisting them in defending cases relevant to human rights issues and in making human rights-based arguments before the courts. Through this work, several human rights issues were brought to the attention of judges, with some success. For instance, the Legal Advocacy Officer worked with a lawyer on a case involving lesbian, gay, bisexual and transgender rights. The individual concerned was acquitted on appeal and released from prison. In another case involving a minor held in pretrial detention in an adult-only prison, the Legal Advocacy Officer worked closely with the lawyer to submit arguments based on international human rights law and to ensure the minor's release. In a case involving a pregnant woman, OHCHR assisted the lawyer in securing bail for her client.

29. During the period under review, OHCHR monitored 23 cases involving human rights violations. In all cases, OHCHR liaised with judges, prosecutors and lawyers on the progress of the cases. In certain cases, OHCHR assisted victims in finding a lawyer and/or provided financial assistance to lawyers to conduct investigations and collect further evidence in favour of their client. In monitoring the subsequent nine trials, six had positive outcomes for the defendant (acquittal or sentence reduced).

30. Progress in the establishment of a national preventive mechanism on torture stalled during the period under review. Despite the Government's announcement that a law would be drafted to establish a national preventive mechanism, no progress was made.

Nonetheless, OHCHR continued to work with members of the interministerial committee (which currently acts as the national preventive mechanism) and its secretariat to strengthen their capacity to conduct monitoring visits. For instance, members of the secretariat accompanied OHCHR staff members on their visits to a social affairs centre and a provincial prison in order to familiarize themselves on how such visits were conducted. With a view to eliminating ill-treatment in police stations, OHCHR conducted further training in the provinces, in cooperation with chief prosecutors, for police and gendarmerie officers on the prevention, investigation and prosecution of acts of torture and ill-treatment. A follow-up is currently being conducted through visits to police stations at the district level to assess the impact of the training.

31. The Office's work with the Court of Appeal to reduce the backlog of pending appeals is described below (see paragraphs 35 to 44). To support this process, OHCHR worked with two legal aid organizations (Legal Aid of Cambodia and International Bridges to Justice) to provide legal assistance in more than 300 priority cases pending before the Court. Through this cooperation, many cases were heard and part of the backlog cleared. The initiative built on the expanded physical capacity of the Court as a result of an earlier OHCHR initiative to build new court rooms.

32. Besides addressing backlogs in the appeal cases, OHCHR and the President of the Court of Appeal also collaborated on improving cooperation between the courts and the prison authorities. A workshop was jointly organized in September 2012, with the participation of all court presidents, chief prosecutors and prison chiefs. Participants focused their discussions on practical ways to improve cooperation in the criminal justice system. Feedback from participants was extremely positive, particularly with regard to the opportunity of meeting colleagues and of discussing common challenges. At the end of the meeting, participants agreed on a set of recommendations that has already been partly implemented. For instance, according to information received, courts share judgements more systematically with prisons in several provinces, thereby reducing the risk of excessive detention. In order to obtain a more detailed picture of the implementation of the right to a fair trial in higher courts, OHCHR is supporting trial monitoring at the Court of Appeal by the Cambodian Centre for Human Rights.

33. Progress towards the completion of case 002 in the Extraordinary Chambers in the Court of Cambodia continued to face challenges. The Court was hampered by serious financial difficulties, which resulted in staff not being paid for several months and going on strike. In September 2012, one defendant, Ieng Thirith, was released from detention after being diagnosed with dementia and declared unfit to stand trial. In March 2013, Ieng Sary, her husband and co-defendant, died. In the meantime, the first "mini-trial" in case 002 focusing on forced population movements is proceeding, and hearings are expected to finish by the end of 2013. At the end of the period under review, the situation regarding cases 003 and 004 was still uncertain.

34. It is in this challenging context that OHCHR continued its work on promoting the legacy of the Extraordinary Chambers in the Court of Cambodia. During the period under review, OHCHR endeavoured to refer to practice by the Extraordinary Chambers in all of its activities concerning the rule of law. As mentioned above, OHCHR and the Ministry of Justice co-organized a further six judicial round tables, which proved to be an important platform on which to share good practices from the Extraordinary Chambers with local legal practitioners. OHCHR also continued legacy-specific activities. In particular, it coordinated work on the first draft of a handbook annotating the Code of Criminal Procedure with the jurisprudence of the Extraordinary Chambers. The draft was translated into Khmer; consultations are to be arranged with judges, prosecutors and lawyers before the text is finalized. OHCHR organized a second season of the Fair Trial Rights Academy, an 8-week course for a group of 25 selected law students. During the course, the students

learned about fair trial rights, how they were applied at the Extraordinary Chambers, and heard from various guest speakers, including from the Extraordinary Chambers, which they also visited. During the period under review, OHCHR also organized, for the first time, in association with the Bar Association, a legal dialogue between lawyers working at the Extraordinary Chambers (defence lawyers and civil party lawyers) and lawyers working in the domestic system. Lastly, OHCHR had the OHCHR rule-of-law tool on maximizing the legacy of hybrid courts translated into Khmer and published.

