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

**Report of the Special Representative of the Secretary-General  
for human rights in Cambodia, Yash Ghai**

## Summary

The present report is submitted in accordance with decision 1/102 of the Human Rights Council.

In his introduction to the report, the Special Representative of the Secretary-General for human rights in Cambodia provides an account of his second mission to Cambodia in March 2006, and details his continuing concerns, which were reflected in his subsequent statement to the Human Rights Council in September.

In the report, the Special Representative addresses problems of a systemic nature from the perspective of commitments in the peace agreements adopted in Paris on 23 October 1991. These agreements recognized the central importance of human rights in establishing and maintaining peace and prosperity for all Cambodians, and contained provisions to promote human rights and constitutional guarantees for their protection.

He concludes his report with recommendations designed to assist the Government and the people of Cambodia to secure the observance and enjoyment of human rights for all Cambodians.

The Special Representative notes the start of proceedings within Extraordinary Chambers of the Courts of Cambodia to try senior Khmer Rouge leaders and those most responsible for the atrocities of the regime of Democratic Kampuchea. The purpose of the trials, to recognize the value of and promote respect for human rights, to acknowledge the evils of impunity, and to strengthen the rule of law and the machinery of justice, will be futile unless the Government agrees to stop practices, documented in this and in previous reports of special representatives, which undermine these very objectives. The Special Representative also points to the special responsibilities of the international community to support Cambodia in its quest to strengthen human rights and ensure social justice.

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## Introduction

1. The present report is submitted in accordance with Human Rights Council decision 1/102, in which the Council decided to extend exceptionally for one year the mandates and the mandate-holders of all the Commission's special procedures, subject to the review that the Council is to undertake in conformity with General Assembly resolution 60/251.
2. The Special Representative undertook a second mission to Cambodia from 19 to 28 March 2006. The main purpose of the mission was to discuss his report and recommendations to the Commission on Human Rights at its sixty-second session, and to update himself on issues that had been the focus of his analysis in the report.
3. During his mission, he had discussions with Deputy Prime Minister Sar Kheng, the Ministers of Women's Affairs and Land Management, Urban Planning and Construction and other senior officials of the Government of Cambodia. He also met members of the Constitutional Council and judiciary, leaders of political parties, representatives of human rights, legal aid and trade union organizations, the United Nations Country Team, bilateral and multilateral development cooperation agencies and the diplomatic community. He visited Kompong Speu and Battambang provinces, where he met with victims of land disputes and with representatives of non-governmental organizations and provincial authorities.
4. In his public statement at the end of the mission, he welcomed the mid-January 2006 releases from prison and the return to Cambodia of several persons active in public life, charged variously with criminal defamation, disinformation and incitement in the latter part of 2005. At the same time, he expressed concern that the charges still stood, as a constant threat of re-arrest to those released and deterring others from the exercise of the freedom of expression.
5. He also welcomed the return of the leader of the main opposition party, the release from prison of a parliamentarian of the same party, and the restoration of their parliamentary immunity.
6. He concluded that most of the long-standing issues discussed in his report remain valid and pressing. He reiterated his recommendation that specific provisions regarding defamation, disinformation and incitement of the Provisions relating to the Judiciary and Criminal Law and Procedure applicable in Cambodia during the Transitional Period (commonly known as the "UNTAC<sup>1</sup> law") should be repealed without delay, and that no provision for criminal defamation should be retained in the new Penal Code. He noted that in parallel with discussions on a new openness, legislation was being drafted that could limit freedom of association and assembly. He expressed concern about continuing executive interference in the work of the judiciary and the inability of the Supreme Council of Magistracy to carry out its role of safeguarding the integrity and independence of judges. Impunity for serious human rights violations remained deeply rooted in Cambodia, and this would be difficult to overcome without an independent, competent and impartial judiciary.

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<sup>1</sup> United Nations Transitional Authority in Cambodia.

7. He was concerned that land grabbing continued to deprive the rural poor and indigenous communities of their land and livelihoods. He recommended a moratorium on concessions and land sales of indigenous lands until a clear policy and the necessary legislation were in place to safeguard the rights of indigenous peoples. He hoped that the improved political climate would translate into concrete measures to effect real and tangible change.

8. Following his mission, he explained in a letter to the Prime Minister that the starting point and framework for his engagement as Special Representative of the Secretary-General for human rights in Cambodia rested firmly on Cambodia's Constitution and the implementation of the international human rights treaties to which Cambodia is party. He welcomed the Government's stated commitment to positive change, including in the area of human rights, and brought his continuing concerns to the attention of the Prime Minister. He expressed his wish to work constructively with the Government, and to benefit from the views and guidance of the Prime Minister, whom he had not yet had the honour to meet, in the discharge of his mandate.

9. He presented his report and recommendations to the Human Rights Council in September 2006. In his statement to the Council, he expressed disappointment that few of his own or his predecessors' recommendations had been implemented, that human rights continued to be violated on a systemic scale, and that this could not be explained away by poverty or massive violations of human rights during the period of Democratic Kampuchea. He regretted the ruling party's dominance of the political sphere, the subversion of the Constitution and the legal and judicial system, the entrenched corruption and the impact of illegal land grabbing on the rural poor. He emphasized the responsibility of the international community to support the people of Cambodia in their quest for justice and accountability. He stressed that he did not underestimate the difficulties that countries face in the aftermath of war and conflict. He had first visited Cambodia in 1992 and seen the state of the country at the time it was just emerging from years of war and civil strife. He recognized the progress that had been made in rebuilding Cambodia. However, 15 years after the signing of the peace agreements at the Paris Conference on Cambodia in October 1991, most of the human rights provisions contained therein had not been fulfilled.

10. In the discharge of his mandate, the Special Representative has continued to closely follow the situation in Cambodia and to be guided by the priorities of the Commission on Human Rights resolution 2005/77. In this report the Special Representative has taken a longer-term view, concentrating on problems of a systemic nature which must be tackled if Cambodia is to flourish and its people are to have decent lives.

11. With the year 2006 marking the fifteenth anniversary of the peace agreements, it is an appropriate time to assess the fulfilment of their provisions. Each of the three documents adopted by the Conference - the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, the Agreement concerning the Sovereignty, Independence, Territorial Integrity and Inviolability, Neutrality and National Unity of Cambodia, and the Declaration on the Rehabilitation and Reconstruction of Cambodia - recognized the central importance of the protection and promotion of human rights in establishing and maintaining peace and prosperity for all Cambodians, and contained provisions for the promotion of human rights as well as constitutional guarantees for their protection.

