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HUMAN RIGHTS COUNCIL
Ninth session
Agenda item 10

TECHNICAL ASSISTANCE AND CAPACITY-BUILDING

Japan: draft resolution

9/... 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 Council resolutions 5/1 on institution-building of the Human Rights Council and 5/2 on a code of conduct for special procedures mandate-holders of the Human Rights Council of 18 June 2007, and stressing that the mandate-holder shall discharge his/her duties in accordance with those resolutions and the annexes thereto,

Bearing in mind Commission on Human Rights resolution 2005/77 of 20 April 2005,

Bearing in mind also the report by the Special Representative of the Secretary-General for human rights in Cambodia (A/HRC/7/42) and the recommendations contained therein and the report 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 (A/HRC/7/56),

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,

Taking note of the new developments in Cambodia, especially, those associated with recent progress and efforts by the Government of Cambodia to promote and protect human rights, especially in the achievements and improvements of social, economic, political and cultural fields over recent years through its relevant national plans, strategies and frameworks,

I. KHMER ROUGE TRIBUNAL

1. *Reaffirms* the importance of the Extraordinary Chambers in the Courts of Cambodia, which aims to bring justice for the most serious cases of violations of human rights committed during the Khmer Rouge era and believes it will significantly contribute to eradicating impunity and establishing the rule of law, inter alia, by exploiting its potential as a model court of Cambodia;

2. *Welcomes* the progress made with regard to the Extraordinary Chambers in the Courts of Cambodia, including the detention in 2007 of the five main suspects and the submission of the first closing order on 8 August 2008, and supports the positions of the Government of Cambodia and the United Nations to proceed with the tribunal in a fair, efficient and expeditious manner given the advanced age and frail health of the persons charged and the long overdue justice for the people of Cambodia;

3. *Welcomes also* the assistance of a number of States to the Extraordinary Chambers in the Courts of Cambodia and, noting the revised budget estimate endorsed on 17 July 2008, encourages the Government of Cambodia to work with the United Nations and States providing

assistance to ensure the highest standards of administration of the Extraordinary Chambers, and invites further assistance for the Extraordinary Chambers in a prompt manner in order to ensure its successful functioning;

II. DEMOCRACY AND SITUATION OF HUMAN RIGHTS

4. Welcomes:

(a) The efforts and progress made by the Government of Cambodia in promoting legal and judicial reform under the leadership of the Council of Legal and Judicial Reform, including adopting and/or enforcing basic laws such as the civil procedure code, the criminal procedure code and the civil code;

(b) The efforts made by the Government of Cambodia in combating corruption, including the drafting of an anti-corruption law and efforts to bring corrupt officials to justice;

(c) The efforts made by the Government of Cambodia in combating trafficking in persons, including the creation of a national anti-trafficking task force in April 2007, increased law enforcement action against traffickers and complicit officials, and the promulgation of a new law on the suppression of human trafficking and commercial sexual exploitation in February 2008;

(d) The efforts made by the Government of Cambodia to resolve land issues through the implementation of land reform, in particular through the successful expansion of land demarcation and titling programmes;

(e) The commitment of the Government of Cambodia to adhere to and implement the international human rights conventions, inter alia, the one made by Prime Minister Samdech Hun Sen on the occasion of the opening of the eighth informal Asia-Europe Meeting seminar on human rights, held in Siem Reap in September 2007, which included reference to the planned establishment of a national human rights institution;

(f) The efforts made by the Cambodian Human Rights Committee, especially in resolving complaints from people, improving the situation of prisons and intervening in prolonged pretrial detentions;

(g) The adherence by the Government of Cambodia to international human rights treaties, including the ratification of the Optional Protocol to the Convention against Torture, in March 2007, the accession to the United Nations Convention against Corruption, in September 2007, and the signing of the Convention on the Rights of Persons with Disabilities and its Optional Protocol, in October 2007;

