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Agenda item 10

Technical assistance and capacity-building

Japan: draft resolution

48/... Advisory services and technical assistance for Cambodia

The Human Rights Council,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as enshrined in the Charter of the United Nations, as reaffirmed in the Universal Declaration of Human Rights and in accordance with their respective obligations under the International Covenants on Human Rights and other applicable human rights instruments,

Recalling General Assembly resolution 60/251 of 15 March 2006,

Recalling also Human Rights Council resolutions 5/1 and 5/2 of 18 June 2007, and stressing that special procedure mandate holders shall discharge their duties in accordance with those resolutions and the annexes thereto,

Recalling further Human Rights Council resolution 42/37 of 27 September 2019 and other relevant resolutions,

Bearing in mind the reports of the Secretary-General on 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,¹

Recognizing that the tragic history of Cambodia requires special measures to ensure the protection of human rights and the non-return to the policies and practices of the past, as stipulated in the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, signed in Paris on 23 October 1991,

Noting the new developments in Cambodia, especially the achievements and improvements in economic and cultural fields over recent years through its relevant national plans, strategies and frameworks,

Noting also the efforts made by the Government of Cambodia to rebuild the country, to promote individuals' rights, freedoms and dignity while protecting the life of people and maintaining peace, stability, social security and public order, to promote development and to enhance the quality of life of the population, and stressing the importance of respect for and the promotion and protection of human rights, even during the coronavirus disease (COVID-19) pandemic, in this regard,

Noting further the effort and progress made by the Government of Cambodia in promoting legal reform under the leadership of the Committee for Legal and Judicial Reform,

¹ A/HRC/42/31 and A/HRC/48/79.



including by enforcing basic laws, such as the Civil Procedure Code, the Civil Code, the Criminal Procedure Code and the Penal Code,

Noting the Cambodia Human Rights Situationer, issued periodically by the Permanent Mission of Cambodia to the United Nations Office at Geneva, which contains the Government's account of the situation of human rights in Cambodia, including policy measures and responses to key issues,

1. *Reaffirms* the importance of the Extraordinary Chambers in the Courts of Cambodia as an independent and impartial body, and believes it will significantly contribute to eradicating impunity and establishing the rule of law by, inter alia, exploiting its potential as a model court of Cambodia and supports the position of the Government of Cambodia and the United Nations to proceed with the Extraordinary Chambers in a fair, efficient and expeditious manner to fulfil its mandate, given the further advanced age and frail health of the persons charged and the long overdue justice for the people of Cambodia;

2. *Stresses* the need for the Government and the international community to provide all appropriate assistance to the Extraordinary Chambers, and also stresses the importance of efficient and sustainable management of financial resources by the Extraordinary Chambers;

3. *Calls upon* the Government of Cambodia to transfer the knowledge and share the good practices of the court officials at the Extraordinary Chambers, and in this regard welcomes the adoption by the General Assembly of its resolution 75/257 B on the Extraordinary Chambers in the Courts of Cambodia – residual functions on 7 July 2021, and the signing of the Addendum on the Transitional Arrangements and of the Completion of Work of the Extraordinary Chambers by the representatives of the United Nations and the Government of Cambodia on 11 and 26 August 2021 respectively, bearing in mind the importance of providing for the protection of victims and witnesses, disseminating information to the public and engaging with civil parties;

4. *Welcomes* the positive engagement of the Government of Cambodia in the third cycle of the universal periodic review and its acceptance of most of the recommendations made thereat and the progress made to date in their implementation;

5. *Also welcomes* the support, cooperation and constructive dialogues of the Government of Cambodia with the Special Rapporteur on the situation of human rights in Cambodia, including with respect to his unfettered access to the country, and the reports of the Special Rapporteur² and the recommendations contained therein, and calls upon the Government to continue to engage with the Special Rapporteur on the best ways to implement them, taking into account the national context of Cambodia;

6. *Further welcomes* the eleventh renewal in December 2020 of the memorandum of understanding for the implementation of a technical cooperation programme on human rights between the Government of Cambodia and the field office in Phnom Penh of the Office of the United Nations High Commissioner for Human Rights to extend the mandate of that office for another two years;

