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**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251
OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

**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 has been prepared pursuant to decision 2/102 of the Human Rights Council. It provides an account of the activities in Cambodia of the Office of the United Nations High Commissioner for Human Rights from January to mid-December 2006.

During the reporting period, the Office continued to monitor the overall human rights situation. It responded to reports of violations of human rights, regularly bringing its concerns to the attention of provincial and national authorities for their intervention and resolution. It gave priority to problems faced by non-governmental organizations (NGOs), groups and individuals defending human rights in the conduct of their work.

In the area of legal and judicial reform, the Office continued to advocate for structural reforms of key institutions to guarantee an independent and professional judiciary, and contributed to developing legislation consistent with the international human rights treaties to which Cambodia is party.

The Office monitored implementation of the 2001 Land Law, focusing on the granting and impact of economic land and other concessions of Cambodia's natural resources, with particular regard to Cambodia's indigenous peoples.

The Office cooperated with all three branches of the Government, the United Nations Country Team, and multilateral and bilateral development cooperation agencies, as well as with a broad range of NGOs and other organizations of civil society.

Through its education and public information activities, the Office sought to promote greater understanding of international human rights instruments and their domestic implementation, and to foster an enabling environment for human rights work.

The present High Commissioner made her first visit to Cambodia in May. During her visit, she focused on the centrality of an independent, professional judiciary in protecting human rights and freedoms, and on the ability of civil society actors to work freely and safely.

The Office also facilitated the second mission of the Special Representative of the Secretary-General for human rights in Cambodia in March, as well as an unofficial visit of the Special Representative of the Secretary-General on human rights defenders in December to participate in activities to commemorate Human Rights Day.

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I. INTRODUCTION

1. 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 the fulfilment of their activities, in accordance with all previous decisions adopted by the Commission on Human Rights and to update the relevant reports and studies.

2. The office in Cambodia of the High Commissioner for Human Rights was established in 1993 following the withdrawal of the United Nations Transitional Authority in Cambodia (UNTAC). The mandates of the office and the Special Representative of the Secretary-General for human rights in Cambodia derive from Commission on Human Rights resolution 1993/6. They combine monitoring, protection and public reporting functions with technical assistance and advisory services.

3. The office in Cambodia 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 and non-governmental organizations to continue to assist the Government in ensuring the protection and promotion of human rights of all people in Cambodia.

4. While noting the efforts of the Government of Cambodia, the Commission was concerned that some violations of human rights continued, especially those related to the rule of law, the judiciary, human trafficking, violence against political and civil activists, impunity and corruption. It asked the Government to strengthen its efforts in several specific areas, including:

- Adopting and implementing essential laws and codes for establishing a fully democratic society;
- Ensuring the independence, impartiality and effectiveness of the judicial system;
- Investigating and prosecuting those who have perpetrated serious crimes, including violations of human rights;
- Meeting Cambodia's obligations under international human rights instruments;
- Combating key problems such as human trafficking, issues related to poverty, sexual violence, domestic violence and sexual exploitation of women and children;
- Resolving land ownership issues in a fair and open manner;
- Creating a conducive environment for the conduct of legitimate political activity, and supporting the role of NGOs in order to solidify democratic development in Cambodia.

5. The office also worked in accordance with the terms of a renewed 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 which came into effect on 12 January 2005 for a two-year period. This programme includes the following:

- Provision of assistance to the Government in promoting and protecting human rights;
- Promotion of greater integration of the human rights dimension into education, health and other development programmes;
- Provision of technical support for the Government's reform programmes, including in the areas of administration of justice and the legislative process;
- Encouragement of the participation of civil society and promoting public education in democracy and human rights;
- Provision, upon the Government's request, of technical assistance and advice in fulfilling its responsibilities, including submission of reports in accordance with its international human rights treaty obligations; and advising and assisting the Government and its civil society partners in establishing a national human rights institution.

6. In 2006, the office in Cambodia's programmes were implemented in cooperation with governmental institutions with responsibilities for human rights, including the judiciary and the courts, the Council of Ministers and the Government's Human Rights Committee, the Ministries of Justice, Interior, Women's Affairs, and Land Management, Urban Planning and Construction, and with municipal and provincial authorities. The office cooperated with a wide range of non-governmental and community-based organizations and groups working on human rights, legal and development issues.

II. VISIT OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

7. The High Commissioner for Human Rights, Louise Arbour, undertook her first visit to Cambodia in May. During her visit, the High Commissioner held positive discussions with the Prime Minister on the continuation of the mandate of OHCHR in Cambodia. At the end of her mission, she issued the following statement:

It has been an honour for me to make a first visit to Cambodia, a country in which my Office has been operational for more than a decade now. I have had the privilege of being granted an audience with His Majesty the King, and I have met with Prime Minister Hun Sen, Deputy Prime Minister and Minister of the Interior Sar Kheng, Deputy Prime Minister Sok An and Minister of Justice Ang Vong Vattana. I have also met with a broad range of representatives of Cambodia's civil society, the United Nations Country Team, members of the diplomatic community and officials of the Extraordinary Chambers for the Khmer Rouge trials.