#### **IV. Support for prison reform**

35. The Prison Reform Support Programme is aimed at supporting changes in the management of prisons and the treatment of prisoners in Cambodia, thus improving respect for the human rights of detained persons in conflict with the law. To achieve this aim, the Programme works closely with the General Department of Prisons of the Ministry of the Interior and all prisons and correctional centres under its authority, as well as many other relevant actors from other ministries (Justice, Health, and Social Affairs, Veterans and Youth) and civil society and development partners. During the period under review, OHCHR continued to work collaboratively with all partners and to support cooperation between the General Department of Prisons and non-governmental organizations. Some important improvements were made in the enjoyment of the rights of detainees.

36. Training of prison staff is a key factor in improving respect for prisoners' rights. The Office continued its support for curriculum development and for building the capacity of the trainers from the General Department of Prisons and the Centre for Professional Training of Prison Guards of the Police Academy of Cambodia. The training of trainers programme focusing on skills and methodology, conducted with the non-governmental training partner VBNK since June 2011, was completed with a last series of coaching sessions in July 2012 and a final debriefing meeting with the prison authorities in September. The final assessments given by the trainees on the training skills acquired or strengthened were positive. Several modules regarding, inter alia, mental health in prison, communication with prisoners and conflict prevention in prison were also developed during the period under review with the non-governmental psychosocial organization Transcultural Psychosocial Organisation (TPO) Cambodia; in parallel, a series of three training of trainers and refresher training workshops were held between July 2012 and March 2013, followed by a pilot training course for staff from Correctional Centres Nos. 1 and 2 near Phnom Penh. Cooperation continued with the United Nations Office on Drugs and Crime in Cambodia, resulting in the production of a draft curriculum on general health in prison for non-medical prison personnel, which will now be submitted to the Ministry of Health for review. OHCHR also facilitated the organization of the first annual meeting of the joint training team from the General Department of Prisons and the Police Academy, which focused on strengthening the prison curriculum, building the capacity of trainers further, and drafting a plan of action. The Khmer version of an international handbook on a human rights-based approach to prison management, earlier translated by OHCHR, was printed for distribution to prison staff and prison staff trainees.

37. OHCHR continued to enjoy unfettered access to prisons across Cambodia, and to hold confidential interviews with prisoners in order to monitor general conditions and treatment. In addition to following up on individual cases, requests or complaints for protection purposes (for instance, linking up individuals with medical or legal service providers), the monitoring approach remained focused on preventive visits, as envisaged under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. As such, the monitoring visits continued to feed

directly into the systemic work carried out by OHCHR to improve management and treatment.

38. Respect for the procedural rights of detainees remained a focus during the period under review, in particular the rights of prisoners pending appeal. Without a final judgement from the court, prisoners are unable to apply for sentence reduction and pardon, and long periods pending appeal have deprived hundreds of prisoners of that right. Lack of awareness by the prison authorities of the legal framework governing prisoners pending appeal has also led to excessive detention: in Cambodia, the law provides that prisoners pending appeal by the prosecution remain in detention until the Court of Appeal has ruled on their case, which may be far beyond the end of their first instance term of imprisonment. Owing to lack of awareness, prisons applied the same system to prisoners pending their own appeal.

39. In order to facilitate the clearance of old appeal cases, OHCHR prepared lists of priority cases identified during the 2011 census of prisoners pending appeal. The lists were shared with and taken up by the Court of Appeal authorities, enabling prisoners to have their appeal case eventually heard and to obtain a final judgement. It is worth noting that the prison authorities also made an effort to transport more prisoners to attend their appeal hearings. No more prisoners have been waiting for their appeal for 10 years or more; several prisoners acquitted in first instance were also eventually released after another acquittal in appeal.

40. Information was also fed into the first national workshop bringing together all prison chiefs with the courts and prosecution authorities (see also paragraphs 21 to 34 above). In this way, the awareness of prison authorities was increased with regard to the requirement of requesting the release of prisoners who appealed once they have served the entirety of their sentence of first instance. As a result, many prisoners were duly released, thus contributing to a reduction in the incidence of excessive detention pending appeal. Nonetheless, further ongoing and concerted efforts will be needed to clear the entire backlog of appeal cases.