7. *Commends* the positive cooperation between the Government of Cambodia and the Office of the High Commissioner, among others, particularly with regard to the protection of land rights for indigenous peoples, technical assistance for drafting the law on disabilities, the preparation of a national human rights institution and the reduction in prison overcrowding, and encourages the enhancement of cooperation between the Government and the Office of the High Commissioner, as specified in the memorandum of understanding between the Government and the field office in Phnom Penh of the Office;

8. *Encourages* the Government of Cambodia to implement the Cambodia Sustainable Development Goals with the support of the international community and to conduct governance reform by including robust targets and indicators on Sustainable Development Goal 16;

² A/HRC/45/51 and Add.1.

9. *Reaffirms* the need for the Government of Cambodia to strengthen efforts to consolidate and abide by the rule of law, including through the adoption, amendment and further implementation of essential laws and codes for establishing a democratic society and an independent judiciary and ensuring the State's compliance with its human rights obligations, which are enshrined in the Constitution of Cambodia;

10. *Welcomes* the ongoing efforts to improve judicial access, including the establishment of four regional appeal courts, encourages the Government of Cambodia to adopt promptly the legal aid policy in order to ensure access to justice for all, and notes the implementation of three fundamental laws on the judiciary, namely the Law on the Statute of Judges and Prosecutors, the Law on the Organization and Functioning of the Courts and the amendment to the Law on the Organization and Functioning of the Supreme Council of the Magistracy;

11. *Stresses* the need for the Government of Cambodia to continue to enhance its efforts to investigate urgently and to prosecute, in accordance with due process of law under the Constitution and in full compliance with its international human rights obligations, all those who have perpetrated serious crimes, including violations of human rights, again expresses its deep concern over the death of the political analyst on 10 July 2016 and the perceived chilling effect this has had on civil society and independent voices in Cambodia, and calls upon the authorities of Cambodia to launch a full and transparent probe into those cases;

12. *Welcomes* the acceleration in the clearance of case backlogs, and encourages the Government of Cambodia to continue its efforts at judicial reform, including for the protection of the right to a fair trial and further reducing prison overcrowding and pretrial detention, while taking into account the necessity to prevent coronavirus disease (COVID-19) infection in prisons;

13. *Notes* the efforts made by the Government of Cambodia to combat corruption, encourages the implementation of the Penal Code and the anti-corruption law, and also encourages the Government to continue other such efforts, including through the activities of the Anti-Corruption Unit;

14. *Welcomes* the efforts made by the Government of Cambodia to combat crimes, such as trafficking in persons, the exploitation of labour and the sexual exploitation of women and children, and urges the Government to make further efforts to this end, in concert with the international community, to combat outstanding key problems in this area;

15. *Welcomes* the efforts of the Government of Cambodia based on its five-year strategy for gender equality (2019–2023), and encourages the Government to further promote women's economic, social and political empowerment, including their participation in decision-making processes, and the expansion of women's economic benefits through improved working conditions, social protection and labour standards;

16. *Notes with appreciation* the efforts made by the Government of Cambodia to resolve land issues, inter alia, through the implementation of relevant laws and regulations, including a moratorium on economic land concessions and systematic land registration, and register approximately 6.2 million land ownerships for citizens, including women, and encourages the Government to effectively promote land ownership for women and vulnerable groups through the Social Land Concession system, while recognizing the outstanding issues in this area, urges the Government to continue and enhance its efforts to resolve them equitably and expeditiously in a fair and open manner, taking into consideration the rights of and the actual consequences for the parties concerned and in accordance with relevant laws and regulations, such as the Land Law, the Law on Expropriation, the Circular on the Settlement of Illegal Temporary Building in Cities and Urban Areas and the National Housing Policy, and by strengthening the capacity and effectiveness of relevant institutions, such as the National Authority for Land Dispute Resolution cadastral committees at the national, provincial and district levels, and other relevant institutions;

17. *Notes* the commitments made and the progress achieved by the Government of Cambodia in implementing its obligations under international human rights laws and conventions to which it is a party, and urges the Government to continue to take steps to meet

its obligations under international law, and to this end to strengthen its cooperation with United Nations agencies, including the Office of the High Commissioner, through enhanced dialogue and the development of joint activities;

