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Technical assistance and capacity-building

### **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**

##### *Summary*

The present report details the activities of the Office of the United Nations High Commissioner for Human Rights in Cambodia from 1 July 2015 to 30 June 2016.

In a political climate that had become particularly tense by the end of the period under review, the Office of the High Commissioner continued its programme of technical cooperation in areas vital for the protection of human rights, including guarding the space for the activities of civil society, strengthening the rule of law, and promoting economic and social rights.

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\* The present report was submitted after the deadline in order to reflect the most recent developments.



## I. Introduction

1. The present report, submitted to the Human Rights Council pursuant to Council resolution 30/23, describes the activities of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Cambodia from 1 July 2015 to 30 June 2016. It follows on the previous report submitted to the Council (A/HRC/30/30).

2. Originally mandated by the Commission on Human Rights in its resolution 1993/6, the work of OHCHR in Cambodia is guided by Human Rights Council 30/23, a biennial Memorandum of Understanding signed with the Government of Cambodia,<sup>1</sup> and the global mandate of the High Commissioner, as set out by the General Assembly in its resolution 48/141. OHCHR looks forward to concluding its discussions with the Government on the renewal of the Memorandum of Understanding, in accordance with the Convention on the Privileges and Immunities of the United Nations.

3. The legal and institutional framework in Cambodia underwent some notable changes during the period under review. New laws coming into force contain provisions that could potentially restrict the freedoms of expression, association and assembly, particularly the Law on Associations and Non-Governmental Organizations, the long-awaited Trade Union Law and the Telecommunications Law. At the end of the period under review, other bills with potentially profound implications for human rights were in various stages of drafting, including on access to information, whistle-blower protection, cybercrime and State secrets, only some of which are open to public consultation.

4. The period under review began at a time of rising political tensions, in the wake of the breakdown of the “culture of dialogue” agreed to in 2014 between the ruling Cambodian People’s Party (CPP) and the Cambodia National Rescue Party (CNRP). Dialogue had been a central feature of the negotiated settlement of a year-long political stalemate following the contested National Assembly elections in 2013 (see A/HRC/30/30, para. 3).

5. Some of the issues publicly raised by the CNRP in 2014 and 2015 provoked strong reactions from the Government, particularly its accusations that the CPP-ruled Government had knowingly ceded Cambodian territory to Viet Nam. Border issues and relations with Viet Nam are historically sensitive and tend to resonate deeply with the public. The current and previous Special Rapporteurs on the situation of human rights in Cambodia have expressed their concern about the use of anti-Vietnamese language by the opposition.

6. A number of judicial actions taken against the opposition and civil society organizations reflect structural deficiencies in the law enforcement and judicial institutions that have long been highlighted by human rights mechanisms, including the independence of the judiciary, lack of procedural guarantees resulting in over-reliance on pretrial detention, weak evidentiary bases for convictions, and impunity. A growing number of “Facebook cases” are being tracked in which postings on social media are being used as evidence of the commission of crimes.

7. Following a short pause in 2014, tensions broke out again between the ruling and main opposition parties, coinciding also with a number of judicial actions against members and supporters of the main opposition party from mid-2015. In July, 11 people were convicted to between seven and 20 years of imprisonment in a so-called “insurrection trial”.

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<sup>1</sup> The previous Memorandum of Understanding covered the period from 1 January 2014 to 31 December 2015.

In other cases, parliamentary immunity was summarily lifted to allow prosecution to proceed. One opposition Member of Parliament has been in pretrial detention since August 2015, another since April 2016. The President of the CNRP saw his status as a Member of Parliament rescinded by the National Assembly in November, and thereafter again went into self-imposed exile. The Vice-President of the CNRP had his role as Vice-President of the National Assembly revoked in October; at the end of the period under review, he had been issued with five summons for questioning, to which he has not responded. Also at the end of the period under review, 18 opposition officials or supporters, including the two Members of Parliament, were still being detained on charges or convictions of insurrection, forgery or incitement to commit a felony, in connection with a demonstration that turned violent in July 2014, and to border issues between Cambodia and Viet Nam.

8. OHCHR proceeded with a range of technical cooperation activities with the judiciary, the governmental Cambodian Human Rights Committee, the Ministry of the Interior, the Ministry of Rural Development and other duty-bearers, and also with civil society organizations and community-based organizations.

9. The newly constituted National Election Committee, which is composed of equal numbers of CNRP and CPP members and one independent member, embarked upon the preparations for the 2017 communal and 2018 National Assembly elections, commencing with the establishment of a new voter registry. With significant assistance from the European Union and Japan, a new biometric voter identification system was introduced.

10. The political climate once again deteriorated in October, when two CNRP Members of Parliament were brutally beaten outside the National Assembly. Following a call by the Prime Minister for the individuals responsible to come forward, three members of his bodyguard unit, who had been identified on social media, confessed and were convicted to a year of imprisonment.

11. Another opposition official and six human rights workers from the Cambodian Association for Human Rights and Development (ADHOC) and Silaka, both non-governmental organizations, a United Nations staff member of OHCHR Cambodia, and the Deputy Secretary-General of the National Election Committee and former member of ADHOC, were summoned by the Anti-Corruption Unit for questioning about the alleged attempt to persuade a woman, allegedly involved in an extramarital affair with the Deputy President of the CNRP, to lie to the authorities about their relationship. The four staff members of ADHOC, the committee official and the OHCHR official were charged with bribery of a witness or with being complicit in bribery. While the OHCHR official, being a staff member of the United Nations, is covered by the Convention on the Privileges and Immunities of the United Nations and thus has not been apprehended, the other five individuals charged were placed in pretrial detention. The pursuit of prominent human rights activists by the Anti-Corruption Unit and the courts is reportedly continuing against staff members of other human rights organizations.

