



**Economic and Social  
Council**

Distr.  
GENERAL

E/CN.4/2006/105  
24 January 2006

Original: ENGLISH

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COMMISSION ON HUMAN RIGHTS  
Sixty-second 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 the people of Cambodia  
in the promotion and protection of human rights**

**Report of the Secretary-General**

## Summary

This report has been prepared pursuant to Commission on Human Rights resolution 2005/77 which requested the Secretary-General to report to the Commission at its sixty-second session on the role and achievements of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in assisting the Royal Government and the people of Cambodia in the promotion and protection of human rights. The report covers the period from 1 January to 16 December 2005.

On 1 November, the Secretary-General announced his appointment of Mr. Yash Ghai as his new Special Representative for human rights in Cambodia, following the resignation of Mr. Peter Leuprecht on 31 October. Mr. Ghai undertook his first mission to Cambodia as the Representative of the Secretary-General from 28 November to 5 December 2005, which the Office facilitated.

Before he stepped down, Mr. Leuprecht completed a report tracing the forms and patterns of impunity which successive Special Representatives and other experts working under United Nations auspices had recorded since the 1991 Paris Peace Agreements. The report is part of an effort to encourage dialogue within Cambodia on the nature and impact of impunity and what can be done to end it.

OHCHR/Cambodia, ("the Office"), continued to monitor the overall human rights situation and political developments. It responded to reports of violations of human rights, regularly bringing its concerns to the attention of provincial and national authorities for their intervention and resolution, and undertaking case-related work in the courts. The Office gave first priority to problems non-governmental organizations (NGOs), groups and individuals defending human rights faced in the conduct of their work.

The Office continued to advocate for structural reforms of key institutions to guarantee an independent and professional judiciary, and worked with the courts to help address deficiencies in the delivery of justice. It also participated in developing key legislation with a view to ensuring compliance with the international human rights treaties to which Cambodia is party.

The Office followed up on the recommendations of the Special Representative's November 2004 report (see E/CN.41/2005/116, para.42) on land concessions for economic purposes from a human rights perspective, responded to problems that arose in some concessions, and monitored the continuing award of land and other concessions of Cambodia's natural resources.

During the reporting period, the Office gave particular attention to the right to adequate housing, and to preventing forced evictions especially in Phnom Penh. It facilitated the mission from 22 August to 2 September of the Special Rapporteur of the Commission on Human Rights on adequate housing as a component of the right to an adequate standard of living. It continued to support the governmental Human Rights Committee in finalizing Cambodia's initial report under the International Covenant on Economic, Social and Cultural Rights.

The Office worked with the Government, the United Nations Country Team, the Consultative Group for Cambodia and multilateral and bilateral development cooperation agencies, including non-governmental organizations, to help integrate and implement human rights standards in development policies and programmes.

OHCHR/Cambodia continued to cooperate with and support Cambodian non-governmental and other civil society organizations in carrying out their work in accordance with the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders).

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## Introduction

1. The field office in Cambodia of the Office of the United Nations High Commissioner for Human Rights (OHCHR), (“OHCHR/Cambodia” or “the office”), was established in 1993 at the end of the mandate of the United Nations Transitional Authority in Cambodia. The mandates of the Office and of the Special Representative of the Secretary-General for human rights in Cambodia were established by the Commission on Human Rights in resolution 1993/6 and elaborated upon in subsequent resolutions of the Commission and the General Assembly. They combine technical assistance and advisory services with monitoring, protection, and reporting on human rights.

2. The present report has been prepared pursuant to Commission resolution 2005/77. It provides an account of the role and achievements of OHCHR/Cambodia from 1 January to 16 December 2005. The Commission in resolution 2005/77 invited the Secretary-General, agencies of the United Nations system present in Cambodia, as well as the international community, including non-governmental organizations, to continue to assist the Government in ensuring the protection and promotion of human rights of all people in Cambodia. It asked the Government 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; address as a matter of priority the climate of impunity and enhance its efforts to investigate and to prosecute all those who have perpetrated serious crimes, including violations of human rights; strengthen its efforts to ensure the independence, impartiality and effectiveness of the judicial system; take steps to meet its obligations under international human rights instruments; combat key problems such as human trafficking, sexual violence, domestic violence and sexual exploitation of women and children; strengthen its efforts for resolving equitably and expeditiously land ownership issues in a fair and open manner in accordance with the Land Law; and to continue to create a conducive environment for the conduct of legitimate political activity, as well as to support the role of non-governmental organizations in order to solidify democratic development in Cambodia.

3. The renewed memorandum of understanding between the Royal Government of Cambodia and the High Commissioner for Human Rights for the implementation of a technical cooperation programme on human rights came into effect on 12 January 2005. It includes 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; and the provision, upon the Government’s request, of technical assistance and advice in fulfilling its responsibilities, including submission of reports in accordance with its international human rights treaty obligations; and the provision of advice and assistance to the Government and its civil society partners in establishing a national human rights institution.

