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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**

**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 decision 2/102, in which the Council requested the Secretary-General and the United Nations High Commissioner for Human Rights to continue with their activities in Cambodia, in accordance with previous decisions adopted by the Commission on Human Rights, and to update relevant reports and studies.

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## **Introduction**

1. In carrying out its programme, the Office of the United Nations High Commissioner for Human Rights (OHCHR or the Office) continued to be guided by Commission on Human Rights resolution 2005/77, which invited the Secretary-General, agencies of the United Nations system present in Cambodia, as well as the international community, including non-governmental organizations (NGOs), to continue to work with the Government of Cambodia in ensuring the protection and promotion of the human rights of all people in Cambodia.

2. In resolution 2005/77, the Commission urged the Government of Cambodia to continue to strengthen its efforts to establish the rule of law, including through the adoption and implementation of essential laws and codes for establishing a democratic society; to address as a matter of priority the problem of impunity, and enhance its efforts to investigate and prosecute all those who have perpetrated serious crimes, including violations of human rights; to strengthen its efforts to ensure the independence, impartiality and effectiveness of the judicial system; to take steps to meet its obligations under international human rights instruments; to combat key problems such as human trafficking, sexual violence, domestic violence and sexual exploitation of women and children; to strengthen its efforts for resolving equitably and expeditiously land ownership issues in a fair and open manner in accordance with the Land Law; and to continue to create an environment conducive to the conduct of legitimate political activity, as well as to support the role of non-governmental organizations in order to reinforce democratic development in Cambodia.

3. The two-year Memorandum of Understanding between the Royal Government of Cambodia and the High Commissioner for Human Rights for the implementation of a technical cooperation programme on human rights expired in January 2007. Following lengthy discussions with the Government, the High Commissioner signed an 18-month extension of the Memorandum of Understanding on 1 November 2007. The extension was agreed to exceptionally and on the understanding that negotiations aimed at concluding a standard agreement for the future operations of OHCHR Cambodia would resume within the next year. It was also agreed that mutual, renewed efforts would be made to improve understanding and further develop dialogue and cooperation between the Office and the Government. Throughout the reporting period, the Office cooperated with governmental institutions with responsibilities for human rights, non-governmental and community-based organizations, as well as the United Nations Country Team, and multilateral and bilateral development cooperation agencies.

### **I. ACTIVITIES 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**

#### **A. Renewed approach of the Office of the High Commissioner for Human Rights in Cambodia**

4. The programme of the Office is structured around three interlinked focus areas on (a) fundamental rights and freedoms and civil society, (b) rule of law, and (c) land and livelihoods. In all three areas, the Office monitors relevant developments; conducts legal analysis relevant to the exercise of these rights; provides technical assistance to relevant government

institutions to support their efforts to ensure that laws and their implementation comply with the Cambodian Constitution and treaty obligations; prepare interventions, where necessary, to draw the attention of these authorities to violations or matters of serious concern; works closely with civil society actors involved in economic, social and legal fields and helps protect their ability to operate. It also works closely with other bodies of the United Nations system and other international actors and donors. Each unit takes great care to carefully document and analyse the issues for which it is responsible, in order to verify information and establish facts in an objective manner, so as to prepare a reliable database for the use and action of the Office in its cooperation programmes with the Government, civil society, and interested international actors.

5. The monitoring and protection work of the Office is an integral part of its technical cooperation mandate. This allows it to ensure that technical assistance is relevant both in terms of needs identified by government interlocutors, and of analysis by the Office of human rights issues and priorities in the country. The Office seeks to analyse situations and cases of serious concern in a fair and objective manner, bring them to the attention of the relevant authorities, encourage them to address such situations and cases, and take preventive and/or corrective measures. This cooperation is carried out through direct dialogue with the Government with offers of technical and other assistance to look into the issues and explore ways of working together to help in addressing them. The Office is in the process of redeveloping its technical cooperation programmes based on consultation, joint analysis, joint identification of priorities, and development of appropriate forms of support in a spirit of partnership. Dialogue between the Office and the Government is essential to develop a mutually beneficial cooperation based on trust. The Office does not intend to hold a dialogue with the Government about matters of concern to it via the media. Rather, it favours dialogue and cooperation as the main modes of addressing and resolving issues of concern, in a spirit of mutual respect, understanding and partnership.

6. Since 1993, the Office has been striving to support the efforts of the Government, civil society and the international community to rebuild the rule of law in the country, in line with the Constitution and international human rights treaties obligations. This general objective has been pursued in four interrelated areas: support to the process of drafting legislation to ensure that laws adopted contain the best protective guarantees; support to the rebuilding of institutions critical to the rule of law (courts, legal profession, police); monitoring of the implementation by public authorities of constitutional guarantees and legal rights; and support to the development and protection of civil society. It has continued to promote, and contributed to the protection of, the rights to life, personal security and integrity; and the exercise of freedoms of expression, association and assembly. It has followed closely the work of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes committed during the period of Democratic Kampuchea (ECCC), with a view to importing good practices into the wider judiciary. It has monitored and analysed the management of land and natural resources and its impact on economic, social and cultural rights, in particular the right to property of land, to adequate housing, and indigenous peoples' rights to land and resources. It has also sought to monitor trends and taken up cases of restriction or violation of the civil and political rights of individuals and groups seeking to uphold rights to land and housing, in particular freedoms of assembly and movement, and the right to an effective remedy and equal protection of the law.

