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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Technical assistance and capacity-building

The role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights

Report of the Secretary-General*

* Late submission.

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I. Introduction

1. The present report, submitted pursuant to Human Rights Council resolution 18/25, describes the activities of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Cambodia from July 2011 to June 2012.

2. The OHCHR presence in Cambodia, mandated by the Commission on Human Rights in its resolution 1993/6, continued to provide assistance to the Government and to the people of Cambodia in promoting and respecting human rights. During the period under review, the OHCHR programme of cooperation with the Government, civil society and the development community continued to focus on five areas: support for prison reform; the protection of fundamental freedoms and the development of civil society; the protection of rights relating to land and housing; support for legal and judicial reform; and promoting the legacy of the Extraordinary Chambers in the Courts of Cambodia.

3. In accordance with its mandate, OHCHR continued to work with Government partners in a spirit of constructive dialogue and mutual respect. As the activities reflected in the present report demonstrate, OHCHR has proven to be a sound source of technical expertise on human rights issues that continue to pose some of the most difficult challenges faced by Cambodia. As much was further evidenced by the Government's decision to renew for two years, from 1 January 2012, its memorandum of understanding governing the provision of technical assistance by OHCHR. While the Office has favoured bilateral discussions with Government counterparts when raising difficult human rights issues, in particular individual cases of human rights violations, on occasion it has raised concern publicly in accordance with the global mandate given to the High Commissioner.

4. The reporting period was notable for a number of reasons, one being the fact that cooperation between the Government and OHCHR has improved in a number of areas since the previous reporting period. This development is welcomed by OHCHR. Much of the cooperation outlined in the present report focuses on bridging the human rights knowledge and capacity gaps in government. The effectiveness of cooperation must, as ever, be judged in terms of its impact on the enjoyment of human rights by all in Cambodia.

5. The Office increased its individual case work during the reporting period, undertaking over 150 individual visits to investigate allegations of human rights violations in all provinces of the country. This work confirmed a number of worrying trends, including:

(a) The persistence of a large number of disputes linked to land, and increasing violence on the part of communities protecting their land;

(b) Continuing impunity for serious human rights violations, and rapid arbitrary convictions of human rights defenders;

(c) A marked increase in the use of live ammunition by security forces against people seeking to claim their rights (in the first five months of 2012, OHCHR investigated five instances of injuries caused by live ammunition, two of which resulted in deaths: Chut Wutty, an environmentalist activist, in Koh Kong Province; and Heng Chantha, a 14-year old girl, in Kratie province).

6. Cambodia assumed the chair of the Association of Southeast Asian Nations (ASEAN) on 1 January 2012 and, with it, the responsibility for guiding the elaboration of an ASEAN human rights declaration. This resulted in increased national and international attention to human rights issues in the country, particularly during major ASEAN meetings held in Cambodia. Cambodia entered a two-year election period, with commune elections held in June 2012 and national elections scheduled for mid-2013. Although the commune elections were largely free of violence, credible allegations of irregularities were raised.

OHCHR focuses on the broader context in which elections are held, including freedom of expression and access to information. Such concerns are described in the present report.

II. Prison reform

7. OHCHR continued to implement its programme of support for the prison reform efforts made by the Government. One important development was the promulgation of a new law on prisons in December 2011. OHCHR conducted a legal analysis of successive drafts of the law based on human rights standards, and shared it with the authorities. In October 2011, the Office also provided comments to parliamentarians as the draft law was tabled in the National Assembly. The promulgated law is a central piece of the reformed and strengthened prison system, and embeds in policy the approach taken by the Government towards prison reform over recent years. OHCHR provided similar technical assistance to the Ministry of the Interior on secondary legislation to be reviewed following the promulgation of the new law (for example, decrees on the status of prison staff, sentence reduction and pardon, and regulations on minimum design standards for prison construction). At the request of the General Department of Prisons, OHCHR prepared a standard presentation aimed at raising awareness among prison management of the provisions of the new law and its human rights implications.

8. OHCHR also updated, in close consultation with the International Labour Organization (ILO), a background paper on labour in prisons in Cambodia. The paper presents the relevant international legal framework, identifies gaps in the domestic legal framework and suggests possible ways forward. It was widely distributed at an inter-ministerial consultation on prison labour jointly organized by OHCHR, ILO and the ministries of the Interior, Commerce, and Labour and Vocational Training, in March 2012. Following the consultation, the three ministries issued an inter-ministerial instruction banning all prison production for export. Past incidents of production for export in prisons had raised concerns that some of the country's trade partners might prohibit the import of products partly or wholly manufactured in prison. OHCHR, ILO and the Government were concerned that the right to work of thousands of Cambodian workers, in particular those engaged in the garment sector, was at risk. This clear ban is therefore an important step and OHCHR continues its dialogue with the authorities to seek opportunities for prisoners to work and learn new skills.

9. Throughout the year, the Office extended its support to the development of professional training for prison staff members by means of comprehensive capacity-building efforts. It pursued its dialogue with the Ministry of the Interior and the General Department of Prisons to ensure an enabling environment, seeking in particular to ensure that the future revised royal decree on the separate status for prison staff includes clear provisions on prison staff training with regard to recruitment, appointment and promotion. Through a partnership with the training institute VBNK, OHCHR started a one-year training of trainers programme for a joint training team from the General Department of Prisons and the Centre for the Professional Training of Prison Guards of the Royal Academy of Police. Three one-week training of trainers workshops were held between October 2011 and May 2012, alternating with individual or group coaching sessions, organized for all participants to build on learning from the workshops. This programme focused on training skills and methodologies, including session planning, material preparation and training delivery and facilitation. In their evaluations, participants were very positive on their learning from the overall process.