4. The Office’s programmes in 2005 were implemented in cooperation with institutions with responsibilities for human rights, including the judiciary and the courts, the Ministries of Justice, the Interior, Land Management, Agriculture, Rural Development and Women’s Affairs,

and the governmental Cambodian Human Rights Committee. The Office cooperated with a wide range of non-governmental and community-based organizations working on human rights, legal and development issues.

5. The Office continued to be in transition throughout the reporting period pending completion of staff recruitment to fill international positions established as part of a restructuring of its programmes, in accordance with the recommendations of an external evaluation that was completed at the end of February 2004. One position had been filled at the end of September.

## **I. ASSISTANCE TO THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL FOR HUMAN RIGHTS IN CAMBODIA**

6. OHCHR/Cambodia assisted the Special Representative of the Secretary-General in carrying out his mandate to maintain contact with the Government and people of Cambodia and to assist the Government in the promotion and protection of human rights. The Office kept the Special Representative regularly updated on developments, provided briefings on specific issues of concern, and facilitated the preparation of public reports and statements.

7. Mr. Peter Leuprecht stepped down on 31 October after having served as the Special Representative of the Secretary-General since 2000. During 2005, he issued four public statements:

(a) On 7 February, following the lifting by the National Assembly of the parliamentary immunity on 3 February of the leader of the opposition Party, Sam Rainsy, and two other party members, Chea Poch and Cheam Channy, the Special Representative called for the restoration of their immunity and for the release of Cheam Channy, who was arrested later that same day and taken into military custody;

(b) On 5 July, he called for the cancellation of a land concession provided to the Wuzhishan L.S. Group in August 2004 to pilot a pine tree plantation in Mondulhiri Province, where the indigenous Phnong people constitute the majority of the population, and for no more concessions to be granted until legislation to implement the Land Law is adopted and in effect;

(c) On 16 August, the Special Representative criticized the outcome of trials held earlier in the month in the cases of murdered trade union leader Chea Vichea, who was shot dead in central Phnom Penh on 22 January 2004 (see para. 14 below) and of Cheam Channy, who was sentenced to seven years imprisonment by the Military Court, which lacked jurisdiction to try him (see para. 15). The Special Representative said that the criminal investigations and court hearings in both cases lacked any credibility. He reiterated his earlier calls for a thorough and credible investigation into the murder of Chea Vichea and for the prosecution of those responsible, and for Cheam Channy's immediate release. He also reiterated Cambodia's need for a trustworthy judiciary, and expressed concern that the courts were increasingly being used as an instrument of the executive to silence opposition voices;

(d) On 20 October, the Special Representative called for defamation and incitement charges to be dropped against radio journalist Mam Sonando and the President of the Independent Teachers' Association, Rong Chhun, and for their release. He asked for criminal proceedings to be dropped against Men Nath, Director of Cambodia's Independent Civil

Servants' Association, Chea Mony, President of the Free Trade Union of Workers of the Kingdom of Cambodia, and Ear Channa, Deputy Secretary-General of the Students' Movement for Democracy, as well as against Prince Thomico Sisowath. He appealed to the Cambodian authorities to honour their commitments under domestic and international human rights law (see para. 16).

8. The Special Representative issued two additional annexes to his November 2004 report entitled "Land concessions for economic purposes: a human rights perspective" on the impact on local populations of two private companies, Pheapimex Company Ltd. and the Wuzhishan L.S. Group.

9. The Special Representative completed a report on continuing patterns of impunity in Cambodia in October 2005. In his foreword to the report, Mr. Leuprecht said that overcoming impunity was perhaps the single most important undertaking facing Cambodia today, one which will require political determination and concerted effort from the Prime Minister and the Government of Cambodia, as well as commitment from multilateral and bilateral agencies that are assisting Cambodia and its people to build accountable institutions and a democratic and just society governed under the rule of law. The report draws extensively on the reports and recommendations of former Special Representatives Michael Kirby and Thomas Hammarberg, who fully associated themselves with the report in so far as it relates to their investigations, findings and recommendations during their respective mandates. The intention of the report is to encourage consultation and dialogue within Cambodia on the nature and impact of impunity and what must be done to end it.

10. The Secretary-General appointed Mr. Yash Ghai as his new Representative on 1 November 2005. Mr. Ghai undertook his first mission to Cambodia as Special Representative from 28 November to 5 December. His recommendations are presented in his report to the sixty-second session of the Commission on Human Rights (E/CN.4/2006/110).

## **II. ROLE OF THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS IN ASSISTING THE GOVERNMENT AND THE PEOPLE OF CAMBODIA IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS**

### **A. General objectives**

11. During the reporting period, the Office continued to follow a dual approach of working on immediate protection issues while helping to strengthen national institutions to safeguard and uphold respect for human rights under the rule of law, and to develop policies, laws and practices consistent with Cambodia's international human rights commitments. The Office worked to foster an enabling environment to advance respect for human rights, for non-governmental organizations (NGOs) and other groups of civil society to be able to carry out their work in accordance with the Declaration on Human Rights Defenders, and for Cambodia's citizens to participate knowledgeably and actively in the conduct of political and public life, and in decisions that affect their welfare.