41. Following two consecutive years of emergency assistance to prisons during the 2010 and 2011 floods in Cambodia, in July 2012, the Office co-organized with the Ministry of the Interior a national workshop on disaster preparedness in prisons. Participants included all chiefs of prisons and correctional centres, as well as Provincial Governors or Deputy Governors, representatives of the National and Provincial Committees for Disaster Management, the Fire Brigade, and civil society organizations involved in disaster responses in the community. Participants in the meeting discussed the specific experiences, challenges and needs of Cambodian prisons and agreed on a number of steps to improve preparedness, such as the drafting of preparedness plans and the establishment of preparedness teams, or including prison authorities in relevant committees for disaster management. At the end of the period under review, a number of those recommendations had already been implemented in the prisons most at risk, and the Office had provided material assistance to several prisons to help them to implement their preparedness plans.

42. The Office continued to compile and analyse statistics and information on women, and women with children, in prison, for advocacy with the prisons, the courts, prosecutors and lawyers, as well as with relevant entities in the United Nations country team. At the same time, OHCHR was working with two non-governmental partner organizations, Licadho and Il Nodo, to help to provide pregnant women and women with children in prison with services, and to raise policy issues with authorities and partners. One such issue was the high imprisonment rate of women in Cambodian prisons: with more than 8 per cent of the prison population female, Cambodia ranks among the top 30 countries worldwide for proportion of female detainees. While the growth in the number of women prisoners stabilized during the period under review, the rapid increase had put additional pressure on

the prison system to accommodate and manage the female prison population in accordance with the standards required. An additional issue was the lack of guidelines and systems to deal with children detained with their mother (sometimes their father), in particular once they had reached the maximum age beyond which the Law on Prisons of 2011 barred them from remaining in prison with their parent.

43. OHCHR continued to provide technical and material assistance to prisons and provincial authorities to improve prison facilities in accordance with monitoring recommendations and the *Prakas* (ministerial proclamation) on Minimum Standards for Prison Construction (a sub-legislation required under the Law on Prisons of 2011 and still to be adopted). An important undertaking during the period under review was the installation of windows in the pretrial building of Correctional Centre No. 1 (the country's largest prison), which led to a significant improvement in the ventilation and heat levels in the cells and the possibility for prisoners to see outside. Following continued advocacy for secure rooms for prisoners at referral hospitals, and with the approval of the relevant authorities (prisons, provincial health departments and provincial prosecutors), one large hospital was equipped (Banteay Meanchey) and two others started (Kampong Chhnang and Koh Kong) with secure rooms. OHCHR also helped to improve the conditions in two sub-standard temporary prisons (Pailin and Oddar Meanchey, by the installation of windows and the improvement of sanitation blocks, respectively), while continuing to urge the authorities to put in place long-term solutions.

44. Other results achieved during the period under review include improvements in ventilation and sanitation, in Preah Sihanouk prison; the construction of internal fencing to improve access to the exterior and to facilitate farming activities, and the channelling of river water to improve the water supply, in Banteay Meanchey prison; and the upgrading of windows in Kratie prison. The relevant Department of Prisons office was associated throughout, as were the local prison authorities, to ensure ownership and capacity-building.

## V. Fundamental freedoms and civil society

45. The Fundamental Freedoms and Civil Society Programme is aimed at strengthening the capacity of individuals and organizations to exercise their fundamental freedoms of expression, opinion, association and assembly. The Programme works with the Government, civil society, United Nations agencies, embassies and development actors to develop and monitor the implementation of legislation and policies that directly pertain to the exercise of these freedoms. This work includes providing protection to human rights defenders, victims or possible victims by monitoring individual cases as they arise and advocating with the relevant provincial and national authorities in favour of the respect of their rights. It also focuses on capacity-building for the Government and civil society. During the period under review, the Office observed that trade unions and several communities had become increasingly active in advocating for the respect of labour rights by organizing strikes and demonstration marches.