## **B. Fundamental rights and freedoms and civil society**

7. The Office has paid particular attention to cases where NGOs and activists have come under attack in connection with their lawful activities in the promotion and defence of human rights, as well as cases which are emblematic of wider patterns that have a serious impact on the exercise of the most essential human rights. In this regard, it has brought its concerns to the attention of national and provincial authorities with regard to restrictions on freedom of movement, expression, association and assembly; illegal arrests, disappearances and other serious breaches of procedural guarantees; land disputes and illegal acquisition of land; forced and violent evictions; excessive use of force; and prison conditions.

8. In a year in which Cambodia reaffirmed, through ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, its commitment to eliminating torture and other ill-treatment, the Office documented a number of instances in which State officials were involved in ill-treatment or torture. In one case, a man was tortured while in the custody of gendarmes in Tum Ring Commune, Kampong Thom Province. He died on 1 January 2007, a day after his release, as a consequence of the injuries he had sustained. A subsequent police investigation and post-mortem confirmed that the man died as a consequence of torture, and the police filed charges with the Provincial Court. Officials from the gendarmerie allegedly paid the wife of the deceased money in an attempt to settle the case out of court. The Office also investigated the illegal arrest and torture of a soldier by a military unit involved in running a plantation in Pailin, and his subsequent disappearance. Military and police officials who investigated the case concluded that the man had been killed but were unable to locate the body. Compensation was paid to the family but no criminal charges or disciplinary action appear to have been initiated against the perpetrators. In another case, the Office investigated the alleged beating of three detainees as punishment for their attempted escape from the prison in Kandal Province on 22-23 July 2007. No disciplinary action seems to have been taken against the prison officers involved. In mid-December, the prison authorities allowed OHCHR staff to meet and interview privately the three detainees and report their findings with recommendations for both preventive and corrective action to the staff. The Office intervened with the authorities on a number of other cases related to prison conditions, including the use of shackles and restriction of family visiting rights of certain prisoners involved in politically sensitive cases. The prison authorities responded to most of these interventions, and cooperation has been encouraging.

9. At the end of 2007, the Office began consultations with the Prisons Department and the Ministry of Interior to explore avenues for cooperation in the field of prison reform. Four areas for possible support by the Office were jointly identified, including support (legal advice) to the drafting by the Ministry of the law organizing the penitentiary system; professional training of penitentiary personnel; assessment of prison conditions and treatment of detainees; and material support to equip prisons with potable water supplies and adequate sanitation facilities. An agreement in principle was also reached with the Minister of Interior to strengthen cooperation with the Office in the fields of drafting legislation, land issues and civil society.

10. In October 2007, the Office wrote to the Ministry of Interior requesting an explanation of the circumstances of the death in custody of Oum Chhay, a prominent businessman from Banteay Meanchey, who was arrested on suspicion of involvement in illicit drug production and trafficking. No independent investigation was conducted into the case. In their response, the

authorities stated that the death was a result of suicide but were unable to provide an adequate explanation as to how Mr. Oum, while in police custody, was able to escape and jump from a first floor balcony, after he had reportedly already made several attempts to take his own life. Similarly, they declined to provide an official record of the investigation, including a post-mortem examination certificate.

11. Following much welcomed changes to the defamation law in 2006 (removal of imprisonment as a penalty for defamation), there has been a clear decline in defamation charges, but a marked shift toward recourse to public prosecution for the crime of disinformation, which still carries a prison sentence. On 15 February 2007, the Office observed the trial of three Khmer Krom individuals at the Phnom Penh Municipal Court on charges of disinformation. They were accused of distributing leaflets in Cambodia accusing the Government of betraying the people and protecting Vietnamese interests. They were found guilty, even though no evidence was produced directly linking them to the leaflets, and sentenced to six months in prison. No witnesses were heard in court. On 28 February 2007, the Office monitored the trial of Tieng Narith, a university professor, on charges of disinformation. He was sentenced to two and a half years in prison and fined 5 million riel for authorship of an unpublished book which was highly critical of the Government. The Office also monitored the case of Soeun Savan, President of the Khmer Kampuchea Krom Friendship Association in Takeo Province, who had sought the release of a group of 48 Khmer Krom detained after crossing into Cambodia from Viet Nam in February 2007. Mr. Soeun was charged with disinformation for allegedly having referred to the group as “refugees” in statements to the press. The prosecution argued that the statement was aimed at misinforming the public in order to create public disorder, since the Cambodian Government considers Khmer Krom to be Khmer citizens. His case is pending at the Takeo Provincial Court.

