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**Human rights questions: human rights questions,
including alternative approaches for improving
the effective enjoyment of human rights and
fundamental freedoms**

Situation of human rights in Cambodia

Report of the Secretary-General**

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* A/55/150.

** In accordance with General Assembly resolution 54/248, sect. C, para. 1, this report is being submitted on 11 August 2000 so as to include as much information as possible.

I. Introduction

1. The Office of the United Nations High Commissioner for Human Rights in Cambodia (OHCHR/Cambodia) was established pursuant to resolution 1993/6 of the Commission on Human Rights which entrusted the Office to carry out the following activities:

(a) Manage the implementation of education and technical assistance and advisory services programmes and ensure their continuation;

(b) Assist the Government of Cambodia, established after the election, at its request, in meeting its obligations under human rights instruments to which it had recently adhered, including the preparation of reports to the relevant treaty monitoring bodies;

(c) Provide support to *bona fide* human rights groups in Cambodia;

(d) Contribute to the creation and/or strengthening of national institutions for the promotion and protection of human rights;

(e) Continue to assist with the drafting and implementation of legislation to promote and protect human rights;

(f) Continue to assist with the training of persons responsible for the administration of justice;

(g) Assist the Special Representative of the Secretary-General for human rights in Cambodia in the discharge of his/her functions. In subsequent resolutions, the Commission on Human Rights and the General Assembly requested the Secretary-General, through his Special Representative for human rights in Cambodia, in collaboration with the Office in Cambodia of the United Nations High Commissioner for Human Rights, to assist the Government of Cambodia in ensuring the protection of the human rights of all people in Cambodia.

2. The present report has been prepared pursuant to General Assembly resolution 54/171 of 17 December 1999.

3. In that resolution, the General Assembly noted some progress made with regard to legal developments, plans and measures undertaken by the Government to address certain violations of human rights and commended the valuable role played by non-governmental organizations in Cambodia in that

regard. Concern was raised about numerous instances of violations of human rights and the situation of impunity. The situation included continuing problems related to the rule of law and functioning of the judiciary, interference by the executive with the independence of the judiciary, and persistent extrajudicial executions, torture, illegal arrests and detention, child prostitution and trafficking, violation of labour rights, prison conditions not in accordance with the international minimum standards, acts of violence against ethnic minorities, people being affected by the illegal confiscation of land and forced relocation, including that of indigenous peoples, and the need to ensure the security of persons and rights of association, assembly and expression as a critical priority.

4. The General Assembly appealed to the Government of Cambodia to ensure that those responsible for the most serious violations of human rights during the Khmer Rouge time be brought to justice, in accordance with international standards of justice, fairness and due process of law. It also urged the Government to continue to cooperate with the United Nations with a view to reaching an agreement, and appealed to the international community to continue to assist those efforts.

5. The resolution also noted the importance of the need for the upcoming communal elections to be conducted in a free and fair manner and urged the Government of Cambodia to prepare for them accordingly. All these issues were again raised with concern by the former Special Representative in his report to the Commission on Human Rights (E/CN.4/2000/108) and were reflected in resolution 2000/79, adopted on 20 April 2000 by the Commission on Human Rights.

6. The present report contains information on the recommendations of the Special Representative and on the role and achievements of OHCHR from September 1999 to July 2000 in assisting the Government and people of Cambodia to strengthen democracy and establish the rule of law and respect for human rights. Information on certain coordinated efforts of the United Nations system in Cambodia and on the OHCHR staffing status and the financial situation of the United Nations Trust Fund for a Human Rights Education Programme in Cambodia is also provided. Additional information on the recommendations of the Special Representative and the work of OHCHR in

Cambodia is available in the annual reports submitted to the General Assembly (A/49/635/Add.1, A/50/681/Add.1, A/51/552, A/52/489, A/53/400, A/54/353) and to the Commission on Human Rights (E/CN.4/1994/73, E/CN.4/1995/87, E/CN.4/1996/92, E/CN.4/1997/84, E/CN.4/1998/94, E/CN.4/1999/100, E/CN.4/2000/109).

