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Oral statement by the UN Special Rapporteur on the situation of
human rights in Cambodia

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Mr President, Excellencies, ladies and gentlemen,

I have the honour of presenting my third substantive report on the human rights situation in Cambodia (UN Doc A/HRC/39/73).

As your Excellencies are aware, 2017-2018 was an election period in Cambodia with local/commune elections on 4 June 2017, Senate elections on 25 February 2018, and National Assembly elections on 29 July 2018. Consequently, a significant focus of my work over the year has been monitoring the impact of the elections on the human rights situation. Given the questions and comments of so many of your Excellencies during my interactive dialogue with the Council last year, I have submitted an addendum to my annual report, which seeks to analyse the human rights situation as it pertains to the elections. The Royal Government of Cambodia has submitted a full response to this addendum which I have had reproduced in full as the second addendum to the report, UN Doc A/HRC/39/73/Add.2.

I would like to take this opportunity to appraise the Council of my main concerns and conclusions.

First, however, I would like formally to thank the Royal Government of Cambodia for their cooperation over the last year, even if we did not agree on all issues discussed. I would also like to thank the government for their invitations to visit in August 2017 and again in March/April 2018, as well as for facilitating so many meetings with government ministers during these visits. I note too the government responses to individual formal communications from myself and other mandate holders. I strongly encourage this ongoing dialogue.

I would also like to acknowledge the excellent support from OHCHR in Geneva and Phnom Penh over the last year, which has greatly supported me in discharging my mandate from the Council.

Mr. President,

Cambodia had made impressive strides towards embedding the principles of a multi-party liberal democracy in its laws, policies and practice, until last year. As I noted in my last oral update, the June 2017 communal elections were generally considered free and fair, in spite of some concerns over threats and intimidation of political actors and civil society. This result, seen in light of the gradual progress of elections from 1993 onwards, tended to suggest that, as in any democracy, an opposition in Cambodia could gain government through peaceful elections, as envisaged in the Paris Peace Accords and the national Constitution.

However, the political situation deteriorated rapidly. As I reported to this Council a year ago, the President of the main opposition party at the time, the Cambodia National Rescue Party (CNRP), Mr. Kem Sokha, had been arrested on treason-related charges in September 2017. Subsequently, in October, the Ministry of Interior filed a motion with the Supreme Court, pursuant to provisions enacted in March 2017, to dissolve the CNRP. On 16 November, it was dissolved and, thereafter, in accordance with laws fast-tracked whilst the Court was seized of that matter, all CNRP seats were redistributed to other political parties who at that time held no seats in the Assembly and commune positions were also reallocated.

This dramatically affected the previous results of the 2013 national elections and the 2017 commune elections, by disenfranchising the more than forty percent of the electorate that had voted for CNRP representatives. The ruling Cambodian People's Party (CPP) secured most

of the commune-level seats in the redistribution, resulting in the CPP holding 99 percent of the commune chief positions. The redistribution at the commune-level directly affected the indirectly-elected Senate elections in February 2018. The ruling CPP took all elected seats in the Senate.

The national elections in July 2018 proceeded without the hitherto main opposition party and without the principal opposition political actors – 118 being banned by the Supreme Court from all political activity. In August 2018, the National Election Committee confirmed that the CPP had won all the seats in the National Assembly.

The country is therefore de facto a single party State; the multiparty liberal democracy envisaged by the Constitution consigned to history for at least the next five years, the duration of the current Parliament.

A little over a year ago, many had hope and expectations that multi-party democracy had taken root in Cambodia. I have concluded in my addendum report that the 2018 national elections represent a departure from this trend. This clearly calls into question the genuineness of these elections, as stipulated in article 25 of the International Covenant on Civil and Political Rights.

Mr President,

I also raise in the addendum concerns about respect for human rights in the lead up to the national elections. Laws have been used to restrict debate and target media, political opponents, civil society organizations and individuals. In March 2018, lèse majesté provisions were introduced in Cambodian law and at least three persons have reportedly been arrested under these provisions. Such provisions are not compatible with Cambodia's obligations to respect freedom of speech.

In May 2018, the Ministries of Interior, Information, and Posts and Telecommunications adopted an Inter-ministerial Proclamation to control social media, based on restrictions which are vague and ill-defined, not having sufficient clarity to justify limitations on freedom of expression.