12. As in previous years, there were marked restrictions on the exercise by citizens of their constitutionally-guaranteed right to peaceful assembly. On 27 February 2007, the Office intervened to defuse a stand-off between police and a group of Khmer Krom monks protesting outside the Vietnamese Embassy against the alleged repression of fellow monks in Viet Nam. One of the protesting monks was found dead two days later at his pagoda in Kandal Province. Despite the fact that his throat had been slit several times, police characterized the death as suicide. Attempts by monks on 21 March to hold a Buddhist ceremony for the dead monk at his pagoda were impeded by police. Following the February 2007 demonstrations which attracted international news coverage, Khmer Krom organizations came under increasing pressure from the authorities to temper their activities. On 8 June 2007, the Ministry of Cults and Religion and the Patriarch of Phnom Penh, Non Nget, issued a directive ordering monks to refrain from engaging in public demonstrations. The constitutionality of this directive has been publicly questioned by a member of the Constitutional Council. Monks are similarly barred from voting in elections.

13. The Office also intervened with the office of the Provincial Governor in Ratanakiri to ask for clarification of the grounds for prohibition of a workshop, planned in advance, gathering local communities and commune and district officials to discuss the implementation of the Land Law. Following the workshop, a small, peaceful march was organized in the capital of the province, calling for the effective implementation of a statement by the Prime Minister concerning the protection of land and forestry in the province. The march, which posed no security threat, was prohibited and eventually dispersed by the fire brigade.

14. In 2007, the Office became increasingly concerned at the treatment by the authorities of Khmer Krom activists living in Cambodia. The term Khmer Krom literally means lowland Khmers and refers to the Khmer minority living in southern Viet Nam. A sizeable Khmer Krom community lives inside Cambodia and the Government has stated that they are considered as Khmer citizens for the purposes of the Constitution.

15. In the year in which the General Assembly adopted a new international treaty outlawing enforced disappearances, the Office followed the case of Tim Sokhorn, a Khmer Krom Buddhist monk, resident in Cambodia since 1979, who headed a pagoda in Takeo Province. On 30 June, Tim Sokhorn was defrocked, by order of the Supreme Patriarch, Tep Vong, for having “committed violations of Buddhist rules by violating national and international relations, especially between Cambodia and Viet Nam, by using the pagoda as a place of propaganda affecting Buddhism and the honour of Buddhism”. The monk had provided shelter to Khmer Krom monks fleeing alleged persecution in Viet Nam and had disseminated information about Khmer Krom rights. At the time of the defrocking, the pagoda was cordoned off by police and Tim Sakhorn was reportedly driven away by men in civilian clothes. The Office wrote twice to the Government requesting information as to the whereabouts of Tim Sakhorn, but no response was received. After a prolonged period of uncertainty, the monk appeared in police custody in Viet Nam. His deportation is a prima facie violation of the constitutional prohibition of deportation of Khmer citizens, if indeed Khmer Krom have the status of Khmer citizens. If they do not, then Khmer Krom claiming persecution should be entitled to seek refugee status under the Convention relating to the Status of Refugees, to which Cambodia is a party.

16. The Office observed a small demonstration involving 48 Khmer Krom monks in front of the Vietnamese Embassy, requesting to be received to deliver a petition calling on the Vietnamese authorities to return land confiscated in 1978, at the time of the armed border confrontations which took place between the Khmer Rouge and Viet Nam. The demonstration, which was peaceful, was brutally dispersed by security forces, using riot batons and electric truncheons. Two monks were seriously injured. The Office is concerned that violent suppression of peaceful assemblies in the context of very politically sensitive issues relating to the relationship between Cambodia and Viet Nam has the potential to fuel more conflict and violence between Cambodian and Vietnamese communities in the capital. The Office has been seeking discussions with Cambodian authorities and Vietnamese Embassy officials to look for ways of peacefully resolving these conflicts.

17. The Office raised with court and police authorities in Ratanakiri the case of three members of the Kachok indigenous community who were arrested on suspicion of human trafficking. The men had provided humanitarian aid to *montagnards* (that is, indigenous peoples of north-east Cambodia and the central highlands of Viet Nam) belonging to the same ethnic group, after they had crossed the border from Viet Nam to seek protection. *Montagnards* frequently cross into Cambodia seeking asylum from alleged persecution by Vietnamese authorities. The three Kachok had assisted the *montagnards* in contacting officials from the Office of the United Nations High Commissioner for Refugees in Phnom Penh. The three men were sentenced to six months in prison.

18. The Office continued to monitor violations of the right to freedom of expression, particularly with regard to journalists. In June 2007, the Government banned dissemination of a report, published by the international NGO, Global Witness, detailing the alleged involvement of

government officials and their relatives in illegal logging activities. Journalists were warned not to report on or reproduce extracts of the report and the French language newspaper *Cambodge Soir* was shut down by its board after a two-day strike by journalists protesting against the sacking of one of their number who had reported details of the Global Witness report. The Office monitored and provided protection to individuals in the context of several acts of intimidation connected with the report.

19. The commune council elections took place on 1 April 2007 under conditions that were generally characterized by observers as fair. The Office monitored the election campaign as part of its regular programme activities, but no monitors were recruited, unlike for previous elections. OHCHR was pleased to note that the months preceding the campaign showed a marked decrease in political violence, such as killings or other violent attacks on opposition party supporters, as compared to previous elections. This is a very welcome development.