12. The ban on large-scale demonstrations announced in January 2014 continued to be applied. Housing and land disputes continued to be the cause of most protests and violations in the field of economic, social and cultural rights. Increased political tensions led to a tightening of the democratic space, and repeated infringements on the rights to freedom of expression, association, peaceful assembly and movement.

13. OHCHR followed closely the above-mentioned incidents, including cases relating to housing, land and indigenous rights, ensuing protests, and the responses to them involving the use of force, the disruption of peaceful assemblies and resulting cases of apprehension and arrest by the police. OHCHR sought remedial actions from duty-bearers, monitored trials and the treatment of those held in detention, and advocated for the establishment or strengthening of national mechanisms and institutions for the protection of human rights.

14. In 2015, the economy grew by 7 per cent, and is projected to continue at approximately the same rate in 2016. With GDP per capita currently at \$1,138, Cambodia is expected to cross the threshold to lower-middle income status in 2016. Progress has, however, been uneven. The World Bank has estimated that, on the basis of the official poverty threshold, although the poverty rate had fallen to below 18 per cent of the population in 2012 (90 per cent of the poor being in rural areas), many Cambodians remained highly vulnerable to minor shocks; the loss of only 30 cents per person per day would more than double the poverty rate. According to a presentation made during World Bank Group in-country consultations for Cambodia on 29 June 2015, overall, the poor and near poor are estimated to account for 72 per cent of the population.

15. In 2016, the Government commenced its mid-term review of the National Strategic Development Plan for the period 2014-2018, which provides an opportunity to align national policies with the 2030 Agenda for Sustainable Development<sup>2</sup> and its 17 Sustainable Development Goals. The Government has embraced the 2030 Agenda, pledged to add an eighteenth Goal, on mine action, and begun a consultative process of localization.

16. Certain public administration reforms relating to civil service, decentralization and deconcentration, and public finance management, have made progress. Salaries for civil servants are now paid by bank transfer instead of in cash, which will help to combat corruption. Corruption in general, however, remains widespread; according to Transparency International, Cambodians perceive the judiciary as the most corrupt of all State institutions; the Human Rights Institute of the International Bar Association made a similar finding in a report released in September 2015.<sup>3</sup>

17. The lack of independence of the judiciary remains an obstacle to the protection of human rights. The Government of Cambodia has been pursuing reforms in court administration, which OHCHR is supporting, in cooperation with the Ministry of Justice, by providing members of the legal profession with concrete tools to assist judges in taking decisions on pretrial detention, and improving case management. One significant achievement has been the further reduction in cases awaiting appeal for an excessively lengthy period of time.

18. OHCHR continued to build the capacity of national counterparts. It reached out to subnational authorities on indigenous rights, prison officials on a rights-based approach to prison management, and government and private sector actors on business and human rights. Progress was made in the effective implementation of human rights training for law professionals as part of compulsory general training programmes for lawyers or mandatory refresher sessions on professional ethics for judges and prosecutors. OHCHR extended its outreach to the general public by means of new communication tools and media. Its work in Cambodia has been informed by the conclusions and recommendations of United Nations treaty bodies, the special procedures, the universal periodic review on Cambodia in January 2014 (see A/HRC/26/16), and the new global commitments under the 2030 Agenda for Sustainable Development.

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<sup>2</sup> General Assembly resolution 70/1.

<sup>3</sup> Transparency International Cambodia, *Corruption and Cambodia's Governance System: The Need for Reform*, National Integrity System Assessment 2014; International Bar Association, Human Rights Institute, "Justice versus Corruption: Challenges to the Independence of the Judiciary in Cambodia", September 2015.

## II. Widening the democratic space

19. During the period under review, OHCHR continued its cooperation with rights-holders and duty-bearers to protect the democratic space in Cambodia, the space for civil society and the ability of human rights organizations to carry out their legitimate work.

20. A controversial draft law on associations and non-governmental organizations was adopted by the National Assembly in July 2015 and enacted in August. Further to its legal analysis of earlier drafts of the law in 2010-2011, OHCHR published a detailed analysis of the final draft in both English and Khmer, highlighting provisions inconsistent with the State's international human rights obligations, such as mandatory registration, discriminatory clauses and onerous reporting requirements, or requirements for undefined "political neutrality" that, if unmet, could lead to criminal sanctions and de-registration.

21. While there are no reports of actual sanctions having been applied to date, OHCHR and civil society organizations are tracking cases in which the law has been invoked by the authorities to restrict the activities of the said organizations working on issues deemed sensitive, in particular at the subnational level. This was the case with several community-based organizations, which do not fall within the scope of application of the law on associations and non-governmental organizations. In other cases, organizations, particularly non-governmental human rights organizations, have reportedly received threats of administrative or judicial actions under the law on associations and non-governmental organizations, including from lower and mid-level officials. The need to spend time and resources on such matters undermines their ability to function as usual, and in particular impairs their ability to monitor the preparations for the local elections to be held in 2017. In contrast to this trend, in a statement issued in June 2016, the Ministry of the Interior reported that, as at the end of May 2016, 177 new associations and non-governmental organizations had been created and registered under the law on associations and non-governmental organizations since its enactment. In the statement, the Ministry emphasized that the Government considered associations and non-governmental organizations "key and indispensable partners".