II. Developments in the process to investigate and prosecute the most serious crimes in Cambodia during the period of Democratic Kampuchea

7. Developments in and concerns about the process to investigate and prosecute the most serious crimes in Cambodia during the period of Democratic Kampuchea were discussed during the past session of the Commission on Human Rights. Those concerns are reflected in resolution 2000/79.

8. During the period from January to July 2000, the Under-Secretary-General for Legal Affairs, Hans Corell, visited the country twice, from 16 to 22 March and from 4 to 7 July 2000. During his missions, the Legal Counsel held discussions with the Cambodian Task Force on the draft articles of cooperation between the United Nations and the Government of Cambodia in the prosecution under Cambodian law of crimes committed during the period of Democratic Kampuchea, and, in particular, the personal scope of jurisdiction of the Court, the composition of the Chambers and their decision-making process, a settlement of dispute formula to settle disagreements between the co-prosecutors, the mutual obligations, notably financial, of the Parties, the Trust Fund as the financial mechanism to defray the costs of international personnel, and the premises of the Court. The United Nations delegation suggested amendments to the draft law on the establishment of extraordinary chambers in the courts of Cambodia for the prosecution of crimes committed during the period of Democratic Kampuchea, in order to ensure its conformity with the articles of cooperation. The draft law is now pending before the Judicial Committee of the National Assembly. So far, however, no date has been scheduled for the debate of the draft law in the National Assembly.

III. Recommendations of the Special Representative of the Secretary-General for human rights in Cambodia

9. The Secretary-General appointed Thomas Hammarberg as his Special Representative for human rights in Cambodia in May 1996, following the resignation of Michael Kirby who served as Special Representative from 23 November 1993 until April 1996. At his own request, Mr. Hammarberg concluded his mandate on 31 December 1999. During their respective mandates, Mr. Kirby undertook seven official missions to Cambodia and Mr. Hammarberg, 16. Both reported successively to the General Assembly and the Commission on Human Rights. Activities carried out by Mr. Hammarberg within the reporting period from September to December 1999 are reflected in his report to the Commission on Human Rights (E/CN.4/2000/109). The appointment of a new Special Representative of the Secretary-General for human rights in Cambodia is under consideration.

10. Both former Special Representatives, in previous reports to the General Assembly and the Commission on Human Rights, made a series of observations and recommendations on how the human rights situation in Cambodia might be improved and reported on the implementation of their recommendations by the Government on an annual basis to the Commission on Human Rights. OHCHR/Cambodia continues to follow up on the implementation of these recommendations by the authorities, as well as the efforts of the Government of Cambodia to investigate specific cases of serious human rights violations brought to its attention. Developments in this regard will be reported to the Commission on Human Rights for its consideration at its fifty-seventh session. Major suggestions have also been reflected in resolutions on Cambodia adopted by the General Assembly and the Commission on Human Rights.

11. OHCHR/Cambodia reports that during 2000, an increase in allegations of violations of labour rights, housing rights, curtailing of freedom of the press, expression and association, intolerance towards ethnic minorities and migrant workers, police violence during public demonstrations, trafficking of persons and cases of sexual exploitation of children and women have come to its attention. Allegations of illegal arrest and detention, excessive pre-trial detention, torture during

arrest, prison conditions not in accordance with international standards, intimidation of human rights defenders, lack of independence of the judiciary, interference of the executive in the judiciary and some cases of political violence and intimidation were also reported. OHCHR continued documenting and analysing patterns of human rights violations, in particular with regard to mob killings, torture, police violence, military abuse and the aforementioned cases of political violence and intimidation. Information with regard to new cases of torture and cases previously brought to the attention of the Government of Cambodia in a memorandum presented by the Special Representative in 1997 was also updated.

