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经济、社会和文化权利

适足生活水准权所含适足住房问题特别报告员
米隆·科塔里的报告

增　编

对柬埔寨的访问* **

*　内容提要以所有语文分发。报告全文附于内容提要之后,仅以英文分发。

**　根据大会第 53/208 号决议 B 节第 8 段规定说明如下:本报告迟交是为了反映最新事态发展。

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内 容 提 要

特别报告员感谢柬埔寨王国政府批准他于 2005 年 8 月 22 日至 9 月 3 日访问柬埔寨，并欣见该国政府愿意更多地重视适足生活水准权所含适足住房问题。此次访问的目的是查看落实适足生活水准权所含适足住房问题的现况，包括供水和清洁卫生等相关服务、关于人类住区的公共政策、以及适足住房问题所牵涉到的性别问题和保护与特别报告员的任务有关的各项人权的相关法律。

此次访问是建立在人权事务高级专员办事处驻柬埔寨办事处(人权高专办驻柬办事处)和秘书长柬埔寨人权事务特别代表先前所作的与住房问题有关的工作基础上的。此次访问也是建立在上次于 2004 年 10 月对柬埔寨所作的研究访问的基础上的，在上次访问期间，特别报告员应金边市政府的邀请，参加了 10 月 4 日的世界人居日。

在特别报告员访问柬埔寨之时，柬埔寨正在根据法治建立民主机构方面面临着重要的挑战。他在访问期间发现，实施 2001 年《土地法》的失败和不遵守柬埔寨宪法是他所调查的各项问题和具体案例(如土地“交换”和强迫迁居)的主要根源。《土地法》需要通过关键的二级法令才能充分实施，由于这项法律得不到执行，而且没有适当考虑到得不到或没有能力得到适足住房的农村和城市贫民的权利和生计的国家住房政策和立法，因此，这影响了为成千上万个城市和农村家庭落实适足住房权的工作。

不过，特别报告员对非政府组织和金边市采取的一些行动感到鼓舞，如“柬埔寨住房和扶贫发展最佳做法原则宣言：促进从人权角度看待城市发展问题”(2005 年 10 月 4 日)。他还高兴地看到，金边市政府为城市贫民所作的工作，设立了一个市政府住房权利干事的职位，并努力拟订一项发展总计划并执行千年发展目标。继特别报告员的访问之后，他还高兴地注意到，政府于 2005 年 9 月 30 日通过了关于国家土地管理的二级法令。

不过，总的来说，特别报告员仍然非常关切柬埔寨全国的住房情况。他促请政府采取进步的措施，以便按照自己的国际人权义务，确保所有柬埔寨人都能得到适足的住房。

Annex

REPORT OF THE SPECIAL RAPPORTEUR ON ADEQUATE HOUSING AS A COMPONENT OF THE RIGHT TO AN ADEQUATE STANDARD OF LIVING, MILOON KOTHARI, ON HIS MISSION TO CAMBODIA (22 August-3 September 2005)

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Introduction

1. The present report is submitted in accordance with Commission on Human Rights resolution 2004/21. At the invitation of the Royal Government of Cambodia, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living undertook a mission to Cambodia from 22 August to 3 September 2005.

2. The Special Rapporteur met with a range of senior officials from the Ministry of Land Management, Urban Planning and Construction, the Ministry of Interior, the Ministry of Foreign Affairs and International Cooperation, the Ministry of Women's Affairs, the Cambodian Human Rights Committee, the municipality of Phnom Penh, and provincial authorities. He met with the United Nations Resident Coordinator, as well as representatives of the United Nations Human Settlements Programme (UN-Habitat), and members of the United Nations Country Team, including United Nations Children's Fund (UNICEF) and the United Nations Educational, Scientific and Cultural Organization (UNESCO). The Special Rapporteur met members of the donor community, and non-governmental organizations (NGOs) and local communities and their representatives as well as leaders of indigenous peoples.