12. In these agreements, the Cambodian authorities undertook to protect human rights and to ensure that the policies and practices of the past would never be repeated. Noting that Cambodia's "tragic recent history requires special measures to ensure protection of human rights", the agreements set out in detail the human rights provisions to be included in the new Constitution, which should contain a declaration of fundamental rights. These rights should be enforced by an independent judiciary, and "aggrieved individuals" should be able to enforce their rights before the courts. Adherence to international human rights instruments was also a core part of the agreements.

13. The agreements were intended to have a lasting effect, beyond the end of the transitional period. They provided for continual respect for and observance of human rights and fundamental freedoms; the right of all Cambodian citizens to undertake activities to promote and protect human rights and fundamental freedoms; effective measures to ensure that the policies and practices of the past are not allowed to return; adherence to international human rights instruments; the rehabilitation and reconstruction of Cambodia with full respect for human rights for all; and an undertaking of other signatories to promote and encourage respect for and observance of human rights and fundamental freedoms in Cambodia, as embodied in the international instruments.

14. The agreements gave the Commission on Human Rights a continuing mandate to monitor the human rights situation after the end of the transitional period, including by the appointment of a Special Rapporteur. Since 1993, the Secretary-General has appointed four special representatives for human rights in Cambodia, whom he has successively entrusted with maintaining contact with the Government and the people, and assisting the Government in the promotion and protection of human rights. The Commission on Human Rights and the General Assembly, in their resolutions on Cambodia supported and encouraged the Government to strengthen its efforts to further the observance of human rights and the rule of law.

## **I. ADHERENCE TO INTERNATIONAL HUMAN RIGHTS INSTRUMENTS**

15. Cambodia was already party to the International Convention on the Elimination of All Forms of Racial Discrimination when in 1992 it acceded to five of the remaining six core international human rights treaties. It has subsequently ratified the two optional protocols on children's rights. It is not party to the second Optional Protocol to the International Covenant on Civil and Political Rights, although the Constitution does abolish the death penalty, and it has not accepted individual communications or inquiries under the treaties which provide for these procedures.

16. In November 2006, the National Assembly began the process of ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Cambodia signed in September 2005. Several additional international human rights instruments are incorporated into Cambodian law through article 74 of the UNTAC law.

17. Cambodia's 1993 Constitution contains most basic guarantees of human rights. Through article 31 of the Constitution, the Universal Declaration of Human Rights and the human rights treaties were given the force of law. Article 48 specifically guarantees the protection of the rights of children, as enshrined in the Convention on the Rights of the Child.

18. When the Special Representative met the President and some members of the Constitutional Council during his second mission to discuss the Council's role in enforcing the constitutional guarantees of human rights, he was concerned about the fact that some members had doubts as to the direct applicability of the treaties in Cambodian law, notwithstanding article 31.

19. Since the Constitution does not set out in detail the rights it guarantees, the human rights treaties provide crucial substantive elaboration of the content of those rights. Unless the Constitutional Council, as guarantor of the Constitution, is prepared to uphold constitutionally protected treaty rights against encroachments from subsequent legislation, human rights cannot be adequately protected and Cambodia's assertion that the treaties take precedence over national law cannot be sustained.

20. While Cambodia's adherence to international human rights instruments is to be applauded, to protect human rights and meet these international obligations the Government must ensure that individuals are able to exercise their rights under the rule of law and claim effective remedy when these rights are violated.

## **II. EFFECTIVE REMEDY FOR HUMAN RIGHTS VIOLATIONS UNDER THE CONSTITUTION**

21. The right to an effective remedy by competent national tribunals for acts violating rights granted by the Constitution or by law is a fundamental principle of human rights. In practice, neither the constitutional guarantees of human rights, nor the institutions created by Cambodia's Constitution to enforce them, provide an effective remedy for violations of human rights.

### **A. The Constitutional Council**

22. The Constitutional Council, which has the responsibility for protecting and interpreting the Constitution, has shown a marked reluctance to challenge government legislation on the grounds that it violates human rights guarantees. In December 2004, it asserted the constitutionality of the 1991 Law on Demonstrations, despite a widespread view that the Law violated the constitutionally guaranteed right to peaceful assembly. In November 2006, the Council approved a Law on the Status of National Assembly Members, rejecting an application from a group of opposition members that it violated the constitutional guarantees of parliamentary immunity provisions and the right to freedom of expression.

23. The promulgation of the Law on Aggravating Circumstances for Felonies, promulgated in January 2002, in order to increase penalties, illustrates the failure of the institutions established under the Constitution, i.e. the Government, the National Assembly, the Senate, the Constitutional Council and the courts, to uphold rights guaranteed in the Constitution and to ensure that children receive the protections provided for in the Constitution and the Convention on the Rights of the Child.

24. When the draft law was being debated in the Senate on 6 December 2001, 34 out of 51 senators voted against the draft. Three dissenting senators were summarily dismissed from their posts by the Cambodian People's Party, a case that was subsequently pursued by the

Inter-Parliamentary Union. When the bill was sent back to the National Assembly, the Assembly's Permanent Commission on Legislation without further debate forwarded the Law to the King for promulgation.

25. The Law substantially revised certain criminal law provisions. Article 8 compels judges to apply the maximum sentences to those convicted for felonies, overriding the obligation placed on judges by article 68 (1) of the UNTAC law to weigh attenuating circumstances, and to reduce sentences below the minimum punishments prescribed by law or give a suspended sentence. Article 8 also invalidated article 68 (2) of the UNTAC law, which allows for the halving of prison sentences for persons under the age of 18.

26. During his second mission, the Special Representative met with representatives of legal aid organizations, who drew his attention to the harsh effects that the uncompromising provisions of this law have on children, effects which are compounded by the definition of any theft involving two or more people as felony. Although most judges feel constrained to apply the law, some have continued to apply the UNTAC provisions in cases of juveniles.

27. The effect of the law would seem to constitute a prima facie breach of Cambodia's international obligations to consider non-custodial and minimum sentencing options for juveniles, under article 37 (b) of the Convention on the Rights of the Child. As such, it may be unconstitutional as a consequence of articles 31 and 48, which specifically guarantee the Convention. However, no attempt has been made to test the Law's constitutionality either through the courts or directly with the Constitutional Council.