My visit has afforded me an opportunity to become more familiar with the human rights situation in Cambodia. I was told repeatedly of positive developments in the country since 1993, including stability after many years of conflict; economic growth; and the holding of regular elections. Evidently, no country has a perfect human rights record. I believe the most promising sign of eventual progress is the capacity to acknowledge shortcomings. The human rights situation in Cambodia has been the subject of extensive analysis by four successive special representatives of the Secretary-General. Their observations illustrate the difficulties this country has yet to overcome.

My visit has also allowed me to focus on one issue I consider of capital importance for the consolidation of democracy under the rule of law, namely the strengthening of the judicial branch of governance. An independent, professional judiciary with recognized integrity would not only be essential in protecting fundamental rights and freedoms but also facilitate the resolution of a number of the difficulties evident in Cambodia, including impunity, conflicts over land and corruption.

The ability of civil society actors to work freely and safely is another key indicator of a functioning democracy. The professionalism and commitment of non-governmental organizations (NGOs) is a remarkable asset for the development of this country and one that needs to be safeguarded and supported.

My visit to Cambodia takes place during a time of considerable change in the global human rights system. A new intergovernmental body, the Human Rights Council, will meet for the first time next month. Among its many tasks it will be charged with reviewing the human rights records of every Member State of the United Nations. In other words, there can be no ambiguity that the human rights situation in every country is the legitimate concern of the international community. Against this backdrop, I leave Cambodia reassured by the expressed commitment of the Government to strengthen our longstanding cooperation and determined to ensure that our work yields tangible benefits for the protection of human rights in Cambodia.

III. ASSISTANCE TO THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL FOR HUMAN RIGHTS IN CAMBODIA

8. The office in Cambodia continued to support the Special Representative of the Secretary-General for human rights in the discharge of his mandate to maintain contact with the Government and people of Cambodia and to assist the Government in the promotion and protection of human rights. The Office kept the Special Representative regularly informed of developments, provided briefings on specific issues of concern, and facilitated his second mission to Cambodia in March. (See A/HRC/4/36 for his recommendations to the Council.)

9. The current Special Representative, Yash Ghai, has served since November 2005. His predecessors were Peter Leuprecht, 2000 to 2005, Thomas Hammarberg, 1996 to 1999, and Michael Kirby, 1993 to 1996.

IV. ACTIVITIES OF THE OFFICE IN CAMBODIA OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS IN ASSISTING THE GOVERNMENT AND PEOPLE OF CAMBODIA IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

A. General objectives

10. The office in Cambodia continued to respond to cases and situations that required immediate attention, while assisting in longer-term strengthening of institutions with responsibilities to safeguard and uphold respect for human rights, as well as in developing policies, laws and practices consistent with Cambodia's international human rights commitments. It structured its activities through three interlinked programmes which focused on monitoring and protection, rule of law, and land and livelihoods.

11. Its priorities included acting on reports of serious violations of human rights, enabling NGOs and civil society groups to function and carry out their work for human rights in safety in accordance with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders), promoting respect for freedoms of expression, association and assembly and contributing to programmes of legal and judicial reform. The Office monitored the implementation of the 2001 Land Law, with particular regard to the granting of economic land concessions and their impact on local populations, and to Cambodia's indigenous peoples who face rapid alienation of their lands.

12. The office worked with the Government, the United Nations Country Team and with multilateral and bilateral development cooperation agencies to promote the integration and implementation of human rights standards in national development plans, policies and practices.

13. The office sought to foster an enabling environment for the implementation of human rights, through promoting increased understanding of international human rights instruments and their implementation in domestic law and practice, and greater awareness and appreciation of the role and contribution of NGOs advocating for human rights and social justice.

B. Protection programme

14. Through its protection programme, the office in Cambodia gave priority to cases where NGOs and activists came under risk in connection with their work to defend human rights. It also took up cases that could have a serious impact on the overall human rights situation. It regularly brought its concerns to the attention of national and provincial authorities, including the courts, for resolution and effective remedy. It took action on a range of cases, including cases involving restrictions on freedoms of expression, association and assembly, illegal arrests and other serious breaches of criminal process guarantees, land disputes and illegal acquisition of land, forced evictions, and excessive use of force. The office advocated for relevant existing and draft laws relating to fundamental freedoms to comply with Cambodia's Constitution and the international human rights treaties to which Cambodia is party. It also monitored trends in the exercise of the freedoms of expression, association and assembly.

