



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2004/104
16 January 2004

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixtieth session
Item 19 of the provisional agenda

**ADVISORY SERVICES AND TECHNICAL COOPERATION IN
THE FIELD OF HUMAN RIGHTS**

**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 describes the role and achievements of the Cambodia Office of the High Commissioner for Human Rights (OHCHR/Cambodia) from July to December 2003 in assisting the Royal Government and people of Cambodia to further the protection and promotion of human rights. It has been prepared pursuant to resolution 2003/79 adopted by the Commission on Human Rights on 25 April 2003.

During the reporting period, OHCHR/Cambodia continued to support the Special Representative of the Secretary-General for human rights in Cambodia in carrying out his mandate, and facilitated his tenth mission to Cambodia from 27 November to 6 December 2003.

An external evaluation of the Cambodia Office was undertaken in late October and early November 2003 to assess the impact and relevance of the Office's programmes, major human rights protection and promotion issues, possible developments as a result of the recent National Assembly election, and the complementarity of the Office's programme with other relevant activities of the United Nations. It was asked to make recommendations for the future role and structure of the Office. The mission concluded that the presence of the OHCHR/Cambodia represents a positive commitment of the international community to Cambodia, and that the continued existence of the Office in Cambodia is essential for fostering respect of human rights until conditions change to a satisfactory extent, and pending the development of effective and independent national human rights institutions. While some areas require more focus and improvement, it found that the Office's programmes contribute significantly to promoting human rights, particularly in the area of protection.

To assist the Government in meeting its international human rights obligations, OHCHR/Cambodia continued to monitor the general human rights situation, to investigate reports of violations of human rights, and to document patterns of such violations. It regularly brought its concerns to the attention of provincial and national authorities, requesting their intervention.

Activities of OHCHR/Cambodia's programme in connection with the National Assembly elections of 27 July 2003 over the reporting period included: protection work during the election campaign and in the months following the elections; providing information to the Government and the international community on the situation; working with local non-governmental organizations conducting election-related human rights monitoring and responding to their protection concerns; and assisting in the preparation of public reports issued by the Special Representative, the most recent of which he released in December 2003. The election programme will close at the end of January 2004.

To assist the Government in developing natural resource policies in a manner consistent with Cambodia's international human rights obligations, OHCHR/Cambodia has concentrated on an aspect of land policy about which there is little information in the public domain. The Office continued to study, through fieldwork, research and analysis, the effect of large-scale agricultural plantations on the human rights of populations living within or close to their boundaries, and the extent to which they have contributed to the development and economic and social well-being of the Cambodian people as a whole. Based on the findings, the study will make recommendations to relevant government authorities and to international agencies.

OHCHR/Cambodia continued to contribute to the legislative process and to the process of justice sector reform, through providing comments on draft laws, facilitating discussion amongst interested parties on legal policy issues, providing advice on legal issues, particularly on criminal justice process and procedure, and monitoring trials of concern in the court system. The Office continued its work on legal aid, through a study on legal representation. It has collected data in four courts, and has consulted with organizations providing legal aid in Cambodia in order to prepare a preliminary paper about access to justice for the poor.

OHCHR/Cambodia continued to support and to cooperate closely with Cambodian non-governmental and civil society organizations in carrying out their work in accordance with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. The Office was also active in the implementation of education and technical assistance and advisory services programmes.

The Office continued its work on economic and social rights. Because of the strong nexus between health and poverty, OHCHR/Cambodia began to undertake consultations and research on the right to health.

OHCHR/Cambodia continued its participation in United Nations and donor coordinating mechanisms, and in activities and meetings of the United Nations Country Team with a view to integrating human rights into national development processes, including the National Poverty Reduction Strategy, the Millennium Development Goals, and the United Nations Development Assistance Framework.

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 - 6	5
I. ASSISTANCE TO THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL	7 - 8	6
II. ROLE 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	9 - 55	7
A. General objectives	9 - 10	7
B. The evaluation mission	11 - 14	7
C. Protection of human rights: monitoring, investigation and reporting	15 - 17	9
D. Election programme	18 - 20	10
E. Study on impunity	21	10
F. The land project	22 - 27	10
G. Human rights in development, including economic, social and cultural rights	28 - 31	12
H. Rule of law framework	32 - 41	13
I. Regional office in Battambang	42 - 44	15
J. Human rights reporting obligations and implementation of recommendations made by treaty monitoring bodies	45 - 47	16
K. Educational, technical assistance and public information programmes	48 - 52	16
L. Cooperation and coordination with the United Nations system, donors and the diplomatic community	53 - 55	17
III. OHCHR/CAMBODIA STAFF AND THE FINANCIAL SITUATION OF THE UNITED NATIONS TRUST FUND FOR A HUMAN RIGHTS EDUCATION PROGRAMME IN CAMBODIA	56 - 62	17