10. In parallel, OHCHR continued its work to support the development of curriculum content for the future mandatory pre-service training for prison staff. It secured specialized expertise for the preparation of technical modules, including on health in prison (inclusive

of HIV and tuberculosis), in partnership with the United Nations Office on Drugs and Crime, and in relation to mental health, stress management and conflict resolution in prison. In June 2012, OHCHR organized a further week-long session of training of trainers by an international expert on prison staff training engaged by the Office. The aim of the training was to help the trainers to clarify training objectives on the basis of the needs identified in the Cambodian prison system, and to develop by themselves training content for prison staff, in accordance with the domestic framework. As part of the preparation of training and reference material, the Office also conducted a review of its Khmer language version of the United Nations Standard Minimum Rules for the Treatment of Prisoners, and finalized for distribution a Khmer translation of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders.

11. OHCHR continued to have access to prison authorities, regular access to prisons and the ability to hold confidential interviews with prisoners. It remains one of only two in-country organizations to be granted unfettered access to prisons to monitor general conditions and treatment or to follow up on individual requests, complaints or allegations of abuses or ill-treatment. OHCHR monitoring led to a number of follow-up activities to help to address the issues identified, including the enjoyment of both civil and political rights, as well as economic, social and cultural rights in prison.

12. The Office followed up on the nationwide census of prisoners pending appeal, which it had helped the prison authorities to carry out in early 2011. The data collected were analysed and shared with the authorities. In particular, lists were prepared, disaggregating the caseload according to a number of criteria (such as prisoners pending appeal for more than five, seven or ten years, old age and juvenile prisoners, and prisoners overstaying on appeal, namely still detained after the end of the first instance sentence, including prisoners acquitted at first instance), so that they could be prioritized for legal assistance and hearing at the Court of Appeal.

13. A particular area of focus during the year was disaster response and preparedness at the prison level. In common with several countries in the region, Cambodia was affected by severe flooding at the end of 2011 and prisons were not spared, most particularly in Siem Reap province. OHCHR promptly provided affected prisons assistance to help them to continue to ensure safe custody while preserving prisoners' rights, including the right to safe drinking water and sanitation and, more generally, the right to humane treatment, including access to the outdoors. Relief support provided by OHCHR included sand and sandbags for flood dikes, pumps and fuel to evacuate flood water and chlorine tablets for safe drinking water, as well as hygiene and medical items to alleviate the impact on the health of staff and prisoners. Besides providing emergency assistance, OHCHR worked together with the prison directors and other relevant stakeholders on risk assessment and the identification of solutions for flood prevention and mitigation. Since prisoners cannot be easily relocated at times of natural disasters, more efforts should be made early on to prevent or mitigate the risks in the first place. OHCHR, the Ministry of the Interior and the National Committee for Disaster Management held a workshop to discuss flood and fire preparedness in July 2012.

14. OHCHR continued to promote the right of prisoners to health. Initiatives included ongoing advocacy with the authorities for the inclusion of compassionate medical grounds in the future royal decree on sentence reduction and pardon in the case of prisoners who are terminally ill or whose medical condition is otherwise so serious that they are unfit for detention and would no longer be a threat to society if released. Efforts also included continued support and advocacy to secure the availability of more hospital rooms so that prisoners in need of hospitalization may be hospitalized in such a way that their safe custody is ensured and their dignity respected. In 2012, OHCHR is providing the provincial

authorities in Banteay Meanchey with financial and technical support for the availability of such a secured room at the provincial referral hospital.

15. In the area of education, OHCHR cooperated with and provided financial support to the non-governmental organization *Soutien à l'initiative privée pour l'aide à la reconstruction des Pays du Sud-Est Asiatique* to establish libraries in four prisons, a project that the organization will extend to 25 prisons nationwide over the next three years.

16. OHCHR maintained its focus on assisting the Government in implementing its human rights obligations pertaining to safe drinking water and sanitation in prisons. In this context, a major undertaking in the period 2011-2012 has been support for the complete overhaul of the water distribution network in Correctional Centre No 1, the country's largest prison, (near Phnom Penh. Previous assessments had revealed shortages of water provided to prisoners owing to, inter alia, leakages in the distribution network, associated with a very high level of turbidity, which made the water inappropriate for human use. Thanks to support from OHCHR, the thousands of prisoners in the facility now have access to cleaner water throughout the prison for general use. In five other prisons (Kampong Thom, Oddar Meanchey, Kratie and Siem Reap prisons and Correctional Centre No 4), water supply support ranged from installing rainwater collection infrastructure to the provision of water storage facilities, the construction of a water tower and the distribution of water filters to ensure clean drinking water.

17. OHCHR continues to evaluate and improve other aspects of prison conditions, including by providing appropriate light and ventilation, and promoting more rational use of available space in cells (including in Stung Treng and Kratie prisons and Correctional Centres 1 and 2), access to the outdoors and to outdoor activities, such as farming or gardening (Kampong Speu and Stung Treng), and the preservation of family ties thanks to the renovation by the Office of a family visit area in Kratie prison.