20. The Office also monitored the trial of the opposition politician and former co-Prime Minister, Prince Norodom Ranariddh, on dubious charges of breach of trust related to the sale, allegedly for personal gain, of the former headquarters of the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC), which he led until 2006. The handling of this case by the courts will continue to be an important test as to whether verdicts are determined on the basis of evidence and the law or other considerations, in the context of the forthcoming legislative elections.

21. During the course of the year, the Office has intervened with the Government on a number of cases in which criminal actions were brought against individuals for certain political activities, in spite of medical evidence that these individuals might be suffering from mental disorders that result in diminished responsibility. The justice system does not provide sufficient safeguards to protect the rights of people with mental health problems.

### **C. Rule of law and the justice sector**

22. The Office continued to follow with keen interest developments in the justice sector - a sector to which it has devoted much attention and resources in the past 14 years. Its rule of law programme works with relevant government institutions, to support their efforts to ensure that laws comply with international human rights standards and are effectively implemented. A key concern and criterion for its assessment of the system is the extent to which the people whose rights have been violated are able to obtain an effective remedy through the courts. The assessment of the Office is that this happens exceptionally, and that the poor and vulnerable are usually not able to obtain justice through the courts. Basic procedural guarantees and rights are routinely violated, such that people often become victims of the justice system. This helps to explain the widespread popular distrust of the justice system, often regarded as a mechanism for further abuse.

23. During 2007, the Government has passed further important milestones in its legislative reform programme. The entry into force of the Code of Civil Procedure on 1 July 2007 was followed by the Code of Penal Procedure on 30 August 2007. These are essential landmarks in the new legal landscape. Following their adoption, a programme of training of judges and prosecutors was launched under the auspices of the Ministry of Justice to familiarize them with

their contents. The Office has started monitoring the implementation of the Code of Penal Procedure and is exploring avenues of cooperation with the relevant institutions to support the training of judges in this regard.

24. The Office maintains working relations with judges and prosecutors and, with full respect for their independence, has continued to discuss with them concerns related to individual cases going through the system. One long-standing concern raised by numerous judges has been the harsh and disproportionate effect on minors of article 8 of the Law on Aggravating Circumstances for Felonies. This law, passed in 2002, removed both the discretion that judges previously had under the criminal provisions of the 1992 Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia during the Transitional Period (commonly known as the United Nations Transitional Authority in Cambodia (UNTAC) law) to consider the age of an offender in mitigation and the obligation judges had to halve any prison sentence for persons under 18 years of age. As such, the 2002 law, insofar as it is applied to minors, constitutes a prima facie violation of article 37 (b) of the Convention on the Rights of the Child (CRC), which is guaranteed under articles 31 and 48 of the Constitution. As a result, some judges in some provinces have continued to apply the UNTAC law, creating a situation of inconsistent and non-uniform application of the law. The Office participated in a workshop organized by the Ministry of Justice and the United Nations Children's Fund (UNICEF) on the draft juvenile justice law where this issue was discussed.

25. In this regard, the Office and UNICEF provided support and advice to a group of legal aid and child rights NGOs to prepare a submission recommending that the Constitutional Council consider the constitutionality of the 2002 Law in the light of Cambodia's constitutionally guaranteed obligations under CRC. Cambodian citizens have no direct right of petition to the Constitutional Council, and therefore the submission was addressed to the more than 200 individuals who, ex officio individually or collectively, have the right of petition, including His Majesty the King, who graciously forwarded the petition to the Constitutional Council.

26. The Constitutional Council's subsequent ruling of 10 July 2007 constitutes a landmark in the protection of human rights in Cambodia. Although the Council decided that the Law on Aggravating Circumstances for Felonies was constitutional, it did so on the basis that the law was not intended to abrogate the protections provided to child offenders in the UNTAC provisions, since this would have violated the Constitution and CRC. Furthermore, the Council clarified in its decision that the international human rights treaties to which Cambodia is party are part of Cambodian domestic law and as such are directly applicable by judges in the courts. The Office publicly welcomed this key decision and has worked to disseminate and explain it, including through a national seminar for judges and prosecutors jointly organized with the Ministry of Justice and UNICEF. The Office is pleased that judges are now applying the Council's decision in their judgements. The Constitutional Council is a very important, but often marginalized, institution whose role in the protection of constitutional and human rights in Cambodia should be more widely recognized and respected.

27. At the end of the year, the Office met representatives of the Council for Legal and Judicial Reform to explore with them ways in which cooperation could be developed. Several such areas were identified, including the establishment of a database on human rights; education and training; support to the Ministry of Education in the field of human rights education; and assistance to the Planning Management Unit of the Council.

28. Renewed and active efforts by the Office to establish a working relationship with the President of the Governmental Cambodian Human Rights Committee during the last quarter have evoked no response.