In response to calls for a boycott of the elections, the Government and officials of the National Election Committee referred to boycott appeals as violating national law. In May, the NEC Chair wrote to the Ministry of Interior asking for legal action on grounds that the boycott appeal was affecting public order and national security, causing confusion and loss of trust in the election. Yet calls for a boycott of elections in a non-compulsory vote – as is the case in Cambodia – are permitted under international human rights law.

Unfettered and robust public debate, particularly in an election, is crucial. Such debate depends on the free communication of ideas concerning public and political issues, as well as about public figures, particularly those highly placed in the political and constitutional system. This is so, even if those ideas and comments might be opposing the government or otherwise controversial. The use of information and communication technologies is an extremely important means to achieve this.

The Government has much to do.

I welcome the release of a number of people from detention, mostly political actors, following the confirmation of the results of the National Assembly elections.

While this is encouraging with several individuals now able to enjoy their basic personal and family rights, the charges against a number of them remain; they have not been found innocent. Rather, they remain under threat of being detained again at any time, whilst awaiting their trial. Kem Sokha, the leader of the former opposition Cambodia National Rescue Party, who had his detention extended by court in August, was subsequently released under judicial supervision in September with conditions essentially amounting to house arrest. The charges against him remain. I recall the views of the Working Group on Arbitrary Detention in April 2018 that the ongoing detention of Kem Sokha was arbitrary.

I would draw to your Excellencies' attention once again the situation of the five staff and former staff of ADHOC. While they were released in June 2017 after 427 days in pre-trial detention, they remained under judicial supervision until the verdict announcement today. This was almost two and a half years from their arrest, clearly an infringement of the right to trial within a reasonable time. Today, the court convicted them on count of bribery of witness, or complicity thereof. As I said in May 2016, this entire episode raised serious questions about the role and integrity of the whole judicial process and appeared to be nothing more than a politically-motivated persecution of civil society.

Other individuals have been accorded royal pardons, for example Tep Vanny, a land rights activist whose history is well known to many Council members, and only at the weekend, James Ricketson, the Australian film maker convicted on 31 August 2018 of treason, espionage and collecting information prejudicial to national defence. He was pardoned, freed and deported. In late August, 14 members of the former CNRP previously convicted on insurrection charges, were also pardoned, despite losing their appeals earlier in the year. Yet these pardons, while welcome, do not deal with the concerns previously expressed about the fairness of the original trials. It is also concerning that royal pardons should be granted, in the case of James Ricketson, such a short time after a court conviction.

Mr President,

I call on the Government to make concerted efforts to improve the human rights situation. In this regard, the Government should move to expand civil society space and create a more favourable and open environment for civil society to operate. I encourage the Government to withdraw the requirement from October 2017 for civil society actors to give prior notification to the Ministry of Interior before undertaking activities. Similarly, I encourage the Government to review administrative requirements placed on civil society organizations, such as tax laws, to ensure that they are clearly explained, progressively introduced, not burdensome to comply with, and are transparently implemented by relevant authorities. These two actions alone, could do much to expand civil society space and rebuild lost trust and confidence. They would be much more than symbolic gestures as we celebrate the 20th anniversary of the Declaration of Human Rights Defenders in December this year.

As I conclude, I note that Cambodia has periodic reports scheduled for several treaty bodies over the next year and is preparing for its third cycle of universal periodic review early in 2019. All States have the opportunity to offer their considered views on the human rights situation in Cambodia. It will also have its voluntary national review by the High Level

Political Forum on Sustainable Development in 2019, during which the Forum will highlight SDG16 on peace, justice and strong institutions.

The Royal Government of Cambodia has extended an invitation for my next mission in October/November. During that mission, I intend to continue my dialogue with the government from last year and examine issues around realising human rights in the context of the sustainable development goals in Cambodia. I am hopeful that this mission will enrich the Cambodian Sustainable Development Goals in time for their upcoming adoption by the Royal Government.

These milestones, related to human rights mechanisms and the SDGs, are all significant. I encourage the Government to use the lead up and follow up to these milestones to take concrete steps to improve the human rights situation and ensure that no one is left behind. As we celebrate the 70th anniversary of the Universal Declaration of Human Rights, every step counts in the promotion and protection of everyone's human rights to achieve sustainable development and lasting peace for all.

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