III. Fundamental freedoms and civil society

18. The Fundamental Freedoms and Civil Society Programme is aimed at strengthening the capacity of both individuals and organizations to exercise their fundamental freedoms of expression, opinion, association and assembly. The Programme works with the Government, civil society, United Nations agencies, embassies and development actors to develop and monitor the implementation of legislation and policies that directly pertain to the exercise of these freedoms, including monitoring individual cases as they arise. It also focuses on capacity-building for both Government and the country's vibrant civil society, a positive legacy of the Cambodia peace process. Non-governmental organizations continue to play a significant role in advocating for and driving social change, delivering social services across the country and monitoring the actions of the executive and the private sector.

19. Training for human rights defenders continued to account for a significant proportion of OHCHR work during the reporting period. The Fundamental Freedoms and Civil Society Programme provides training to increase the capacity of human rights defenders from across the country to monitor, document and report on human rights violations. In July, August and October 2011 and in June 2012, OHCHR conducted a series of training sessions on human rights monitoring and documentation for grass-roots human rights activists. The sessions were held in Kampot, Battambang, Kampong Cham and Sihanoukville, and engaged activists from all provinces. An additional session was conducted in Kampong Cham, in December 2011, for community activists and non-governmental organizations focusing on international human rights mechanisms. In March 2012, OHCHR conducted in Phnom Penh a training session on monitoring and

documenting human rights violations for activists defending the rights of persons with disabilities. Lastly, in June 2012, OHCHR, together with the Cambodia Human Rights Committee, the Cambodian Human Rights and Development Association and the Samreth Law Group conducted a training session with members of the Cambodia Human Rights Committee, the Senate, the National Assembly and civil servants from the Anti-corruption and Anti-terrorism Units of the Government. In total, more than 170 human rights activists and 18 State officials benefitted from the training sessions.

20. Raising awareness of citizens' rights to assemble and express peacefully their views is also an important part of the OHCHR training programme. Together with the East-West Management Institute, the Office conducted training with human rights defenders from communities, non-governmental organizations and trade unions, on the Law on Peaceful Demonstrations and its implementation guide. Training was in Phnom Penh in November and December 2011, in Sihanoukville in December 2011, in Siem Reap in April 2012 and in Kratie in June 2012. In addition, in collaboration with the Cambodian Labour Confederation, OHCHR held a one-day workshop in Sihanoukville in December 2011, attended by more than 400 human rights activists and trade unionists.

21. The Office continued to cooperate with the Ministry of the Interior in raising awareness among civil servants on how to apply the Law on Peaceful Demonstrations in a manner consistent with the country's international human rights obligations. Cooperation included the finalization of a joint "training of trainers" manual, to be used in the training of civil servants at the subnational level during the upcoming reporting period. OHCHR noted a degree of uncertainty among civil servants working at the provincial and district levels with regard to the application of the law. This resulted in several activities planned by communities for the celebration of Human Rights Day in 2011, monitored by OHCHR, being disrupted or cancelled. Of further concern is the fact that, in certain instances, authorities continue to use instructions issued by the Ministry of the Interior prior to the entry into force of the law to prevent citizens from assembling peacefully to discuss politically contentious issues. OHCHR hopes that further dissemination of the law and its implementation guide with the Ministry of the Interior and the East-West Management Institute, as well as advocacy by OHCHR, will help to dispel any uncertainty surrounding the application of the Law.

22. Protecting and promoting the right of access to information and ensuring press freedom continue to be concerns in Cambodia. Despite early progress in assisting the Government to formulate an access to information law compliant with international human rights standards, OHCHR has had little to no involvement in the Government's drafting process since 2007. At the time of reporting, a member of the opposition party had tabled a draft law that was being reviewed by the Parliament. At the same time, several key stakeholders from within and outside of Government continue to acknowledge that an independent press is an important cornerstone of democracy in Cambodia. OHCHR worked with several of these stakeholders (including journalists and journalist associations, United Nations entities, non-governmental organizations and donors) on ways to improve the professional ethics of journalists and the protection of their profession. This included participating in a community radio training initiative organized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Cambodian Centre for Independent Media, in Monduliri province, in October 2011. Again, in partnership with UNESCO, and together with seven national media and press associations, OHCHR commemorated World Press Freedom Day on 3 May 2012, focusing on the promotion of responsible journalism in Cambodia. The event was attended by representatives of the Government and United Nations agencies, and more than 130 journalists, media persons and university students.

23. Despite the above-mentioned concerted efforts to engage in awareness-raising and skills training, the ability of individuals and groups to exercise fundamental freedoms peacefully continues to be challenged. Of particular concern is the general trend towards an increased and disproportionate use of force, including the use of live ammunition against protesters, by State authorities and private security guards as a means to control protesters. These instances of violence were predominantly unprovoked, and primarily related to land disputes. In addition, OHCHR noted at least one instance in which a protest relating to a labour dispute resulted in the disproportionate use of force, including the shooting of three protestors.¹

24. The increase in the use of force in responding to the exercise of these freedoms has been accompanied by worrying trends in the use of the Penal Code. Cambodians continue to risk charges of incitement for exercising their right to freedom of expression. The widespread use of disinformation charges under the former criminal code has now been replaced by charging individuals with various crimes of incitement under the new code. Furthermore, in many cases, the courts did not appear to comply with the obligations set out under article 19 of the International Covenant on Civil and Political Rights in proving an exception to the exercise of this right, nor did the convictions imposed by the courts appear to be necessary and proportionate when the facts of the cases are considered.