28. Under the Constitution and its implementing legislation, anyone involved in a legal suit may request the court to consider the constitutionality of any law or decision of a State institution which affects their fundamental rights and freedoms, thus giving defendants the important right to challenge the constitutionality not only of laws but also of executive decisions against them. However, the right can be denied by the cumbersome rule that the court trying the case must first determine whether there is sufficient legal basis for the claim that the law is unconstitutional. The court must then refer the matter to the Supreme Court within 10 days. The Supreme Court has 15 days in which to determine whether the case is "acceptable" and, if so, to refer the matter to the Constitutional Council for a decision. There are no known cases of courts initiating this procedure.

29. Individuals not involved in a court case have very restricted rights under the Constitution to seek the Council's assistance to claim their constitutional rights. Nor can the Council itself initiate reviews of national legislation. Reviews can only be undertaken at the request of the King, the Prime Minister, the President of the National Assembly or Senate, one tenth of National Assembly members or a quarter of senators. Citizens may request their representatives to forward their case to the Council but cannot appeal in their own right if their request is declined. Of the 36 cases published in the *Official Gazette* since July 1998 which had challenged the constitutionality of laws, the Council found only 5 to be unconstitutional, each of which following requests submitted by persons affiliated to the Government.

30. The Special Representative recalls and reiterates his concern about the impartiality of the Constitutional Council in the light of its current composition and the affiliation of six of its nine members with the Cambodian People's Party.

## **B. Independence of judges and lawyers**

31. The independence of judges is enshrined in the Constitution and further guaranteed within criminal procedure through article 1 of the UNTAC law, which incorporated directly into Cambodian law the “Basic Principles on the Independence of the Judiciary”. The lack of independence of the judiciary and its inability to secure effective remedy for violations of human rights have been matters of continual concern to all special representatives and have been noted repeatedly in resolutions of the General Assembly and the Commission on Human Rights.

32. In practice, the judiciary has not been able to exercise effective restraint against executive power. Judges have continued to be subject to political interference, and have been unable or unwilling to exercise their functions independently. Corruption has continued to be widespread.

33. The Supreme Council of Magistracy, the constitutional organ charged with protecting the independence and professional integrity of judges, including prosecutors, is widely acknowledged to be unable to carry out its role credibly and effectively. As the Special Representative stated in his last report, the Council requires wholesale reform, in line with the constitutional principle of separation of powers, so that its composition represents the judicial profession free from political influence. It is difficult to see how the independence of judges can be guaranteed when their regulatory body includes in its ranks one government minister *ex officio* and one member of the permanent committee of the ruling party. Judges are, like other citizens, entitled to freedom of expression, belief, association and assembly, provided, however, that in exercising such rights, they always conduct themselves in such a manner as to preserve the dignity of their office and the impartiality and independence of the judiciary. In a democracy, the judiciary must not only be independent but must be seen to be independent.

34. The proposed amendment to the 1994 Law establishing the Supreme Council of Magistracy has been placed on hold, pending the finalization of laws on the organization of the courts and on the status of judges and prosecutors, whose status and conditions of service remain regulated by vague and scattered legislation prepared on an *ad hoc* basis since the 1992 UNTAC law.

35. A law protecting judicial tenure, an appointment process, a code of conduct, benefits and a clearly defined salary structure for judges should have been drafted immediately after the Constitution. The Special Representative is of the view that the drafting of these three laws should be coordinated, within a holistic reform which takes account of the Constitution, the Basic Principles on the Independence of the Judiciary and other relevant international instruments. This would ensure that the commitment made in the peace agreements to develop the judiciary is kept.

36. The system of prosecutions pollutes the system of justice. Many prosecutors fail to meet national and international standards guaranteeing that investigations and prosecutions are pursued with impartiality and integrity, and in the public interest rather than partisan interest. Complaints filed by senior government officials, even when based on weak or unsubstantiated evidence, are prosecuted with vigour, while the vast majority of the populace have little hope or expectation of having their grievances taken up by public prosecutors.

37. The independence of lawyers is essential to the right to an effective defence guaranteed in the Constitution. In accordance with the due process guarantees in the human rights treaties and protections for defendants incorporated into the Constitution in article 38, the Government has a duty to ensure that lawyers are able to perform their professional functions without intimidation, hindrance, harassment or improper interference, free from the threat of prosecution or other sanctions.

38. The Bar Association of the Kingdom of Cambodia was created by law in 1995 to regulate the legal profession as “an independent and autonomous profession”. However, the independence of the Bar is widely perceived as having been compromised in recent years. Elections for the Bar Association’s presidency and the Bar Council have become highly politicized. The appointment of the Prime Minister and senior government ministers to the Bar in 2004 and 2006, notwithstanding their lack of requisite legal qualifications, has undermined the reputation and integrity of the Bar Association as an independent institution. Elections in October 2006 ended a dispute over the presidency that had paralysed the Association for two years in favour of the Acting President, who was widely perceived as the government candidate. The President’s strident position with regard to the establishment and role of a Defence Office within the Extraordinary Chambers for the Khmer Rouge trials has resurrected concern that the Bar is not independent and does not serve the best interests of all lawyers, regardless of their political affiliation.

39. The Special Representative is also concerned that highly questionable criminal charges of forgery, which carry a prison sentence of up to 15 years, remain pending against several, now former, Bar Council members who resisted the politicization of the legal profession.

40. The lack of independence and integrity of the judiciary, the prosecutorial authorities, and the legal profession pose a fundamental threat to human rights. Ministers and senior government officials enjoy wide immunities for breaches of the law, while innocent people become, at the instigation of the Government, the victims of the legal system. Thus, far from protecting human rights, the legal system becomes a principal agency of oppression.

### **III. THE RIGHT TO DEFEND HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF EXPRESSION, ASSOCIATION AND ASSEMBLY**

41. The peace agreements guarantee the right of all Cambodian citizens to undertake activities to promote and protect human rights and fundamental freedoms. In the last 15 years, individually, and in association with others, Cambodia’s citizens have worked energetically for the human rights of all Cambodians, and for the specific rights of women, children, workers, the disabled, minorities and others.

42. While the Government has generally been supportive of educational activities, it has been wary of advocacy, and has generally reacted harshly to activities that are critical of its policies and practices. It has been hostile to organizations defending, advocating and monitoring human rights. Members of these organizations have frequently encountered the perversion of law enforcement and justice, and, on the part of State authorities, a reluctance to accept accountability, vaguely plausible denial followed by delays and obfuscation, and reliance on crimes being forgotten.

