



# General Assembly

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## Human Rights Council

### Eighteenth session

Agenda item 10

#### Technical assistance and capacity-building

**Australia<sup>\*</sup>, Austria, Bulgaria<sup>\*</sup>, Canada<sup>\*</sup>, Croatia<sup>\*</sup>, Czech Republic, Denmark<sup>\*</sup>, Estonia<sup>\*</sup>, Germany<sup>\*</sup>, Greece<sup>\*</sup>, Hungary, Iceland<sup>\*</sup>, Ireland<sup>\*</sup>, Japan<sup>\*</sup>, New Zealand<sup>\*</sup>, Norway, Poland, Portugal<sup>\*</sup>, Slovakia<sup>\*</sup>, Slovenia<sup>\*</sup>, Spain, Sweden<sup>\*</sup>, United Kingdom of Great Britain and Northern Ireland<sup>\*</sup>: draft resolution**

### 18/... Advisory services and technical assistance for Cambodia

*The Human Rights Council,*

*Reaffirming* that all Member States have an obligation to promote and protect human rights and fundamental freedoms as enshrined in the Charter of the United Nations, as reaffirmed in the Universal Declaration of Human Rights, and in accordance with their respective obligations under the International Covenants on Human Rights and other applicable human rights instruments,

*Recalling* General Assembly resolution 60/251 of 15 March 2006,

*Recalling also* Council resolutions 5/1 on institution-building of the Council and 5/2 on a code of conduct for special procedures mandate holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his/her duties in accordance with those resolutions and the annexes thereto,

*Recalling further* Council resolution 15/20 of 30 September 2010 and other relevant resolutions,

*Bearing in mind* the report of the Secretary-General on the role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights,<sup>1</sup>

*Recognizing* that the tragic history of Cambodia requires special measures to ensure the protection of human rights and the non-return to the policies and practices of the past, as stipulated in the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, signed in Paris on 23 October 1991,

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<sup>\*</sup> Non-Member State of the Human Rights Council.

<sup>1</sup> A/HRC/18/47.

*Taking note* of the new developments in Cambodia, especially those associated with recent progress and efforts by the Government of Cambodia to promote and protect human rights, especially in the achievements and improvements of social, economic, political and cultural fields over recent years through its relevant national plans, strategies and frameworks,

## **I. Khmer Rouge Tribunal**

1. *Reaffirms* the importance of the Extraordinary Chambers in the Courts of Cambodia as an independent and impartial body, and believes it will significantly contribute to eradicating impunity and establishing the rule of law by, inter alia, exploiting its potential as a model court of Cambodia;

2. *Welcomes* the progress made with regard to the Extraordinary Chambers in the Courts of Cambodia, including the commencement of the trial of case 002 against Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan on 27 June 2011, and supports the position of the Government of Cambodia and the United Nations to proceed with the tribunal in a fair, efficient and expeditious manner, given the advanced age and frail health of the persons charged and the long overdue justice for the people of Cambodia;

3. *Also welcomes* the assistance of a number of States to the Extraordinary Chambers in the Courts of Cambodia and the efforts of the Government of Cambodia to work with the United Nations and the States providing assistance to ensure the highest standards of administration of the Extraordinary Chambers, and invites further assistance for the Extraordinary Chambers in a prompt manner in order to ensure its successful functioning;

## **II. Democracy and situation of human rights**

4. *Welcomes*:

(a) The positive engagement of the Government of Cambodia in the universal periodic review process as well as its acceptance of all the recommendations thereon and the progress so far on their implementation;

(b) The cooperation extended by the Government of Cambodia and the constructive dialogue with the Special Rapporteur on the situation of human rights in Cambodia;

(c) The report of the Special Rapporteur on the situation of human rights in Cambodia<sup>2</sup> and the recommendations contained therein;

(d) The efforts and progress made by the Government of Cambodia in promoting legal reform under the leadership of the Council of Legal and Judicial Reform, including adopting and/or enforcing basic laws, such as the civil procedure code, the civil code, the criminal procedure code and the new penal code;

(e) The work being conducted by the Government of Cambodia to submit three basic draft laws to the National Assembly, whose enactment would enhance the independence of the judicial process, namely the draft Law on the Status of Judges and Prosecutors, the draft Law on the Organization and Functioning of the Courts, and the draft

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<sup>2</sup> A/HRC/18/46.

amendment to the Law on the Organization and Functioning of the Supreme Council of the Magistracy;

(f) The efforts made by the Government of Cambodia in combating corruption, including the implementation of the new penal code and the anti-corruption law as well as the commencement of activities of the Anti-Corruption Unit;

(g) The efforts made by the Government of Cambodia in combating trafficking in persons for both sexual and economic exploitation;

(h) The efforts made by the Government of Cambodia to resolve land issues, through, inter alia, the implementation of relevant laws and regulations as well as dialogue with relevant stakeholders;

(i) The commitments made and the progress achieved by the Government of Cambodia to adhere to and implement its obligations under international human rights treaties and conventions, including its commitment to establish a national human rights institution and to encourage that this be done upon sufficient consultation with relevant stakeholders;