3. In addition to Phnom Penh, the Special Rapporteur visited the provinces of Battambang, Banteay Meanchey, Siem Riep and Kompong Speu. In the capital, he visited Koh Pich Island, sites known as T85 and T86, the Bassac neighbourhood, the Monivong Hospital, the University of Fine Arts and the Moyou Vong Pagoda. In Banteay Meanchey, the Special Rapporteur looked into a forced eviction in March 2005 in Kbal Spean (Poipet), and visited the Kilo 4 community and families settled in the property of the National Agricultural Association. In Siem Riep, the Special Rapporteur looked into the housing situation of families settled along the Siem Riep river, cases of land "swaps" and the situation of the indigenous Kuoy minority. In Kompong Speu, he visited a rural village in Badoeung commune. He also observed the living conditions of floating villages and communities settled alongside rivers in Battambang and Siem Reap provinces and listened to testimonies in Pau Preay village.

4. The overall programme for the Special Rapporteur's mission was facilitated by staff of the Office of the High Commissioner for Human Rights in Cambodia (OHCHR/Cambodia), with the support of UN-Habitat. Many meetings were organized with the help of local organizations, especially members of the Housing Rights Task Force, a network of housing and human rights organizations which was established following a violent forced eviction in Phnom Penh on 9 January 2004. The aim of the Task Force is to prevent housing rights violations, especially forced evictions in Phnom Penh, by using a human rights approach. The Special Rapporteur would like to thank them for their help and dedication.

5. The Special Rapporteur's mission was informed by the reports and recommendations of the various Special Representatives of the Secretary-General for human rights in Cambodia to the Commission on Human Rights and the General Assembly. This report should be read in conjunction with their reports.[1]

6. The purpose of the Special Rapporteur's mission was to examine and report on the status of realization of adequate housing as a component of the right to an adequate standard of living,

including related services such as water and sanitation, public policy on human settlements, as well as on gender aspects of adequate housing and relevant legislation to protect human rights related to his mandate (with a view to promoting the incorporation of a human rights perspective at all levels of governance, policy-making and implementation).

7. Based on the provisions of legal instruments, the Special Rapporteur has adopted a working definition of the right to adequate housing as "the right of every woman, man, youth and child to gain and sustain a secure home and community in which to live in peace and dignity" (E/CN.4/2001/51, para. 8). Based on the notion that all human rights are interrelated and indivisible, he has adopted a holistic approach to his mandate, and has sought to explore linkages with other related rights - such as the rights to food, water, health, access to sanitation, work and property, the right to security of the person and security of home, and protection against inhuman and degrading treatment - in all of his activities, with a special focus on minorities and vulnerable or marginalized groups. The Special Rapporteur also focused particularly on women, pursuant to his mandate under Commission resolutions 2002/49, 2003/22 and 2005/25 on women's equal ownership of, access to and control over land, and the equal rights to own property and to adequate housing.

8. Recognizing the significant impact of long-lasting civil war and political instability on Cambodia and its citizens, the Special Rapporteur believes that the Government must act promptly to address the main obstacles compromising the living conditions of Cambodia's population, including access to adequate housing. Adequate housing, in accordance with general comment No. 4 of the Committee on Economic, Social and Cultural Rights (CESCR), should include: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy (E/1992/23).

9. Laws and practices concerning property ownership have a deep impact on the aforementioned elements of adequate housing. Pending legislation or unclear legal provisions concerning the differences between private and State property, transactions involving public property, land concession and collective property of indigenous lands, for example, result in a situation of uncertainty that impacts negatively on the right to adequate housing. The legal uncertainty adds to a context of corruption, a relatively weak judicial system, deficient mapping of State land and the fact that, owing to lack of legal awareness, many of those who could request formal ownership titles simply do not know the procedure to be followed or do not recognize its importance.