25. Further irregularities were noted in relation to other court cases involving the exercise of fundamental freedoms, the most recent of which resulted in the sentencing of 15 land activists to a jail sentence of two years and six months after proceedings that took half a day and during which no defence witnesses were called. On 27 June 2012, the Court of Appeal upheld the sentence of the court of first instance, but suspended all but the time they had already spent in jail (one month and three days).

26. OHCHR notes that Cambodia accepted a number of recommendations made during its universal periodic review calling for a review of the Penal Code with a view to ensuring its compliance with the permissible limitations to freedom of expression as defined in the International Covenant on Civil and Political Rights.

27. In addition to monitoring both demonstrations and the courts, OHCHR continued to monitor the Prey Speu Social Affairs Centre on the outskirts of Phnom Penh. Serious concerns remain concerning the detention and conditions of detention of individuals, including children, mentally ill persons, homeless persons and people living with HIV in social affairs centres, such as Prey Speu, without judicial supervision. OHCHR notes with satisfaction that, since January 2012, the Prey Speu Centre has not been used to house people detained arbitrarily in the streets of Phnom Penh. Nonetheless, the arbitrary detention of people living on the street, including children, remains a concern, especially in the periods preceding major international meetings in Phnom Penh, for example ASEAN events.

28. In December 2011, the Government issued its fourth draft of the law on associations and non-governmental organizations. OHCHR provided the Government with comments on the compatibility of the draft law with the State's human rights obligations, and continued to stress the importance of ensuring broad and meaningful consultations with civil society actors prior to the enactment of the law. The Government consequently convened a half-day consultation with civil society actors on 15 December 2011. The law is yet to be adopted, while further consultations with representatives of civil society are planned, a

¹ On 20 February 2012, during a protest by 1,800 workers of Kaoway Sports factory in Bavet district, Svay Rieng province, three female workers were shot. The Mayor of Bavet has been charged in relation to the shootings.

welcome sign of the Government's willingness to take into account the concerns of civil society.

IV. Land and housing rights

29. The Land and Housing Rights Programme works with all stakeholders to monitor, promote and implement the right to adequate housing and an adequate standard of living, prevent forced eviction and realize security of tenure. The Programme intervenes in the event of threats to or harassment or criminalization of communities and individuals claiming their rights to land and housing, and of human rights defenders in the land sector. OHCHR works with the Government, civil society organizations, communities, business enterprises, professional associations and multilateral and bilateral development actors to strengthen the legal framework protecting land use, ownership and housing rights, and improve its implementation.

30. OHCHR conducts its activities in a context of widespread land disputes, persistent land grabbing by powerful individuals or groups (often with the collusion of the State and complicity of both domestic and foreign business enterprises), economic land concessions for agro-industrial purposes (such as rubber, sugar and cassava plantations), land concessions for the exploitation of natural resources (including in protected areas), such as for mining and oil extraction and to attract tourism, infrastructure upgrades and industrial power generation (such as hydropower dams), urban development and renewal characterized by forced evictions and unplanned resettlement.

31. During the reporting period, OHCHR was called upon to assist in 63 land disputes between affected communities, authorities and businesses, 37 of which related to economic and other types of land concessions, including 11 on indigenous land.² A total of 26 were related to other land transactions (one on indigenous land).³ OHCHR interventions involved facilitation of dialogue and legal and procedural advice.

² The cases include, but were not limited to, the following: in Mondulakiri province, Pichreada district, Bousra commune, a dispute between 800 families of the Phnong indigenous community and the company Socfin-KCD and partners; in Kratie province, Snoul district, Sre Char commune, a dispute between 224 families and the CIV Development Company; in Ratanakiri province, Lumphat district, Seda commune, a dispute between approximately 500 families of the Tumpoun indigenous community and the Jing Zhong Ri company; in Kratie province, Snoul district, Pi Thnu commune, a dispute between approximately 600 families and the company TTY; in Koh Kong province, Kiri Sakor and Botum Sakor districts, a dispute between approximately 1,000 families and the Union Development Group; in Kampong Speu province, Tpong district, Amleang commune, a dispute between 1,000 families and the Phnom Penh Sugar Company and the Kampong Speu Sugar Company; in Pursat province, Kravahn and Krakor districts, two disputes between 5,000 families and the Pheapimex company, and in Veal Veng district, Thmar Da commune, a dispute between 57 families and the MDS company; in the city of Phnom Penh, Boeung Kak Lake community, a dispute between 3,000-4,000 families and Shukaku Inc.; and in Battambang province, Phnom Prek district, Sampov Loun commune, a dispute between 1,203 families and the Soun Mean Sambath company.