22. OHCHR continued to support the implementation of the universal periodic review recommendation accepted by Cambodia on ensuring full respect, in law and in practice, for the freedoms of peaceful assembly and of association, consistent with international law, on disseminating widely the Law on Peaceful Demonstrations and its implementing guide, and on building local capacity to comply with the law. OHCHR conducted seven training workshops for journalists, monitors from human rights non-governmental and community-based organizations in Kratie, Kampong Cham, Svay Rieng, Koh Kong, Preah Vihear and Battambang provinces, attended by 256, including 41 women. OHCHR delivered similar briefing sessions: in March 2016, one in Phnom Penh, for 27 participants, including five women, from provincial members of the umbrella organization the NGO Forum; and in June, one in Sihanoukville, for 35 human rights defenders and activists, including five women. Trainees reported afterwards that clarity with regard to the responsibilities of organizers and authorities when organizing peaceful protests had helped them to gain confidence in engaging with the authorities in a positive and constructive manner.

23. In January 2016, OHCHR and the National Election Committee co-organized a consultation with civil society organizations on election reform. The event brought together 218 participants from State institutions, provincial and communal election committees and key civil society organizations working on election-related issues. It provided a forum for the gathering of comments and recommendations on the draft regulations and procedures on voter registration, to help the Committee to prepare the new voter lists for the upcoming elections. Civil society representatives raised the importance of ensuring the right to participate and to vote for persons with disabilities, migrant workers abroad and other

categories of persons who might face exclusion, such as persons left without residency documents following eviction and resettlement. The need to ensure a transparent process and to establish effective and impartial complaint procedures was emphasized.

24. On numerous occasions, OHCHR worked closely with civil society organizations to address specific incidents. It followed up on more than 50 cases relating to human rights defenders, community activists and journalists on issues ranging from arbitrary arrest and detention, harassment and threats against them, to violations of fundamental freedoms. OHCHR documented the cases, followed up with relevant authorities, visited the persons affected in detention, and, when necessary, helped them to find lawyers and monitored their trials.

25. In addition, OHCHR organized three specialized training sessions on the methodology of human rights monitoring and fact-finding for civil society organizations, with a focus on local or grass-roots activists, including 49 monks from Battambang province, 34 member of trade unions and farmer associations in Prey Veng and Svay Rieng provinces, and 35 human rights defenders from Kampot, Koh Kong and Preah Sihanouk provinces, including 10 women. Participants acknowledged the relevance of the training in their daily work, in particular the importance of verifying information, analysing facts and systematically documenting them.

26. The controversial draft trade unions law was adopted by the National Assembly in April 2016 amidst concerns of trade unions and other civil society stakeholders about requirements that they deemed to be excessive and that they allege could have the greatest effect on independent unions. OHCHR thoroughly analysed the draft, identifying the provisions inconsistent with international standards on freedom of association, particularly on the establishment, functioning and dissolution of trade unions. OHCHR welcomed the provision setting at 10 the minimum number of workers needed to establish a trade union, which is lower than that contained in earlier drafts.

27. While recognizing that the draft had been thoroughly reviewed by select stakeholders, OHCHR was among various commentators that called for full and meaningful public consultations, allowing anyone with a view to voice it, including civil society organizations. A public consultation was eventually held, but was limited to a half-day session at the National Assembly, resulting in one amendment. The Assembly subsequently voted strictly along party lines, with CPP lawmakers voting in favour and CNRP lawmakers voting against it. At a protest being held outside the National Assembly during the vote, security guards assaulted a trade unionist and directed others away.

28. OHCHR, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and a number of civil society organizations continued to engage in a broad-based consultative process with the Ministry of Information on the preparation of a draft law on access to information. OHCHR contributed to several workshops organized under a project in support of the Ministry of Information and UNESCO by a Swedish aid agency. In a meeting held in February 2016 by the technical working group established to prepare the draft law, the Minister for Information announced his aim of having the draft finalized by the end of 2016.

### **III. Promoting the rule of law**

29. Through its rule of law programme, OHCHR supported the legal and judicial reform process, working with a range of actors, including the Ministry of Justice, the Supreme Council of Magistracy, judges and prosecutors at all levels, and lawyers, among others. The degree of cooperation with them remained strong. OHCHR technical assistance contributed to improving the capacity of judicial actors and other law enforcement officers to comply

with international human rights law. The structural concerns highlighted by human rights mechanisms, however, remained valid.

30. The Ministry of Justice continued its efforts to implement the three organic “fundamental laws” on the judiciary adopted in 2014. In accordance with the law on the organization and functioning of the courts, an administrative unit was established in each court, officially separating administrative from adjudicative duties. OHCHR and the Ministry jointly organized a national conference on court administration and case management in December, which addressed the current status of implementation of the law and served as a forum for discussion on key reform issues among judges, prosecutors and court administrators. The issues raised by the participants included the general lack of understanding of the existing disciplinary proceedings.

31. OHCHR and the Supreme Council of Magistracy organized regional workshops in March, May and June 2016 to disseminate the Code of Ethics for Judges and Prosecutors (2007). The three workshops convened 264 judges and prosecutors from the Supreme Court, the Appeal Court and all provincial and municipal courts of first instance. With the last workshop to be held in August 2016, all judges and prosecutors country-wide will have been exposed to the Code of Ethics.