## **B. Protection programme**

12. Through its protection programme, OHCHR/Cambodia continued to monitor the overall human rights situation and to regularly bring its concerns to the attention of national and provincial authorities. The Office gave first priority to cases where NGOs and activists encountered into difficulties with the authorities in connection with their advocacy work. It also acted in cases involving charges of defamation, disinformation and incitement, illegal arrests and other serious breaches of criminal process guarantees, torture and cruel, inhuman and degrading treatment or punishment, land disputes and illegal acquisition of land, violent forced evictions, and mob killings. The Office also monitored the situation of asylum-seekers from the central highlands of Viet Nam collectively known as Montagnards.

13. The Office was concerned about restrictions that continued to be regularly imposed on the freedoms of assembly, association and expression throughout the year. Permits for demonstrations and public gatherings in Phnom Penh and the provinces were routinely denied, and public forums and meetings were often disrupted. In some provinces, the authorities used new guidelines, issued by the Ministry of the Interior in June for the functioning of commune councils, to restrict and interfere with the legitimate activities of NGOs and communities. NGOs have asked for the guidelines to be reviewed and changed. The Government has also recently revived the idea of a law on NGOs and has asked the World Bank for assistance in redrafting it. It has also been in the process of drafting a new law on demonstrations, which came to public attention and the attention of the Office in late 2005. The present draft falls short on many counts. It will be essential for both laws to comply with the Constitution and with the provisions of international human rights treaties relating to the freedoms of association, assembly and expression. It will also be important to allow sufficient time for public consultation on both laws.

14. The Office observed the trial on 1 August in the Phnom Penh Municipal Court of Born Samnang and Sok Sam Ouen, who were found guilty of the murder of trade union leader Chea Vichea. They were sentenced to 20 years' imprisonment and ordered to pay compensation to Chea Vichea's family. The case was marked throughout by serious irregularities which the Special Representative drew attention to in public statements and in his report to the 61st session of the Commission on Human Rights (E/CN.4/2005/116). The prosecution failed to present any evidence linking the defendants to the crime, and disregarded fundamental principles of fair trial. The verdict caused widespread consternation. Chea Vichea's family refused to accept the compensation, called for continued investigation into the murder and for the prosecution of those responsible. King Father Norodom Sihanouk issued a statement in which he said that there had been a grave miscarriage of justice, which one day he hoped would be acknowledged. Other statements of concern included statements from trade unions and the Cambodian Human Rights Action Committee. The verdict is on appeal and the case is pending at the Appeal Court.

15. The Office also observed the trial in the Military Court of Cheam Channy on 8 August. The Court found him guilty of committing acts punishable under article 36 ("organized crime"), having organized an illegal army, and article 45 ("fraud") of the 1992 Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia during the Transitional Period (UNTAC Law), in connection with article 6 (3) and article 42 of the Law on Political Parties. Cheam Channy was sentenced to seven years' imprisonment. Under Cambodian law, the Military Court has jurisdiction only over military offences committed by military personnel,

and lacks jurisdiction to try a civilian. The conduct of the trial raised serious doubts about the impartiality of the court and the presumption of innocence. No evidence was provided by the prosecution to substantiate the charges. Cheam Channy decided in October not to appeal the verdict. His lawyers cited lack of trust in the justice system as the reason. The Office was permitted to visit Cheam Channy on a regular basis.

16. Other cases of concern taken up during the reporting period included those of Mam Sonando and Rong Chhun. Mam Sonando was arrested on 11 October and charged with defamation, and subsequently with disinformation, in relation to an interview on border issues conducted on 20 September on the Beehive radio station, which he directs. Rong Chhun was arrested on 15 October and charged with disinformation and incitement not leading to the commission of a crime, in connection with a statement issued on 11 October by the Cambodia Watchdog Council and signed by Rong Chhun and three other Council members, who were similarly charged. The statement criticized the border agreement between the Governments of Viet Nam and Cambodia, which the Prime Minister signed on 10 October during a visit to Viet Nam. Rong Chhun and Mam Sonando's requests for bail were denied, and the two remained in pre-trial detention in Prey Sar prison at the time of writing. The Office was eventually permitted to visit them in mid-November. Prince Thomico Sisowath, and later Dr. Say Bory, one of Cambodia's most eminent jurists and a former member of Cambodia's Constitutional Council, were also charged with defamation in relation to public positions they had taken on border issues.