³ The cases include, but were not limited to, the following: in Ratanakiri province, Oyada district, Pate commune, Kong Yuk village, a dispute between 46 families of the Charay indigenous community and the wife of a Government official; in Kandal province, Kean Svay district, Samrong commune, a dispute between 149 families and the deputy governor of Kratie province; in Kampong Chhnang province, Kampong Tralach district, Taches commune, Lorpeang village, a dispute between 64 families and the KDC International Company; in Kampong Speu province, Oudong district, Damnang Raing and Phnom Touch villages (border of Kandal), a dispute between 88 families and the Meng Keth Company; in Battambang province, Battambang town, a dispute between 55 families and the Asian Development Bank Railway Rehabilitation Project, in Prek Preah Sdach village, a dispute

32. OHCHR closely monitors the impact, from a human rights perspective, of the Government's granting and management of economic and other land concessions. Cases of focus included concessions granted within protected areas, such as national parks, wildlife sanctuaries, protected forests and areas inhabited by indigenous peoples. On 7 May 2012, the Prime Minister issued a regulation imposing a moratorium on the issuance of new economic land concessions and greater scrutiny of existing land concessions with a view to protect the interests of communities, a development welcomed by OHCHR. Nevertheless, the procedures for implementation of the regulation have been unclear and are, in some cases, prone to irregularities.

33. Owing to the uneven application of the relatively well-developed legal framework governing land and housing rights, demonstrations and protests by affected communities in the capital and provinces became increasingly common during the reporting period. Although peaceful forms of protest and solidarity continued, the increasing use of tactics such as public nudity, the burning of effigies, the blocking of main roads, the destruction of company property, the seizure of illicit timber, violent confrontations with authorities and business actors (including one instance of hostage-taking) and the chaining together of protestors, reflected the increasing frustration of the landless population.

34. OHCHR repeatedly intervened to monitor demonstrations and protests with a view to prevent violence, and to secure the release of persons wrongfully accused or arbitrarily detained as a result. Of the 63 land disputes in which OHCHR was involved, the Office is aware of 182 people who were questioned by the court (some incidents pertained to long-standing land dispute cases), mostly on charges of disinformation, the obstruction of public officials with aggravated circumstances, illegal possession of unmovable property (land) belonging to public legal entity (the State), destruction of property and encroachment on forest land. In some cases, the charges were pending in the court and cases were continuously reactivated, while in others, people were detained. OHCHR advocated the application of due process of law, which, in certain cases, resulted in the release of individuals.

35. Women, the elderly and children are often on the front line at protests because communities surmise that such categories are less likely to be targeted by the authorities. There have, however, been increased cases of violence against women in the context of demonstrations and of arbitrary detention of female protesters. Women continue to suffer disproportionately in eviction and relocation processes, which have a heavy impact on family livelihoods and domestic responsibilities. Domestic violence at resettlement sites is reportedly widespread, as is unplanned parenthood.

36. OHCHR works to assist in the further development of procedural and legal safeguards, as well as to promote their implementation. In early 2010, the Government released a draft housing policy, which is still awaiting approval by the Council of Ministers. OHCHR stands ready to support the implementation of the policy with the Ministry of Land Management, Urban Planning and Construction. OHCHR provided comments on

between 1,000 families and provincial authorities (garden project); in Samlot district, Kampong Lpov commune, a dispute between 78 families and a military operation in region 5, and in Kos Krolor district, Daun Bar and Preah Phos communes (three cases), a dispute between 550 families and multiple military personnel; in Banteay Meanchey province, Poipet town, a dispute between 943 families and the Asian Development Bank Railway Rehabilitation Project; in Phnom Penh city, Borei Keila community, a dispute between 1,776 families and the Phan Imex Company, and in Trapeang Anchang community, a dispute between 148 families and local authorities involving the Asian Development Bank Railway Rehabilitation Project.

incorporating a human rights perspective into a draft sub-decree on urbanization to the Ministry, and plans to take part in further consultations.

37. OHCHR continues to incorporate general principles on business and human rights into its Land and Housing Rights Programme, and advocates for State responsibility in relation to human rights abuses by third parties. In addition, OHCHR works with selected businesses and professional associations to encourage them to apply human rights standards to their activities. In December 2011, OHCHR launched a version in English and Khmer of the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework.⁴ During the reporting period, OHCHR conducted training workshops for civil society organizations (including a briefing to regional organizations at the ASEAN People’s Forum), technical staff members of the United Nations, the Cambodia Human Rights Committee and members of Government ministries on business and human rights (including differentiating it from corporate social responsibility) and the application of the above-mentioned Guiding Principles on Business and Human Rights to the Cambodian context.

38. In May 2010, following the Government’s adoption of a circular on the resolution of temporary settlements on illegally occupied land in urban areas, OHCHR began to support technical assistance efforts for communities to map their territorial boundaries and basic services and infrastructure needs, and to understand their tenure rights in the Cambodian legal framework. During the reporting period, OHCHR continued to work with the authorities, communities and development partners in Battambang Municipality to ensure on-site upgrading and security of tenure.

39. To help to protect the traditional livelihoods and culture of indigenous peoples, OHCHR supports networks of Government, United Nations organizations, civil society and communities to strengthen their capacity to use the domestic legal framework with regard to communal land title. OHCHR provided financial and institutional support to seven villages inhabited by the Phnong indigenous peoples in Bousra commune, Monduliri province, and five villages inhabited by the Suoy indigenous peoples in Aoral district, Kampong Speu province, undergoing registration as legal entities with the Government, to enable them to apply for collective land titles in the future. OHCHR also monitors a project whereby more than 800 Phnong families and 238 Suoy families protect themselves against the threat of economic and other types of land concessions, in cooperation with Government ministries, ILO and non-governmental organizations.