(j) The efforts made by the Government of Cambodia to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in October 2010;

(k) The efforts made by the Cambodian Human Rights Committee, especially in resolving complaints from individuals;

(l) The efforts and progress made by the Government of Cambodia in promoting decentralization and deconcentration reform with the aim of achieving democratic development by strengthening subnational and grass-roots institutions;

5. *Expresses its concern* about some areas of the human rights situation in Cambodia, and urges the Government of Cambodia:

(a) To continue to strengthen its efforts to establish the rule of law, including through the adoption and further implementation of essential laws and codes for establishing a democratic society;

(b) To continue its efforts at judicial reform, including through the swift adoption and implementation of the above-mentioned three basic laws in order to ensure the independence, impartiality, transparency and effectiveness of the judicial system as a whole, as well as the transfer of knowledge of court officials at the Extraordinary Chambers in the Courts of Cambodia and the sharing of good practices at the Court;

(c) To continue its efforts to combat corruption, including through the implementation of an anti-corruption law;

(d) To continue to enhance its efforts to investigate urgently and to prosecute, in accordance with due process of law and its obligations under international human rights treaties, all those who have perpetrated serious crimes, including violations of human rights;

(e) To enhance its efforts to resolve equitably and expeditiously land ownership and tenure issues in a fair and open manner, taking into consideration the rights of and the actual consequences for the parties concerned, and in accordance with relevant laws and regulations, such as the 2001 Land law, the Law on Expropriation, the Circular on Settlement of Illegal Temporary Building in Cities and Urban Areas and the National Housing Policy, as well as by strengthening the capacity and effectiveness of relevant institutions, such as the National Authority for Land Dispute Resolution and cadastral committees at the national, provincial and district levels;

(f) To make continuous efforts to promote an environment conducive to the conduct of legitimate political activity by all political parties so that the forthcoming local and national elections will be held in a free and fair manner;

(g) To encourage and enable non-governmental organizations and the media to play a constructive role in consolidating democratic development in Cambodia, including by ensuring and promoting the freedom of association of non-governmental organizations;

(h) To make additional efforts, in concert with the international community, to combat key problems, such as trafficking in persons, the exploitation of labour, sexual violence, domestic violence and the sexual exploitation of women and children;

(i) To take further steps to meet its obligations under international human rights treaties and conventions and, to this end, strengthen further its cooperation with United Nations agencies, including the Office of the High Commissioner, through enhanced dialogue and the development of joint activities;

(j) To continue to promote the rights and dignity of all Cambodians by protecting civil and political rights, including freedom of opinion and expression and, to this end, further ensuring that relevant laws, inter alia, the new penal code, are interpreted and applied in a judicious manner, as well as to promote economic, social and cultural rights in accordance with the rule of law;

(k) To work with the legislature with a view to promoting the latter's independence and effectiveness, including by ensuring the meaningful participation of parliamentarians from various political parties in its deliberations;

### **III. Conclusion**

6. *Invites* the Secretary-General, agencies of the United Nations system present in Cambodia and the international community, including non-governmental organizations, to continue to work with the Government of Cambodia in strengthening democracy as well as ensuring the protection and promotion of the human rights of all people in Cambodia, including by providing assistance in, inter alia, the fields of:

(a) Drafting laws and assisting the establishment of an independent national human rights institution;

(b) Capacity-building to strengthen legal institutions, including by improving the quality of judges, prosecutors, lawyers and court staff, and drawing on the expertise gained by Cambodian nationals working in the Extraordinary Chambers in the Courts of Cambodia;

(c) Capacity-building to strengthen national institutions for criminal investigation and law enforcement, as well as providing equipment necessary for these ends;

(d) The formulation of a plan of implementation of universal periodic review recommendations, clarifying the areas in which the Government of Cambodia would welcome technical and other assistance;

(e) Assisting the assessment of progress in human rights issues;

7. *Encourages* the Government of Cambodia and the international community to provide all necessary assistance to the Extraordinary Chambers in the Courts of Cambodia, which would help ensure the non-return to the policies and practices of the past, as envisioned by the 1991 Agreement on a Comprehensive Political Settlement of the Cambodia Conflict;

8. *Takes note* of the need to continue close consultations between the Government of Cambodia and the Special Rapporteur on the situation of human rights in Cambodia towards the further improvement of the situation of human rights in the country and for the continued technical cooperation between the Office of the High Commissioner and the Government of Cambodia;

9. *Decides* to extend by two years the mandate of the special procedure on the situation of human rights in Cambodia, and requests the Special Rapporteur to report on the implementation of his mandate to the Council at its twenty-first and twenty-fourth sessions, and to engage in a constructive manner with the Government of Cambodia for the further improvement of the situation of human rights in the country;

10. *Requests* the Secretary-General to report to the Council at its twenty-first and twenty-fourth sessions on the role and achievements of the Office of the High Commissioner in assisting the Government and the people of Cambodia in the promotion and protection of human rights;

11. *Decides* to continue its consideration of the situation of human rights in Cambodia at its twenty-fourth session.

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