10. A fragile legal system in this socio-political context facilitates a number of irregularities. The Special Rapporteur is concerned that such irregularities may impact negatively on the habitability, accessibility and cultural adequacy of housing and may result in forced evictions and displacement. According to information gathered by the Special Rapporteur during his mission, the housing and land management system in place until recently was unable to appropriately address this situation.

I. INTERNATIONAL AND NATIONAL NORMATIVE FRAMEWORK FOR ADEQUATE HOUSING IN CAMBODIA AS A COMPONENT OF THE RIGHT TO AN ADEQUATE STANDARD OF LIVING

A. Obligations of the Government of Cambodia under the international human rights treaties

11. The Government of Cambodia acceded to the main international human rights treaties in 1992, including the International Covenant on Economic, Social and Cultural Rights (ICESCR) which explicitly guarantees adequate housing as a component of the right to an adequate standard of living. The Government has submitted initial reports under all these treaties save for its initial report under the ICESCR, which is expected in 2006. From 2001, OHCHR/Cambodia has assisted the Government's Human Rights Committee in preparing the initial report. It also assisted the NGO Committee on Monitoring Economic, Social and Cultural Rights to prepare a parallel report which was issued in September 2002. The report contains useful recommendations with regard to the right to housing, such as the use of landlessness as a poverty reduction indicator and the support of alternative income generation opportunities for displaced farmers.[2]

B. Adequate housing and the United Nations in Cambodia

12. The United Nations Centre for Human Rights (subsequently Office of the High Commissioner for Human Rights) in Cambodia and the mandate of the Special Representative of the Secretary-General for human rights in Cambodia were established by the Commission on Human Rights in 1993 and became operational in the same year, following the departure of the United Nations Transitional Authority in Cambodia (UNTAC).

13. Since the beginning of their mandates, both OHCHR/Cambodia and the Special Representative of the Secretary-General for human rights in Cambodia have received information and reported on cases of inadequate housing conditions, especially within their protection mandate. The former Special Representatives have repeatedly presented recommendations on urgent measures needed to address housing rights violations relating to the situation of children and women in slum areas, access to drinking water, health and sanitation, forced evictions, in particular of minority groups and in the border area of Poipet, relocation, resettlement and compensation (see in particular reports E/CN.4/2001/103, para. 67, A/56/209, paras. 23-32 and E/CN.4/2002/118, para. 81).

14. During 2001 and 2002, the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) provided the Ministry of Land with technical assistance in the area of low-income housing, which was later translated into a National Housing Strategy Paper. The initiative later resulted in an agreement between the United Nations Development Programme (UNDP), UN-Habitat, ESCAP and the Ministry of Land to formulate a national housing policy, which was recently approved by the Land Ministry. The document proposes policies in the areas of housing finance, institutional organization, standards for land development and building construction and development of housing programmes as an element of master plans.

15. The Special Rapporteur would like to acknowledge and support the work of the OHCHR/Cambodia and the Special Representative and clarify that his country mission builds on more than 10 years of United Nations fact-finding, monitoring and reporting activities in Cambodia.

C. The 1993 Constitution and 2001 Land Law

16. In addition to recognizing and respecting "human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women's and children's rights", the Cambodian Constitution recognizes the right to enjoy private land ownership.

17. According to the 1993 Constitution and the 2001 Land Law, no person shall be deprived of his/her ownership, unless it is necessary for the public interest. Whenever such deprivation takes place, it shall be carried out in accordance with the procedures provided by law and only after payment of just and fair compensation. These provisions are especially important in the protection of housing rights against forced evictions.

18. The 2001 Land Law establishes the distinction between State public and State private property. The law also sets forth the different legal regimes of private ownership (individual, collective, undivided and co-ownership). These regimes vary in accordance with "the requirements of the Cambodian society", such as urban immovable property, agricultural land, forests and land for construction of industrial development zones, among others. Each of these legal regimes shall be regulated by specific laws.