Introduction

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

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

(b) Assist the Government of Cambodia, at its request, in meeting its obligations under the human rights instruments to which it is a party, including the preparation of reports to the relevant treaty monitoring bodies;

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

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

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

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

2. OHCHR/Cambodia also assists the Special Representative of the Secretary-General for human rights in Cambodia in the discharge of his duties, as mandated by resolutions of the General Assembly and the Commission on Human Rights.

3. The present report contains information on the role and achievements of OHCHR/Cambodia from July 2003 to December 2003 in assisting the Government and people of Cambodia in the promotion and protection of human rights. It has been prepared pursuant to Commission on Human Rights resolution 2003/79 adopted on 25 April 2003. Information about the work of OHCHR/Cambodia from January 2003 to June 2003 is contained in the report submitted to the General Assembly at its fifty-eighth session (A/58/268).

4. A memorandum of understanding for the implementation of a technical cooperation programme on human rights was signed by the High Commissioner for Human Rights and the Royal Government of Cambodia in February 2002, for a period of two years. The Memorandum includes the following areas of cooperation: the provision of continuing assistance to the Government in promoting and protecting human rights; the promotion of greater integration of the human rights dimension into education, health and other development programmes; the provision of technical support for the Government's reform programmes, including in the areas of administration of justice and the legislative process; encouraging the participation of civil society and promoting public education in democracy and human rights, especially in the domains of economic, social and cultural rights; and the provision, upon the Government's request, of technical assistance and advice in fulfilling its responsibilities, including submission of reports to meet its international human rights treaty obligations. During the tenth official visit

of the Special Representative of the Secretary-General on human rights in Cambodia, the Prime Minister made a pledge that the Government would renew the existing terms of the memorandum of understanding upon its expiry.

5. The Office's programmes are implemented in cooperation with a number of institutions with human rights responsibilities, including the Supreme Council of Magistracy; the courts; the Office of the Prosecutor General; the Royal School for Training Judges and Prosecutors, the Commissions on Human Rights and Reception of Complaints and the Commissions on Legislation of the National Assembly and the Senate; the Cambodian Human Rights Committee; the Department of Prisons; and with the Ministries of Justice, Interior, Land Management, Agriculture, Forestry and Fisheries, Women's and Veterans' Affairs, and Health. The Office also cooperates with a wide range of non-governmental organizations working on human rights, legal and development issues.

6. An external review of the role of the Office and its future programmes was undertaken in October-November 2003, with a view to making recommendations about the future role and structure of the Office.

I. ASSISTANCE TO THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL

7. During the reporting period, OHCHR/Cambodia regularly provided the Special Representative of the Secretary-General for human rights in Cambodia with information on issues of concern, in particular in the areas of: justice sector reform; the National Assembly elections held in July 2003; restrictions on the freedoms of expression, association and assembly; the excessive use of force by police; issues relating to corruption, disbursement and access to information; land and forestry issues; prison conditions and prison reform; impunity; police-court relations; legal aid; a range of criminal justice issues; a human rights-based approach to development and economic and social rights; and compliance with international human rights obligations.

8. OHCHR/Cambodia facilitated the Special Representative's tenth mission to Cambodia carried out in accordance with his mandate: to maintain contact with the Government and people of Cambodia; to guide and coordinate the United Nations human rights presence in Cambodia; and to assist the Government in the promotion and protection of human rights. The findings of this mission, undertaken between 27 November and 6 December 2003, are summarized in his report to the sixtieth session of the Commission on Human Rights (E/CN.4/2004/105), and a second report issued by the Special Representative on the National Assembly elections in mid-December 2003. The Special Representative's mission focused on the general political climate in the wake of the National Assembly elections, justice sector reform, ongoing problems in the criminal justice system, and the impact on human rights of natural resource policies and practices in Cambodia. He continued to discuss and promote a human rights approach to development, and began consultations on the right to health. The Office prepared comprehensive briefing papers for the Special Representative to facilitate his mission, and assisted him in the preparation of his reports to the General Assembly and the Commission on Human Rights, and his public reports and statements released in Cambodia.