#### **D. Impunity**

29. Combating impunity is one of the main priorities of the United Nations High Commissioner for Human Rights worldwide. Since November 2007, the Office has started to monitor the proceedings of the Extraordinary Chambers in the Courts of Cambodia (ECCC), set up to try senior Democratic Kampuchea leaders and those most responsible for crimes committed during the dark period (1975-1978). The role of the Office in this respect is to follow the ECCC proceedings so as to identify good practices and model proceedings that could be imported as sources of awareness, education and inspiration for judges, prosecutors and lawyers in the wider justice system, and to contribute to a dynamic that will address crimes of recent years which are still unpunished.

30. Impunity has been identified by previous Special Representatives of the Secretary-General for human rights in Cambodia as the single most important obstacle undermining the rule of law in Cambodia. In this regard, 2007 has witnessed positive developments in addressing some of the crimes of the past. On the positive side, the authorities moved to arrest three former Khmer Rouge soldiers accused of implication in the murder of a British mine clearance expert and his Cambodian interpreter in 1996.

31. During the summer, the ECCC adopted its internal rules, proceeded to arrest four additional leaders of the former Democratic Kampuchea, and held its first hearing in the case of the former head of the notorious S-21 interrogation and execution centre. These developments have created a new, more positive dynamic at the ECCC, which has facilitated cooperation between the Cambodian and international elements and has had widespread resonance with the public; for the first time in the country's history, senior public officials are being brought to account for their past crimes.

32. The year 2007 has however witnessed serious setbacks or lack of progress in bringing to justice those responsible for a long list of unsolved killings since 1993. Of this list, the case of trade union leader Chea Vichea is only the most well-known. These cases, as well as the phenomenon of impunity, its roots and adverse consequences for the rule of law and justice in Cambodia, were analysed in detail in a 2005 report of the Special Representative of the Secretary-General for human rights in Cambodia, which remains a landmark contribution to understanding the continuing patterns of impunity in Cambodia.

33. In April 2007, the Office monitored the appeal of Born Samnang and Sok Sam Ouen, the two men convicted of the murder of Chea Vichea. The court of appeal decided to uphold the convictions, in spite of the overwhelming body of evidence indicating that the men are innocent. The case is emblematic for what it reveals about impunity for crimes which appear to possess a political dimension, the independence of the judiciary, the ability of the courts to render effective remedies for human rights violations and for the underlying concern it raises about trade union freedoms in Cambodia. In addition to the Chea Vichea murder and the murder of Ros Sovannareth in 2004, the Office monitored the case of a third murdered trade union leader, Hy Vuthy, in March 2007. Mr. Hy was the local president at a factory in Phnom Penh of the

Free Trade Union of Workers of the Kingdom of Cambodia. Despite interventions by the Office with the Ministry of Interior, no progress seems to have been made in finding the culprits of this latest killing. These killings have not only had a chilling effect on the ability of trade unionists to defend labour rights but have further undermined public confidence in the justice system in Cambodia.

### **E. Land and livelihoods**

34. The Office continued to monitor the grant of economic land concessions, assessing compliance with the legal framework established by the Land Law and Sub-Decree on Economic Land Concessions, in particular the prerequisites to granting concessions, including registration of land, public consultations and the conduct of environmental and social impact assessments.

35. The Office assisted the Special Representative with the preparation of a report presenting a human rights perspective on economic land concessions, which was released in June 2007. This report found there was poor compliance with the Land Law and Sub-Decree on Economic Land Concessions and that as a result, economic land concessions continue to have a negative impact on human rights in rural communities. The Office has monitored a number of emblematic cases which show that aggrieved individuals or communities have almost no recourse, whether administrative or judicial, to protect their rights against arbitrary practices, and that, in most cases, the relevant authorities and the judicial system have turned against them rather than protecting their rights under the law.

36. The recommendations made by the Special Representative in his report on economic land concessions included the review of existing concessions for compliance with the law, reduction of concessions exceeding the 10,000-hectare size limit, and the publication of information on all concessions granted at national and provincial levels. The Office shared perspectives on the management of economic land concessions and pursued these recommendations in Government-donor coordination mechanisms and meetings. The recommendations are reflected in the joint monitoring indicators agreed by the Government of Cambodia and its development partners in June 2007.

37. The Office has continued to draw attention to the promotion and protection of the rights of indigenous peoples to land and natural resources, as recognized by the Land Law and Forestry Law. Indigenous land continues to shrink under illegal land deals, the grant of concessions, and pressure to develop the north-east of Cambodia, yet little action has been taken to protect indigenous rights to land, and the elaboration of the collective titling process is proceeding slowly. At the current pace, unless decisive action is taken by the Government, the Office fears that most local communities will have lost their lands, livelihoods, and cultural heritage by the time the policy is put in place.

38. In February 2007, the Office, the International Labour Organization (ILO) and the NGO Forum on Cambodia co-hosted a seminar on indigenous peoples and access to land in Cambodia, bringing together representatives of indigenous communities, Government, civil society, development cooperation and United Nations agencies. Guests included the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Chair of the United Nations Permanent Forum on Indigenous Issues. The Office also participated in a consultation process regarding a draft policy on the registration of indigenous land, and

expressed concern that the policy should recognize and protect the full range of collective ownership rights set out in the Land Law. On the International Day of the World's Indigenous People, the Office issued a statement outlining continuing concerns about the protection and implementation of indigenous rights to land, and failure to enforce the Land Law. It supported holding of a forum on national indigenous peoples, focusing on good governance and rights to land.