43. The development of the media, crucial for human rights and democracy, has been negatively affected in Cambodia by unresolved murders of journalists, threats against editors, and attacks on newspaper offices. Although the July 1995 press law contains some positive provisions, it prohibits, contrary to the spirit of the Constitution and international norms, “humiliation of national institutions”, and authorizes the suspension of publications and imprisonment of journalists for publishing or reproducing information which “may affect national security and political stability”.
44. Cambodia has ratified most of the relevant International Labour Organization conventions. Some unions, however, have experienced continuing difficulties in exercising their rights, and since the anti-Thai riots of 29 January 2003, requests to hold demonstrations have been routinely refused. The police continue to break up marches and demonstrations, citing public order. The murders in 2004 of Chea Vichea and Ros Sovannareth of the Free Trade Union of Workers of the Kingdom of Cambodia remain unresolved, with a continuing chilling effect on union activities.
45. To participate meaningfully and effectively in public and political life, Cambodia’s citizens must be able to organize and associate with others and speak with a collective voice; express themselves freely, seek, receive and impart information and ideas of all kinds in a climate that is free from violence, pressure or threats; and enjoy an elementary level of economic security and well-being.
46. Regarding freedom of expression, the Special Representative regrets that his recommendation to the Government to suspend or repeal the defamation, disinformation and incitement provisions in the UNTAC law was not taken up. Article 63 of the law concerning defamation was amended in May 2006 to remove the prison penalties for defamation, but heavy fines can nevertheless still be imposed. Defamation remains in the draft penal code. Although no new cases of defamation have been reported since the amendment, the Government has instead used the provision on “disinformation”, an offence which carries a punishment of six months to three years in prison, and therefore allows for pretrial detention pending trial. It also carries heavy fines.
47. Under article 62 of the UNTAC law, disinformation occurs when: “The director or other party responsible for the publication or other means of communication who took the decision to publish, distribute or reproduce by any means information which is false, fabricated, falsified or untruthfully attributed to a third person and did so in bad faith and with malicious intent, provided that the publication, distribution or reproduction has disturbed or is likely to disturb the public peace.” This should require a high standard of proof for a conviction: the information has to be false or falsified or wrongly attributed; its publication has to be in bad faith and with malicious intent; and its publication has to have caused or have been likely to cause a breach of public order.
48. The following two cases illustrate the Special Representative’s concern. Deputy Prime Minister Sok An filed a complaint against the editor of the newspaper *Moneaksekar* for publishing an article on 13 June 2006 that reported alleged tensions between members of the Cambodian People’s Party and the Minister, as a result of the concentration of power and corruption in his hands. The case was heard on 15 September. The editor and his lawyer did not

appear in court. The court found the editor guilty of disinformation and sentenced him to fines of some \$2,000 to be paid to the State and some \$2,500 to be paid to Minister Sok An. In this case the judge considered that the article itself was sufficient evidence to secure a conviction for disinformation.

49. Teang Narith, a law and political science lecturer at Sihanouk Raj Buddhist University in Phnom Penh, was arrested and detained on 4 September 2006, and charged with disinformation in connection with his manuscript "Political Philosophy", which contained criticisms of senior government officials. He remains in pretrial detention. He is reliably reported to suffer from mental health problems, and his welfare is a matter of great concern. He requires proper care and attention and should be immediately released.

50. In August 2006 the National Assembly amended the Law on the Status of National Assembly Members, putting members at greater risk. In derogation of the Constitution as well as international norms, the Law imposes extensive qualifications on their immunity in respect of freedom of expression. It subjects Members whose comments are deemed to abuse an individual's dignity, social customs, public order and national security to the same legal penalties that already restrict the freedom of expression of Cambodian citizens. The same Law authorizes the arrest of members without prior lifting of immunity. As he was finalizing this report, the Special Representative was informed that the National Assembly had amended article 120 of the Law on Election of Assembly Members on 15 December, according to which Members convicted of a crime or misdemeanour will automatically lose their seats.

51. Articles 37 and 41 of the Constitution guarantee the right to strike, to peaceful demonstration and freedom of assembly. However, the Government continued to restrict these rights in 2006 through routine and arbitrary denial of permissions for demonstrations and public gatherings. The attitude of the authorities towards public assembly has remained one of restriction rather than facilitation. Where demonstrations or gatherings took place without permission, excessive and disproportionate force was recorded in several instances, with police now routinely carrying and using electric batons.

52. The Special Representative is concerned that demonstrations per se are generally presumed to be threatening to the Government, an attitude that manifests itself both through the decisions not to authorize demonstrations and in the draft law currently being prepared by the Ministry of the Interior to regulate assembly. The apparent starting point of the Government's approach to the draft Law on Freedom of Assembly and Peaceful Demonstration seems to be restriction, rather than freedom subject to an appropriate regulatory framework. The Government has also indicated its preference for freedom of assembly to be exercised on private premises behind closed doors. A law on non-governmental organizations (NGOs) has been on the Government's agenda since 1995. The Government has argued that article 42 of the Constitution obliges it to draft one. Article 42 states that Khmer citizens shall have the right to establish associations and political parties. These rights shall be determined by law. It also states that Khmer citizens may take part in mass organizations for mutual benefit to protect national achievements and social order.

53. As noted in the Special Representative's previous report, in 2005 the Ministry of the Interior asked the World Bank to assist in the drafting of the law. In the World Bank's view, a law may not be required, and it has proposed a dialogue between NGOs and the Government to

identify the problems that each encounter. Human rights and advocacy organizations remain understandably troubled about the Government's intentions, concerned that its motives are to restrict rather than facilitate their activities.

54. It will be important for the upcoming 2007 Commune Council and 2008 National Assembly elections to be conducted in a climate free from fear, where fundamental freedoms are fully respected and upheld. These will be the first elections following the constitutional amendment in March 2006 to reduce the number of lawmakers required to form a government from a two-thirds to a simple majority.

55. The Special Representative's predecessor reported 43 murders during the last election period where a political motivation was strongly suspected. Most cases involved members of the Sam Rainsy and Funcinpec<sup>2</sup> parties, and the majority have not been credibly resolved. In the context of the upcoming elections, the Government must take, and be seen to take, effective protection measures to reassure Cambodian citizens of their safety, and promptly investigate all murders and serious threats and intimidation against politically active persons. Electoral authorities should not deal with complaints that involve violations of criminal law.