II. ROLE 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. General objectives

9. The strategy of OHCHR/Cambodia combines a dual approach of working on immediate issues while pursuing the longer-term goal of helping to establish and strengthen institutions to safeguard and ensure future respect for human rights. Working jointly with others, the Office aims to contribute towards a Cambodian society based on respect for human rights under the rule of law, and the presence of a strong civil society that is able to operate in accordance with the provisions of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

10. Challenges include building an independent judiciary, creating adequate checks on the exercise of the executive power and effective mechanisms of accountability, and confronting long-standing problems of impunity and corruption which continue to impede efforts at reform. In addition to its work with Government institutions, the Office continues to work with non-governmental organizations and other civil society groups to promote policies and practices consonant with Cambodia's international human rights obligations, and to assist in their efforts to secure redress for victims of violations and on broader legal and policy issues with human rights implications.

B. The evaluation mission

11. An external evaluation of the Office was undertaken in late October and early November 2003.¹ Its principal aim was to take stock of the activities of the Office in order to assess their impact, relevance and efficiency, as well as to identify major human rights issues and make recommendations for the future role and structure of the Office. The mission met with a range of governmental and non-governmental actors, and representatives from international organizations and the diplomatic community. Field visits were also conducted to the regional office in Battambang, a fishing community affected by outside commercial interests, and a rubber plantation that is under study as part of the Office's project on large-scale agricultural plantations. The mission also visited the prison in Siem Reap. The report of the evaluation mission and its recommendations are internal to OHCHR and will be reviewed in early 2004 with a view to their implementation. The mission made a series of recommendations to restructure and improve the efficiency of the Office in relation to management, administration, staffing and related budget issues. The recommendations of an external United Nations audit of the Office that was undertaken in early December 2003, once they are available, will also be taken up as part of this process.

¹ The evaluation team consisted of Vitit Muntarbhorn (Professor of Law, team leader, Thailand), Peter Hellmers, (OHCHR/Geneva) and Raymond Fell (consultant, United Kingdom).

12. The mission reported that all those interviewed acknowledged the important role played by the OHCHR/Cambodia, and supported its continued presence in Cambodia, at least until the human rights context improves to a satisfactory extent. It concluded that the presence of the Office represents a positive commitment of the international community to Cambodia after decades of turmoil, that it acts as a “safety valve” or “watchdog” against human rights violations and as a check-and-balance against abuses of power, pending the development of effective and independent national human rights institutions for the promotion and protection of human rights. The mission found that the Office and its programmes are providing an enabling environment for the growth of civil society, especially non-governmental organizations that work in the field of human rights. The Office was found to “add value” in the field of protection and acts as a catalyst to nurture and support the human rights work of other actors, including public institutions and civil society, as well as acting as an intermediary to facilitate access by key actors - governmental and non-governmental - to external funding sources, and vice versa.

13. The mission’s recommendations include the following:

(a) It is essential to support and sustain the Special Representative’s mandate and the continued presence of the Office as the situation relating to human rights remains one of concern, bearing in mind Cambodia’s recent past and the international responsibility towards the Cambodian people;

(b) The protection role of the Office adds value to the existing human rights context in Cambodia, and should be maximized through increasing staff capacity, selection of cases illustrating key trends, adequate follow-up, policy and technical assistance, and clear criteria for action. The Office should offer protection to those in need, especially where others are unable or unwilling to act;

(c) The Office should continue to provide legal and other technical assistance aimed at promoting structural change and cooperation to benefit the Cambodian people. The Office should highlight the effective implementation of laws and policies responsive to human rights, and help to build the capacity of mechanisms and personnel for human rights promotion and protection at national and local levels;

(d) The Office should provide expertise on the relationship between the national system and the international system on human rights, and help to inform the national community about the recommendations of the human rights treaty bodies and special procedures established by the Commission on Human Rights, putting them into accessible and understandable forms. It should monitor the Government of Cambodia’s strategy and programme of action to reform the legal and judicial sector, which was adopted in June 2003, to assess implementation in conformity with Cambodia’s international obligations;

(e) The Office should continue to support civil society, including non-governmental organizations, as a vigilant force for human rights, and build bridges between human rights and development non-governmental organizations, while extending access beyond non-governmental organizations to local communities and their leaders;

(f) The Office should support intergovernmental organizations and others on human rights-based programming. It should raise new areas of concern such as the negative impact of globalization, in concert with other United Nations agencies;

(g) The role of the Office should be consolidated as a catalyst rather than as a funder, with the capacity to cross-refer and cross-link with other agencies as appropriate. The Office should promote sustained and balanced support for local actors, and nurture self-reliance;

(h) The Office should emphasize and encourage effective implementation of human rights obligations by government authorities and other partners, with equitable and timely resource allocation from the State. It should identify good practices and utilize them for structural reforms and sustained capacity to overcome negative practices; and

(i) The current memorandum of understanding between the Office and the Government of Cambodia should be renewed in its present form.