12. OHCHR/Cambodia continued to follow the legal situation of persons in custody and prison conditions in general by conducting at least 20-22 monthly visits to various national and provincial prisons. Monthly meetings were held with relevant prison and judicial authorities to address legal and other major concerns regarding prison conditions, including health issues. OHCHR formed a working group with the Bar Association and certain legal defence and human rights non-governmental organizations to address cases of excessive pre-trial detention. Strengthening of the coordination role of the prison health department with the Ministry of Health, provincial authorities and non-governmental organizations working in this area should be encouraged. The situation of children in custody remains a matter of serious concern.

13. Pending the appointment of a Special Representative of the Secretary-General, OHCHR/Cambodia has submitted for action a number of cases of allegations of human rights violations to the attention of various thematic mechanisms such as the Special Rapporteur on torture, the Special Rapporteur on extra-judicial, summary or arbitrary executions, the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on toxic waste, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on freedom of opinion and expression. As part of the programme of assistance to non-governmental organizations the OHCHR/Cambodia also plans to train key human rights non-governmental organizations on the mandate and working methods of these special procedure mechanisms.

IV. Role of the United Nations High Commissioner for Human Rights in assisting the Government and the people of Cambodia in the promotion and protection of human rights

A. Memorandum of understanding

14. The previous memorandum of understanding between the Government of Cambodia and the OHCHR/Cambodia expired on 28 February 2000. As the General Assembly and the Commission on Human Rights were previously informed, the Government had verbally agreed to the extension of the memorandum until March 2002 in order to enable the Office to continue its operations and to maintain its technical cooperation programmes. However, at the time of writing of this report, negotiations on the text of the memorandum were still under way.

B. Implementation of the technical cooperation programme and activities of OHCHR/Cambodia

1. Assistance for the drafting and implementation of legislation to promote and protect human rights

15. OHCHR/Cambodia provides assistance to the legislative and other relevant bodies and actors in the law-making process by ensuring their compatibility with international human rights standards, training of those engaged in drafting laws, facilitating the involvement of civil society in the process, and providing advice and information on legal matters to members of the Senate and the National Assembly. In order to make the relevant legal materials available to the concerned sectors and institutions, OHCHR/Cambodia has completed the compilation of laws and made arrangements for its publication.

16. OHCHR/Cambodia is currently providing technical assistance in developing the legal system by facilitating the participation of civil society in the law-making process and by providing expert comments on draft laws, including the drafts on criminal law, criminal procedure law, commune administrative management law, commune election law, anti-

corruption law, statute on judges, statute on court clerks, land law, law on non-governmental organizations and associations, regulations relating to the Supreme Council of Magistracy, law on the organization of the judiciary, prison regulations, weapons law, law on adoption and the Extradition Treaty between Cambodia and China.

17. OHCHR/Cambodia held meetings and consultations with the President of the National Assembly, the Deputy First President of the Senate and with Chairpersons of various Senate and National Assembly commissions in order to facilitate coordination in the legislative process. A series of workshops on law-drafting and legislative policy formulation for legislators, policy makers, governmental officials, lawyers, non-governmental organization leaders, and others directly involved in this work is being organized. Discussions with the concerned agencies to constitute a representative committee to facilitate the process and to create a permanent body for coordinating the law-drafting activities are continuing.

18. Assistance to strengthen the judicial system for the adequate administration of justice forms part of the programme of assistance of OHCHR/Cambodia to the Ministry of Justice, Constitutional Council, Supreme Council of Magistracy and courts at all levels. Capacity-building programmes for judges, prosecutors, other court officials and lawyers in the understanding and application of human rights standards in the delivery of justice, including strengthening of legal education, were also facilitated by judicial mentors during the first semester of the year. OHCHR/Cambodia is currently implementing a training programme for public prosecutors on how to conduct regular reviews and to assist the public prosecution department in its functions. Quarterly review meetings of public prosecutors have contributed significantly to strengthening the administration of justice by bridging gaps between judicial and other law enforcement agencies. Formal and on-the-job training and assistance to judges, prosecutors and court clerks is also provided through the Judicial Mentor Programme in the following six courts in different parts of the country: Phnom Penh Municipal Court, Takeo Provincial Court, Kompong Cham Provincial Court, Kompong Chhnang Provincial Court, Svay Rieng Provincial Court, and Battambang Provincial Court. In addition to the provision of support to civil society

through capacity-building at the provincial level, judicial mentors also provide material support to the courts.