19. Ownership regimes anterior to 1979 are not recognized under the 2001 Land Law. The law provides for public ownership of all property that has not been the subject of private or collective appropriation or that is not privately or collectively owned.

20. With regard to private property, the law sets forth a mechanism to protect the land and housing rights of Cambodia's citizens, according to which possession rights over housing and land may lead to ownership. Any person enjoying peaceful, uncontested possession of a given property for more than five years acquires an *in rem* ownership interest, and can request a definite title of ownership over it.

21. Another important provision of the law concerning security of tenure is the recognition of lands traditionally occupied by indigenous peoples (for both residential and agricultural purposes) as the collective ownership of those communities. In principle, such provision should protect indigenous peoples against displacement.

22. The Ministry of Land Management, Urban Planning and Construction is responsible for the management of all immovable State property and for issuing ownership titles throughout Cambodia. The law also establishes a Cadastral Commission under the supervision of the Ministry of Land, which has the competence to identify properties, establish cadastral index maps, issue ownership titles, register land and inform people about the status of each parcel of land.

23. Article 15 lists the type of property to be considered the public property of the State. This detailed list includes any property allocated to render public services, including public schools and other educational institutions, administrative buildings and all public hospitals. However, there is still much confusion in relation to precisely what is considered to be State public versus State private land, even amongst officials. Such differentiation is especially important owing to the further provisions of the 2001 Land Law regulating the use and, more importantly, the alienation of the two kinds of State property. State public property cannot, in any circumstances, be sold or exchanged, while State private property can be privately possessed, owned and sold. The Sub-Decree on State Land Management, adopted in September 2005, provides further clarity by requiring that all State property be identified, mapped, and classified as either State public or private. This process must be diligently implemented to avoid further confusion and land alienation.

24. On 13 June 2005, the Prime Minister issued order No. 02 BB entitled "Order on Strengthening the Management of State Property" that appeared to bar exchanges of State public properties allowing for exchanges of land only if a State public property is by law made State private, pending adoption of the Sub-Decree on State Land Management. Circular No. 5 of 13 June 2005 on the Order No. 02 BB instructed all ministries and concerned institutions to comply with the Order pending the adoption of the Sub-Decree on Land Concessions for Economic Purposes which was adopted on 16 December 2005. The two sub-decrees together provide that before any further land concessions are awarded, all State public land needs to be classified, registered and delineated. Both sub-decrees now require the preparation and adoption of additional implementing regulations. Close monitoring will be necessary, given experiences from the past.

25. The land "swaps" that have taken place recently, including those witnessed by the Special Rapporteur, are reminiscent of the boom years of the early 1990s, when many old public buildings in the city centre were demolished for quick profit. Today, the land swaps incorporate at least the principle of exchange, although it seems that private economic interests are benefiting from the swaps to the detriment of the public interest. As noted, even prior to the adoption of the two sub-decrees mentioned above, many so-called swaps were undertaken ignoring previously existing provisions. Efforts will be needed to ensure that the new and more complicated procedures with respect to land concessions will be respected in practice.

II. HOUSING SITUATION: AN OVERVIEW

26. Years of civil war and conflict, followed by land grabbing on a massive scale, have exacerbated land disputes and skewed land ownership patterns to the disadvantage of the rural and urban poor. Land management systems have been unable to address a combined result of the absence of land records which were destroyed during the Khmer Rouge period, an undeveloped and non-transparent land registration system, the absence of cadastral index maps, inadequate land laws and procedures, unclear delineation of State land and the weakness of the justice system. Many of these problems persist.

27. As mentioned above, the Land Law of 2001 in principle created secure land and housing rights for Cambodia's people. In practice, it has remained difficult for the poor to exercise these rights for several reasons. These include the absence of key sub-decrees to implement the Land

Law, notably in the context of housing under State land management, lack of information on the content of the law, and inadequate implementation of the law by public authorities and the courts. This is particularly true in rural areas, but is also the case in urban areas, with the increase of population and rapid development of cities.