15. At the beginning of 2006, the office monitored the arrests of the President of the Cambodian Centre for Human Rights and his deputy, and the Director of the Cambodian Legal Education Center. They were charged with defamation in connection with a banner displayed during celebrations for International Human Rights Day on 10 December 2005. These followed arrests of the owner and director of a popular radio station and the President of the Independent Teachers' Association in October 2005 on charges of defamation, disinformation and incitement. All five were released mid-January, but the charges remain pending.

16. On 4 January 2006, the High Commissioner issued a statement expressing her deep regret and concern that the lawsuits and arrests of members of civil society constituted a disturbing trend that threatened to undo progress made over the last decade to build an open and just society based on the rule of law.

17. On 26 May, the National Assembly passed an amendment to article 63 of the Provisions Relating to the Judiciary and Criminal Law and Procedures Applicable in Cambodia during the Transitional Period, commonly known as the UNTAC Law. This amendment removed the penalties of imprisonment in the event of conviction for criminal defamation but retained fines of between \$250 and \$2,500.

18. The office subsequently documented cases in which charges of disinformation had been brought, and became concerned about a possible trend to use charges of disinformation, which carries a prison sentence of up to three years and allows for pretrial detention, as an alternative to defamation.

19. Throughout the reporting period, demonstrations, marches, and public gatherings in Phnom Penh and the provinces were regularly denied permits. The office documented incidents of excessive use of force by armed riot police, particularly in relation to strike action by trade unions in the garment sector. It engaged with relevant local authorities to prevent an escalation of violence in some cases.

20. The office monitored evictions of poor communities living in informal settlements in central Phnom Penh during the period from May to July. It engaged with the authorities in order to prevent the use of force and to mitigate the impact of evictions. In correspondence and meetings with the authorities, it expressed concern that the eviction practices ran contrary to Cambodia's obligations under the International Covenant on Economic, Social and Cultural Rights. It requested a halt to relocations to uninhabitable sites outside the city, which lacked water, sanitation and shelter, and underlined that evictions should be seen as a last rather than a first recourse. It urged their suspension until adequate measures had been put in place to ensure genuine consultation, legal redress and appropriate compensation for victims when relocations were inevitable. It stressed the responsibility of the Government to protect the health and safety of victims of evictions, and requested the authorities to allow NGOs to provide humanitarian assistance, when NGOs were prevented from doing so.

21. The office documented continuing restrictions on the activities of NGOs and community activists in some provinces. It was concerned that some Governors have continued to misinterpret guidelines that the Ministry of the Interior issued in June 2005 for Commune/Sangkat councils to regulate the work of NGOs and community activists by, for example, asking NGOs for regular reports of their activities and plans, and by requiring NGOs and community activists to obtain permission before attending meetings outside the province. NGOs and the office have continued to request that the guidelines be reviewed and changed.
22. The office also followed discussions about a draft law on NGOs, under consideration since 1995, which the Government revived in 2005 when the Ministry of the Interior asked the World Bank to assist in its drafting. The World Bank has stated publicly that a law as such may not be necessary and has proposed a structured process of dialogue between the Government and NGOs to map out the problems and how the policy environment could be improved to enable NGOs to make a stronger contribution to development and public debate. However, some NGOs have expressed reservations about the Government's motives and are reluctant to engage in a process that, in the present climate, they feel could result in the imposition of undue restrictions and adversely impact on their work. NGOs working to protect human rights are especially concerned.
23. The office paid particular attention to the cases of Sok Sam Oeun and Born Samnang, who were convicted of the murder of trade union leader Chea Vichea and sentenced to 20 years' imprisonment in August 2005. The case has been well documented and marked throughout by serious irregularities. International and national NGOs continued to actively campaign for the release of the two men on grounds that they are innocent.
24. Chea Vichea, President of the Free Trade Union Workers of the Kingdom of Cambodia, was assassinated at a newspaper stand he frequented in central Phnom Penh on the morning of 22 January 2004. Born Samnang and Sok Sam Ouen were arrested four days later. On 19 March 2004 the investigating judge ordered their release for lack of evidence. The Prosecutor appealed the order. Disciplinary action was taken against the judge, purportedly on other grounds, and he was transferred to a distant provincial court a few months later. The Court of Appeal upheld the Prosecutor's appeal, and returned the case to the Phnom Penh Municipal Court for further investigation. On 1 August 2005 the accused were convicted and sentenced following a trial that failed to meet standards of fair trial and was criticized on several grounds. They lodged an appeal in October 2005. New evidence came to light in September 2006 when a key witness of the murder, the owner of the newspaper stand, made a statement which she provided in person to OHCHR's regional office in Bangkok, before resettlement to another country. In her statement, she provided a detailed description of the man who shot Chea Vichea, and said that neither of the convicted men were the men she saw. The office transmitted the statement to the relevant authorities. The Appeal Court convened on 6 October to hear the appeal in the presence of the two prisoners, their lawyers, family members, witnesses for their defence and concerned NGOs. Staff of the office were also present. However, the Court immediately adjourned on grounds that one of the judges had suddenly fallen sick. At the time of writing, no date has been scheduled for a new hearing.