32. The Ministry of Justice took important steps to increase the salaries of judges and prosecutors in an effort to combat corruption. Towards that end, it invited the Anti-Corruption Unit to monitor the entrance exams to the Royal Academy of Judicial Professions. OHCHR was invited by the Unit to provide technical assistance in drafting whistleblower and witness protection legislation. Consultations are being held with the Ministry of Justice on the undertaking of a joint study on judicial integrity, to be conducted in 2016 and 2017, subject to funding. The aim of the study would be to go beyond perception surveys by informing on the rules, procedures and practices that affect judicial integrity, measuring the incidence of corruption in the judicial sector, and making recommendations to strengthen integrity.

33. OHCHR supported the roll-out of an expanded criminal case database in six courts of first instance in 2015, although funding constraints prevented its installation in additional courts in 2016. The database was designed to address blockages in the flow of communication regarding court proceedings, which affects, *inter alia*, the enforcement of court decisions. OHCHR provided a technical expert to design the database and to train dedicated staff from the Ministry of Justice and the courts to enter data and to maintain the database. While the database alone cannot solve all problems related to access to information on court cases, it has proven to be a significant improvement over the previous paper-based method of recording court case developments. It has strengthened the ability of beneficiary courts to store and search case documents, to generate case reports and regular statistics, and to provide such information to the parties in court cases.

34. Another important initiative undertaken by the Ministry of Justice was the establishment of a working group to revise the Criminal Code and the Code of Criminal Procedure. OHCHR compiled and submitted the recommendations for amendments to the two laws made at several round tables and conferences organized by OHCHR in previous years.

35. OHCHR continued to serve as the donor partner facilitator of the technical working group on legal and judicial reform, one of the 19 sectoral working groups by means of which the Government and donor partners coordinate international assistance. OHCHR worked with the Ministry of Justice, which serves as the governmental chair of the working group, in conducting the annual revision of the joint monitoring indicators on the judicial sector, with the aim of ensuring that progress is adequately measured and that donor initiatives are in line with key government priorities.

36. The office followed up on the results of the joint OHCHR- Ministry of Justice survey on the use of the pretrial detention form adopted by the Ministry with OHCHR assistance in 2014, which for the first time called upon judges to lay out their legal reasoning when deciding on pretrial detention. To encourage its use, two regional training sessions for judges, prosecutors and court clerks were held in July 2015, the impact of which will be assessed in a follow-up survey in July-August 2016. In January 2016, together with the Bar Association of the Kingdom of Cambodia, OHCHR dedicated to this issue one of the “Legal Dialogues” series, which convenes lawyers working at the Extraordinary Chambers in the Courts of Cambodia and lawyers working in the domestic system. The dialogue encouraged domestic lawyers to call upon judges to use the form when considering requests for provisional release, reflecting the practices of the Extraordinary Chambers and other international best practices.

37. The lack of a legal aid policy, coupled with an increasing but still insufficient budget for legal aid, continued to lead to cases of arbitrary detention. OHCHR provided grants to the Bar Association of the Kingdom of Cambodia and to the non-governmental legal aid organization International Bridges to Justice throughout 2015 to improve access to legal aid by individuals whose procedural rights in appeal had been allegedly infringed. Of the 222 priority cases followed by the organization, 46 people were released, including 11 who had been held in excessive detention; 85 are currently serving their sentences, with all case documents having been obtained; 15 presented opposition motions; 14 requested final verdicts; final verdicts were obtained for 50 cases; and no information was found on 27 cases. Legal aid provided by the Bar Association allowed for progress to be made on 53 more cases in Phnom Penh, while legal documentation was obtained to support the detention of all prisoners concerned. The progress made through the implementation of these grants led to a considerable reduction in the backlog of appeal cases that had been pending for more than four years. A new one-year grant was approved for International Bridges to Justice from June 2016 to continue to tackle the backlog in six prisons, focusing on cases pending appeal for more than three years, and other priority appeal categories, such as prisoners with disabilities, juveniles, women with children, or lesbian, gay, bisexual or transgender (LGBT) prisoners. Further work is required with the judiciary and the prison system to streamline the process of sharing final verdicts between courts and prisons and thus to ensure that prisoners are lawfully detained and released on time.

38. OHCHR continued to encourage regular local meetings among the police and court and prison officials. Between February and May 2016, it supported six such meetings in Kampong Speu, Pursat, Siem Reap, Takeo, Pailin and Battambang provinces. The meetings were an opportunity for discussions on areas where cooperation should be strengthened, the daily challenges that they face, and solutions to improve the effective and efficient delivery of justice.

39. OHCHR conducted training and follow-up for provincial prosecutors, police and gendarmerie officers on the prevention, investigation and prosecution of acts of torture and ill-treatment. Training on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was conducted in late 2015 in Prey Veng province. Further provincial training and follow-up sessions at the district level are planned for 2016.

40. OHCHR continued to promote the legacy of the Extraordinary Chambers in the Courts of Cambodia, using their best practices and experience to strengthen national judicial capacities and, ultimately, the rule of law. In this regard, in March and April 2016, OHCHR, jointly with the Raoul Wallenberg Institute of Human Rights and Humanitarian Law, delivered the first compulsory human rights course for trainee lawyers, aimed at ensuring that they possess the necessary knowledge to defend the rights of their clients to a fair trial.