#### **IV. IMPUNITY AND ACCOUNTABILITY**

56. The peace agreements stipulated 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. A report completed by the Special Representative's predecessor in October 2005<sup>3</sup> shows that since the early 1990s the vast majority of the many murders of politicians, journalists, trade unionists and other Cambodians active in political and public life have remained unresolved, including the contract killing of trade union leader Chea Vichea in central Phnom Penh in January 2004. In this case, two men widely believed to be innocent were immediately arrested and convicted of the crime in August 2005. On 6 October 2006, the Appeal Court immediately adjourned its hearing of their appeal on the grounds that a judge had suddenly taken ill. No date for a new hearing has been set.

57. Impunity means that Cambodia's citizens are not protected by law. As the report states, it exists where individuals who break the law and commit violations of human rights are exempt from any punishment, and are not brought to account in any proceedings - whether criminal, civil, administrative or disciplinary - or made subject to any penalties, and where no reparation is made to the victims. With impunity there is no protection of human rights. Impunity is the opposite of accountability and the antithesis of the rule of law.

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<sup>2</sup> Funcinpec is an abbreviation for the French title *Front uni national pour un Cambodge indépendant, neutre, pacifique, et coopératif*, or "National United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia".

<sup>3</sup> The report, entitled "Continuing patterns of impunity in Cambodia", can be found at the following web address: [http://cambodia.ohchr.org/download.aspx?ep\\_id=242](http://cambodia.ohchr.org/download.aspx?ep_id=242).

58. Impunity for serious violations of human rights does not only affect the direct victims. As the report notes, where party workers are killed before an election, this has an impact on the freedom of the democratic process. Where a journalist or editor is murdered, or a newspaper's offices attacked, this limits freedom of the press and of expression. Where someone charged with the criminal offence of human trafficking bribes a prosecutor or judge to drop the charges, the court in effect condones the act. Where police instigate or facilitate a mob killing, and no sanction is imposed, they become complicit in the crime. Where a union leader is killed and those responsible remain at large, this threatens wider labour rights and freedom of association. There is also impunity where corruption is unchecked or scarce medical resources are diverted from the neediest without oversight and accountability, or where land is acquired in breach of the law, and results in the dispossession of rural populations and the loss of basic livelihoods.

59. The report also notes that impunity has other far-reaching effects insofar as it allows official authority to be abused for personal enrichment or to maintain vested interests by operating outside the law. It also results in the distorted allocation of economic resources, further exacerbating existing inequalities and perpetuating poverty.

60. The Government must take, and be seen to take, effective measures to end impunity. In this context the Extraordinary Chambers represent a hope, which must not be squandered, of breaking the pattern of impunity that has characterized Cambodia's history in recent decades.

## **V. REHABILITATION AND RECONSTRUCTION OF CAMBODIA WITH FULL RESPECT FOR HUMAN RIGHTS FOR ALL**

61. The Declaration on the Rehabilitation and Reconstruction of Cambodia, which was part of the Paris peace agreements, provided that the primary objective of the reconstruction of Cambodia should be "the advancement of the Cambodian nation and people, without discrimination or prejudice, and with full respect for human rights and fundamental freedom for all". It also provided that economic aid should benefit all areas of Cambodia, especially the more disadvantaged, and reach all levels of society. The peace agreements recognized the centrality of human rights in promoting equitable and sustainable development in Cambodia.

62. The National Strategic Development Plan 2006 to 2010 is the master development plan for Cambodia, and all bilateral and multilateral aid is expected to be aligned and harmonized with its priorities and principles. While it commits the Government to key principles such as participation, non-discrimination and accountability, it does not include concrete measures to translate these principles into practice. Nor does it emphasize the importance of human rights to reducing poverty and achieving the Cambodian Millennium Development Goals. The Government and its development-cooperation partners should acknowledge the central role of human rights protection and promotion in securing political stability and socio-economic development.

63. Despite a decade of considerable economic growth and influx of aid, growth has been largely confined to urban areas. Most of Cambodia's population is clustered around the poverty line; and it is estimated that 35 per cent subsist below this level. The World Bank's report *Cambodia Poverty Assessment 2006* found that although poverty has been reduced, the distribution of increased wealth shows a growing and alarming gap between the rich and the poor. Landlessness is rising rapidly due to a mix of factors, including land grabbing,

accompanied by declining access to common property resources. The report concluded that with present trends Cambodia will not meet the Millennium Development Goal of halving poverty by 2015. The Cambodia Development Resource Institute, a research institute in Phnom Penh, also concluded in a recent draft study that there is little evidence of a significant reduction in income poverty, human deprivation and inequality.

64. The Special Representative notes with concern that the Government has yet to submit Cambodia's initial report on its compliance with the International Covenant on Economic, Social and Cultural Rights, which was due in 1994. This report and its consideration by the Committee on Economic, Social and Cultural Rights presents a valuable opportunity to explicitly integrate Cambodia's progressive realization of the rights in the Covenant into the National Strategic Development Plan, and for the Government, NGOs, development cooperation and international agencies together to identify and discuss ways to overcome the obstacles to the enjoyment of these rights.

## **VI. ACCESS TO LAND AND LIVELIHOODS**

65. The majority of Cambodia's population lives in rural areas and depends heavily on land and natural resources as a source of livelihood. Thus the question of how Cambodia manages and distributes its land and natural resources, and for whose benefit, is one of the most pressing issues facing the country today. It is also critical to the ability of all Cambodians to benefit from equitable and sustainable development that respects and promotes their human rights.

66. Contrary to the principles set out in the Declaration on the Rehabilitation and Reconstruction of Cambodia, Cambodia's rural populations find themselves increasingly displaced from the land, forests and other resources upon which many depend and have legitimate claim, without any protection of the law. The Constitution states that all Cambodian citizens have the right to private ownership of land, a right which shall be protected by law. The Land Law of 2001 provides that any person who has enjoyed peaceful and uncontested possession of land prior to 2001 has the right to request a definitive title of ownership. However, government authorities, who bear the responsibility of upholding people's rights as set out in the Constitution and Land Law, have been implicated in illegal or coercive land sales that deprive rural communities of their land and source of livelihoods. The judicial system has upheld such unlawful land deals, which comply neither with the provisions nor intent of the Land Law, leading rural Cambodians to mistrust the judicial system as a means to claim their rights and to provide effective redress and remedy.