25. Chea Vichea's family and NGOs have continued to call for investigation into the murder and for the prosecution of those responsible. The office and present and former special representatives have also brought their concerns to the attention of the authorities on several occasions. The case is before the International Labour Organization's Committee on Freedom of Association following a complaint in 2005 from the International Confederation of Free Trade Unions.

26. Other cases taken up by the office included deaths in Battambang provincial prison of at least eight prisoners and one prison guard on 18 June 2006, when a group of prisoners during an attempted escape took a prison guard hostage and threatened to detonate a hand grenade. The events were filmed on video, which later became public. The footage shows security forces opening sustained fire on the group of prisoners and their hostage. The office communicated its concern to the Ministry of the Interior, underlining the responsibility of the Government to conduct an impartial and thorough investigation, and to prosecute any person found to have participated in or ordered the use of excessive force resulting in injury and the loss of life. It recommended that an independent inquiry be established and has requested a copy of the report of the investigation that was conducted.

27. The office was also concerned about threats against the Cambodian Women's Crisis Centre, an NGO that protects women and children from domestic violence and sexual exploitation. These threats appear to come from paedophilia networks in response to cases of foreign nationals that the Centre has taken up and brought to court.

C. Rule of law and the justice sector

28. The office in Cambodia continued to contribute to efforts to reform the justice sector. It maintained a presence in the Municipal Court of Phnom Penh, and continued to cooperate with the Appeal and Supreme Courts, the Battambang provincial court, through its regional office, as well as with other provincial courts in specific cases. It cooperated with NGOs working in the justice sector, and participated in the formal legal and judicial reform consultative process through the Technical Working Group on Legal and Judicial Reform.

29. The office continued to advocate for the adoption and implementation of basic laws in conformity with the Constitution and international human rights instruments, focusing on laws directly relevant to its mandate and priorities. These included eight laws the Government has agreed should be given priority:

- Penal Code;
- Code of Penal Procedure;
- Civil Code;
- Code on Civil Procedure;
- Organic Law on the Organization and Functioning of Court (to establish the basic structure for the court system, define the jurisdiction of each court, and establish the basic procedures for their functioning);

- Law on the Status of Judges and Prosecutors;
- Amendment to the Law on the Functioning of the Supreme Council of Magistracy;
- Anti-Corruption Law.

30. A landmark was achieved on 6 July 2006 when the Code of Civil Procedure was promulgated. It will enter into force in July 2007 after an extended period of training and familiarization. The Civil Code was sent to the National Assembly in December. The Council of Ministers adopted the Code of Penal Procedure in August and sent it to the National Assembly in September, but no progress has since been reported, and hopes that the Code would be adopted in time for the Khmer Rouge trials were not realized. There was little progress made in the adoption of the remaining laws, although many deliberations are reported to be taking place.

31. The office followed the Anti-Corruption Law, which the Government had agreed would be adopted by June 2006. While some improvements were made, the existing draft falls short, including providing the anti-corruption body envisaged in the Law with an autonomous mandate to conduct investigations, and providing immunity from civil and criminal prosecution for disclosing acts of corruption. The office continued to advocate for Cambodia's accession to the United Nations Convention against Corruption.

32. The office also sought to promote adherence to international treaty standards in the drafting of new legislation. For example, it provided advice to the Ministry of the Interior and NGOs in drafting a new law on demonstrations in order to ensure that the law facilitates, rather than restricts, the exercise of the right to freedom of peaceful assembly. Through various drafts, the Government began to accept in principle a regulatory framework for public gatherings based on notification rather than permission.

33. The office undertook case-related work in the courts, including several cases involving community activists in Phnom Penh and in the provinces protesting against land grabbing and forced evictions. The office observed several trials and court hearings in cases of concern. Serious irregularities were recorded in most cases, and the means to obtain remedy and enforce rights guaranteed in the law and the Constitution remained limited.

34. The office continued to maintain a watching brief on the proceedings of the Extraordinary Chambers in the Courts of Cambodia (ECCC), which had been established to try senior leaders of the Khmer Rouge and those most responsible for crimes committed during the period of Democratic Kampuchea. The national and international judges of the Chambers were sworn in early in July, when the co-prosecutors also took up their positions, and began their preliminary investigations. The co-investigating judges began in September, mainly dealing with drafting the internal rules of procedure for the Chambers. All judges met in plenary in November to discuss and adopt these rules, which are crucial to ensuring the fairness and integrity of the trials. As stated in a joint statement issued on 25 November at the end of the plenary by the national and international judicial officers of ECCC, the rules provide the procedural underpinning for every phase of the proceedings, from preliminary investigation, to judicial investigation, to trial and through appeal, and delineate the roles of all parties, the co-prosecutors, defence and victims. However, the statement reported substantive disagreement on how to integrate Cambodian law and international standards; the role of the Defence Support

Unit including the issue of how defence lawyers will be qualified; and the role of the co-prosecutors and its impact on the voting procedure. There was no opportunity to address in detail important issues such as the role of victims and civil party rights. As a result, the draft internal rules were not adopted in whole, or even in part. Until the rules are adopted, the formal proceedings of the Chambers cannot progress.