41. Another initiative was the dissemination in English and Khmer of the second edition of the Annotated Code of Criminal Procedure, originally published in 2014. The new edition, released in 2015, provides considerable new practical guidance to readers from not only the final judgments but also intermediary decisions by the Extraordinary Chambers in the Courts of Cambodia at various stages of court proceedings. Proposals on further dissemination of and follow-up to the Annotated Code were discussed among key stakeholders in the regular Extraordinary Chambers Legacy Update Meeting organized by OHCHR in December 2015.

42. In September 2015, the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia began hearing case 002/02, in which the former Head of State of Democratic Kampuchea, Khieu Samphan, and the former Deputy Secretary of the Communist Party of Kampuchea, Nuon Chea, stand accused of genocide. In February 2016, the Supreme Court Chamber commenced appeal hearings on case 002/01, in which the two men were found guilty of crimes against humanity and sentenced to a term of life imprisonment. In December 2015, two former Khmer Rouge officials, Meas Muth and Yim Tith, were charged with genocide and crimes against humanity.

#### **IV. Supporting prison reform**

43. OHCHR is in a partnership with the Directorate General of Prisons under the Ministry of the Interior and the Police Academy of Cambodia to support improvement in the legal and policy framework and the management of prisons and correctional centres throughout the country. During the period under review, the Ministry, the Directorate and the Academy all underwent restructuring and leadership changes, which also resulted in changes in the leadership of local prisons.

44. During the period under review, OHCHR had only limited access to prisoners given that the authorization for its annual prison visit in 2016 no longer allows OHCHR monitors to hold confidential interviews with prisoners. The ability to speak directly with persons deprived of liberty, free from fear of any potential consequences, is crucial to the quality and effectiveness of external independent monitoring. OHCHR had long been authorized to hold confidential interviews, including after the adoption in 2011 of the Law on Prisons and its reference to the national preventive mechanism in Cambodia. Regrettably, the authorization for the said interviews was revoked in a context when the national preventive mechanism does not yet qualify, in law or in practice, as an independent monitoring entity.

45. OHCHR continued to collaborate with the core trainers from the Directorate General of Prisons and the Police Academy of Cambodia to improve prison staff training. During the period under review, some 200 new prison staff recruits and in-service untrained staff received basic training at the Police Academy, which helped to reduce the backlog of approximately 600 untrained in-service staff. The Academy plans in 2016 to deliver a 3-month basic training programme in prison management to 100 new recruits and untrained prison staff, to train two trainers in each prison, and to provide ongoing education to medium- and high-ranking prison officials (around 50 officials).

46. In support of the above-mentioned efforts, OHCHR co-organized joint study tours for prison trainees to three prisons, in August and December 2015 and in June 2016. The visits provided 200 new recruits and as yet untrained prison staff, and 20 trainers and officials from the Directorate General and the Police Academy, with an opportunity to apply theoretical knowledge of prison standards to the real prison environment, and to improve future training programmes. A comprehensive, consolidated review of the curriculum to ensure its conformity with human rights has yet to be conducted, although individual trainers have been working on their own modules, with inputs from OHCHR.

47. In June 2016, OHCHR delivered lectures on torture prevention and on a human rights approach to prison management for 50 new recruits and untrained prison staff, based in part on an international handbook on the subject, previously made available in Khmer by OHCHR, and the recently adopted United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules).

48. The Academy offered a new bachelor's degree in prison management, available as of early 2016, relying in part on the material, skills and experience developed from OHCHR training. The Office also supported the programme with equipment.

49. OHCHR continued to promote the rights of prisoners to safe drinking water and sanitation and to the highest attainable standard of health by means of advocacy, the provision of hygiene products and water supply for prisoners, and flood prevention materials for two prisons. In cooperation with the provincial health department and national and provincial prison authorities, it financed the securing of two additional hospital rooms in a remote province, allowing sick prisoners to be treated without being chained or handcuffed and without affecting other patients. It will support securing rooms for three more prisons by the end of 2016. When it cannot help directly, OHCHR refers requests to non-governmental organizations and other partners, such as the International Committee of the Red Cross (ICRC), as it did, for instance, to provide crutches and prosthetics to prisoners with disabilities.

50. Jointly with ICRC, OHCHR advocated for the finalization of secondary legislation relating to minimum standards of prison construction and renovation. Although the legislation was envisaged in the Law on Prisons (2011), it remains to be developed and adopted as the legal basis for all prisons and subnational authorities involved in the construction, renovation and relocation of prisons.

51. As at mid-March 2016, 33 per cent of prisoners were convicted but being held without a final verdict, either because the cases were pending appeal, the court had not drafted or shared the verdict with the prison, or the documentation had been lost in the system. To help to improve the capacity of prisons to better record and track time limits in all processes affecting prisoners, OHCHR commissioned an expert to improve the prisoner case-management database. Work began in 2015 with a review of the features and shortcomings of the existing database, and continued in 2016 on the design of an improved database, which will be followed by training for prison statistics and registry officers.

52. OHCHR continued to monitor prisons and to engage with the authorities responsible for remedial action in cases of human rights violations, including ill-treatment or excessive detention and corruption. In close cooperation with prison registry officers, OHCHR reviewed the lists of prisoners whose convictions were pending appeal or who, for any other reason, were not in possession of their final judgments. OHCHR directly secured the release of more than a dozen prisoners beyond their prison term, and, indirectly through its non-governmental legal aid partner (see para. 37 above), allowed for the release of 46 additional prisoners. It continued to analyse prison population statistics, disaggregated by gender and age, to support policy discussions.