39. The Office continued to monitor evictions and issues affecting the right to adequate housing. The forced eviction of poor communities has occurred largely in and around Phnom Penh, as demand and prices for land increase, but there are rising numbers of evictions in Sihanoukville and other provinces experiencing urban growth. Hundreds of families have been forcibly evicted from their homes by municipal and district authorities in order to enable private development projects to proceed. Some of these evictions have been conducted after negotiations with local communities, seeking to find a reasonable compromise through adequate compensation. Several others were carried out with excessive force using armed police and military police, resulting in injuries and the destruction of property. Many evicted families have been rendered homeless or relocated to distant sites on the outskirts of Phnom Penh, which lack basic services and are far removed from their usual livelihoods.

40. The Ministry of Economy and Finance, with the technical assistance of the Asian Development Bank, is drafting a sub-decree on the socio-economic impacts of development projects, which will govern the compulsory acquisition of land in the public interest, resettlement of affected communities and assessment of compensation entitlements. The Office contributed to the consultation and submitted concerns regarding the consistency of the draft sub-decree with the right to adequate housing as recognized in the International Covenant on Economic, Social and Cultural Rights, and with Cambodia's Constitution and Land Law. The Office engaged in dialogue with civil society groups regarding the draft sub-decree, and supported community input to the drafting process.

41. In relation to these issues, the Office monitored the environment for NGOs, civil society groups and individuals promoting and seeking to enforce rights to land and the protection of natural resources. Civil society actors operate within an increasingly shrinking space and hostile climate: authorities have regularly accused NGOs of being politically motivated and of incitement when supporting communities to voice their concerns. In several provinces (Ratanakiri, Mondulakiri, Kratie, Stung Treng), a clear pattern of restrictions of freedom of assembly and movement of local communities and NGOs has begun to emerge.

42. In several provinces, particularly in areas where disputes over land and natural resources are prevalent and acute, NGOs are often required to inform or even seek permission from provincial authorities prior to visiting local villagers, convening workshops or meetings. In May 2007, Ratanakiri provincial police stopped a meeting of over 30 representatives from national and provincial NGOs, stating that permission to hold the meeting had not been obtained from the provincial authorities. In Ratanakiri and Mondulakiri provinces, which have predominantly indigenous populations, community members are required to request permission from provincial authorities prior to attending meetings outside the province. In Ratanakiri, an NGO working with communities affected by upstream dams in Viet Nam sought permission for 12 community members and 2 staff members to attend a workshop in Phnom Penh in October 2007: the deputy provincial governor refused permission and ordered the provincial

police to stop the people on the road. Also in Ratanakiri, another civil society organization, ADHOC, actively involved in the protection of land rights and indigenous peoples, was prohibited in mid-December from holding a workshop on the implementation of the Land Law, to be attended by district and commune authorities and local communities. The workshop nevertheless proceeded and was followed by a small, peaceful march, which was stopped and dispersed with fire engine hoses.

43. In the context of disputes over unregistered land, community activists continue to be charged with criminal offences under the Land Law, such as infringement of private property, although the legal possession of land has not been determined. However, little action has been taken to resolve long-standing land disputes that threaten community livelihoods, and criminal charges have not been pursued against the other parties to those land disputes, who often have influential connections. On 4 December 2007, Chhea Nee was released after having been detained since August 2006, in relation to a dispute over unregistered land involving military officers and wealthy businesspeople in Bavel district, Battambang province. There were several irregularities in the judicial process relating to the charges against him, including his absence from the trial relating to the first charge, and a guilty verdict on two charges which were altered at or following trial. In May and June 2007, three community members from O'Vor Preng in Battambang province were detained and charged with infringement of private property in relation to a land dispute with wealthy and well-connected businessmen. Although the trial judge suspended the charge against Chim Keo pending the resolution of the dispute over land ownership, he remained in detention because the prosecutor appealed this decision. Tith Bunchhoeun and Huong Chea were granted bail, but also remained in detention because the prosecutor appealed this decision. The 3 men were finally released in September 2007, after 65 community members travelled to Phnom Penh to protest and call on the Ministry of Justice to take action to release the men.

44. Criminal charges have also been pursued against community members who have resisted evictions or attempts to evict them from their land and homes. Following the violent eviction of over 100 families in Sihanoukville by armed police officers in April 2007, during which many villagers were beaten, 13 villagers were arrested and charged with battery and with injury and wrongful damage to property, or complicity in these crimes. Despite the lack of concrete evidence, eight men were convicted: most of them had served their sentences in pretrial detention and were eligible for release, but they all remain in detention due to the prosecutor's appeal against their sentences. No action has been taken against police officers who used excessive force, destroying homes and assaulting residents. Nine community members have faced criminal charges at the Dey Krahom community in central Phnom Penh, where over 350 families face ongoing evictions so that a company can redevelop the site. It appears that these charges are not well-founded, and have been pursued to curtail the activism of community members resisting the evictions.