28. A draft national housing policy was approved at the end of 2004 by the Ministry of Land Management, Urban Planning and Construction. The housing policy includes proposed initiatives in the area of land tenure, including a short-term moratorium on relocations and evictions, upgrading of settlements on State property, regulatory measures to ensure access to basic services and adoption of a uniform building code. A pilot project was launched by the Ministry in Battambang province to ascertain the feasibility of the proposed policies. The draft housing policy is expected to be adopted as a sub-decree in the next two years. However, the draft does not take into consideration Cambodia's obligations under the International Covenant on Economic, Social and Cultural Rights, especially regarding the protection and promotion of the right to an adequate standard of living.

29. Because of the legislative vacuum and ineffective enforcement of existing laws, an increase in forced evictions and relocations and displacements of a large number of families can be expected in the near future. This could have serious implications on the human rights of Cambodian citizens. Reports and testimonies collected by the Special Rapporteur confirm this worrying conclusion.

A. Land exchanges or "swaps"

30. One of the currently prevalent forms in which public land has been sold in Cambodia is through land swaps. In such transactions, centrally located public lands are exchanged for plots in the outskirts of the city. The centrally located lands often house buildings that provide public services, such as hospitals, schools, sports stadiums and cultural centres. Large numbers of families had been deliberately settled by the Government in the 1980s and 1990s in and around these buildings. Land exchanges have in several cases led to the relocation of those families, often to areas lacking infrastructure and without access to water and sanitation. During his mission, several land exchanges were reported to the Special Rapporteur, mainly in Siem Riep and Phnom Penh.

31. In January 2005, the Phnom Penh municipal police headquarters was "swapped" for a new building to be built on land located in *khan* (district) Roussey Keo, 9 kilometres from Phnom Penh. The same month, New Hope Co. Ltd. agreed to pay for and build a new Ministry of National Assembly and Senate Relations and Inspection on formerly public land in Phnom Penh's Tonle Bassac commune. In February, the Ministry of Interior sold Monivong Hospital to the Royal Group - a conglomerate that controls the Cambodian Television Network and Mobitel mobile telephone company. In February, the Mong Reththy development company confirmed that it had made an agreement with the Ministry of Culture and Fine Arts to build a new arts campus in *khan* Roussey Keo, in exchange for the Royal University of Fine Arts (RUFA) on centrally located land. In March, the Council of Ministers confirmed the sale of the Polytechnic Institute to a private company. In May 2005, according to media reports, the Prime Minister endorsed a deal trading the Supreme Court, Appeals Court, Phnom Penh Municipal Court and Justice Ministry to the Mong Reththy Group in return for the construction

of a new building on land located in Phnom Penh's suburbs. However, this deal has yet to be confirmed, and the Special Rapporteur hopes that it will not go ahead.

32. During official meetings, senior public officials voiced the view that these property exchanges were vital for the development of urban centres and the renovation and expansion of public buildings, bearing in mind the lack of resources of the Government. The Special Rapporteur, however, considers that while creative solutions in partnership with the private sector can be considered in the absence of adequate public resources, these solutions should follow strict rules of public participation, public information, open bids for public contracts and procedures provided by the law. One major concern has been the overall lack of transparency. Land transactions have been made public long after the conclusion of the deals between the Government and private companies.

33. Most of the families affected by land exchanges have been living on State land for more than 10 years - building, upgrading and expanding their homes. In accordance with the 2001 Land Law, these families have property rights. Therefore, the loss of their property should have been at the very least subject to fair and just compensation. In practice, the rates of compensation offered by the private companies have been far under the market price and have been grossly inadequate. For example, the average compensation for Monivong Hospital and the Royal University of Fine Arts was less than US$ 20 per square metre when the market value is estimated at up to US$ 2,000 per square metre. In most cases studied by the Special Rapporteur, threats and intimidation have also been used to push families to accept very unfair deals.