35. In accordance with the Agreement between the United Nations and the Royal Government of Cambodia concerning the prosecution under Cambodian law of crimes committed during the period of Democratic Kampuchea, the internal rules had been drafted on the basis of Cambodian procedural law (including the draft Penal Procedure Code, which, when adopted, will replace current criminal procedure), with modifications where there were omissions or uncertainty in Cambodian procedural law, or where existing law failed to comply with international standards. The discussions raise concerns regarding the content of the draft Code. The office will continue to follow the adoption process closely.

D. Impunity

36. In October 2005, former Special Representative Peter Leuprecht completed a report tracing forms and patterns of impunity that successive Special Representatives and other experts working under United Nations auspices have recorded since the early 1990s. The office translated the report into Khmer and transmitted it to the Government in December 2005. The report became public in February 2006. Its aim is to promote dialogue on the nature and impact of impunity and the adoption of measures to end it.

37. The office in Cambodia continued to follow several unresolved cases of concern, including cases that were cited in the report. The case of Chea Vichea has already been mentioned. Another case is Ros Sovannareth, Steering Committee member of the same trade union, who on 7 May 2004 was shot and killed in Phnom Penh. His case is also before the ILO Committee on Freedom of Association. A 22-year-old paratrooper, who has denied guilt, was convicted of his murder in February 2005 and sentenced to 15 years in prison. The trial was marked by serious breaches of procedural rules and basic standards of fair trial. The defendant immediately appealed. No date has yet been set to hear the appeal. The office has been informed that progress has been hampered by lack of judges, prosecutors and clerks.

38. The office continued to follow developments in other high-profile contract killings which took place in Phnom Penh during the run-up to the 2003 National Assembly elections and the political deadlock that followed before a new Government formed in July 2004. They include Sam Buntheon, Director of Vipasona Meditation Center, a monk and teacher who was shot dead on 6 February 2003 by two gunmen and died two days later. No one has been arrested for this crime. Om Radsady, a senior adviser of the Funcinpec party, was shot on 18 February 2003 and died later that day. Two men, arrested shortly thereafter, confessed to the murder, claiming it was unintentional and that their motive was to rob the victim of his mobile phone. The Phnom Penh Municipal Court sentenced them to 20 years' imprisonment for illegal possession of a weapon, robbery, and voluntary manslaughter in October 2003. The case raised several concerns, including the quality of the investigation and the trial, whether the suspects acted alone, and whether the motive of mobile phone robbery was credible as it contradicted

eye-witness and other accounts. Chuor Chetharith, a journalist for Ta Prohm radio station, affiliated to Funcinpec, was shot dead on the morning of 18 October 2003 as he arrived for work. No arrests have been made. The Ministry of the Interior has said that the case is under continuing investigation. Three days later, on the morning of 21 October, Touch Srey Nich, a popular singer was shot three times at close range. Her mother was also shot and died later in hospital. According to witnesses, four men on two motorcycles were involved. Touch Srey Nich survived but remains paralyzed. She and family members were resettled in the United States in January 2005. No arrests have been made and the police have failed to identify any suspects.

39. Longstanding cases of concern that remain unresolved and that the Ministry of the Interior has informed the office remain under continuing investigation include grenade attacks against the Sonn Sann faction of the Buddhist Liberal Democratic Party on 30 September 1995, the grenade attack of 30 March 1997 against a peaceful demonstration in Phnom Penh, during which at least 14 people were killed and over 100 people injured, and the murder of Ho Sok, Secretary of State at the Ministry of Interior and a senior member of Funcinpec, who was shot dead on 8 July 1997 at the Ministry of the Interior following his arrest the previous day.

40. The office has also continued to follow the case of Eath Oeurn, a farmer from Prey Veng province who was arrested on 26 July 2001 on suspicion of buffalo theft and died three days later after detention in three separate police stations. His wife and daughter, who saw him before he died, said he had bruises over his body and face, had lost two teeth, and was vomiting blood. The office requested the Director-General of National Police to undertake an investigation. The investigation report concluded he had died from illness, serious abdominal pain, vomiting and excessive "coining" - a traditional healing method that employs the use of coins which leave marks. His family was not interviewed during the investigation. The Prey Veng provincial court charged two policemen with voluntary manslaughter in February 2002, and another in July 2002. However, the trial has since been postponed on several occasions. The accused have been transferred to other districts, and remain free pending trial. At the time of finalizing this report, the office was informed that the court will hear the case at the end of January 2007.