14. OHCHR agrees that it is essential to support and sustain the mandate of the Special Representative of the Secretary-General and that the continued presence of the Office is necessary. It welcomes the assurances provided by Prime Minister Hun Sen during the Special Representative's tenth mission to both the Special Representative and the director of the Cambodia Office regarding the Office's continued operation.

C. Protection of human rights: monitoring, investigation and reporting

15. OHCHR/Cambodia continued to monitor the human rights situation throughout the country, to investigate reports involving serious violations of human rights and document patterns of such violations. It regularly brought its concerns to the attention of local and national government authorities, and proposed means of redress. The Office also remained in regular communication with the judiciary, non-governmental organizations and the international community on these issues.

16. During the reporting period, the Office gave particular attention to investigating human rights violations in the context of the National Assembly elections of July 2003. In particular, it investigated a number of murders of persons affiliated with political parties. It also monitored restrictions on freedoms of assembly and association in the post-election period, and other reports of serious human rights violations.

17. OHCHR/Cambodia continued to receive complaints from the public about human rights violations, and took up serious cases, including cases of violence and intimidation of political activists; land disputes and land grabbing; torture and cruel, inhuman or degrading treatment in places of detention; and serious breaches of criminal process guarantees. Staff also followed the progress of cases involving those charged with offences relating to the anti-Thai riots of 29 January 2003 who were eventually tried in September 2003. Forty-seven persons who were found guilty of offences directly relating to the riots, were given prison sentences equivalent to time already served, and released. Two students, convicted of incitement and handed longer sentences, were released three weeks later, after being granted royal pardons. Charges remain against two journalists accused of incitement who are on bail awaiting trial. The Office followed up on previous work on street retribution (mob killings) and prison conditions,

continued to investigate unresolved cases and assisted human rights non-governmental organizations in the effective commission of their work. It also assisted national human rights defenders facing threats to their safety.

D. Election programme

18. Through the reporting period, OHCHR/Cambodia continued its programme in relation to the National Assembly elections held in July 2003 in order to promote a political climate free from violence and intimidation, and an electoral process administered by neutral State institutions. Three mobile teams continued to investigate reports of election-related human rights violations throughout the country and monitored the general political situation. The Kompong Cham election office continued to closely monitor the situation in the province, investigating serious cases, and requesting intervention by local and provincial authorities. The election programme is due to be completed by the end of January 2004.

19. OHCHR/Cambodia staff met frequently with representatives and staff of the National Election Committee to raise general issues of concern and specific case-related matters, especially about the handling of complaints of intimidation and violence in the context of the election, and the application of sanctions. During the post-election period, the Office repeatedly raised its concerns with the Ministry of the Interior, police and municipal authorities about restrictions placed upon freedom of assembly, and the excessive force used to disperse unauthorized demonstrations.

20. OHCHR/Cambodia continued to monitor law enforcement efforts and court proceedings in connection with several murders and suspicious deaths with possible political motivation, in addition to other forms of violence and intimidation against political party activists. It continued to develop a database to record reported human rights violations relating to the election. Staff held meetings with representatives of all major political parties, and provided briefings for diplomats, the donor community and international organizations. The Office continued coordination efforts with local election and human rights non-governmental organizations, hosting regular meetings to discuss issues of common concern. This cooperation extended to the provinces, with staff supporting non-governmental organizations on monitoring and investigation.

E. Study on impunity

21. The Office started a project in November 2003 to review and follow up on human rights violations that were the subject of action by the United Nations Transitional Authority in Cambodia in 1992 and 1993, as well as by the Office and the Special Representatives during the subsequent decade. On the basis of this review and an analysis of relevant political and legal developments, a report containing recommendations will be prepared. The Office will also develop a long-term strategy on how to effectively address impunity.

F. The land project

22. OHCHR/Cambodia continued its study of large-scale agricultural plantations - a term which includes both land concessions and rubber plantations operated by the State - to identify their effect on the human rights of people living within or close to their boundaries. The Office

continued to research, report, analyse and monitor the situation of the human rights of local populations. It conducted fieldwork in selected areas during the reporting period, and investigated and documented the situation of human rights in four land concessions in Phnom Srouch district, Kompong Speu province (owned by several companies: Cambodia Haining, CJ Cambodia and Aduok), one land concession in Kompong Chhnang province (Pheapimex) and in the Tumring rubber plantation.