2. Creation and strengthening of national institutions for the promotion and protection of human rights

19. The establishment and strengthening of national institutions for the promotion and protection of human rights has been a priority of the Office since 1993. OHCHR/Cambodia provides advice and assistance and maintains a close dialogue with several national institutions and agencies with mandates relevant to human rights. Cooperation and dialogue extend to the monitoring and investigation of alleged violations, preparation of governmental reports on the human rights situation, formulation of laws and policies affecting human rights, and the implementation of educational activities.

20. The main institutions with which OHCHR/Cambodia works include the following: Human Rights and the Reception of Complaints Commissions and the Legislative Commissions of both the Senate and the National Assembly, the Constitutional Council, the Supreme Council of Magistracy, the Office of the Prosecutor General, the Courts, the Inter-Ministerial Committee on Reporting Obligations to the United Nations, the governmental Cambodian Human Rights Committee, the Land Dispute Settlements Commission, the police, the Royal Cambodian Armed Forces, the Prison Department, the Ministry of Justice, the Ministry of Women and Veteran's Affairs, and non-governmental human rights organizations.

21. Recently, during the participation of a senior adviser from OHCHR in a regional workshop held in Phnom Penh in July 2000, consultations for the drafting of legislation with regard to the establishment of an independent national institution for the promotion and protection of human rights in accordance with international standards were held with the executive and the legislative authorities as well as with main human rights non-governmental organizations. OHCHR/Cambodia will continue to cooperate with the Government of Cambodia by facilitating the debate required for the establishment, in accordance with international standards, of an independent and effective institution.

3. Training provided to government officials in the administration of justice and other issues

22. Enhancing the capacity of governmental institutions in the understanding and application of human rights standards, in particular in the administration of justice, continues to be a priority for OHCHR/Cambodia, which is currently implementing and supporting human rights education and training programmes with the Royal Cambodian Armed Forces, the Cambodian National Police, and the Royal Gendarmerie. Through a training-of-trainers approach, a core group of some 40 human rights instructors has been established in each security force. Extensive training has been conducted throughout the country, based on curricula developed by OHCHR/Cambodia, and a series of training courses is currently being carried out throughout the Cambodian provinces and municipalities, based on annual schedules issued by the Ministries of Defence and of the Interior up to the end of 2000. Rather than directly delivering training, OHCHR/Cambodia is generally supporting and following the courses conducted by the instructors. Approximately 1,800 Royal Cambodian Air Force instructors, 900 police trainers and 150 *Gendarmerie* personnel were trained over the period January to June 2000. In addition, OHCHR/Cambodia conducted a train-the-trainers course for police instructors and a training course for high-ranking officials of the Ministry of Defence, in cooperation with the International Committee of the Red Cross. The substantive and methodological capacity of the instructors is currently being assessed with a view to developing programmes to further strengthen their ability to provide training.

23. In the area of the administration of justice, OHCHR/Cambodia is also participating in an inter-agency project to build the capacity of the Cambodian National Police to address cases of sexual exploitation of children. Other partners in the project, entitled "Law enforcement against sexual exploitation of children", include the United Nations Children's Fund, the International Organization for Migration (IOM), Rädä Barne, World Vision and the Ministry of the Interior. Draft guidelines on the police investigation of offences involving the sexual exploitation of children and training materials on this issue have been developed.