17. The Office brought to the attention of the authorities several cases of activists working at the local level who encountered problems in their efforts to protect Cambodia's natural resources and the livelihoods of local communities. They included the cases of two forest community activists in Tum Ring commune, Kompong Thom Province, who came under serious threat in July 2005 from the head of a group of company security guards in Tum Ring, Kok Heang. Both victims sought safety outside Tum Ring. The Office asked the authorities to conduct a formal investigation and for the security guards to be disarmed in compliance with the sub-decree on the administration and control of the import, production, sale, purchase, distribution and use of weapons and explosives of all types.

18. The Office joined others in asking for a public inquiry into the deaths of five villagers on 20 March during a forced eviction in Kbal Spean, Poipet, a case which was also taken up by the Special Rapporteur on adequate housing as a right to an adequate standard of living, and also recorded in his report to the Commission. The Office also asked for an independent inquiry into a break-out from CC 3 prison in Kompong Cham on 23 March when, according to reports, 18 prisoners were injured and 17 prisoners were shot dead; their bodies were buried the following day, without an autopsy being performed. The director of the prison died in hospital two days later as a result of the incident in the prison compound, and the deputy chief of the prison department at the Ministry of the Interior was seriously injured. Seventeen prisoners were recaptured, of whom two later died, one reportedly from "over-eating". The full list of dead prisoners has not yet been released, and no public inquiry has been instituted.

19. The Office continued to press for an independent board of inquiry to examine the phenomenon of mob killings, as recommended on several occasions by the Special Representative. The Office recorded 14 such killings during 2005 on the basis of reports in the

media and from NGOs, a reduction compared with previous years. No arrests were made. Typically, the victims were suspected motorbike thieves, while other cases involved suspected theft of cows and chickens.

20. As part of an ongoing project to combat impunity, OHCHR/Cambodia continued to review and follow up on cases of unsolved murder and other acts of violence taken up by the United Nations Transitional Authority in Cambodia, and by the Office and successive Special Representatives. In November 2004, the Ministry of the Interior provided the Special Representative with a reply to a list of 178 selected cases that the Office had submitted to relevant authorities in February 2004 with a request that they review the cases and advise on the current status or outcomes of criminal investigations or judicial processes. The Office followed up on the Government's response in several cases, including those that had been sent to the courts. It also monitored law enforcement efforts and court proceedings in relation to several contract-style killings of known public figures carried out in Phnom Penh from early 2003 to May 2004, including labour leaders Chea Vichea and Ros Sovannareth, whose cases are also before the Committee on Freedom of Association, the International Labour Organization (ILO). The Office assisted the Special Representative with his report on continuing patterns of impunity. Translation of the report was completed in December, and the report was sent to relevant government ministries, welcoming their continued cooperation. Consultations on the report and its recommendations are planned as part of the Office's programmes in 2006.

### **C. Land and natural resources**

21. OHCHR/Cambodia followed up on the recommendations of the November 2004 report of the Special Representative on land concessions for economic purposes from a human rights perspective. It advocated for the adoption of key sub-decrees to implement the 2001 Land Law, and for no more concessions to be granted until these were in effect. The sub-decree on the procedures for granting concessions for economic purposes and for reducing existing concessions that exceed the 10,000 hectares stipulated in the Land Law was approved by the Prime Minister on 16 December 2005, as the present report was being finalized, but was not yet publicly available.

22. At the meeting of the Consultative Group for Cambodia in December 2004, the Government agreed to immediately disclose information on all concessions, including mining concessions and military development zones. At the request of donors, a meeting was held with the Prime Minister on 30 June to discuss lack of progress, during which donors underlined the need for a sound and transparent management of land and natural resources for Cambodia's social stability and economic growth. At the time of writing, no information had been disclosed on mining concessions and military development zones. Some additional information was provided on economic land concessions on the eve of a government donor review meeting on 12 December. However, the information has yet to be assessed and is not yet publicly available.

23. A government note issued shortly after the meeting with the Prime Minister stated that the Government had decided to permit continued granting of economic land concessions without waiting for the necessary sub-decree. In case of conflicts, the authorities would block disputed land pending their resolution, and thereby protect the interest of citizens. In case of disputes

between military units and citizens, priority would be given to citizens. On 1 July, the Government issued a circular permitting the granting of concessions of less than 10,000 hectares to investors who have already invested capital, subject to certain conditions.

24. According to information available to the Office information, during 2005 the Ministry of Agriculture signed seven new contracts with private companies and approved, but had yet to sign contracts for two others. The Office also received reports from NGOs of several other concessions in the pipeline, but was unable to confirm these. In all cases, contracts were approved without proper consultation with affected local populations, and the Office continued to meet considerable difficulty in obtaining basic information about concessions and concessionaires.

25. The Office followed several cases where community activists and villagers involved in land disputes with companies became the subject of court actions. Examples include a poor farmer who was arrested after protests in November 2004 against resumed activities in the Pheapimex company's concession in Pursat Province. He was charged with attempted murder after insulting a company official, and detained in Pursat prison for six months until his release in June 2005, when the case was dropped for lack of evidence. In December, three local community representatives trying to stop the Rattanak Visal company in Pursat from blocking a community stream were summoned to the court, following a criminal complaint filed by the company for destruction of property and incitement not leading to the commission of a crime.