67. The Special Representative also expresses continuing concern over the eviction of poor people from settlements along the Bassac River in Phnom Penh, and their relocation to sites that lack basic infrastructure and services such as water, sanitation and electricity, and whose distance from Phnom Penh compromises their ability to earn a living. Concerns about this situation have been raised in public statements by the Special Representative, communications to the Government, and a report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (E/CN.4/2006/41/Add.3).

### **A. Economic land concessions in law and practice**

68. Economic land concessions are large-scale industrial-agricultural plantations granted by the Government to individuals or companies to promote economic growth and increase employment in rural areas. Notwithstanding this, the World Bank's *Cambodia Poverty Assessment 2006* found agricultural productivity to be low. To promote growth and equity, it recommended smallholder agriculture, rather than the current model of large concession or plantation-based agriculture.

69. It is clear that economic land concessions have not had tangible benefits in rural areas but instead have deprived communities of vital sources of livelihoods, thus aggravating and worsening their already difficult situation. It is also clear that the grant of economic land concessions has increased the accumulation of property and wealth in the hands of those with political or economic influence.

70. The Special Representative has now been able to study the Land Law of 2001 and its sub-decrees on State Land Management and Economic Land Concessions, adopted by the Council of Ministers in 2005. The sub-decree on State Land Management provides that, in general, the State is the owner of all land not legally privately or collectively owned or possessed under the Land Law, and distinguishes between "State public" and "State private" land. The sub-decree on Economic Land Concessions states that economic land concessions of up to 10,000 hectares may be granted over land that has been registered and classified as State private land, provided the other prerequisites of an approved land use plan, environmental and social impact assessments, public consultations and solutions for resettlement issues are also met. Economic land concessions granted prior to the sub-decree shall be reviewed to consider contractual compliance, solicit public comments on land concession activities within the local communes, and negotiate a reduction in size of concessions in excess of 10,000 hectares.

71. In practice, there has not been a systematic process of mapping, classification and registration of State land prior to the granting of economic land concessions, as required by law. Following the adoption of the sub-decrees, concessions have continued to be granted over land before determining whether the land is in fact State private land, and not privately or collectively owned or possessed in accordance with the Land Law. In general, most of the land conceded has not been registered or classified as State private land.

72. Further, the other prerequisites for granting concessions have not been met. Where environmental and social impact assessments have been conducted to comply with the sub-decree's requirements, according to reliable information available these assessments are not always genuine and accurate.

73. For example, the Special Representative is informed that an environmental assessment of a concession granted in 2006 in the Sre Ambil district of Koh Kong province talked mainly about soil types. It did not look at broader environmental impact or the social impact on communities living and farming on the land covered by the concession. The requirement of public consultations with local residents is also generally overlooked prior to decisions to grant a concession, and not enforced by local authorities. A number of affected communities have

stated that they were unaware of plans to grant concessions until the arrival of the company to start work, and that they were not consulted, even though they have lived on and cultivated their land for many years.

74. Not surprisingly, as concessions continue to be granted without proper consultation or consideration for the existing ownership, possession and use of land, they are having serious adverse impacts on the communities concerned. Common and shared concerns reported by communities include the encroachment of concession companies on their farm land and rice fields, leading to food shortages; loss of access to forests to collect and sell non-timber forest products; loss of grazing land for livestock; illegal logging; and threats and intimidation from company workers and local authorities.

### **B. Transparency and availability of information**

75. According to information available, over 40 economic land concessions have been formally granted in 14 provinces. In addition, information has been received about further new concessions that may have been granted, including in Kratie, Stung Treng, Ratanakiri, Mondulakiri, Kampot and Oddar Meanchey.

76. Although the Ministry of Agriculture has taken some steps to disclose information through its web site, the information provided is incomplete and the web page often inaccessible. According to information available, only one concession contract has been cancelled, which was granted in 2000 but never activated. No information is available on the required review of economic land concessions granted prior to the enactment of the Land Law, and the reduction of concessions that exceed the 10,000-hectare limit stipulated in the Law.

77. The Pheapimex concession, which spans Kompong Chhnang and Pursat provinces, while currently inactive, still officially stands at over 300,000 hectares, more than 30 times the limit specified in the Land Law. The Green Sea concession in Stung Treng, granted in 2001 just prior to the Land Law, measures over 100,000 hectares, and activity has reportedly begun on the site. Reducing existing concessions to 10,000 hectares would release land for social land concessions for the very poor, as envisaged by the Land Law.

78. The Special Representative's predecessor, in a report issued in November 2004 on economic land concessions from a human rights perspective,<sup>4</sup> underlined the urgent need for public disclosure and accountability mechanisms. These would help gain a complete understanding of the concession system overall, and its impact on and potential benefits for Cambodians. Donors have repeatedly asked for and the Government has repeatedly promised that such mechanisms would be established. Joint monitoring indicators agreed upon at the seventh Consultative Group Meeting for Cambodia in December 2004 included the immediate disclosure of information on concessions, including mining concessions and military development zones. This call for transparency was repeated at the Group's 8th meeting in March 2006. Disclosure of information on the management of land and natural resources

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<sup>4</sup> The report, entitled "Land concessions for economic purposes in Cambodia: a human rights perspective" is available at: [http://cambodia.ohchr.org/report\\_subject.aspx](http://cambodia.ohchr.org/report_subject.aspx).

becomes all the more important with the discovery of significant oil reserves in the Gulf of Thailand. Foreign oil companies have reportedly signed contracts for their exploitation. However, these contracts are not in the public domain.

79. Two foreign mining companies have been granted an exploration licence for bauxite over 100,000 hectares in the predominantly indigenous north-eastern provinces. Neither the geographic scope of the licence nor the terms of the licence have been made public, despite concern about the potential impact on local indigenous populations and the environment.

### **C. Indigenous peoples and access to land**

80. While indigenous communities in Cambodia face similar problems to other rural Cambodians in relation to diminishing access to land, the impact has an added dimension owing to their special cultural and spiritual relationship with and dependence on traditional lands as a source of livelihood and identity.

81. There is widespread concern about the future of indigenous communities in Cambodia, as they are rapidly and steadily losing their traditional lands to private individuals and companies through illegal or coercive land sales and economic land concessions. This alarming rate of land alienation has grave social, cultural and environmental consequences, and action must be taken before it is too late.