46. In order to support the endeavours of civil society organizations in promoting the respect of their rights, training for human rights defenders continued to account for a significant proportion of OHCHR work during the period under review. In total, more than 529 human rights activists benefited from the capacity-building activities conducted by the Office related to the promotion of fundamental freedoms. The Office gave priority to raising awareness on rights to assemble peacefully and to express one's views freely, given that it had noted that both representatives and authorities were misinformed about relevant domestic regulations, in particular the provisions of the Law on Peaceful Demonstrations. For example, OHCHR observed that, in many instances, civil society organizations and communities considered that they were obliged to notify authorities of planned gatherings

in circumstances where it was not required by law. Communities indicated that they preferred to inform the authorities, even if it was not legally required, rather than have their gathering disrupted. In order to improve the situation, OHCHR in collaboration with the East-West Management Institute conducted training with the participation of human rights defenders, including evicted communities, forestry and fishery associations, non-governmental organizations and trade unions, on the provisions of the Law on Peaceful Demonstrations and its official implementation guide. OHCHR also disseminated, in collaboration with the Institute, a reporting form to be used by civil society organizations in order to systematically monitor and adequately report and advocate on violations related to their right to peaceful assembly, in particular with regard to the implementation of the Law on Peaceful Demonstrations. The Office also continued to offer cooperation with the Ministry of the Interior in raising awareness among civil servants on how to apply the Law on Peaceful Demonstrations in a manner consistent with the country's international human rights obligations.

47. In addition, the OHCHR Fundamental Freedoms and Civil Society Programme enhanced the capacity of human rights defenders, including trade unionists, to systematically and adequately monitor and report human rights violations, and to advocate with the authorities or other relevant actors on such situations. The sessions engaged 114 activists from 10 provinces. In November 2012, OHCHR conducted a workshop on the permissible restrictions in relation to the freedom of expression under international human rights law with the support of an expert from the Human Rights Committee. The event was focused on exploring with civil society permissible exceptions to the respect for the right to freedom of expression in Cambodia.

48. OHCHR regularly mediated between authorities and communities or civil society organizations to ensure that gatherings could take place peacefully and in conformity with the provisions of domestic and international human rights law. In order to create a sustainable approach to peaceful gatherings, the Office embarked on a series of provincial round tables at which provincial officials and civil society representatives could discuss their concerns over freedom of assembly and come to an agreed position for the handling of future events in conformity with the law. This was particularly effective during Human Rights Day 2012, when the Office intervened to ensure the peaceful holding of events by communities.

49. Where prior mediation was not possible, the Office monitored demonstrations, marches and other gatherings where there was a risk of violence between protesters and authorities. During the period under review, OHCHR monitored 22 such events in Phnom Penh alone. The aim of the Office's involvement was to reduce the risk of violence while striving to ensure that the rights to freedom of assembly and of expression were respected. OHCHR worked with the authorities and protest leaders to secure agreement (where possible) to allow protests to be held peacefully. Examples during the period under review included the protests outside Phnom Penh Municipal Court during the trial of Mam Sonando in September 2012, and attempts by the ASEAN Grassroots Peoples Assembly to present a petition to the Cambodian National Assembly prior to the seventh East Asia Summit, held in November 2012.

50. Where protests turned violent, OHCHR tries to calm the situation. While such efforts met with little success during the period under review, the visible presence of OHCHR appeared to dissuade any escalation. Private security guards were still being used during the period under review to respond to protests; in a number of instances, excessive force was also used. A new and disturbing development witnessed was the introduction and use of electrified riot shields by police in crowd control situations. The Office also intervened where protesters were detained, notably in relation to land disputes, garment workers protests, and trade unionists. OHCHR aimed to seek the release of detainees where

their detention was arbitrary, and to secure access to legal representation and medical care, where needed.

51. A number of large public events were held in Cambodia during the period under review, most notably, the 21st ASEAN Summit and related summits in November 2012, and the funeral of King Norodom Sihanouk in February 2013. OHCHR offered to work with the authorities to find a solution to the situation of a large mixed group of individuals who had been detained (without judicial supervision) from the streets of Phnom Penh before the summits. The group included homeless persons, the mentally ill, sex workers, factory and construction workers, and children. Similar cooperation during previous summits had resulted in the release of these individuals, where appropriate, to the care of non-governmental organizations. OHCHR proposed technical assistance to the Municipality of Phnom Penh to put in place a process to avoid similar instances of arbitrary detention in the future.

52. Building on previous work, OHCHR and the United Nations Children's Fund (UNICEF) worked with the Government to address human rights issues in social affairs, youth rehabilitation and drug rehabilitation centres operated by the Government. OHCHR welcomes the fact that, in accordance with a decision made by the Government in early 2012, the Prey Speu Social Affairs Centre in Phnom Penh is no longer used for arbitrary detention. OHCHR and UNICEF are working with the Ministry of Social Affairs, Veterans and Youth Rehabilitation to implement the recommendations made by a jointly commissioned independent study conducted in 2011 on the policies, procedures and practices in the referral, placement, management, rehabilitation and reintegration of children, women and vulnerable persons at social affairs, youth rehabilitation and drug rehabilitation centres under the authority of the Ministry.