23. Fieldwork has now been conducted in nine land concessions and one rubber plantation. Detailed research has been undertaken in three of these locations, including semi-structured qualitative interviews with local populations, activists, authorities and concession company representatives. Staff also conducted open interviews with non-governmental organizations at national and provincial levels, and met regularly during the course of the study with those involved in land policy and administration in Cambodia, including relevant government officials at both national and provincial levels, civil society and international agencies.

24. The study has also sought to identify the extent to which land concessions have contributed to the development and economic and social well-being of the Cambodian people as a whole, specifically in terms of their contributions to overall State revenue and to the livelihood of affected local populations. The Office collected data about existing concessions, and assessed compliance by concessionaires with both the Land Law of 2001 and the terms of the concession contracts. The Office has also sought to contribute to the process of drafting sub-decrees that are essential to implement the Land Law, most specifically the sub-decrees on the procedures for granting land concessions for economic purposes, and on the reduction and specific exemptions of land concessions exceeding 10,000 hectares.

25. According to information provided by the Ministry of Agriculture in February 2003, the Council of Ministers has approved 42 land concessions for agricultural purposes, covering over 800,000 hectares. In only 27 cases have the necessary concession agreements or contracts been executed with the Ministry. Since the Office began the study, 5 approvals for concessions were rescinded in August 2003 and 11 more cancellations have been foreshadowed by the Minister of Agriculture. However, no existing contracts have been terminated even when some companies are in clear breach of their contracts and Cambodian law. The Special Representative has recommended the cancellation of those contracts where the concessionaires are violating the law or are in serious breach of the terms of the contracts.

26. In undertaking this study, staff have had considerable difficulty in obtaining information relating to land concessions although this information concerns matters of significant public interest that should be in the public domain (such as the process for granting new land concessions, fees, contracts, shareholders, payment of deposit, fees and maps). Even where the Office was able to obtain access to the contracts, individual shareholders of relevant companies could not be identified. The difficulties in accessing this information have highlighted the urgency for more open administrative practices and policies to enable informed debate about land in Cambodia and better decision-making in the administration of land and the development of policy. There is also a need for a consultative process with local populations and a regulatory environment effective in monitoring the activities of the companies and ensuring compliance

with the law and the terms of the contracts. The Special Representative has also recommended the adoption of freedom of information legislation that permits scrutiny of executive action and encourages greater accountability. Several non-governmental organizations are now working on this issue.

27. The Office also investigated and documented disputes over land and other natural resources over the reporting period. They often involved disputes between local populations or fishermen and those with political and economic influence, including military officers and business interests. Detailed study of these cases has helped to document and raise recurring problems both in the management of natural resources, and the mechanisms for dealing with land disputes and related violations of human rights. At present, neither the Cadastral Commission structure, established in July 2002, nor the courts function effectively to resolve disputes involving land or to provide remedies for related human rights violations.

G. Human rights in development, including economic, social and cultural rights

28. The Office continued to advocate for national policies based on international human rights obligations relevant to areas such as urban development, health, the environment, poverty reduction and management of natural resources, and for international human rights norms to be fully integrated into the National Poverty Reduction Strategy and the realization of the Millennium Development Goals. The Office worked with development organizations to integrate human rights, specifically focusing on human rights obligations with a view to strengthening accountability.

29. OHCHR/Cambodia continued to cooperate with and support the work of non-governmental and community organizations advocating for economic and social rights. It prepared a note on the right to adequate housing to inform affected groups and their representatives. It raised concerns with the Phnom Penh municipality relating to the relocation and forced evictions of squatters and the urban poor in Phnom Penh, and intervened on several occasions to try to stop forced evictions.

30. The Office also focused on the right to health as a central issue, which was taken up by the Special Representative during his tenth mission. There is a strong relationship between poverty and health in Cambodia. People living in poverty do not have equal access to health care, often becoming indebted to cover medical expenses, which in turn adversely affect their living conditions. The Office continued to provide financial and other support to the work of the Fisheries Action Coalition Team, a non-governmental organization that promotes legal knowledge, networking and advocacy among fishing communities around the Tonle Sap Lake.

31. Staff are revising and updating a basic training course on economic, social and cultural rights which focuses on the right to health, education and housing, and to a basic livelihood.