24. In cooperation with the Ministry of Labour Inspection Department, a three-month programme of training on labour rights was completed. Fifteen

governmental labour inspectors trained by OHCHR/Cambodia conducted training for managers, trade union representatives and workers in 24 factories in Phnom Penh. A total of 572 participants attended the training.

25. In cooperation with the Ministry of Environment, three one-day workshops were conducted in June 2000 in the province of Kampot. Participants included forest/park rangers of the Ministry of Environment, personnel of the National Police, Royal Gendarmerie and Royal Cambodian Armed Forces and district and commune officials. OHCHR/Cambodia is discussing with the Ministry of Environment the possibility of conducting similar workshops in other provinces.

26. OHCHR/Cambodia is also organizing several activities for use in human rights training and education for police and military officials, and on the trafficking of persons.

27. The OHCHR/Cambodia provincial office carried out training activities for local authorities, students and community representatives based on various OHCHR curricula, including on the trafficking of persons, human rights and democracy, and human rights and minorities.

4. Human rights reporting obligations and implementation of recommendations made by treaty monitoring bodies

28. Cambodia is party to the six main international human rights instruments and has submitted initial reports under the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child. Most recently, in May 2000, the Committee on the Rights of the Child considered the initial report of Cambodia (CRC/C/11/Add.16) and adopted concluding observations (CRC/C/15/Add.128).

29. OHCHR/Cambodia continues to assist the Inter-Ministerial Committee on the Preparation of Human Rights Reports to the United Nations in the preparation of reports to be submitted under international human rights instruments obligations. During the reporting period, support to the Committee was provided in finalizing the draft report on the implementation of the Convention against Torture which is currently in its final stages of review by the Government. OHCHR/Cambodia is currently supporting the

Committee and the Ministry of Women and Veteran's Affairs in drafting the report for the Committee on the Elimination of All Forms of Discrimination against Women.

30. In June 2000, OHCHR/Cambodia, in collaboration with the Centre for Democratic Institutions of the Australian National University, organized a workshop to review the process of preparation of reports under international human rights instruments. One member of the Human Rights Committee was invited to participate as a resource person, together with two other international experts with experience in drafting reports, Cambodian officials responsible for the preparation of the reports, members of the Cambodian delegation to the Committee on the Rights of the Child, members of Cambodian non-governmental organizations who prepared parallel reports under the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, and OHCHR/Cambodia staff. The workshop was attended by about 50 persons, including members of the Inter-Ministerial Committee on the Preparation of Reports to the United Nations, other Ministry officials, the Cambodian Human Rights Committee, members of the Senate Human Rights Commission, and non-governmental organizations. The workshop provided a forum for an exchange of experience between international experts and Cambodian institutions and organizations on methodology and best practices for the preparation of reports to United Nations treaty bodies. Recommendations for strengthening the process of drafting reports by Cambodia were formulated by the participants.

31. In April 2000, while in Cambodia at the invitation of several non-governmental organizations and with the support of OHCHR/Cambodia, the Chairperson of the Committee on Economic, Social and Cultural rights also met with the Inter-Ministerial Committee.

32. OHCHR/Cambodia is currently working with the Cambodian authorities in assessing the progress made in the implementation of the recommendations of treaty bodies. Support to the Government in establishing mechanisms to follow up on such recommendations and the involvement of non-governmental organizations in the process are being discussed.

5. Support to non-governmental human rights groups in Cambodia

33. OHCHR/Cambodia emphasizes the enhancement of the capacity of Cambodian non-governmental organizations and other civil society organizations to carry out activities in promoting and protecting human rights. In this respect, OHCHR/ Cambodia provides training and other forms of technical assistance and financial assistance. Non-governmental organizations are the main partners in the implementation of the overall programme of OHCHR/ Cambodia in particular in its work on monitoring, investigation and protection and in the law-making process and education, training, information and advocacy.