40. Despite significant gains in registering indigenous communities for communal land title, the exploitation of the land inhabited by indigenous peoples, including the granting of land concessions, has outpaced the establishment of security of tenure for most communities. OHCHR welcomes the issuance of communal land titles to three indigenous communities in Ratanakiri and Monduliri provinces, in December 2011. This significant development demonstrated the commitment to upholding the rights of indigenous peoples to land. Nevertheless, the lack of implementation of interim protective measures for those communities, which are in the process of registration (a lengthy and complex legal process dependent on donor resources), puts indigenous communities at particular risk of land grabbing and of losing their livelihoods owing to land concessions and other development projects.

41. In the case of forcibly evicted communities, OHCHR continues to advocate for planned resettlement, rather than the current practices of relocating communities to sites lacking basic infrastructure and distant from livelihood opportunities, schools and health

⁴ See A/HRC/17/31.

clinics. OHCHR continues to monitor multiple resettlement sites included in an internal study entitled “Eviction and resettlement in Cambodia: human costs, impacts and solutions”, in which the Office examines several examples of evictions and relocation, both positive and negative, and analyses their impact on the living conditions of affected families. The study was shared with the Government for comment; input was received from the Ministry of Land Management, Urban Planning and Reconstruction. OHCHR also monitors the Rehabilitation of the Railway Project in cooperation with the authorities, the Asian Development Bank and the communities concerned.

V. Rule of law

42. Progress on legal and judicial reform was slow during the reporting period. The Ministry of Justice and the courts continued to suffer from a serious lack of resources. Respect for the rule of law was also hampered by ongoing credible allegations of interference by the executive in the court system, and of widespread corruption. As a result, impunity for serious human rights violations continued, and public confidence in the criminal justice system did not improve. Despite indications early in 2012 to the contrary, the process of adoption of the fundamental laws envisaged in the Constitution of 1993 (namely the Law on the Functioning and Organization of the Courts, the Law on Statute of Judges and Prosecutors and the Law on the Functioning and Organization of the Supreme Council of the Magistracy) remained stalled, for reasons that are unclear. OHCHR remains of the view that the administration of justice in Cambodia will improve only when these laws in place.

43. Despite these challenges, the OHCHR Rule of Law Programme has continued to assist the authorities, lawyers and non-governmental organizations in their efforts to improve the protection of human rights in Cambodia through the legal system.

44. OHCHR plays an important role in strengthening the rule of law by encouraging the ratification of international human rights instruments. To this end, the Rule of Law Programme continued to provide advice to the Government, which announced its intention to ratify the Convention on the Rights of Persons with Disabilities. In order to raise awareness about the Convention, especially among persons with disabilities, OHCHR published simplified and audio versions of the Convention. OHCHR has also given several presentations on the Convention to civil society actors.

45. Given that the issue of the protection of Cambodian migrant workers abroad has attracted much attention over the past year, the Rule of Law Programme had the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families translated into Khmer. The publication was launched in March 2012 during an event organized in cooperation with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and chaired by the Minister for Women’s Affairs. The event was attended by a wide range of stakeholders, including Government officials, representatives of civil society, recruitment agencies and trade unions, and journalists. A member of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families also participated. Following the event, the authorities indicated that interministerial discussions would be held on the possibility of Cambodia ratifying the Convention. Lastly, the Rule of Law Programme encouraged the Government to consider the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights concerning the abolition of the death penalty, in line with universal periodic review recommendations. At the request of the Government, OHCHR organized a technical briefing of Government officials on the provisions of the First and Second Optional Protocol to the Covenant, and the Third Optional Protocol to the convention on the Rights of the Child.

46. OHCHR continued to encourage the implementation of existing national laws in accordance with human rights standards, focusing on the Code of Criminal Procedure (2007). To that end, the members of the Rule of Law Programme meet regularly with court presidents and chief prosecutors in the provinces to discuss the challenges faced in applying the Code and in the administration of justice in general. Several judicial round tables were also organized in the provinces to discuss these challenges using, where appropriate, examples from the practice of the Extraordinary Chambers in the Courts of Cambodia. In parallel, OHCHR supported regular meetings between the police, the courts and the prisons in the north-western provinces to improve cooperation in the criminal justice system and to discuss issues relating to the implementation of the Code. In order to increase public scrutiny of criminal trials, OHCHR supported trial monitoring in two provincial courts by the Cambodian Centre for Human Rights. Lastly, OHCHR, in cooperation with the Ministry of Justice, organized a major national review conference on the implementation of the Code of Criminal Procedure at the end of June 2012, which was attended by 165 judges as well as prosecutors, judicial police officers, lawyers, Government officials and non-governmental organization representatives from all provinces.

47. Besides monitoring the implementation of existing laws, OHCHR continues to assist the Government in adopting new laws in accordance with the State's human rights obligations. The comments made on the draft Juvenile Justice Law, in consultation with UNICEF, is one example of this activity.

48. OHCHR remains concerned about access to justice, especially for the poor and other vulnerable groups. Legal aid services continued to suffer from a serious lack of funding. While the Code of Criminal Procedure requires that all persons charged with a felony and all juveniles be represented by a lawyer, legal representation is not always available. OHCHR formed a partnership with *Avocats sans Frontières* with the aim of providing legal aid to poor defendants across Cambodia. In parallel, OHCHR continued to organize training for women's non-governmental organizations in the provinces on the use of the individual communications procedure under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Training sessions were organized in cooperation with UN-Women. OHCHR also produced a leaflet explaining how to use the above-mentioned procedure.