26. OHCHR/Cambodia continued to monitor the impact of Pheapimex Company Ltd., which was given 318,000 hectares of land in January 2000 for a eucalyptus plantation in the north-west of Cambodia. Pheapimex suspended operations in its concessions in April 2005. The Wuzhishan L.S. Group, a joint Chinese-Cambodian venture with links to Pheapimex, was granted land for a pine tree plantation on 9 August 2004 in Monduliri Province, initially 10,000 hectares as a pilot project with a promise in principle of a further 189,999 hectares, subject to certain conditions. The local people were not consulted. During 2005, the company's operations, which impacted harshly on the livelihoods and culture of the Phnong indigenous people, provoked mounting protests which culminated in June and July when locals asked for the company to leave, and for the land to be returned. An inter-ministerial committee was set up in July 2005 to help resolve the conflict. At the time of writing, the conflict had not been resolved and representatives of the concerned communities have been under continuing pressure to agree to the concession. Wuzhishan continues its operations. A contract has yet to be signed, and the present size of the concession remains unclear. The Office intervened with national and provincial authorities on several occasions during the reporting period to ensure that protests were dealt with peacefully, and that non-governmental and community-based groups were able to function without interference and threats. In mid-August, the Office wrote to the provincial governor to draw to his attention chapter III of Cambodia's Constitution, which sets down the rights and obligations of Khmer citizens, including the freedoms of movement, assembly and expression, as well as relevant provisions of the International Covenant on Civil and Political Rights and the Declaration on Human Rights Defenders.

27. Successive Special Representatives have expressed concern that Cambodia's indigenous peoples are becoming ever more vulnerable to land confiscation and loss of their land. The Office received an increasing number of reports about land alienation and related reports of violations of human rights in Ratanakiri Province where indigenous people similarly make up the

majority population. NGOs have expressed mounting concern about the situation. Office staff participated in a workshop organized by NGOs in March to develop strategies to address this problem. The Office also received reports of the adverse impact of loss of land and access to natural resources on indigenous peoples elsewhere in Cambodia, for example the Suy indigenous people in Kompong Speu Province, who have been adversely affected by the operations of the New Cosmos company which was granted a concession for eco-tourism in Aural District in 2004.

28. In addition to his call on 5 July for no more concessions to be granted until relevant sub-decrees of the Land Law are adopted and in effect, the Special Representative also wrote to all provincial Governors asking for the registration of individual titles on State land eligible for indigenous collective title to be prohibited until relevant legislation is in effect. The International Day for the World's indigenous Peoples was commemorated on 9 August for the first time in Cambodia at an all day event organized by the Ministry of Rural Development with support from ILO and UNDP, at which representatives of indigenous peoples from throughout Cambodia participated and voiced their concerns. The Office made a statement on the occasion in which it underlined the special protections provided to indigenous peoples in international law, the provisions in the 2001 Land Law providing the right of indigenous people to collective title, and the need urgently to adopt the relevant legislation to give these effect.

29. The Office also responded to disputes over land and natural resources in the north-west of Cambodia in conjunction with its regional office, with a view to securing just solutions. The conflicts typically involve complex disputes between villagers and those with political and economic influence, including military officers and commercial interests. Detailed study of these cases has helped to document and raise recurring problems in the management of natural resources, and the mechanisms for dealing with disputes and related violations of human rights.

30. One such case concerned a dispute in Lovea District which involved a group of 112 families that had occupied the contested land since 1983 and 46 families that had bought the land in 1998 from soldiers who claimed it was theirs. Since neither party owns land titles, the dispute was being dealt with by the Cadastral Commission as the only institution that can take a preliminary decision on the use of disputed land until a solution is found. Notwithstanding, the provincial governor on 28 July 2004 granted the 46 families the right to use the land pending a final resolution of the case. Criminal charges were brought against 22 villagers from the 112 families in separate cases, including for rice theft and destruction and infringement of private property. In one case seven villagers were sentenced to seven years' imprisonment in March and September 2005, and have appealed their sentences. In another case, the Appeal Court in a hearing in July 2005 dismissed charges against nine villagers following a non-suit order by the investigating judge that the land dispute was being dealt with by the Cadastral Commission. They were released after most had spent more than seven months in pre-trial detention, although some have criminal charges pending against them in connection with another case. Criminal charges also remain pending against others from the 112 families. In October, the Ministry of the Interior issued an official letter invalidating the decision of the provincial governor. The Office made several interventions in this case, including letters to the Co-Ministers of the Interior, meetings with Ministry of the Interior and court officials, participation in meetings at the provincial Cadastral Commission, and hearings at the provincial court.