53. OHCHR continues to pursue the publication of two educational posters on the rights of prisoners and on the visitation process, which were shared with relevant government agencies, namely, the Ministry of the Interior, the Cambodian Human Rights Committee and the Anti-Corruption Unit.

## V. Protecting economic and social rights

54. Through its economic and social rights programme, OHCHR continued to protect and promote the rights to adequate housing and to an adequate standard of living, to help prevent forced evictions and to promote security of tenure and a better understanding of the role of business in respecting human rights, including with regard to indigenous communities.

55. The Government's land titling programmes have advanced steadily. According to government figures, as at the end of January 2016, approximately 4 million land titles had been delivered under the ongoing processes of systematic land registration (more than 2.9 million titles), sporadic land registration (more than 600,000 land titles) and by means of the Directive No. 001 campaign (nearly 620,000 land titles). The systematic land titling programme is generally considered successful in that it has facilitated the awarding of millions of land titles at a low cost to the beneficiaries. Given that it explicitly excludes contested land, however, it has left out families and communities who most need tenure security. The Government has estimated that, as at mid-2016, land titles had been provided for approximately 60 per cent of the country's estimated 7 million parcels of land.

56. OHCHR also registered the adverse impact of the land titling process on indigenous and other communities who claim to have lost land as a result of land disputes or the inconsistent implementation of government policies. OHCHR received a number of petitions from individuals and groups who sought its intervention and legal advice on their disputes and concerns. It conducted field visits to ascertain facts, engaged with the relevant authorities, including at the subnational level, facilitated dialogue among the parties in dispute, monitored the work of dispute resolution mechanisms, and provided legal and procedural advice to communities and the civil society organizations supporting them. During the period under review, OHCHR monitored 75 ongoing and unresolved land disputes among affected communities, authorities and businesses in both rural and urban areas, and seven new cases. Of those disputes, 29 were related to economic land concessions and other land concessions granted by the Government, while 46 were related to other land transactions. Eleven cases were considered closed by May 2016.

57. In February 2016, the Government announced that the work of the interministerial commission to inspect, demarcate and assess economic land concessions, which was created in August 2014 with a mandate to examine land concessions and to revoke contracts of companies failing to comply with their contractual obligations, was completed and that the commission would therefore be dissolved. A total of 113 economic land concessions administered by the Ministry of the Environment were reviewed and 23 were revoked, while four companies voluntarily handed back their concession to the State. Another 118 concessions administered by the Ministry of Agriculture, Forestry and Fisheries were reviewed, 15 of which were revoked. Despite the progress made by the commission, access to information and a lack of transparency and accountability in the review process and the management of concessions posed significant problems. No details were shared on the criteria adopted for the review, and no information was shared on the remedies offered to the communities affected by the concessions. Some companies were reportedly formally informed neither about the downsizing of their concession nor about the use that would be made of the land revoked. In April 2016, the Government issued a subdecree establishing that the Ministry of Agriculture, Forestry and Fisheries would be solely responsible for economic land concessions, while the Ministry of Environment would manage and administer environmentally protected areas.

58. OHCHR continued to provide support for a non-governmental open-data source that shares a range of relevant information online, including on land concessions by province

and by company, and briefings on relevant thematic issues, such as the rights of indigenous peoples.<sup>4</sup>

59. From October 2015 to February 2016, OHCHR carried out preliminary research on six social land concessions. According to a subdecree on social land concessions issued in 2003, a social land concession is “a legal mechanism to transfer private state land for social purposes to the poor who lack land for residential and/or family farming purposes”. Few official sources of information, including on the process and outcomes of the mechanism, are actually available. To assist the Government in improving its implementation of the concessions, addressing shortcomings, and disseminating and replicating positive experiences, research focused on the processes and outcomes in land distribution through social land concessions in rural areas in five provinces. It entailed interviews with more than 640 households, local authorities and other stakeholders. The research data are being analysed for discussion with the Government; the final results are expected to be published by the end of 2016.

60. OHCHR continued to expand its focus on business and human rights, working directly with national and subnational authorities, civil society organizations, community representatives and business actors to increase their understanding of the Guiding Principles on Business and Human Rights and their application in Cambodia. In partnership with non-governmental organizations, selected business people, and professional institutions, such as the Lawyers Training Centre of the Bar Association of the Kingdom of Cambodia, OHCHR organized and delivered a number of seminars, training sessions and consultations that were attended by more than 400 representatives of targeted professional groups (such as lawyers and members of the media), government agencies, private businesses and civil society organizations (including youth groups). In addition, OHCHR aired six live interactive radio talk shows on related themes, with a variety of guest speakers, including from grass-roots associations, national and international non-governmental organizations, government, United Nations agencies, businesses, and individual experts.

61. In Mondulakiri province, in October 2015, OHCHR initiated a pilot project to support negotiations between indigenous communities affected by an economic land concession and the company to which it had been granted. A tripartite committee comprising representatives of the local authorities, the company and the indigenous villagers was set up at the initiative of local stakeholders. OHCHR was invited to support the process. With the negotiation skills of the indigenous representatives strengthened by OHCHR-organized training, as at June 2016, compensation agreements were being finalized concerning one sacred site, and clear and time-bound commitments had been made by the company to review all pending land claims. Two multi-stakeholder meetings for indigenous representatives, local authorities, land concession representatives, non-governmental organizations, the United Nations and development agencies were organized to review the progress made.