34. Relocation sites - when offered - are normally located far from the city centre and from the former domicile. This has resulted in the loss of jobs and income, due to lack of access to, and costs of, transport. In addition, many relocation sites are not supplied with basic services, and temporary shelter has not been provided during the construction of the new housing units. In many cases, land exchanges have resulted in the indefinite interruption of these services, since the buildings in the original site were demolished before the construction of facilities in the new site.

35. According to the provisions of the 2001 Land Law, even with the State land management sub-decree newly adopted, land exchanges are illegal. The Prime Minister's Order No. 02 BB on Strengthening the Management of State Property affirmed that no exchanges of State public property should take place before the adoption of the State land management sub-decree. Many interpreted the order as being non-retroactive, affecting only exchanges that occurred after the enactment of the order. Since the adoption of this order, no land exchanges have been reported, whereas a considerable number were reported before its adoption. As the Prime Minister's order serves to reinforce extant requirements of Cambodian law, the Special Rapporteur believes that it, and the relevant provisions of the Land Law, should be enforced against all land swaps that occurred after the passage of the 2001 Land Law.

36. The cases of the Royal University of Fine Arts and the Monivong Hospital provide concrete examples of how adequate housing as a component of the right to an adequate standard of living is affected by land swaps.

1. The Royal University of Fine Arts

37. In 1984, the Ministry of Culture assigned officials to work at RUFA, with the purpose of managing its dormitory. Some families left their previous homes and were authorized to settle on RUFA's land. When the land exchange occurred, around 60 families (most of them headed by teachers at RUFA) were residing on that land. In February 2005, Mong Reththy, a well-known businessman in Cambodia, confirmed he had made an agreement with the Ministry of Culture and Fine Arts to build a new arts campus in Russei Keo district some 6 kilometres from the centre on the outskirts of the city, in exchange for the university's centrally located land near the old stadium.

38. On 31 March 2005, the community received a notice from the Mong Reththy Group Co. Ltd. informing residents that they had to leave their houses and would receive limited compensation. Although the Council of Ministers stated in a letter dated 9 February 2005 that the site would be given to the company when it had finished the construction of the new site, the company sent in workers and armed guards on 22 May 2005. Despite unresolved negotiations over the question of compensation, workers started cutting down trees. When the community representative tried to intervene, the team leader threatened to deploy armed guards. In April, the Mong Reththy Group agreed to pay US$ 700 to each of the more than 400 affected teachers, and offered US$ 2,000-4,000 to each family living in the building. According to the agreement, land titles and secure tenure were promised to the families if they accepted to move to the new RUFA site. However, such titles had not yet been issued at the time of writing. Under pressure, and with the presence of armed guards on the site, most families agreed to move. One family remained at the time of the visit of the Special Rapporteur.

39. During his visit to the site, the Special Rapporteur observed that all buildings, with the exception of three houses, had been completely demolished. Much of the rubble was spread around the house belonging to the remaining family that refused to move. Bulldozers were working a few metres away from their doorstep. Soldiers acting as security guards for the company guarded the site. Residents entered and left the property through a hole in the wall. The Special Rapporteur also visited the relocation site, located next to the new facilities of the university. The small plots are just a few steps away from a recently drained lake which still had water in it. No electricity, water or sanitary installations were available. The remaining water was used for washing and sanitary purposes. Some families were still living in tents while building their new homes.

2. The Monivong Hospital

40. Approximately 40 hospital staff and their families have been living in the police hospital premises since 1988, at the explicit invitation of government authorities. From 1988 to 1993, the Government reportedly placed approximately 100 families on the premises, most of them hospital staff, many having returned from refugee camps on the Thai border. At the time of writing, a total of 168 households were living on the premises, consisting of hospital staff, policemen and their family members. The families have improved houses and roads and installed drainage systems and clean water and electricity systems on the land. In 2000, residents formed the "Preah Monivong A-B Community" which was subsequently recognized by the

authorities and awarded a Certificate of Appreciation as a "standard community" by the municipality.