31. In February 2005, customs officials impounded 2000 copies of a report of the NGOs Global Witness, "Taking a Cut", which was issued in November 2004. The report documents illegal logging and corruption in Aural Wildlife Sanctuary. On 18 July, the Phnom Penh-based adviser to the organization was denied re-entry into Cambodia and his visa was revoked. Immigration officials confirmed that he had been banned along with four other international Global Witness staff - the director of Global Witness in Cambodia and three directors in London, where Global Witness is based. Global Witness closed down its operations in Cambodia in September.

#### **D. Rule of law and the justice sector**

32. OHCHR/Cambodia continued to contribute to efforts to reform the justice sector, focusing on Cambodia's need for an independent and professional judiciary, and the incorporation of international human rights norms and standards into domestic law and practice. The Office maintained a small office in the Municipal Court of Phnom Penh, continued its links with the Appeal and Supreme Courts, with the Battambang Provincial Court, through its regional office, and other provincial courts. The Office provided regular advice on due process rights and trial procedures to ensure compliance with human rights standards, and facilitated contacts between accused persons and legal aid lawyers whenever serious cases were to be tried without legal representation. Office staff met regularly with members of the judiciary, the legislature, the legal profession and government officials to discuss issues relating to human rights in the administration of justice. The Office also cooperated closely with NGOs working in the justice sector, and participated in the formal legal and judicial reform process through the Technical Working Group on Legal and Judicial Reform, one of 18 technical working groups established under the Consultative Group process.

33. The Office's work in this sector continued to face many difficulties, and the means to enforce rights guaranteed in the law and the Constitution remained limited. In many cases taken up by the Office, the judiciary continued to be subject to executive interference and open to corruption from interested parties. The Supreme Council of the Magistracy was not effective in discharging its responsibilities to safeguard the independence and professional conduct of judges and prosecutors. The Council's restructuring remained a priority on the reform agenda, but draft amendment bills have not adequately dealt with the problems.

34. The Office observed some 28 trials and court hearings during the reporting period. They ranged from high-profile trials, such as in the cases of the accused killers of Chea Vichea and the trial of Cheam Channy, to court proceedings against community leaders, trade union members and villagers protesting against loss of land and resources. Serious irregularities were recorded in most cases.

35. The Office monitored the "emergency campaign" of judicial reform announced by the Prime Minister on 3 March. In a letter to the Prime Minister on March 30, the Special Representative, while sharing the Prime Minister's concern about corruption in the judiciary, voiced his concerns about public criticism of members of the judiciary and letters denouncing named judges and prosecutors of the Phnom Penh Municipal Court, statements to the media on their culpability and orders issued by the Ministry of Justice to suspend two deputy prosecutors. He urged the Government to handle the allegations of corruption against judicial officials in accordance with the Constitution and the laws applicable in Cambodia. The Supreme Council of

the Magistracy, through its Disciplinary Council, was the appropriate body to discipline judges and prosecutors, and its disciplinary procedures should conform to established standards of judicial conduct and international standards of fair trial. The Council's composition should be changed to make it broadly representative and free from executive influence, and the Council should be empowered with increased jurisdiction to ensure the independence of the judiciary through the establishment of a fair and autonomous judicial service system. Its disciplinary committees must be enabled to maintain the dignity of the courts and honesty in the justice system through effective disciplinary measures. The Special Representative also underlined Cambodia's need for a sound Law on the Status of Judges and Prosecutors. He said that OHCHR/Cambodia and the Special Representative stood ready to provide or facilitate any assistance that might be required.

36. In June 2005, the Disciplinary Council of the Supreme Council of the Magistracy decided to dismiss one judge and one prosecutor, and to suspend two judges and one prosecutor, all from the Phnom Penh Municipal Court. The Supreme Council in July in plenary session upheld the decision. His Majesty the King signed a royal decree in August formalizing these decisions.

37. Trials were held in the Battambang Provincial Court in late November and the beginning of December of the three judges and two prosecutors on charges of corruption, and three clerks charged with bribery, also from the Phnom Penh Municipal Court. The verdict is due on 21 December, and was not available at the time of writing.

38. The Office continued to advocate for straightforward and accessible laws, a coherent legal framework with consistency between laws, and the conformity of all laws with the provisions of the international human rights treaties accepted by Cambodia. The Office focused on those laws directly relevant to its mandate and priorities. Little progress was made during the year in drafting key laws, save for the adoption of a law on domestic violence in September.

39. At the Consultative Group for Cambodia meeting in December 2004, the Government agreed that the Council of Ministers would submit the adopted drafts of eight laws essential to establishing the rule of law in Cambodia to the National Assembly before the end of 2005; that they would be consistent with international best practice, such as reflected in international human rights treaties; and that they would be prepared through a satisfactory participatory process. The laws, most of which have been on the agenda for the last decade, are the Penal Code; the Code of Criminal Procedure; the Civil Code and Code of Civil Procedure; the Organic Law on the Organization and Functioning of Courts; the Law on the Amendment of the Supreme Council of the Magistracy; the Law on the Status of Judges and Prosecutors; and the Law on Anti-Corruption. Of these laws, only the Code of Civil Procedure reached the National Assembly in July 2005 and is under review by the National Assembly's permanent commission.