H. Rule of law framework

(a) The judiciary and the administration of justice

32. OHCHR/Cambodia continued to monitor reform of the justice sector to facilitate the incorporation of international human rights law into domestic law and practice, and to better link the reform agenda to other areas of government policy such as the National Poverty Reduction Strategy and private sector investment that are dependent upon competent, accountable and transparent legal institutions. It advocated for structural reform of key institutions, such as the Supreme Council of Magistracy. The Office maintained a presence in the municipal court of Phnom Penh and continued its links with the appeal court and Supreme Court. It continued cooperation with the Battambang provincial court through its regional office, supplemented by regular visits by staff from the national office. In order to make more efficient use of resources, as well as to reinforce its office in the court of Phnom Penh (which has a caseload of 8,000 cases a year), the small office in the Sihanoukville provincial court was closed, with staff continuing to assist from Phnom Penh.

33. The Office continued to assist the courts to promote compliance with human rights standards and to address the many practices in the criminal justice system that do not appear to be sanctioned by law. Staff observed key trials of concern, including those relating to trafficking, torture, sexual violence against children, the anti-Thai riots of 29 January 2003, and the trial held in October into the murder of Om Radsady, a senior advisor to FUNCINPEC (National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia). In addition to cases at the Phnom Penh municipal court, the appeal court and the Supreme Court, the Office followed cases in the courts of Prey Veng, Kompong Cham, Kompong Speu, Sihanoukville and Battambang. The Office provided advice on due process rights and trial procedures, and addressed issues relating to legal representation and access to justice, seeking to facilitate contacts between accused persons and legal aid lawyers whenever serious cases were tried in courts without legal representation. The Office also monitored police-court relations.

34. A technical assessment mission by the United Nations Assistance to the Khmer Rouge Trials was undertaken in Phnom Penh in early December. The mission reached “substantial” agreement with the Government Task Force on several issues, including on staffing and the sequencing of work to prepare for the phased establishment of the Extraordinary Chambers, which will prosecute crimes committed during the period of Democratic Kampuchea under Cambodian law. The Office has continued to follow developments in Cambodia and has provided briefings about the human rights situation and the administration of justice. The Office sees its functions as being primarily those related to public education, with the possibility of also playing a role in monitoring the trials.

35. The Office met regularly with members of the judiciary, the legislature and Government officials to discuss juridical and broader policy issues relating to human rights in the administration of justice, including meetings with jurists, judges and prosecutors, the Council for Legal and Judicial Reform, the Supreme Council of Magistracy, officials from the Ministry of Justice and the Presidents of parliamentary committees. Topics of discussion included the independence of the judiciary; reform issues relating to judicial bodies and the legal profession;

security concerns of judges and court personnel; the backlog of cases within the court system; sentencing and the appeals policies of prosecutors. The Office also worked in close cooperation with non-governmental organizations working on legal and judicial reform issues.

36. Most recently, it has participated in consultations on the legal and judicial reform strategy document adopted by the Government on 20 June 2003. A series of workshops began in October 2003 to prioritize the Government's draft programme of action, which contains over 90 activities. The Office has welcomed the inclusion of a broader range of participants at this stage of the discussion, especially as a broad consultative process was not undertaken in preparing the strategy document. OHCHR/Cambodia has consistently advocated that the reform process needs to be more inclusive to obtain the broader support of the Cambodian people.

37. The failure of the Supreme Council of Magistracy to carry out its responsibilities in scrutinizing and safeguarding the independence and professional conduct of judges and prosecutors remains one of the obstacles to the effective functioning of the judiciary in Cambodia. Restructuring of the Council remains a priority in the reform agenda, and yet is not adequately dealt with in draft amendment bills on the issue. The Office has engaged a legal expert to help prepare an analytical paper to examine the current status of the Council and recommend appropriate measures for its reform.

38. In April 2003, the Office began consultations with the Bar Association, concerned authorities of the Ministry of Justice and non-governmental organizations involved in the provision of legal aid, in order to examine the state of legal representation in Cambodia. The Office also started a modest study of legal representation in four provincial courts in Cambodia. The initial phase was conducted in three courts located in provinces where legal aid providers are present (Sihanoukville, Battambang, Kompong Chhnang) and in one province where they are not (Prey Veng). Staff examined court registers and determined the total number of cases heard during 2001 and 2002; recorded the number of cases in which there was legal representation during those years; and disaggregated these statistics by reference to whether they involved felonies, misdemeanours or civil cases, and further by reference to the type of case. In civil cases, note was made of whether one or both parties was legally represented. Staff also conducted semi-structured interviews of judges and prosecutors and those involved in the provision of legal aid. A preliminary discussion paper will be produced on the basis of the findings of the study, and distributed in early 2004. It aims to depict the current situation with respect to legal representation before the courts and access to legal assistance more generally in order to assessing Cambodia's needs in ensuring access to justice for the majority of its citizens who cannot afford to pay for legal representation and advice. The Office hopes that this could offer a basis for developing a legal aid scheme to provide basic legal services for the poor and the possibility of a State-assisted legal aid fund, as has been established in other countries.