(h) The renewal of the memorandum of understanding between the Government of Cambodia and the Office of the United Nations High Commissioner for Human Rights for the implementation of a technical cooperation programme on human rights in November 2007, and encourages both parties to cooperate constructively with each other for further improvement of the situation of human rights;

(i) The good administration and generally peaceful conclusion of the general elections held in July 2008, which demonstrated the continued development of the democratic process in Cambodia, while noting that there remains some shortcomings about the conduct of the election process and recognizing the need to strengthen further the enforcement capacity and impartiality of the national election committee;

(j) 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 grassroots institutions, including the local elections at provincial/municipal and district/sangkat levels planned for 2009;

5. *Expresses concern and urges* the Government of Cambodia;

(a) To continue to strengthen its efforts to establish the rule of law, including through the adoption and implementation of essential laws and codes for establishing a democratic society, and its efforts at judicial reform, especially to ensure the independence, impartiality, transparency and effectiveness of the judicial system as a whole;

(b) To enhance its efforts to combat corruption, particularly by early enactment of an anti-corruption law and its implementation;

(c) To continue to address, as a matter of priority, *inter alia*, the problem of impunity, and to enhance its efforts to investigate urgently and to prosecute, in accordance with due process of law and international human rights standards, all those who have perpetrated serious crimes, including violations of human rights;

(d) To enhance its efforts to resolve equitably and expeditiously land ownership issues in a fair and open manner in accordance with the 2001 Land Law, by strengthening the capacity and effectiveness of relevant institutions such as the National Authority for Land Dispute Resolution and Cadastral Committees at the national, provincial and district levels;

(e) To continue to create an environment conducive to the conduct of legitimate political activity and to support the role of non-governmental organizations in order to solidify democratic development in Cambodia;

(f) To continue its efforts to improve human rights, especially those of women and children, and to make additional efforts, in concert with the international community, to combat key problems such as human trafficking, issues related to poverty, sexual violence, domestic violence and sexual exploitation of women and children;

(g) To take all steps to meet its obligations under international human rights instruments and to further strengthen its cooperation with United Nations agencies, including the Office of the United Nations High Commissioner for Human Rights, including through enhanced dialogues and development of joint activities;

(h) To continue to promote the rights and dignity of all Cambodians by providing political, economic and social freedom through the continuous and enhanced implementation of its rectangular strategy and various reform programmes;

III. CONCLUSION

6. *Invites* the Secretary-General, agencies of the United Nations system present in Cambodia and the international community, including non-governmental organizations, to continue to work with the Government of Cambodia in improving democracy as well as ensuring the protection and promotion of the human rights of all people in Cambodia, including by providing assistance, *inter alia*, in the fields of:

- (a) Drafting various laws necessary for protecting and promoting human rights;
- (b) Capacity-building to strengthen legal institutions, including by improving the quality of judges, prosecutors, lawyers and court staff;
- (c) Capacity-building to strengthen national institutions for criminal investigation and law enforcement as well as providing equipment necessary for these ends;
- (d) Assisting assessment of progress in human rights issues;

7. *Encourages* the Government of Cambodia and the international community to provide all the necessary assistance to the Extraordinary Chambers in the Courts of Cambodia to bring justice for the most serious cases of violations of human rights in the country, which would ensure 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;

8. *Takes note* of the work conducted by the Special Representative of the Secretary-General on the situation of human rights in Cambodia and of the re-engagement of the Office of the United Nations High Commissioner for Human Rights with the Government of Cambodia;

9. *Decides* to extend by one year the mandate of the special procedure on the situation of human rights in Cambodia through the appointment of a special rapporteur to carry out the former functions of the Special Representative to the Secretary-General, and requests the Special Rapporteur to report on the implementation of his/her mandate to the Council at its twelfth session 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;

10. *Requests* the Secretary-General to report to the Council at its twelfth session on the role and achievements of the Office of the United Nations High Commissioner in assisting the Government and the people of Cambodia in the promotion and protection of human rights;

11. *Decided* to continue its consideration of the situation of human rights in Cambodia at its twelfth session.