62. OHCHR continued to work with the Ministry of Land Management, Urban Construction and Planning, local authorities and civil society organizations to support efforts by indigenous peoples to apply for collective land titles, and to provide legal aid to communities that had been subjected to land rights violations. In Cambodia, securing a collective land title is a complex, three-step process: first, communities must be identified by the Ministry of Rural Development as “indigenous communities”; second, communities must be legally registered with the Ministry of the Interior as a “legal entity”; third, they must apply to have their land registered communally with the Ministry of Land Management. As at June 2016, 162 indigenous communities were in the process of

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<sup>4</sup> See Open Development Cambodia at <https://cambodia.opendevlopmentmekong.net>.

applying for a collective land title and had obtained recognition of their “indigenous” identity from the Ministry of Rural Development, while 92 of them were registered by the Ministry of the Interior, 42 of which had obtained interim protective measures for their land. The ultimate objective of obtaining a collective land title had been achieved by only 11 communities. While the State has publicly pledged to issue 50 titles by the end of 2018, the process remains so complicated and costly (approximately \$70,000 for each title) that, for many communities, embarking on the process is only possible with external technical and financial assistance. Overall, the dispute resolution mechanisms in place, including the courts, tend to handle indigenous and other land issues inconsistently, with limited transparency and accountability. OHCHR contributed to advocacy to protect indigenous peoples’ land rights and cultural and linguistic rights.

63. OHCHR collaborated fruitfully with the Ministry of Rural Development and the Koh Kong local authorities on the first step of indigenous identity registration of eight communities in the Areng Valley, the site of a number of high-profile land disputes in recent years.

64. OHCHR continued to contribute to the development of the legal and policy framework regulating the land sector and the management of natural resources. It participated in consultations on a new environmental code led by the Ministry of the Environment and on a bill on the management and use of agricultural land, for which it provided advice on the harmonization of the final draft with international human rights standards.

65. OHCHR worked to improve women’s participation in public processes and to promote women’s rights to land, tenure security, adequate housing and related economic, social and cultural rights. In August 2015, OHCHR conducted a regional workshop in Siem Reap province on women and the right to adequate housing, with the participation of local authorities and 53 representatives of non-governmental organizations and women land and housing activists from the region. In 2016, OHCHR worked closely with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) to deliver training on the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Two training sessions were scheduled for July, with the aim of enabling lawyers working with women’s non-governmental organizations to submit communications and requests to conduct inquiries to the Committee on the Elimination of Discrimination against Women.

## VI. Public information

66. During the period under review, the Office continued to diversify its outreach and communication work through the increased use of a broad range of media, as well as its traditional printed materials, in both Khmer and English. Between July 2015 and April 2016, the office distributed a total of 36,670 publications to universities, associations, private citizens, other United Nations agencies, government institutions, non-governmental organizations and other organizations, and another 18,000 publications during its own events. OHCHR continued its popular “open-door Fridays” to allow members of the general public to obtain or peruse its publications at its premises.

67. In addition to producing information material specifically for Cambodia, the Office continued to make available in Khmer key global publications of OHCHR, such as the guides *How to Follow Up on United Nations Human Rights Recommendations* and *Civil Society Space and the United Nations Human Rights System*.

68. OHCHR, in partnership with the Cambodian Center for Independent Media, continued its regular series of monthly radio programmes in Khmer in order to promote

understanding about human rights and fundamental freedoms. The programmes are designed for the general public, particularly in remote areas, highlighting key human rights issues and providing information on national and international mechanisms to address them. During the period under review, 13 radio shows were aired, with expert guest speakers from State institutions, civil society and the private sector discussing topics as varied as the right to adequate housing, political participation by young people, indigenous rights, sexual and gender-based violence, and business and human rights.

69. The Office commemorated key international days, including the 16 days of activism to end violence against women, United Nations Day (with the whole United Nations country team), Human Rights Day, World Press Freedom Day (with UNESCO) and the International Day against Homophobia, Transphobia and Biphobia (IDAHOT, with the Joint United Nations Programme on HIV/AIDS (UNAIDS) and UN-Women). OHCHR organized or participated in events led by local and national authorities, development partners and civil society organizations, distributed promotional and informational material, and contributed opinion pieces to increase awareness.

70. As part of the celebrations, OHCHR organized two online quiz competitions. The first was a quiz for the seventieth anniversary of the Organization on United Nations Day 2015, which tested participants' knowledge on the United Nations and the specific work carried out by United Nations agencies and entities operating in Cambodia. The top three winners received awards, a tour of three United Nations offices in Phnom Penh, and a presentation on the work carried out by each. The second quiz for 10 December 2015 tested participants' knowledge of international human rights law and human rights issues in Cambodia. The two quiz apps were designed as learning tools, encouraging players to do their own research. Both proved very successful, and considerably enhanced the public profile of OHCHR and United Nations agencies, particularly among young people.

71. In June 2016, OHCHR launched a dynamic bilingual website that allows for real-time updating. OHCHR also strengthened its use of social media channels to disseminate information, increasing the number of posts published and garnering many more followers on both Facebook and Twitter.