82. A report released in May 2006 by the NGO Forum on Cambodia, a membership organization for information sharing, debate and advocacy on important issues affecting Cambodia's development, estimates that in Ratanakiri province alone, between late 2004 and early 2006, land alienation increased in severity in 30 per cent of the communes, and continued unabated in the remaining 70 per cent. In provinces such as Ratanakiri, Monduliri and Stung Treng, which have large indigenous populations, land grabbing and economic land concessions have led to deforestation and loss of livelihoods and access to land.

83. The Land Law recognizes the right of indigenous communities to collective ownership of their land, which includes land used for residences and traditional agriculture. Indigenous collective title can be granted over State private or State public land. While this is an important recognition of indigenous land rights, the process of registration of indigenous collective title remains long and uncertain. Pilot projects are under way to register indigenous land in Monduliri and Ratanakiri, but the process of registration of collective title and overall policy framework are unclear, with no designated lead Ministry.

84. At the March 2006 Consultative Group meeting of donors and government, it was agreed that a strategy and regulatory framework in relation to indigenous peoples would be finalized by November 2006. However, there is as yet no clear policy or strategy on how to protect and implement the rights of indigenous peoples, including their rights to land.

85. A question commonly asked is: how much land will remain available for collective titling once the administrative process for registration of indigenous collective title is clarified? The process and impact of the alienation of indigenous land has been documented by NGOs, and illustrates the urgent need for interim measures to protect land eligible for indigenous collective ownership.

#### **D. Access to justice in relation to land and natural resources**

86. The Special Representative is concerned about the increasingly difficult environment faced by NGO workers and community activists advocating for equitable access to land and natural resources. He has continued to receive reports of restrictions placed on their activities, meetings and movement, and acts of intimidation by authorities and company security. Recently, a human rights activist in Ratanakiri province received death threats related to his work on land disputes - he has previously been the subject of threats and criminal charges related to his land-related activism. In Mondulakiri, authorities continue to regulate the work of NGOs and community activists by asking NGOs for regular reports of their activities and plans, and requiring community activists to seek permission before attending meetings outside the province. In many cases, authorities have accused NGOs and village activists of inciting trouble in communities affected by economic land concessions and land disputes, using this as a pretext for restricting their activities.

87. In Koh Kong province, NGO workers were denied access to areas affected by an economic land concession, and told that they needed permission from the authorities if they wished to meet with the local villagers. In Pursat province, the local authorities told community members near another economic land concession not to participate in activities organized by community activists, alleging that they were supported by the opposition Sam Rainsy party.

88. The Special Representative is particularly concerned about the increasing number of community activists facing criminal charges related to land disputes and their land-related activism. He has received numerous reports of community activists being charged with infringement of private property, or other criminal offences created by the Land Law, in connection with disputes over unregistered land. It is apparent that the legal system is being used to protect those with power and influence, rather than to provide protection and justice for poor individuals and communities.

#### **VII. THE INTERNATIONAL COMMUNITY**

89. In the peace agreements, other signatories undertook to promote and encourage respect for and observance of human rights and fundamental freedoms in Cambodia, as embodied in the international instruments in order, in particular, to prevent the reoccurrence of human rights abuses. The Agreement concerning the Sovereignty, Independence, Territorial Integrity and Inviolability, Neutrality and National Unity of Cambodia includes provisions in the event of violations of the Agreement, including human rights provisions. These include collective efforts by the parties to the Agreement to resolve violations by peaceful means, referral to the Security Council or recourse to peaceful settlement means under Article 33 of the Charter of the United Nations.

90. The Special Representative has underlined the moral and legal responsibility of the international community and its members to support Cambodia in its quest to strengthen human rights and democratic and accountable institutions, whether as signatories to the agreements, as States Members of the United Nations, or as States parties to the human rights treaties. This was the primary rationale for their engagement in Cambodia in the early 1990s.

91. The Government of Cambodia has produced successive reform plans which speak of governance, Millennium Development Goals, sustainable development, poverty reduction, rule of law and legal and judicial reform. It is, however, largely silent on the central issues raised in this and in previous reports of special representatives. That many reform plans have not been implemented and that progress has been less than expected is often attributed to continued weak institutional capacity, lack of coordination among donors, too many competing demands on fragile government institutions, and a lack of qualified people, a legacy of the Khmer Rouge period.

92. While these may have some validity, the Special Representative has concluded that in reality those holding economic and political power are reluctant to support genuine reform when they benefit from and rely on their control over State institutions to remain in power.

93. It is clear that technical cooperation, training and capacity building alone will not work without addressing the underlying problems and without a firm demand for accountability. The use of systemic human rights violations has been a rational choice for those who hold power in Cambodia, and who refuse to accept accountability vis-à-vis the law and the people of Cambodia. Different choices might be possible if the costs of repression were to be seen as being greater than their immediate benefits.

94. As evidence from Cambodia's recent history and elsewhere indicates, repression, intimidation and extortion can create preconditions for serious counter violence. The Prime Minister has himself recognized this, for example, in his statements on land grabbing.

95. The reports and recommendations of the special representatives, the resolutions of the Commission on Human Rights and the General Assembly and the concluding observations and recommendations of the human rights treaty bodies should all be an integral part of the dialogue between the Government and donor agencies. And Cambodia's neighbours and influential Governments in the Asian region, especially those providing significant development assistance and loans to the Government, should be far more active in discharging their responsibilities towards Cambodia and its people.

## VIII. CONCLUSIONS

96. With the end of civil conflict, overall security has improved in Cambodia. Yet, the absence of effective institutions of government, basic laws and an impartial judiciary, accompanied by continuing impunity and threats against those who criticize the status quo, increasing landlessness and growing numbers of displaced persons all leave Cambodia's citizens insecure, vulnerable to systemic denial and violations of their rights, and exposed to well-established methods for maintaining the existing economic and political order. Few of the problems Cambodia faces today are unique: entrenched corruption at the highest level; a system based on patronage; pillaging of natural resources; divide-and-rule tactics; use of the State structure to undermine the political opposition; and enrichment of the few to the neglect of the many.

97. These are all familiar phenomena that have been studied in many countries, including in East Asia and in post-conflict settings. Yet Cambodia is unique insofar as the international community has played a central role since the peace agreements in rebuilding the country and its institutions, with the aim of establishing a regime based on respect for human rights and the rule of law.