41. In February 2005, the Ministry of Interior traded the hospital's land to the Royal Group Company for redevelopment. The families concerned were not consulted. On 22 February 2005, the Ministry of Interior issued a letter advising residents to leave their dwellings and the hospital compound within 30 days or they would face eviction. Evictions did not take place at that time, but the community has been under threat of eviction on several occasions since then. On 20 September 2005, a meeting was held between representatives from the Ministry of Interior and 48 residents, most of them police officers from Preah Monivong A-B community. The Ministry offered each family a plot of land located some 20 kilometres from the centre, without access to basic services. The negotiations failed. Threats have been reported by the representatives. They have been told that if they do not accept the offer, they will lose their official positions or they will be evicted with force.

42. According to the 2001 Land Law, the hospital is clearly State public property, and thus according to law cannot be sold, exchanged or swapped. At the same time, the Government has a strong duty to respect its own commitments to those residents who moved to the site in previous years, and cannot deny that it at one time authorized the people to live there. Accordingly, the Government must provide for a solution that will allow the residents of the hospital grounds to be no worse off than they are in their current situation.

43. During his visit to the site, the Special Rapporteur took note of the wish of the residents to stay and upgrade their houses through land sharing. The Special Rapporteur supports this proposal as the affected families have been living there since the end of the 1980s.

B. Forced evictions

44. The Special Rapporteur collected a number of testimonies from communities threatened by forced evictions and families that have already been displaced by evictions. From such testimonies and documentation gathered, the Special Rapporteur could observe that eviction was commonly considered as the first and only option, not as a last recourse. In the majority of cases participatory processes, including consultations, were clearly insufficient. In the few cases where some negotiation actually took place, they immediately focused on compensation and relocation. Allegedly no prior notice or any other official communication is normally received before implementation of eviction orders issued by courts.

45. In relation to this, the Special Rapporteur would like to draw attention to the important role to be played by the judiciary in housing conflicts. According to testimonies received, the investigative procedures adopted by courts to ensure the legitimacy and legality of ownership titles are perceived as insufficient. Consequently, court decisions allegedly tend to favour those who have acquired titles illicitly, to the detriment of families who could possibly benefit from the 2001 Property Law provisions concerning ownership rights resulting from extended land possession and occupation.

46. Organizations litigating on housing cases identify another trend in ownership disputes: when civil cases are dismissed by the courts and sent to the Cadastral Commission,

criminal complaints are filed against the same claimants, based on article 247 of the Property Law - infringement against ownership - even though ownership is still being contested before the Cadastral authorities.

47. In Phnom Penh there are presently 19 official relocation sites spread out around the city. The average distance of the sites to central Phnom Penh is 10 to 15 kilometres. Distance to employment opportunities is still the biggest problem for relocated dwellers: residents report an average income reduction of 20 per cent after they are relocated to the urban periphery. In some areas, depending on the distance to the city and personal circumstances, the average decrease in income reaches 50 to 70 per cent, mainly as a result of increased transportation costs, the need to accept lower-paid work in the new location, or unemployment (Urban Resource Centre 2002, 26, 37). Another major concern remains the lack of basic services, particularly water, electricity and sanitation. Residents have to contract private services, which charge high rates, and this contributes to their overall income reduction. Most residents of relocation sites still have no guaranteed security of tenure, as promised before relocation.

48. Finally, the Special Rapporteur would like to draw attention to reports of threats and intimidations, as well as physical violence being used prior to or during forced evictions. Cases of threats and intimidation by local authorities and private developers leading to involuntary deals and relocation or resettlement were repeatedly brought to the Special Rapporteur's attention. A number of such cases allegedly involved the presence of military and police forces. Cases of physical violence seem to be more frequent in the provinces, especially in remote and rural areas.