45. The Office closely monitored a case in which 12 indigenous villagers from Ratanakiri province have taken legal action against a Cambodian rubber company with close ties to senior government officials, seeking the cancellation of a contract for the sale of land on the grounds that it was fraudulent. The company filed a criminal complaint against the villagers for fraud and defamation, mentioning their lawyers and two NGO representatives and alleging that they incited

the villagers and acted as their accomplices. It also lodged a complaint with the Bar Association against the 10 lawyers representing the villagers, alleging that they had incited villagers to file a complaint against it. Both of these complaints remain under investigation.

#### **F. Adherence to international human rights treaties**

46. Cambodia has one of the best ratification records for human rights treaties in the Asia region: it has ratified six of the core human rights treaties and signed two others; it has ratified three optional protocols and signed three others; and has ratified seven ILO conventions. While these formal commitments are an important expression of the Government's commitment to international human rights standards, effective implementation of treaty obligations has been limited. Cambodia also acceded to the United Nations Convention against Corruption on 5 September 2007.

47. During 2007, Cambodia significantly strengthened its formal commitments to international treaty standards for the protection and promotion of human rights. On 30 March 2007, Cambodia deposited its instrument of ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. The Office has been pursuing discussions with Government counterparts on possible technical assistance with regard to the creation of a national preventive mechanism, which should be in place by the end of April 2008. This was followed by ratification on 1 August 2007 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. The Office provided advice to the Ministry of Social Affairs, Veterans and Youth Rehabilitation concerning the content of the new Convention on the Rights of Persons with Disabilities. As a result, the Ministry recommended to the Ministry of Foreign Affairs that Cambodia sign and eventually ratify the Convention and its Optional Protocol. Following the signing of the two instruments on 1 October 2007, the Office, together with the ILO and UNICEF, in conjunction with the Ministry of Social Affairs and the Disability Action Council, initiated a public event aimed at lawmakers to advocate for early ratification of the Convention alongside adoption of the national law on the rights of disabled persons.

48. Cambodia is currently overdue on the submission of 14 reports to the human rights treaty bodies. The Government is also in the process of preparing its second periodic report under the Convention on the Rights of the Child, with assistance from UNICEF. The draft of Cambodia's next periodic report under the International Convention on the Elimination of All Forms of Racial Discrimination, which was submitted to the Council of Ministers in October 2006, has not progressed further. Although Cambodia became a party to the International Covenant on Economic, Social and Cultural Rights in August 1992, it is yet to submit its first report under the Covenant.

#### **G. Efforts to establish a national human rights institution**

49. The Office has continued to advise the process under way to establish a national human rights institution (NHRI) in accordance with the Principles relating to the status of national institutions (the Paris Principles). Following the national conference in Siem Reap in September 2006 at which the Prime Minister publicly endorsed the initiative, a national working group was formed consisting of representatives of the Government's Human Rights Committee

and human rights NGOs. The task of compiling the first draft of the law to establish the institution has been assigned to a working group of NGOs operating in the field of human rights and legal aid. This body submitted its first draft to the Government in October 2007 and now proposes a lengthy period of public consultations on the draft law.

50. The Office is seeking to ensure that any proposed legislation to establish a national human rights institution should be based on a broad consensus within Cambodian society, with the full participation of government institutions and civil society. In order to encourage greater participation and provide expert advice in the drafting process, the Office organized a technical assistance mission in December 2007 to meet with Government and civil society actors, review the first draft of the law, and advise them on the next steps. The Office also facilitated the participation of an official Cambodian Government delegation in a three-day workshop on the establishment of national human rights institutions organized by the National Institutions Unit of the Office of the High Commissioner for Human Rights in collaboration with the Human Rights Commission of the Philippines.

#### **H. Cooperation and coordination with the United Nations Country Team**

51. The United Nations Development Assistance Framework 2006 to 2010, to which the Office contributed substantively, is a strong rights-based document which identifies four focus areas: good governance and the promotion and protection of human rights; agriculture and rural poverty; capacity-building and human resource development for the social sector; and support for the National Strategic Development Plan (2006-2010). While the Office programme contributes to all of these objectives, its emphasis is on protection, assistance and advisory work in the first two areas.

52. The Office participated in regular meetings of the United Nations Country Team, including meetings of heads of agency and of the Millennium Development Goals Advisory Committee, which also includes human rights responsibilities. The Office worked with individual agencies on matters of joint concern, for example with ILO on issues relating to indigenous peoples and freedom of assembly and association, and with the United Nations Development Fund for Women (UNIFEM) on treaty reporting and follow-up and with UNICEF on juvenile justice and the rights of persons with disabilities. The Office collaborated with the United Nations Human Settlements Programme (UN-HABITAT) in drafting a United Nations Country Team viewpoint on evictions and involuntary resettlement.