49. Lawyers have a crucial contribution to make to secure access to justice. The Rule of Law Programme continued to assist the Bar Association in its efforts to improve standards in the legal profession. OHCHR engaged a consultant to review the Law on the Bar, the Code of Professional Conduct and the Bar's internal rules from the perspective of international human rights standards, as well as to draft a new operational manual for the Bar. The four documents were circulated to all members of the Bar Association and posted on its website for comments. In addition, the Programme organized a series of meetings for the Bar Council to discuss the proposed changes to the Code of Professional Conduct and to finalize the text for adoption. Moreover, OHCHR recently recruited a legal advocacy officer, whose role is to assist lawyers in making human rights-based arguments before the courts and pursuing strategic litigation.

50. Assisting national authorities to investigate instances of ill-treatment in places of detention remained a priority. OHCHR continued to investigate allegations of ill-treatment in places of detention and to engage in dialogue with the authorities. In addition, OHCHR increased its efforts to help to prevent torture and ill-treatment. Firstly, given that Cambodia is a party to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which requires the establishment of a national preventive mechanism, OHCHR continued to provide the Government technical assistance in this regard. A conference on the establishment of such a mechanism, held in November 2011, was attended by two members of the Subcommittee on the Prevention of

Torture who provided advice to the authorities. The Government has since pledged to draft a new law to establish a preventive mechanism.

51. Secondly, OHCHR continued to provide support to the interministerial committee established as a precursor to the creation of a national preventive mechanism. In particular, training was provided to members of the committee and its secretariat on how to conduct preventive visits to places of detention. Their mandate was presented and explained to all provincial heads of police and gendarmerie and all prison chiefs at a national conference at the Ministry of the Interior, in December 2011. The committee subsequently started a programme of visits to several prisons. In addition, OHCHR continued to provide support to the Office of the Prosecutor General to conduct visits to places of detention, accompanying the Prosecutor General on one such visit.

52. Thirdly, the Rule of Law Programme started a series of training sessions in the provinces, in cooperation with chief prosecutors, for police and gendarmerie officers on the prevention, investigation and prosecution of acts of torture and ill-treatment. Lastly, since the Code of Criminal Procedure guarantees access to a lawyer only after 24 hours of police custody, and considering that most instances of police brutality occur within that time, OHCHR developed, in cooperation with the Ministry of the Interior and the Ministry of Justice, an arrest rights card to inform persons arrested of their rights. The card will be distributed at police stations across the country.

53. Fair trial standards require that appeals be decided within a reasonable time. Many prisoners wait for excessive periods for their appeals to be heard. The Code of Criminal Procedure allows for prisoners to be detained even after the end of their sentence, when the appeal lodged by the prosecutor is still pending. OHCHR is currently working closely with the Court of Appeal to reduce the backlog of pending cases. As a first step, data on pending appeal cases collected in 2011 by the prisons are being cross-checked against the information available at the Court of Appeal and courts of first instance. In parallel, OHCHR and the President of the Court of Appeal will jointly convene a workshop in August 2012 to discuss increased cooperation between the courts and prison authorities to improve and expedite the appeal process. The new Court of Appeal building, built after a proposal of OHCHR (and with financial support from the Government of Australia and OHCHR), was completed during the reporting period.

54. The Extraordinary Chambers in the Courts of Cambodia continued to make significant progress towards the completion of its first two cases. The Court's chamber of final appeal issued its judgement in the case of *Kaing Guek Eav alias 'Duch'* (case 001) in March 2012, sentencing Duch to life imprisonment. The Trial Chamber also made progress in case 002, in which three former leaders of the Communist Party of Kampuchea were being tried.

55. Despite general praise for the final verdict in case 001, OHCHR is concerned to note that a majority of judges reversed an important human rights aspect of the Trial Chamber's decision, namely, to grant Duch a five-year deduction in his sentence as compensation for the prolonged period he had spent in pretrial detention. The Trial Chamber's determinations on this issue could have served as an important example for the national sector of a Cambodian court safeguarding the right to a trial without undue delay, regardless of the crimes charged or the person convicted.

56. Furthermore, allegations of political interference and judicial misconduct with regard to two additional cases continued to mar the Court's institutional reputation and to jeopardize the credibility of its ongoing investigations. The deterioration in the institutional reputation of the Extraordinary Chambers was further exacerbated by a lack of support from Member States in continuing to fund the Court, putting significant pressure on the institution's national and international staff to fulfil the Court's mandate using limited

resources, and temporarily halting the Court's legacy activities as outlined in its budget for 2012-2013.

57. The above-mentioned developments made it more challenging for OHCHR to conduct its programme of promoting the legacy of the Extraordinary Chambers in the Courts of Cambodia. Significant parts of the programme did, however, continue to flourish. In particular, increased cooperation between OHCHR and the Ministry of Justice led to a series of judicial round tables held jointly with five provincial courts, judges, prosecutors and lawyers from 14 of the country's 24 provinces attending the meetings. The primary purpose of the discussions was to consider lessons learned from the experience of the Extraordinary Chambers in the domestic criminal justice context, as well as broader issues of concern. The meetings were an important space for discussion of several matters of law on which the internal rules and decisions of the Extraordinary Chambers provide examples of the application of fair trial rights, in particular the provisions on pretrial detention and rules of evidence and procedure. In addition, ongoing work on a Code of Criminal Procedure annotated with the jurisprudence of the Extraordinary Chambers will ensure that lessons are learned for future generations of judges, prosecutors and lawyers.