40. The Council of Jurists returned a revised draft of the Law on the Organization and Functioning of Courts to the Ministry of Justice mid-year for further work. The Law will establish the basic structure for the court system in Cambodia, define the jurisdiction of each court, and establish the basic procedures for their functioning. The revised draft raised a number of concerns, including envisaging the expansion of the jurisdiction of the Military Court, providing it with the mandate to try civilians in cases that are related to "national security".

41. The Office continued to participate in efforts to address corruption and to promote access to information held by the public authorities. At the Consultative Group meeting in December 2004, the Government undertook to take concrete actions to fight corruption, attack its roots, and increase accountability. These included bringing reported cases of corruption, within existing law, before the courts for investigation and hearing; employing a consistent and strategic approach to the prosecution of corruption cases; collecting data to monitor progress; and enacting an anti-corruption law before the end of 2005 which would comply with international best practice, such as reflected in the United Nations Convention against Corruption. The existing draft falls short on several counts, including the need to provide the anti-corruption body envisaged in the law with an autonomous mandate to carry out investigations, as well as to provide immunity from civil and criminal prosecution for disclosing acts of corruption. No progress was made in undertaking preparatory work to establish a Freedom of Information Law, and the Government had yet to assign these tasks to any ministry or department.

42. The Office continued to maintain links with the Royal School for Judges and Prosecutors from which 55 students graduated in November 2005 from the School's first intake. Fifty-five students from the second intake will begin in March 2006. The Office also maintained working relations with the Bar Association's Centre for Training Lawyers. The Bar Association came into continuing difficulties during the reporting period, and its functioning and independence were undermined by a long-running and escalating dispute over the outcome of elections for the presidency of the Association following elections in October 2004 when the Bar elected an independent lawyer as its new President. The dispute has had unfortunate consequences, including the postponement of admission to the Bar of 85 eligible lawyers, as well as compromising the future independence and standing of the Bar.

43. The Office continued to maintain a watching brief on preparations for the trials of senior leaders of the Khmer Rouge and those most responsible for crimes committed during the period of Democratic Kampuchea. While progress was limited in 2005, preparations for the trials are expected to gather momentum in 2006.

#### **E. Cooperation and coordination with the United Nations Country Team**

44. OHCHR/Cambodia is a member of the United Nations Country Team (UNCT), and worked with other member agencies to help integrate human rights norms and standards more fully into country-level analysis and planning, and to implement human rights standards in development policies and programmes. The Office participated in the preparation of the United Nations Development Assistance Framework 2006-2010, which was signed with the Government in March 2005 and represents the UNCT response to national priorities. The areas of cooperation identified by the UNCT are good governance and the promotion and protection of human rights, agriculture and rural poverty, capacity-building and human resources development for the social sectors, and the development of the National Strategic Development Plan. Expected results of action include increased participation of civil society for the development, implementation and monitoring of public policies, improved public access to information, an effective and independent justice system, and a reduction in corruption.

45. The Office participated in regular meetings of the UNCT, including monthly and mid-monthly meetings of heads of agency. In February, the Office worked with UNESCO in organizing with the Ministry of Education a national workshop on rights-based education.

In April, the Office of the Resident Coordinator, with the support of UNICEF and OHCHR/Cambodia, organized a workshop on human rights-based approaches to programming for United Nations staff and national counterparts, including NGOs. The Office worked with ILO on issues relating to indigenous peoples and freedom of assembly and association. Four projects were selected in 2004 through the ACT (Assisting Communities Together) Project, a global initiative of OHCHR in partnership with UNDP. Grants of \$5,000 were provided to the Fisheries Action Coalition Team for environmental rights advocacy training for fishermen in three coastal provinces; to the Community Forestry Alliance for Cambodia to organize training on law, policy and advocacy for indigenous peoples; to Save Cambodia's Wildlife for training on forest law and access to forest resources; and to Khmer National Community Economic Development for a project to train fishing communities in Battambang Province on the importance of natural resources, their sustainable use, and advocacy for human rights. Final grant instalments were made to two organizations. All grants will be evaluated in 2006.

#### **F. International human rights treaties**

46. Cambodia is party to the six main international human rights treaties, most of which it acceded to in 1992. It signed the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in November 2001, and the first Optional Protocol to the International Covenant on Civil and Political Rights on 27 September 2004. The Office has advocated for the ratification of both Optional Protocols.