72. OHCHR expanded its video work, again producing original videos as well as Khmer versions of previously existing ones. It made available in Khmer "The cost of discrimination", one of the videos from the OHCHR-led Free and Equal campaign in support of LGBT rights, and another externally-sourced video on the Guiding Principles on Business and Human Rights. OHCHR also produced four short videos – interviews conducted with activists and senior figures in Cambodia – on the value of the work carried out by the Office in Cambodia and how it has either personally affected the interviewee or benefited Cambodian society. It released online a 4-minute video presenting the work of the office since its establishment in 1993.<sup>5</sup>

73. Capitalizing on the growing access to Internet and use of smartphones nationwide, OHCHR developed three phone apps using interactive voice response technology to disseminate human rights information. The apps are based on three of its most popular information materials: a cartoon book on the "Protect, Respect and Remedy" framework on business and human rights; an "arrest rights card", summarizing a person's rights in the event of arrest in Cambodia, based on a publication developed jointly with the Ministry of Justice and the Ministry of the Interior; and the "Peaceful Demonstration Law" leaflet, developed with the Ministry of the Interior to spell out the relevant steps, rights and obligations of organizers and local authorities. OHCHR translated in Bunong and Kuy

<sup>5</sup> Available on YouTube at [https://youtu.be/-H2fC2\\_Q3Bk](https://youtu.be/-H2fC2_Q3Bk).

indigenous languages an interactive voice response app on indigenous land law in Cambodia, which already existed in the Tompuon language. The apps help to bring knowledge on human rights to those who may not otherwise have access to it, including those in rural areas, indigenous groups, and persons with visual impairments. Persons with an Android smartphone may choose which information they wish to access, download it and listen to it offline at their convenience.

## **VII. Supporting engagement with international human rights mechanisms**

74. OHCHR continued to raise awareness of the work of international human rights mechanisms. It promoted the ratification of the human rights treaties not yet ratified by Cambodia, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

75. OHCHR provided technical support to the Cambodian Human Rights Committee and the Disability Action Council on the reporting requirements of the United Nations treaty bodies, and supported consultations with stakeholders, including civil society organizations. In December, OHCHR and the Committee organized a joint meeting to follow up on the recommendations addressed to Cambodia during its universal periodic review, in preparation for the mid-term report due in late 2016. Good practices were shared regarding the establishment of a national mechanism for reporting on and follow-up to the recommendations of expert human rights mechanisms.

76. With regard to the Government's obligations under the Optional Protocol to the Convention against Torture, in 2015, the Ministry of the Interior announced its intention to draft new sub-legislation, in a royal decree, to replace the current sub-decree on the national preventive mechanism and to amend its composition. In 2016, the Ministry announced its decision to allocate prison management and torture prevention responsibilities to different State Secretaries, and that it would reflect the changes in a law. The preparation of such a new legal basis represents an opportunity to improve the compliance of a new national preventive mechanism with the Optional Protocol, in particular to strengthen its independence from the prison and other detention authorities that it is intended to monitor.

77. In September 2015 and March 2016, OHCHR supported the first and second visits conducted by the Special Rapporteur on the situation of human rights in Cambodia. The Special Rapporteur chose to focus on marginalized groups, using discrimination as a lens to view the prevailing situation of human rights. Women and indigenous peoples were identified as the focus of her second mission.

## **VIII. Mainstreaming human rights within the United Nations framework**

78. OHCHR continued to play an active role in the United Nations country team in Cambodia, coordinating in particular the Human Rights Theme Group, which played an active role in discussing opportunities and challenges in integrating human rights in the localization process of the Sustainable Development Goals. OHCHR has been active in sharing information and briefings on human rights issues in Cambodia within the United Nations system at the country, regional and international levels.

79. The United Nations Development Assistance Framework for 2016-2018 entered its first year of implementation during the period under review. The new Framework fully

integrates international human rights standards, including indicators relating to the implementation of selected human rights mechanisms recommendations. OHCHR co-leads, together with UN-Women, the Framework pillar on “governance and human rights”.

80. As one concrete example, the Theme Group mobilised the United Nations country team in engaging with the Government and civil society partners on the issue of the treatment of persons in street situations (namely, persons living, working, or otherwise dependent on the streets) in Cambodia. The first ever national conference on “Persons in street situations in Cambodia: strategies, proposals and long-term solutions”, co-hosted by the country team and the Ministry for Social Affairs, Veterans and Youth Rehabilitation, was held in December, with support from resource persons from the region and beyond, to discuss the recurring street sweeps and the treatment of persons held involuntarily in social affairs centres. At the conference, participants formulated a number of strategies and proposals to provide long-term and sustainable human rights-based solutions to the affected groups and individuals. The event was supported – financially, substantively and through the provision of national and regional expertise – by the Office of the Resident Coordinator, OHCHR, UNAIDS, UN-Women, the United Nations Population Fund, the United Nations Children’s Fund and the inter-agency Disability Rights Initiative in Cambodia. The seven United Nations entities took responsibility for specific panel and group discussions, joined by, inter alia, a former member of the Committee on the Rights of Persons with Disabilities. The creation of a multi-stakeholder technical working group was announced by the Ministry during the conference, and OHCHR has continued to liaise closely with the United Nations system in Cambodia in advocating for and supporting the implementation of the recommendations made at the conference.

## **IX. Memorandum of Understanding with the Government of Cambodia**

81. OHCHR functions in Cambodia on the basis of a biennial resolution of the Human Rights Council, the global mandate of OHCHR, the Charter of the United Nations and a Memorandum of Understanding concluded with the Government of Cambodia, which is subject to biennial renewal. Discussions on the renewal of the Memorandum have been ongoing since the expiry of the previous Memorandum on 31 December 2015.

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