E. Land and livelihoods

41. The office in Cambodia examined key factors affecting people's access to land and sources of livelihoods, focusing on the granting and impact of economic land concessions, and land alienation faced by Cambodia's indigenous peoples. In doing so, it reviewed laws and regulations pertaining to land use and management, including the 2001 Land Law and related sub-decrees. Particular attention was paid to laws and regulations relating to economic land concessions and the registration of indigenous land.

42. The office monitored the granting of economic land concessions to assess compliance with the prescribed framework and procedures, and impacts on local populations. It is concerned about the negative effects of economic land concessions on local communities, including deforestation, loss of access to non-timber forest products, loss of grazing land for livestock, and loss of rice fields and farmland with resulting food shortages. Affected communities also expressed concern about the failure to consult with them prior to the granting of concessions, and about intimidation encountered when advocating for their rights to land.

43. For example, in Sre Ambil district, Koh Kong province, villagers who have lived on and farmed the land for over 25 years have lost rice fields and orchards to a concession granted to a company partly owned by a Cambodian senator. The concession was granted without public consultation, contrary to the requirements of the Sub-Decree on Economic Land Concessions, and the company started clearing land before the contract had been issued. In September 2006, company security forces used violence against protesting villagers, NGO access to the area was restricted, and villagers reported they were told not to meet together for longer than an hour, as it affected social order.

44. Most economic land concessions granted have not followed the requirements and procedures set out in the Sub-Decree on Economic Land Concessions. Of particular concern is the disregard for existing community development and natural resource management initiatives, such as the establishment of forestry communities and participatory land-use planning, which become sidelined by the subsequent granting of concessions. For example, in Samraong district, Oddar Meanchey province, local communities had been negotiating the establishment of a 2,000 hectare forestry community, which has now been compromised by the granting of an economic land concession. The office has also received reports of granting of economic land concessions and mining concessions over protected areas, and land traditionally occupied by indigenous communities.

45. The office shares the concern that Cambodia's indigenous peoples are becoming increasingly vulnerable to loss of their land through land grabbing, illegal or coercive land sales, and the granting of economic and other land concessions. It has received reports that a large number of economic and other concessions, including mining concessions, have been granted or are under consideration in the north-eastern provinces, in indigenous areas. In a statement issued on the occasion of International Day for the World's Indigenous Peoples, 9 August 2006, the office recalled international recognition of indigenous peoples' rights to land and natural resources, noted domestic provisions in the Land Law recognizing the right of indigenous people to collective ownership of land, and called urgently for legislation and other measures to protect and implement indigenous rights to land.

46. The office is working with a group of donors, NGOs and other United Nations agencies to organize a seminar on indigenous peoples and access to land in Cambodia, to be held in February 2007. The seminar will bring together representatives of indigenous communities, government departments, NGOs, development cooperation and United Nations agencies to examine important issues facing Cambodia's indigenous peoples in relation to land, and propose concrete measures to implement and protect indigenous rights. The office will contribute a paper on the impact of economic land concessions on indigenous communities.

47. The office continued to respond selectively to disputes over land and natural resources in the north-west of Cambodia, working through its regional office in Battambang and in conjunction with local NGOs. The conflicts typically involve complex disputes between poor villagers and those with political and economic influence or ties, including military officers and commercial interests.

48. The office also continued to follow selected cases where community activists and villagers involved in land disputes with powerful interests or companies have faced intimidation or become the subject of criminal proceedings. There are a growing number of cases where the penal provisions of the Land Law, particularly those relating to infringements against private property, have been used to arrest community representatives involved in disputes over unregistered land. For example, in Bavel district, Battambang province, three community representatives were arrested and are currently being held in pretrial detention in relation to a dispute over unregistered land. Owing to the increasing number of such cases, community activists often fear arrest when they are summoned to the court for questioning, and office staff have accompanied community activists to appointments at provincial courts. The office notes that the penal provisions in the Land Law are not generally invoked to protect citizens whose land is infringed upon by the activities of companies and powerful interests.

49. The office liaised with donors working in the field of land and natural resource management, and participated in the Technical Working Group on Land. The office also continued to work with NGOs and civil society networks focusing on land and natural resource management.

50. Four small grants projects selected in 2004 through the Assisting Communities Together, a global project of OHCHR in partnership with the United Nations Development Programme, were concluded. These supported local NGOs working on environmental rights advocacy; training on law, policy and advocacy for indigenous peoples; forest law and access to forest resources; and training for fishing communities on the importance of natural resources, their sustainable use, and advocacy for human rights.

F. Adherence to international human rights treaties

51. Cambodia is party to the main international human rights treaties, with the exception of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It has ratified the two Optional Protocols to the Convention on the Rights of the Child but not the Second Optional Protocol to the International Covenant on Civil and Political Rights, although the country's Constitution abolishes the death penalty.