## **VI. Public communications and advocacy work**

53. The Office continued to expand its public communications and advocacy work nationwide to better promote human rights and address specific thematic issues and audience needs. Using a range of information tools, the Office reached out to various sectors of society, including academic institutions, the media, government officials and communities in remote provinces.

54. In the context of the United Nations Declaration on Human Rights Education and Training,<sup>4</sup> OHCHR launched, in Phnom Penh, a human rights learning session programme for universities that offers short lectures on specific human rights topics. At the end of the period under review, three presentations had been delivered to more than 500 students and in three universities. Upon the request of the Cambodian Mekong University, the only university in Cambodia offering a masters degree in human rights, OHCHR staff delivered two short courses on the United Nations human rights system and international human rights law.

55. At the invitation of and in partnership with the Ministry of Information, in August 2012, OHCHR trained 50 media practitioners and Ministry staff on a human rights-based approach to journalism. The two-day course included a focus on maintaining the presumption of innocence in criminal cases and the right to privacy.

56. The dissemination of publications and other information materials by OHCHR has increased each year in terms of new publications issued and number of copies distributed throughout the country. During the period under review, new translations in Khmer

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<sup>4</sup> General Assembly resolution 66/137, annex.

included general comment No. 34 of the Human Rights Committee on freedom of opinion and expression, while new publications included an illustrated version of the Guiding Principles on Business and Human Rights targeting indigenous communities and printed in cooperation with the Indigenous Community Support Organization. In all, more than 75,000 copies of publications and other forms of information materials were disseminated during the period under review. This included 424 sets of information materials to all government high schools throughout the country in support of a government-led human rights competition.

57. The Office continued to provide small human rights libraries to universities and State-run teacher training centres around the country, as well as major government institutions. By end of June 2013, the Office will have delivered 70 sets of human rights materials to 60 recipient institutions.

58. Of all the grants funded by OHCHR during the period under review, two focused on the media. One, which was given to the Cambodian Centre for Independent Media, supported a training initiative for indigenous community representatives on the effective utilization of media for indigenous rights advocacy. An earlier grant to Pour un Sourire d'Enfant helped to produce three films – on sexual abuse, domestic violence and child slavery – from a rights-based perspective. The films are currently being screened across Cambodia.

59. On Human Rights Day 2012, OHCHR staff participated in and monitored 31 community-led events in eight cities and provinces. In advance, the Office distributed 200 packs containing various materials to be used in celebrating the Day across the country. A 2-minute Khmer animation film on freedom of opinion, expression and assembly set in a land dispute scenario was launched online and later shown at public events and training courses. The Office also joined with United Nations agencies to celebrate other international days, including World Press Freedom Day (with UNESCO) and the 16-day campaign to end violence against women led by the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women). The Office also supported the printing of public awareness-raising campaign leaflets on the national election, developed by the Neutral and Impartial Committee for Free and Fair Elections in Cambodia, and on the rights of working women, by the Cambodian Labour Confederation. It also supported a one-month radio programme on the rights of persons with disabilities conducted by the Battambang-based Voice of the Blind organization.

## **VII. Treaty bodies, special procedures and the universal periodic review**

60. In December 2012, Cambodia submitted its second periodic report under the International Covenant on Civil and Political Rights, which had been overdue since 2002. OHCHR provided extensive support to the Government in the preparation of this and other overdue reports. With this report submitted, Cambodia, with the assistance of OHCHR, has cleared its backlog of outstanding reports.

61. The Office continued to support the work of the Special Rapporteur on the situation of human rights in Cambodia during his missions to the country in December 2012 and May 2013. Other requests for official missions by other special procedures mandate holders were not accepted by the Government during the period under review. The Secretary-General encourages the Government of Cambodia to continue its cooperation with the Special Rapporteur on the situation of human rights in Cambodia and to consider inviting also thematic special procedures mandate holders, in order to benefit from their specific expertise.

62. OHCHR assisted the Government and the civil society in the follow-up to the first round of the universal periodic review process and the preparations for the next review of Cambodia, in early 2014. A civil society meeting held on 30 April 2013 and supported by OHCHR resulted in the creation of working groups to prepare joint thematic reports for submission to the Working Group on the Universal Periodic Review. At the request of the Government, OHCHR co-organized an interministerial workshop on 10 May that focused on the drafting of the State's report for its next review.

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