18. *Notes with appreciation* the efforts and progress made by the Government of Cambodia to establish a national human rights institution, including its commitment to hold up to 60 rounds of consultations with relevant stakeholders on the current first draft of the law to ensure its independence and neutrality, consistent with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles);

19. *Welcomes* the efforts made by the Cambodian Human Rights Committee, especially in resolving complaints from individuals;

20. *Also welcomes* the efforts and progress made by the Government of Cambodia in promoting decentralization and deconcentration reform with the aim of achieving democratic development by strengthening subnational and grass-roots institutions;

21. *Expresses serious concern* at the deterioration in the civil and political environment in Cambodia due to the perceived chilling effects of judicial prosecutions and other actions, including arrests and alleged surveillance, harassment and violence, against members of political parties, trade unions and civil society, including environmental organizations and the media, and the dissolution of the former opposition party, and calls upon all parties to work together towards de-escalating tensions and building trust and confidence by restoring dialogue with relevant stakeholders in the country, strongly calls upon the Government of Cambodia to guarantee, inter alia, the rights to freedom of expression and to freedom of association and assembly, and to fulfil its accountability for the cases concerned, and urges the Government to take additional appropriate measures to encourage and enable civil society, including independent trade unions and media, and to play a constructive role in consolidating democratic development in Cambodia, including by ensuring and promoting their activities and in promoting equal access to the media for all parties;

22. *Gives attention* to the report of the Special Rapporteur³ in which the mandate holder welcomed the release of Kem Sokha, albeit with judicial supervision, while noting that United Nations human rights experts had expressed their concern over his trial; strongly encourages the Government of Cambodia to ensure the prompt, transparent and fair trial in accordance with the State's international human rights obligations, notes that 26 members of the former opposition party have had their right to conduct political activities restored, and that several members of the opposition have created new political parties as a result of the amendment to the law on political parties adopted in January 2019; strongly encourages the Government to ensure political rights to all to make continuous efforts to solve the issue of the ban on political activities of the remaining senior members of the opposition party, and to expand democratic space for political activists, civil society and the media, including members of opposition parties, to actively, peacefully, responsibly and openly participate in inclusive political debate, and strongly encourages all parties to prioritize national reconciliation, peace and stability;

23. *Expresses serious concern* at the continued restrictions imposed on civil society and political parties and the negative impact of the Law on Associations and Non-Governmental Organizations and the amendments of 7 March and 28 July 2017 to the Law on Political Parties, while recognizing the ongoing review of the proposed amendments to the Law on Associations and Non-Governmental Organizations in consultation with civil society and relevant stakeholders, and urges the Government to continue efforts to expand political and civic space and to ensure the rights to freedom of expression, peaceful assembly and association and an environment conducive to the conduct of political activities by all political parties under democratic principles and the rule of law;

24. *Expresses concern* at the reported general reluctance among many people to speak out in public and to express their opinions on the Internet for fear of arrest and

³ A/HRC/45/51.

surveillance, and the limited number of peaceful assemblies and demonstrations allowed in accordance with the Law on Peaceful Demonstration, and encourages the Government of Cambodia to continue to take action to promote the rights and dignity of all Cambodians by protecting civil and political rights, including freedom of opinion and expression, in accordance with the historical context of Cambodia, and to this end to ensure that all laws are interpreted and applied in a judicious manner so as to promote economic, social and cultural rights in accordance with the rule of law;

25. *Takes into account* the conclusions and recommendations made by the Special Rapporteur in the addendum to her report submitted to the Human Rights Council at its thirty-ninth session in relation to the process and the result of the national elections held in 2018,⁴ while taking into account the high voting rates of 83.02 per cent, regrets the 8.5 per cent of invalid votes cast in the elections, and calls upon the Government of Cambodia, in view of the upcoming elections, including the 2022 communal elections and the 2023 general election, to advance dialogue and reconciliation with relevant stakeholders in order to ensure that the elections are free, fair and inclusive and representative of all Cambodians, and to protect and promote the civil and political rights of all Cambodians in order to steadily promote nation-building with the support of a wide range of Cambodians;