47. OHCHR/Cambodia has been providing assistance in the preparation of State party reports since 1994. Responsibility for drafting the majority of reports was entrusted in August 2001 to the governmental Cambodian Human Rights Committee, with the exception of the reports to the Committee on the Elimination and Discrimination against Women (CEDAW) and the Committee on the Rights of the Child (CRC). The reporting period saw progress in completing the initial report to the International Covenant on Economic, Social and Cultural Rights, the one outstanding initial report, which was due on 30 June 1994. Progress was also made in completing the periodic report under the Committee on the Elimination of Racial Discrimination (CERD), due on 28 December 1998. However, neither report had been completed at the time of writing. Cambodia's initial report under the Convention on the Elimination of All Forms of Discrimination against Women, which was completed in 2004, will be considered by CEDAW in January 2006. The Minister of Women's Affairs will lead the delegation. Representatives of NGOs will also attend. UNICEF is assisting in the preparation of Cambodia's periodic report under the Convention on the Rights of the Child, which was due in 2002.

48. The Office prepared for publication new and revised translations of the concluding observations and recommendations of the Human Rights Committee, CRC, CERD and Committee against Torture.

#### **G. Educational, training and public information programmes**

49. OHCHR/Cambodia works to promote better understanding of human rights and to foster an enabling environment for human rights work, including through public outreach, dissemination of information, and discussion and dialogue.

50. A new Office website was up and running by April with all public materials produced by the Office and the Special Representatives in Khmer and in English, as well as relevant United Nations and treaty body documents and resolutions. The website is linked to the UNCT website, as well as to the OHCHR website in Geneva, and with local NGO networks. The website has been visited frequently since it was set up.

51. A fourth edition of the Compilation of Laws in Khmer was published in September in 5,000 copies for distribution to governmental institutions throughout Cambodia, including commune councils, as well as to international agencies, embassies, and to national and international NGOs. Obtaining laws continues to be difficult in Cambodia, and there is no mechanism for their dissemination. There is therefore a strong demand for this publication. The Compilation contains laws and other legal instruments in force in Cambodia as of February 2005. Its purpose is to improve public access to legal documents and to assist the courts, the police, local government authorities, human rights organizations and others involved in the administration of justice. The Compilation includes revised translations of the international treaties to which Cambodia is party which are part of Cambodian law, as well as revised and new translations of other international instruments such as the Code of Conduct for Law Enforcement officials and the Basic Principles on the Independence of the Judiciary. Most of the translations were the result of a working group, established with the help of the Office, in which experts from appropriate governmental and non-governmental institutions participated.

52. Human rights publications, laws and information materials continued to be distributed to the general public, NGOs, 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.

53. An external consultant evaluated basic training courses on economic, social and cultural rights provided by the regional office. This was a pilot project targeting areas marked by disputes over land and natural resources. Participants have included villagers and local officials, including health, education and cadastral officials, commune counsellors and village chiefs, and police at commune and district levels. The Office will incorporate the consultant's recommendations into future programmes.

54. Special Representative Yash Ghai prepared a message to Cambodia's children and youth on the occasion of Human Rights Day which was widely disseminated in English and in Khmer. Office staff read the message at gatherings in Phnom Penh and Battambang to commemorate the day.

55. Office staff regularly participated in seminars and workshops, often acting as resource persons. The Office provided regular briefings for visiting and resident diplomats and researchers and representatives of international organizations. It liaised regularly with the media in Cambodia, both with the foreign language media and the Khmer press and wire services.

56. The Office prepared regular reports for OHCHR/Geneva to meet internal and public reporting requirements.

### **III. STAFFING AND ADMINISTRATION OF THE OHCHR/CAMBODIA**

57. OHCHR/Cambodia implemented its activities through its main office in Phnom Penh, a small regional office in Battambang, and a small office in the Municipal Court of Phnom Penh. Its management structure consists of the chief's office, a protection programme, a technical cooperation programme and the administration unit. At the time of writing, the Office had 18 national staff, including a United Nations volunteer, three international staff, and one Junior Professional Officer. Recruitment for three new international human rights officers was completed in October and they will be joining the Office in early 2006, when three new national staff will also be recruited to fill vacant positions. All local staff contracts were regularized and transferred to one-year fixed term contracts with UNDP on 1 July 2005.

58. The chief's office is responsible for overall policy and management. This includes coordinating assistance to the Special Representative of the Secretary-General, participating in the United Nations system, and external and donor relations.

59. The protection programme is responsible for safeguarding human rights through case-work, monitoring, research and analysis, and reporting on the human rights situation.

60. The technical cooperation programme helps to develop the institutional capacity, laws, policies and practices that are necessary to implement Cambodian law and international human rights agreements and instruments.

61. The administration unit provides personnel, administrative, financial, and logistical support, and serves as the security focal point.

62. The United Nations regular budget covers OHCHR/Cambodia's operational expenses, including the salaries of 7 international and 18 national staff members. Voluntary contributions to the United Nations Trust Fund for the Human Rights Education Programme in Cambodia cover all other expenditures, including substantive programme activities and the salaries of staff members not covered under the regular budget. The Trust Fund is administered by the United Nations Office at Geneva.

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