39. The Office also cooperated with the Royal School for Training Judges and Prosecutors, which began in November 2003, to ascertain how it can best assist the school in order to ensure that human rights are adequately included in the curriculum. The Office provided resource materials, arranged an address of the Special Representative to the student judges, and hopes to provide assistance to teach a specialized human rights component in the curriculum in early 2004.

(b) Assistance in the legislative process: drafting and implementation of legislation to promote and protect human rights

40. The Office continued to follow and advise on the drafting of legislation and regulations both to promote compliance with international human rights law and to improve the technical quality of draft laws, focusing on those laws that are directly relevant to its mandate and overall priorities. Laws that have been of particular interest include those relating to anti-corruption, the suppression of trafficking in human beings and sexual exploitation and sub-decrees relating to land and forestry. Staff continued to follow progress in the preparation of the Penal Code and the Code of Criminal Procedure (drafted with the assistance of experts from France) and the Civil Code and Code of Civil Procedure (drafted with the assistance of experts from Japan), all of which were recently submitted to the Council of Ministers. The Office has noted the importance of ensuring consistency between these foundation codes and the laws that are being passed in connection with accession to the World Trade Organization.

41. Legislative activity effectively stopped during the reporting period due to the failure to form a government in the wake of the elections. However, the Office has continued to promote a participatory law-making process, emphasizing a repeatedly raised but often overlooked concern regarding the need for consultation in the drafting process and for public scrutiny before the adoption of laws. It has also underlined the necessity of straightforward and accessible laws.

I. Regional office in Battambang

42. The regional office in Battambang covers the provinces of Battambang, Banteay Meanchey and Oddar Meanchey, as well as the municipality of Pailin, working under the supervision of the Phnom Penh office. During the reporting period, staff monitored and investigated complaints of violations of human rights related to the elections, making regular interventions with local and provincial authorities. This work was undertaken in close cooperation with non-governmental organizations, and through liaison with local and international election monitoring organizations. The office remained in regular contact with provincial authorities, such as the courts, police and military, throughout the reporting period.

43. The Office investigated sensitive cases involving alleged violations in isolated areas which local human rights groups have difficulties accessing, and in areas with systemic or widespread breaches of human rights. They also carried out routine monitoring in districts still dealing with the transition from military to civilian rule, linking this work with education and training efforts.

44. It also investigated and joined efforts to resolve disputes involving conflicts over natural resources, such as a long-standing land dispute in Koh Kralor district, and a conflict involving the Prek Chas fishing community, whose representatives face imprisonment and fines after confiscating illegal fishing equipment from a local merchant. The case is now before the court of appeal. During the reporting period, staff conducted several one-day training courses in economic, social and cultural rights for villagers and the local authorities, particularly in those districts affected by land disputes.

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

45. Cambodia is party to the six main international human rights instruments. OHCHR/Cambodia has been providing assistance in the preparation of treaty reports to the Government since 1994, and has assisted in the preparation of all initial reports. Since August 2001, the responsibility of drafting most reports has been entrusted to the Cambodian Human Rights Committee. Currently, Committee staff working on treaty reporting is divided into two subcommittees to prepare the initial report on compliance with the International Covenant on Economic, Social and Cultural Rights and the periodic report for the Committee on the Elimination of Racial Discrimination. The Cambodian National Council for Children has responsibility for preparing reports on the Convention on the Rights of the Child and for monitoring its implementation. The Ministry of Women's and Veterans' Affairs is responsible for reporting under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The initial report under CEDAW, which also encompasses the second and third reports, is now in its final stages and is expected to be transmitted to the Committee by the end of the year.

46. While not at the same level as in previous years, OHCHR/Cambodia will continue to help in the preparation of reports for the treaty bodies, through technical assistance, targeted training sessions, and relevant documentation and resource materials to help the Cambodian Human Rights Committee build a basic collection of resource materials on international human rights law and on domestic human rights issues. Working with Government institutions, international agencies and non-governmental organizations, the Office will now focus attention on promoting follow up to concluding observations made by the treaty bodies.