98. The Special Representative regrets that instead of responding to the concerns raised by the special representatives and United Nations bodies, a frequent response of the Government has been evasion or accusation, scapegoating and intimidation.

99. The protection and enjoyment of human rights are essential to ensure a legacy of peace with justice for Cambodia, 15 years after the peace agreements and 27 years after the end of the regime of Democratic Kampuchea.

100. Important commitments have been made to Cambodia's people that cannot be thrown aside. It is the Government's duty and responsibility to put in place policies and laws to meet these commitments and the duty of the international community to help it in doing so. More fundamentally, the Government, the ruling party, other political parties and Cambodia's powerful business elites would do well to reflect on the kind of society they want Cambodia to become.

101. In his message to the children and youth of Cambodia on Human Rights Day 2005, the Special Representative expressed concern that attitudes towards human rights have become very divisive in Cambodia, that some people consider advocates of human rights as obstacles to development, and that in this argument the real meaning of human rights is getting lost.

102. He underlined that the fundamental principle of human rights is that everyone is equal in rights and dignity, regardless of whether the person is rich or poor, young or old, weak or powerful. While this may upset the current order of things, it creates the possibility of relationships based on respect and fairness.

103. Solidarity, another important principle of human rights, recognizes that we are all human beings, that we share the same needs and aspirations, that we should treat everyone around us with tolerance, respect and understanding. Through the rights of expression and association we, as the community, can exchange ideas peacefully and cooperate.

104. Human rights are also about our responsibility to our neighbours and to our society, and they are about our protection against unjust or oppressive government, creating rules about relations between people and the State. They enable people to choose their leaders and determine the policies of the State. They are about dialogue and participation. They ensure the accountability of the Government and integrity of its leaders. The idea of dignity, which is so central to rights, means that society must try to ensure that everyone has security and that their basic needs for food, shelter, clothing and clean water at the bare minimum are met. Without such conditions, people cannot participate on an equal basis, and there can be no justice.

105. The Special Representative looks forward to discussing this report and his recommendations on his next mission to Cambodia in early 2007 before presenting them to the Human Rights Council at its fourth session. He finalized this report on 18 December 2006.

## **IX. RECOMMENDATIONS**

106. **As deliberate and systemic violations of human rights have become central to the Government's hold over power, the international community, bound by obligations in the Paris peace agreements, should do all it can to persuade and press the Government to respect its human rights commitments under the agreements, international human rights treaties and the Constitution of Cambodia. The Government on its part must declare unequivocally to the international community and to the people of Cambodia its obligations, legal and moral, to stop the abuse of rights and to respect the independence of the judiciary and prosecutorial authorities.**

107. **The Special Representative reiterates his invitation to the Government to inform the Human Rights Council about the concrete measures that it has taken and that it intends to take to respond to the recommendations that he and his predecessors have made, and to the recommendations of the treaty bodies and the international community through resolutions of the General Assembly and the Commission on Human Rights.**

108. **The recommendations that follow include previous recommendations not addressed in the body of this report. Together, they can be seen as constituting the minimal elements of a plan of action for human rights in Cambodia:**

### **The rule of law and protection of human rights and fundamental freedoms**

- Adopt measures, as a matter of priority, to ensure the independence, impartiality and effectiveness of the Constitutional Council, the Supreme Council of the Magistracy and the judicial system as a whole; and allow citizens effective access to these institutions to enforce their rights;**
- Finalize, enact and implement the laws and codes that are essential components of the rule of law in accordance with the Constitution and international instruments;**
- Uphold the right of all Cambodian citizens to undertake activities to promote and protect human rights and fundamental freedoms by ensuring full respect for the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;**
- Fully protect freedoms of expression, peaceful assembly, and association in accordance with the Constitution and international instruments. Ensure that any new legislation complies with these instruments. Repeal provisions in the law on defamation, disinformation and incitement. Ensure access to information held by public authorities;**
- Ensure that law enforcement officials disperse demonstrations and gatherings only if absolutely necessary. Use force only as a last resort, in proportion to the threat posed, with minimum damage or injury to persons and property;**

- **End forced evictions;**
- **Conduct impartial and credible investigations into grave violations of human rights, past and present. Bring to justice those responsible. The murder of trade union leader, Chea Vichea, is a case in point;**
- **Establish an independent commission to investigate complaints concerning military or police conduct;**
- **End forced confessions as evidence in trials. Institute a system of regular visits of NGOs to police cells and detention centres to prevent torture and cruel, inhuman and degrading treatment or punishment. Complete ratification of the Optional Protocol to the Convention against Torture and implement its provisions;**
- **Review sentencing policies. Introduce non-custodial options as an alternative to imprisonment, first and foremost for children;**
- **Ensure that lawyers, family members and human rights organizations have regular access to prisoners and detainees.**

#### **Access to land and livelihoods**

- **Make publicly available details of all approved concessions, including contracts, maps and information about concession companies and their shareholders;**
- **Enforce the requirement to undertake public consultations and meaningful environmental social impact assessments prior to granting economic land concessions. Concessions granted without these requirements being fulfilled should be null and void;**
- **Cancel concessions that do not comply with the requirements of the Land Law and its sub-decrees. Provide a mechanism for affected communities to request the review and cancellation of non-compliant concessions;**
- **Ban the granting of economic land concessions and other concessions in areas of primary forest;**
- **Ban the sale of land and the granting of economic land and other concessions in areas occupied by indigenous communities, pending the registration of indigenous claims over traditional lands and the collective titling process;**
- **Put in place mechanisms to protect indigenous land pending the registration of collective title, and finalize the process of registration of collective title over indigenous land;**

- **Protect the rights of NGOs and community activists to advocate for equitable access to land and natural resources, without threats, intimidation or restriction of their activities. The legal system must not be used to silence or punish activists.**

#### **Adherence to International Instruments**

- **Ratify the Optional Protocols to the International Covenant on Civil and Political Rights, and the Convention on the Elimination of All Forms of Discrimination against Women;**
- **Accede to the United Nations Convention against Corruption. Bring the draft Anti-Corruption Law into conformity with its provisions;**
- **Submit as a matter of priority Cambodia's initial report on its compliance with the International Covenant on Economic, Social and Cultural Rights;**
- **Fully uphold and comply with the 1951 Convention on the Status of Refugees and its 1967 Protocol.**

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