58. In keeping with the commitment of OHCHR to support awareness-raising about gender-based violence globally, OHCHR Cambodia is a member of the Advisory Committee for the Women's Hearings on Gender-based Violence during the Khmer Rouge Period, an initiative of the Cambodian Defender's Project. The hearings, the first of which was held in December 2011, provided an avenue for greater documentation of and discussion about gender-based violence committed during the period of Democratic Kampuchea, bearing in mind the limited extent to which this has formed, and will form, part of the evidence heard at the Extraordinary Chambers. OHCHR is working on this initiative with UN-Women, the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict and with civil society.

VI. Public information and human rights education

59. The OHCHR communications programme promotes human rights awareness and education among a diverse group of stakeholders across Cambodia. The programme uses various communication approaches and tools to broaden public understanding of human rights, and partners with civil society organizations, United Nations entities, Government offices and academic institutions.

60. A primary focus of the work of OHCHR work has been the dissemination of print materials to raise awareness of human rights. OHCHR delivered more than 10,000 books and other informative materials to 45 State-run and private universities in 12 provinces, including teacher training centres, military and police academies, a Buddhist institution, and schools offering courses in law, business and the humanities. Human rights materials were also displayed at Government offices. In addition, more than 30,000 copies of human rights publications were disseminated to various institutions across Cambodia through the Office's extensive training and awareness-raising activities; some 16,000 stickers and 40 posters were distributed during the Human Rights Day activities in December 2011.

61. OHCHR also engages with the media to promote human rights. In its efforts to promote awareness of indigenous rights, OHCHR coordinated a segment of the "Equity Weekly" television programme of the United Nations Development Programme, broadcast on a local network provider, pertaining to indigenous issues and World Indigenous Day celebrations. Radio broadcasts were also utilized as a medium to promote human rights messages on Human Rights Day. Together with the United Nations Population Fund, the Office held provincial screenings of short films on human rights and reproductive rights.

Lastly, in conjunction with other United Nations agencies and civil society organizations, OHCHR celebrated key international events, including the 16 Days of Activism against Gender Violence Campaign, World Habitat Day, International Women's Day, World Indigenous People's Day, World Press Freedom Day and the International Day in Support of Victims of Torture by co-organizing public forums, film projections and press conferences, and printing information and advocacy materials, including opinion columns in major newspapers.

62. Liaising with the media and promoting press engagement on human rights issues is another core part of the Office's work. In addition to holding coffee briefings for the press and supporting the missions of the Special Rapporteur on the situation of human rights in Cambodia, OHCHR piloted a training programme for 24 local media practitioners on human rights standards in journalism in October 2011. In 2011/12, financial grant support was focused on children's rights. A grant provided to the local non-governmental organization Mith Samlanh ("Friends") saw 180 street children and young people gaining a better understanding of their basic rights through interactive classroom discussions that culminated in art work and a public performance. Financial support was also provided to the association Pour un Sourire d'Enfant to produce videos to raise awareness of sexual abuse, domestic violence and slavery, which to date have been screened before more than 3,200 students from institutions and public schools supported by the association.

VII. Reporting and follow-up

63. Cambodia continued to evince its strong treaty ratification record. The Government committed to the ratification of the Convention on the Rights of Persons with Disabilities by the end of 2012. OHCHR continued to assist Cambodia in complying with its periodic reporting obligations under the treaties to which it is a party. The State's last outstanding report under the International Covenant on Civil and Political Rights is expected to be submitted later in 2012. Although the Government has taken steps to implement the report of the 2009 visit to Cambodia by the Subcommittee on Prevention of Torture, the report itself remains confidential. OHCHR urges the Government to make that report public.

64. The reporting period witnessed significant developments in the Government's follow-up to the 91 universal periodic review recommendations accepted by Cambodia in December 2009. In July 2011, OHCHR, together with the United Kingdom of Great Britain and Northern Ireland, Sweden and the European Union, supported the Cambodian Human Rights Committee in convening a meeting between civil society and ministries to formulate a basic framework and plan of action to implement the above-mentioned recommendations. This was the first meeting between a broad spectrum of civil society representatives and the Government on human rights issues for some years. Participants in the meeting heard from a representative of the Human Rights Commission of Malaysia, Suhakam, on that country's experience in implementing universal periodic review recommendations. The Office worked closely with the Cambodian Human Rights Committee in the preparation of plans of action for each ministry, describing how the Government can implement the recommendations before Cambodia is considered for the second cycle of the review. During the reporting period, OHCHR supported the Special Rapporteur on the situation of human rights in Cambodia during his two missions to the country.⁵

⁵ A/HRC/21/63 and Add.1.

VIII. Staffing

65. OHCHR maintains a head office in Phnom Penh and a regional office in Battambang, with 8 international staff positions, one international United Nations Volunteer, 32 national staff and 3 contractual service staff members. Staffing increased by four posts during the reporting period.