47. The Committee against Torture, at its thirtieth session in April/May 2003, considered Cambodia's initial report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was due in November 1993. However, no delegation representing the Government from Phnom Penh was present to respond to the Committee's questions. The Committee issued provisional conclusions and recommendations, asking for a response from the Government by the end of August 2003. The Office translated these conclusions and recommendations into Khmer and brought them to the attention of relevant Government institutions, including the Cambodian Human Rights Committee, the Director of the Prison Department and the co-Ministers of the Interior. In the absence of a Government response, the Committee adopted them as final at its thirty-first session in November 2003.

K. Educational, technical assistance and public information programmes

48. OHCHR/Cambodia, jointly with others, works to create an enabling environment for human rights work, including through public outreach and facilitating discussion and dialogue. For example, during the tenth mission of the Special Representative, it organized round-table discussions, bringing together people from the Government, non-governmental organizations, and donor agencies to discuss justice sector reform, health and land issues.

49. OHCHR/Cambodia has continued to provide training, legal and other technical advice to Cambodian non-governmental and community-based organizations in all areas of its work.

50. Human rights publications, laws and information materials continued to be distributed to the general public, non-governmental organizations, students and government officials. The Office and the Special Representative's reports and statements as well as resolutions of the General Assembly and the Commission on Human Rights were translated into Khmer as a matter of regular practice. Revised and first-time translations into Khmer of those international human rights instruments particularly relevant to Cambodia will be published in early 2004.

51. OHCHR/Cambodia is currently developing a web page to make reports of the Special Representatives and the Office, and information on the history and mandate of the Office and Special Representative, available to a wider public. The resource room of the Office is now being reorganized, including classification of material and use of technology with television, videotape player, and limited Internet access.

52. The Office liaised regularly with the media in Cambodia, with both the local English-language newspapers and the Khmer press and wire services.

L. Cooperation and coordination with the United Nations system, donors and the diplomatic community

53. OHCHR/Cambodia is a member of the United Nations Country Team (UNCT), and has provided to the members of UNCT, the World Bank and other relevant actors, information on the integration of international human rights norms and standards into poverty reduction strategies and the Millennium Development Goals in accordance with OHCHR draft guidelines on this topic.

54. The United Nations Country Team decided in September 2003 to take up human rights as an issue of shared concern, and the Office is participating in efforts to integrate human rights more fully into the work of UNCT and its member agencies. It is also contributing to the midterm review of the United Nations Development Assistance Framework and to advisory bodies on the Millennium Development Goals in order to promote the centrality of human rights and rights-based approach. One staff member is now working in dedicated fashion on these tasks.

55. The Office provided regular briefings for visiting and resident diplomats and international organizations and prepared regular reports for OHCHR Headquarters to meet the reporting requirements of the United Nations system. The Office also provided reports to the United Nations Resident Coordinator and donors where required.

III. OHCHR/CAMBODIA STAFF AND THE FINANCIAL SITUATION OF THE UNITED NATIONS TRUST FUND FOR A HUMAN RIGHTS EDUCATION PROGRAMME IN CAMBODIA

56. The Office implemented its activities through its main office in Phnom Penh, a regional office in Battambang, an election office in Kompong Cham, and small offices in the municipal court of Phnom Penh, and the Sihanoukville provincial court which was closed in September.

The management structure consists of the Director's Office, the Administration Unit, the Protection and Policy Development Team, the Legal Assistance and Education, Training and Information Units. At the time of writing, the Office had 32 national staff and 8 international staff members.

57. The Director's Office is responsible for policy and management, including coordinating support to the Special Representative of the Secretary-General, participating in the United Nations system, working with other international agencies and non-governmental organizations, and external and donor relations.

58. The Administration Unit provides personnel, administrative and finance services to the office and coordinates transport and logistics. It is also responsible for information management.

59. The Protection and Policy Development Team is responsible for conducting the election programme, investigating complaints of human rights violations, preparing thematic reports, and working with other units on issues relating to the administration of justice and impunity.

60. The Legal Assistance Unit is responsible for assisting in the judicial reform process, and working with the courts to help address deficiencies in the administration of justice. The Unit works with the legal profession and comments on selected draft laws to ensure compliance with the international human rights treaties to which Cambodia is party.

61. The Education, Training and Information Unit is responsible for public outreach, and education, training and advocacy to promote the implementation of economic, social and cultural rights. It also works with the Government, the United Nations Country Team, and intergovernmental agencies on a human rights-based approach to development.

62. The United Nations regular budget covered the operational expenses of OHCHR/Cambodia, including the salaries of 7 professional international staff members and of 16 national staff members. Voluntary contributions to the United Nations Trust Fund for a Human Rights Education Programme in Cambodia cover all other expenditures (including the salaries of staff members not covered under the regular budget). The Trust Fund is administered by the United Nations Office at Geneva.