52. In November, the National Assembly approved ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, which Cambodia signed in September 2005. The office undertook an immediate review of the Khmer text attached to the law and advised the appropriate bodies on correcting translation errors. It held initial discussions with government counterparts about possible technical assistance in completing the ratification process and in supporting the implementation of the Optional Protocol.

53. Cambodia has not yet accepted individual communications procedures provided for under the treaties to which it is party. It signed the Optional Protocol to the Convention on the Elimination of Discrimination of All Forms of Discrimination Against Women in November 2001, and the first Optional Protocol to the International Covenant on Civil and Political Rights in September 2004, but has yet to ratify these instruments. Nor has it made a declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, or article 22 of the Convention Against Torture.

54. Cambodia has a mixed record on compliance with its treaty-reporting obligations. Since 1992, it has submitted, and the treaty bodies have considered, 6 of the 23 reports required under the terms of the treaties. It has reported at least once to all but one of the treaty bodies. Currently, 12 reports are overdue, with Cambodia's initial report under the International Covenant on Economic, Social and Cultural Rights overdue since June 1994. During 2006, the office advocated for the submission of this report, which had reached an advanced stage of finalization with technical assistance from the office and the participation of other United Nations agencies when progress stalled in March 2005. The draft of Cambodia's periodic report to the Committee on the Elimination of Racial Discrimination was submitted to the Council of Ministers in October 2006.

55. The office assisted the Ministry of Women's Affairs, the National Council for Women and the United Nations Development Fund for Women in following up on the concluding observations and recommendations of the Committee on the Elimination of Discrimination Against Women, which were issued in January 2006. The office's efforts have focused on training in the treaty system and advocating for the implementation of the recommendations by all sectors of government with broader support from the United Nations Country Team.

56. The United Nations Children's Fund (UNICEF) is assisting in the preparation of Cambodia's second periodic report under the Convention on the Rights of the Child which was due in 1999. The office participated in a workshop organized by the National Council for Children to discuss the draft report with civil society.

G. National human rights institution

57. The office in Cambodia participated in a conference on establishing a national human rights institution in Cambodia in September, which was co-hosted by the Government's Human Rights Committee and the Cambodian NGO working group for an ASEAN regional human rights mechanism. The Prime Minister opened the conference and endorsed the establishment of a national human rights institution in accordance with the Principles on national institutions for the promotion and protection of human rights, commonly referred to as the "Paris Principles". He emphasized that such an institution was not intended to replace existing human rights institutions. The conference agreed to establish a joint working group, composed of representatives of government and civil society, which has been charged with several tasks, including preparing a draft law to establish a national human rights institution.

58. In its statement to the conference, the office explained the Paris Principles in some detail, and underlined that beyond the minimum standards they set, an effective national human rights institution requires a supportive environment in which to work effectively. There must be political will within the Government, an effective and independent judiciary and other democratic institutions, an engaged civil society and a sensitized bureaucracy, military and police forces.

59. A credible and effective national human rights institution also requires general understanding and acceptance of its unique mandate in relation to the Government, the legislature, the judiciary and civil society organizations, all of which are part of a national system

of protecting and promoting human rights. The office is concerned that any proposed legislation to establish any such institution must be based on a broad consensus within Cambodian society, with the full participation of civil society and Government in the drafting process.

H. Cooperation and coordination with the United Nations Country Team

60. The office in Cambodia is a member of the United Nations Country Team, and works to integrate human rights more fully into country-level analysis and planning, and to implement human rights standards in national development policies and programmes. The office contributed to the implementation of relevant components of the United Nations Development Assistance Framework 2006 to 2010, including on protection of human rights, increased participation of civil society in developing, implementing and monitoring public policies, improving public access to information, and promoting an effective and independent justice system.

61. 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 Group which also has responsibility for human rights. The office worked with individual agencies on matters of joint concern, for example with ILO on issues relating to indigenous peoples, and with the United Nations Fund for Women (UNIFEM) and UNICEF on treaty reporting and follow-up.

62. The office worked also with multilateral and bilateral development cooperation agencies outside the United Nations system to help integrate and implement human rights standards into development policies and programmes. It participated in the Consultative Group process, in particular in 2 of 18 technical working groups (on legal and judicial reform and land), which are mandated to prepare joint strategies and action plans for the sector, and to monitor progress against joint monitoring indicators agreed to by the Government and donors.

63. The National Strategic Development Plan 2006 to 2010 for Growth, Employment, Equity and Efficiency to Reach Cambodia Development Goals was released in mid-February 2006 as the master development plan for Cambodia. The office advocated for clear human rights commitments to be made in the Plan, including ratification of the United Nations Convention against Corruption, the ILO Convention on Indigenous and Tribal Peoples (No. 169), and individual communications procedures provided for under the treaties to which Cambodia is party. The office further proposed that the plan state its aim as one of promoting the full respect and enjoyment of human rights and freedoms for all, as enshrined in the Constitution and in international human rights instruments. The final text of the Plan makes reference to human rights as part of the overall governance framework necessary for sustainable development.