26. *Notes with concern* that the amendments made to the Law on Political Parties in 2017 could lead to an arbitrary restriction on the activities of political parties, while recognizing that the amendments made to the Law in 2019 have resulted in the rehabilitation of political rights of some members of the former opposition party, encourages all stakeholders to promote a peaceful democratic process under the rule of law and adherence to a system of pluralistic liberal democracy, in accordance with the Constitution, and calls upon the Government of Cambodia to ensure the protection of parliamentary immunity and freedom of political activities for that purpose;

27. *Notes* the joint letter by three special procedure mandate holders in relation to the sub-decree on the establishment of the National Internet Gateway on 7 April 2021, and the reply from the Government of Cambodia, and the Government's intention to establish a law on the protection of information, and strongly urges the Government to continue its efforts to ensure the protection of privacy and data of individuals and freedom of expression and opinion on the Internet in accordance with the international human rights laws;

28. *Acknowledges* the presence of nearly 6,000 operating associations and non-governmental organizations, with some of them continuing to engage in regular reports and perspectives critical of the Government, notes the interactions and consultations between the Government of Cambodia and civil society organizations held multiple times, and strongly urges the Government to engage with civil society in a constructive manner, and to further take into account the interests and concerns of all stakeholders in enacting and/or implementing various laws and measures that may affect the activities of civil society, in particular, by reviewing the Law on Associations and Non-Governmental Organizations, in order to further nurture a vibrant civil society, and to protect and ensure freedom of speech, association and peaceful assembly in accordance with the Constitution and the International Covenant on Civil and Political Rights;

29. *Notes with appreciation* the commitment and progress made by the Government of Cambodia in response to the COVID-19 pandemic, particularly its decisions to grant humanitarian consent to an international cruise ship to dock, humanitarian medical aid to a number of countries in the region, cash transfers to poor and vulnerable households, and the national vaccination scheme, while urging the Government to pay attention to political and civic space in implementing those measures;

30. *Notes* the effort made by the Government of Cambodia with regard to relations with civil society, such as the instruction issued on 31 October 2018 by the Ministry of the Interior to subnational authorities, which reiterates that non-governmental organizations have complete freedom to conduct their activities in accordance with Cambodian law and the holding of a biannual dialogue between the Government and civil society organizations, as well as the instruction of 27 November 2018 abolishing the three-day prior notification

⁴ A/HRC/39/73/Add.1.

requirement, and calls upon the Government to remind the local authorities to properly implement the said instructions and to make continuous efforts to contribute to the improvement of relations with civil society, including at the subnational level;

31. *Invites* the Secretary-General, agencies of the United Nations system present in Cambodia and the international community, including civil society, to continue to work with the Government of Cambodia in strengthening democracy and ensuring the protection and promotion of the human rights of all people in Cambodia, including by providing assistance in the fields of:

(a) Drafting laws and assisting the establishment of an independent national human rights institution;

(b) Capacity-building to strengthen legal institutions, including by improving the quality and independence of judges, prosecutors, lawyers and court staff, and drawing on the expertise gained by Cambodian nationals working in the Extraordinary Chambers in the Courts of Cambodia;

(c) Capacity-building to strengthen national institutions for criminal investigations and law enforcement, as well as providing the equipment necessary for these ends;

(d) The implementation of recommendations accepted in the context of the universal periodic review;

(e) Assisting the assessment of progress in human rights issues;

32. *Decides* to extend for two years the mandate of the Special Rapporteur on the situation of human rights in Cambodia, and requests the Special Rapporteur to report on the implementation of his mandate to the Human Rights Council at its fifty-first and fifty-fourth sessions and to provide the Council with an oral update at its forty-ninth and fifty-second sessions, and to engage in a constructive manner with the Government of Cambodia for the further improvement of the situation of human rights in the country;

33. *Requests* the Secretary-General to report to the Human Rights Council at its fifty-first and fifty-fourth sessions on the role and achievements of the Office of the High Commissioner in assisting the Government and the people of Cambodia in the promotion and protection of human rights;

34. *Decides* to continue its consideration of the situation of human rights in Cambodia at its fifty-fourth session.