34. In the period under consideration, OHCHR/ Cambodia assisted the Human Rights Video Production Committee of Cambodia, consisting of 10 non-governmental organizations in editing seven videos on human rights, which are being broadcast on Cambodian cable television. In January 2000, OHCHR/Cambodia organized a workshop on access to justice for NGOs, which contributed to identifying and developing strategies in this area.

35. OHCHR/Cambodia regularly participates in meetings of the Cambodian Human Rights Action Committee, an umbrella organization made up of 16 Cambodian human rights groups, and in planning and review meetings by individual non-governmental organizations. Two training-of-trainer's programmes on the subjects of human rights and democracy and HIV/AIDS were conducted for two Cambodian non-governmental organizations. In addition, OHCHR/ Cambodia provided training on investigation techniques to provincial members of one national non-governmental organization.

36. During the reporting period, 12 grants were issued to Cambodian non-governmental organizations for the implementation of human rights projects. Projects funded included the production of Khmer theatre pieces on human rights, a prisoners' literacy programme, human rights education for police and prison officials on the human rights of women, assistance to victims of violations, anti-HIV/AIDS discrimination training for medical workers, strengthening of the human rights information management capacity of local non-governmental organizations, and protection of and education for ethnic minorities. The grants were funded under the

United Nations Trust Fund for a Human Rights Education Programme in Cambodia. OHCHR/Cambodia is monitoring the implementation of these projects through, inter alia, field visits.

C. Cambodia and the United Nations Development Assistance Framework

37. OHCHR is responsible for the system-wide coordination of all matters related to human rights, democracy and the rule of law. As part of the United Nations team in the country, OHCHR/Cambodia participated in the elaboration of the United Nations Development Assistance Framework (UNDAF) for the period 2001-2005, which identified human rights as one of four crosscutting issues in all areas of concentration. UNDAF was prepared based on the findings of the common country assessment for Cambodia and on the mandates, experience and comparative advantages of each of the United Nations system organizations working in the country.

D. OHCHR/Cambodia staff, and the financial situation of the United Nations Trust Fund for a Human Rights Education Programme in Cambodia

38. OHCHR/Cambodia is composed of one main office located in Phnom Penh, eight provincial offices and six judicial mentors offices. OHCHR/Cambodia team includes 31 national staff and 19 international professional staff (including one junior professional officer funded by the Government of Sweden, seven professional project staff and three United Nations volunteers). The Office is comprised of the Directors' Office, with one director/international professional, one deputy director/international professional, the Legal Assistance Unit, the Education, Training and Information Unit, the Monitoring and Protection Unit and the Administration Unit. In 2000, the Director of OHCHR/Cambodia also performs functions as the special representative of the United Nations High Commissioner for Human Rights on trafficking issues for the Asia/Pacific region, and the chief of the Monitoring and Protection Unit performs functions as the assistant to the special representative of the Secretary-General for human rights in Cambodia.

39. The provincial office network is located in the following eight provinces: Battambang, Banteay Meanchey, Kampot, Kompong Cham, Malai, Pailin, Prey Veng and Siem Reap. The network is currently comprised of three international advisers (three United Nations volunteer positions), six national officers and eight national assistants. The judicial mentors, located in six courts (Kompong Cham Provincial Court, Kompong Chhnang Provincial Court, Phnom Penh Municipal Court, Svay Rieng Provincial Court and Takeo Provincial Court) includes six international professionals, recruited as consultants, and six national assistants.

40. OHCHR/Cambodia operational expenses, including the salaries of seven staff members are charged against the United Nations regular budget. Technical cooperation activities and other substantive activities and the salaries of some 50 staff members are financed by the United Nations Trust Fund for a Human Rights Education Programme in Cambodia, which depends solely on voluntary contributions.

41. At the time of the writing of the present report, the financial situation of OHCHR/Cambodia does not allow for the activities and the functioning of the Office to continue through the end of the year 2000. In order to fulfil the provisions of resolutions adopted by the General Assembly and the Commission on Human Rights, and the tasks entrusted to it, OHCHR/Cambodia needs urgently to receive new contributions.