I. Educational, training and public information programmes

64. The office in Cambodia continued to promote understanding of international human rights standards and mechanisms and their domestic implementation, and to foster an enabling environment for human rights work and a better understanding of the role of NGOs defending and advocating for human rights.

65. The office facilitated the participation of the Special Representative of the Secretary-General on human rights defenders, Hina Jilani, in activities to commemorate Human Rights Day in December. The Special Representative participated in a panel discussion on Human Rights and Poverty organized by the Cambodian Human Rights Action Committee. She addressed a large gathering at Phnom Penh's Olympic stadium, organized by around 90 organizations. She visited the Cambodian Women's Crisis Centre and met with its staff. She subsequently met with a range of NGOs and groups working on human rights, and legal and development issues to explain her mandate and to share her experiences. She also met with representatives of the United Nations Country Team, bilateral donors, the diplomatic community and members of the press.

66. As part of a programme to publish new translations in Khmer of the core human rights treaties, the office jointly published with UNICEF a revised translation of the Convention on the Rights of the Child, and coordinated with UNIFEM in publishing the Convention on the Elimination of All Forms of Discrimination against Women. The office's publication of a revised translation of the International Bill of Human Rights was reprinted. The office issued and distributed new publications of the Universal Declaration of Human Rights, the Declaration on Human Rights Defenders and the Principles to establish National Institutions in Khmer and English.

67. The office continued to distribute throughout Cambodia the fourth edition of the Compilation of Laws in Khmer, which it published in September 2005. Demand for the Compilation has remained strong, as obtaining the text of laws still continues to be difficult. The Compilation is now also available on the office's website, which will be maintained and upgraded so as to allow for easy updates and additions as new legislation is adopted. The office will soon provide the contents of the Compilation in CD-ROM format in order to make it more user-friendly and readily available to practitioners and a wider academic audience.

68. The office website was maintained and regularly updated. It contains all public materials in English and in Khmer that the office and the Special Representatives of the Secretary-General for human rights in Cambodia have produced, as well as materials of special rapporteurs and United Nations and treaty-body documents and resolutions relevant to Cambodia.

69. The office continued to translate into Khmer and distribute publications, laws and information materials to the government ministries, the general public, NGOs, students and government officials.

70. Office staff regularly participated in seminars and workshops, often acting as resource persons. These included training seminars for NGOs on using and understanding international human rights protection mechanisms, a two-day course in human rights to a group of students at the National Gendarmerie School in Kambol, and a briefing session with the Senate Human Rights Commission, focusing on the role of Parliament in the promotion and protection of human rights. Regional office staff participated in several workshops and seminars on human rights and land and livelihood issues, organized by NGOs and provincial authorities, and helped to organize an event in Battambang town on Human Rights Day, under the theme Human Rights and Poverty. The office also issued an information note on Human Rights Day on "Human rights and poverty".

71. The office provided regular briefings for visiting and resident diplomats, researchers and representatives of international organizations. It liaised regularly with the media.

72. It prepared regular monthly and other reports for OHCHR headquarters in Geneva to meet reporting requirements.

V. STAFFING AND ADMINISTRATION OF THE OFFICE IN CAMBODIA OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

73. The office in Cambodia implemented its activities through its main office in Phnom Penh and a small regional office in Battambang. Its management structure consists of the Chief of office, the deputy Chief of office, programmes on protection, rule of law and land and livelihoods, and an administration unit. The office continued in transition pending completion of international staff recruitment in accordance with the recommendations of an external evaluation in early 2004. At the time of writing, the office has 19 national staff and 5 international staff. Recruitment for the remaining vacant international post has continued. The administrative officer left the office in November and recruitment started for a replacement.

74. The Chief of office is responsible for overall policy and management. This includes coordinating assistance to the Special Representative of the Secretary-General, participation in the United Nations system, and external and donor relations.

75. The Deputy Chief of office is responsible for coordinating the rule of law, protection and election programmes and administration.

76. The protection programme is responsible for casework and monitoring. It works closely with organizations that defend human rights. It also focuses on freedoms of association, expression and assembly.

77. The rule of law programme is responsible for helping to develop the institutional capacity, laws, policies, and practices that are necessary to implement Cambodian law and international human rights agreements and instruments.

78. The land and livelihoods programme is responsible for monitoring the implementation of laws and policies that relate to land or impact on access to land and other vital sources of livelihoods. It works closely with organizations that defend communities' rights to land.

79. The Administration Unit provides personnel, administrative, financial and logistical support, and serves as the security focal point.

80. The United Nations regular budget covers OHCHR Cambodia's operational expenses, including the salaries of 7 international and 18 national staff members. Voluntary contributions to the United Nations Trust Fund for the 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.