53. Outside the United Nations system, the Office continued to work with multilateral and bilateral development cooperation agencies to help integrate and implement human rights standards in development policies and programmes. The Office participated in the Cambodia Development Cooperation Forum (formerly the Consultative Group) and remained active in the technical working groups on legal and judicial reform and land, 2 of 19 such sectoral groups set up by the Government and donors to prepare joint strategies and action plans and monitor progress against agreed indicators.

#### **I. Education, training and public information programmes**

54. Continuing its programme to publish new translations in Khmer of the core human rights treaties, the Office finalized a Khmer translation of the Convention on the Rights of Persons with

Disabilities, in collaboration with the Ministry of Social Affairs, Veterans and Youth Rehabilitation and the Disability Action Council. The translation was based on a text initially prepared by disabled persons based at the Jesuit Refugee Service in Phnom Penh. The Convention was subsequently published in a bilingual English-Khmer edition, jointly with ILO and UNICEF.

55. In response to Cambodia's ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Office published the Convention and its Optional Protocol in a bilingual Khmer-English edition, with the International Convention on the Elimination of All Forms of Racial Discrimination to follow in the same format. In a pocket-sized bilingual format, the Office has also published the key United Nations instruments on judges, prosecutors and lawyers, which were distributed widely to members of the legal professions, and the United Nations Declaration on the Rights of Indigenous Peoples.

56. In anticipation of the year-long celebration leading up to the sixtieth anniversary of the adoption of the Universal Declaration of Human Rights, which coincides with the fifteenth anniversary of the promulgation of the Cambodian Constitution, the Office has also prepared in Khmer a compilation of key Cambodian constitutional documents aimed at the protection of human rights, including the core international human rights treaties to which Cambodia is a party.

57. In the light of the recent adoption of several significant bodies of legislation, including the two Codes of Procedure, the Office is in the final stages of preparing a supplement to its well-received fourth edition of the Compilation of Laws in Khmer, which came out in September 2005. Distribution of the fourth edition has been completed and stocks are now limited. However, the Compilation is available on the Office's website, and includes all recently-adopted legislation. The Office has also collaborated with a group of law students from the Royal University of Law and Economics to produce a CD-Rom version of the Compilation, which includes a full-text search facility. This project, which was undertaken at the initiative of the students themselves, illustrates the value placed on the Compilation itself and the extent to which the younger generation of Cambodians is embracing new digital technologies.

58. The Office has undertaken a revamping of its website in parallel with similar developments on the main OHCHR website. The new website will include a Khmer language version and will provide additional information on the activities of the Cambodia Country Office as well as public documents in English and Khmer relating to the work of OHCHR, the Special Representative, Special Rapporteurs and the treaty bodies and resolutions relevant to Cambodia.

## **II. ASSISTANCE TO THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL FOR HUMAN RIGHTS IN CAMBODIA**

59. OHCHR in Cambodia is mandated to support the Special Representative of the Secretary-General for human rights in Cambodia, Mr. Yash Ghai, in the discharge of his mandate to assist the Government and people of Cambodia in the promotion and protection of human rights. The Office facilitated the third and fourth missions to Cambodia of the Special Representative in May and December 2007. In May 2007, the Special Representative had the

opportunity to meet with Deputy Prime Minister and Minister of the Interior Sar Kheng, and the President of the National Election Commission. In December, he focused on access to justice and land rights, and visited Ratanakiri Province. In Phnom Penh, Mr. Ghai held discussions with the President of the Cambodian Bar Association as well as senior court staff at the Extraordinary Chambers in the Courts of Cambodia. He also visited eviction sites and participated in the celebrations of Human Rights Day in central Phnom Penh. Regrettably, no government officials were available to see the Special Representative during his fourth mission, in spite of the advance notice of his mission. During both visits, Mr. Ghai's programme included discussions with representatives of NGOs, trade unions, political parties and the diplomatic corps, as well as the United Nations Country Team.

### **III. STAFFING AND ADMINISTRATION OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS IN CAMBODIA**

60. OHCHR maintains a Country Office in Phnom Penh and a regional branch office in Battambang. The Office has 8 international staff positions, 20 national posts and 1 international staff member seconded from United Nations Volunteers (UNV). Four of the national staff are based in the regional office in Battambang. OHCHR also maintains a small presence in the Phnom Penh Municipal Court. The Country Office structure consists of the Representative, the Deputy Representative, the three programmes and an administration unit.

61. The Representative is responsible for overall policy and management. This includes redeveloping and strengthening dialogue and cooperation with the Government and civil society on issues of human rights concern, coordinating assistance to the Special Representative, participating in the United Nations system, and facilitating external and donor relations. The Deputy Representative ensures everyday coordination and supervision of the Office programme as well as the coherence between programme implementation and administrative support. The functions of the programme units have been described in detail in paragraphs 4 and 5 and subsequent sections of this report. The Administration Unit provides personnel, administrative, financial and logistical support, and serves as the security focal point.

62. In December 2007, the Office commissioned an external review of its programme to assess how it can better integrate a gender perspective into its work.

63. The United Nations regular budget covers OHCHR Cambodia'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 salaries of staff members not covered under the regular budget. The Trust Fund is administered by the United Nations Office at Geneva.

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