49. The cases of Kbal Spean and the Koh Pich Island, both sites visited by the Special Rapporteur during his mission, serve as illustration of the situations described above.

1. Koh Pich Island

50. Koh Pich is an island in the Tonle Bassac river, around 68 hectares in size, in central Phnom Penh. In 2004, local officials, along with the real estate development company 7NG, began to pressure residents to leave the island, which is to be stabilized and redeveloped as a "satellite city". The Overseas Cambodian Investment Corporation, through Canadia Bank, is the principal investor in the project. During 2004, the island's more than 300 families, most of which are farming families who have lived there since the 1980s, were initially offered a small amount of money (around US$ 2 per square metre) and resettlement on marginal land in Kandal province. According to reliable reports, residents were verbally and physically threatened to make them accept this arrangement. The amount offered was much lower than market estimates and the relocation sites were unsuitable. Fearful and facing intimidation, many left the island, but over 100 families decided to stay. On 6 December 2004, these families were served with a 30-day eviction order by the Phnom Penh municipality. According to the municipality, Koh Pich is State property and the residents have no legal rights. The residents vigorously disagree with this assertion. Intense negotiations between the families' representatives and the municipality began in January 2005. The eviction deadline passed without incident, although there were incidents of intimidation from authorities, such as stationing of military police on the island, and seizure of the ferry that connects the island to the mainland.

51. In July 2005, after intense negotiations, many of the remaining residents, primarily those from the southern portion of the island, accepted an offer of compensation far below market rate and left the island. However, many residents on the northern portion of the island, with stronger legal claims to their land, remained. In August, the municipality filed two complaints alleging that the residents were illegally occupying the island, and requested an injunction order from the court to evict the remaining residents. In court, the representatives of the families requested that the hearing be open to the public so that affected residents could participate in the hearing. The judge refused and the representatives left the hearing in protest. The court issued the injunction to evict in absentia. Legal analysts have criticized the legal procedures utilized against the residents for three reasons. First, the court has no jurisdiction to hear this case. Under Cambodian law only the Cadastral Commission has competence to hear this case because the lands in dispute are unregistered. Second, the use of the injunction to evict the families from the island is contrary to Supreme Court instructions on injunction hearings. Finally, because the families have strong legal claims under the 2001 Land Law, this decision implies a serious violation of those rights ensured in both the Constitution and Land Law of Cambodia.

52. At the time of writing, all but three families, who are asking for US$ 25 per square metre, have agreed to resettle. Most families have received between US$ 10 and US$ 12 per square metre, well below market value, but more than the original offer. However, the Special Rapporteur has also received reports according to which the municipality and the Canadia Bank have required each resident to sign a contract indicating that the agreed settlement was significantly less, allegedly in order not to set a precedent in respect of compensation amounts. The Special Rapporteur hopes that a satisfactory agreement will be made soon with regard to the remaining families, in due respect of international human rights standards.

53. In spite of recent agreements with respect to Koh Pich and the efforts of some officials to develop a pro-poor urban policy at the municipality of Phnom Penh, this case is a good example of corruption in the recent rash of development projects around the capital. These projects seem to be dictated by financial interest and political expediency. As explained above, the Phnom Penh court has misused the law to serve the interests of the powerful. As a result, communities - without being consulted - have been forcibly relocated through the use of threats and intimidation. The Special Rapporteur takes this opportunity to express his support and appreciation to the Community Legal Education Center's Public Interest Legal Advocacy Project (CLEC-PILAP) and other non-governmental organizations and their staff working on this case since January 2005.

2. Kbal Spean

54. A land dispute started in 1998 between a community of 218 families - some of which had lived in Kbal Spean since 1997, and others bought their plots from persons who had occupied the land since 1997 - and a village chief who filed a complaint with the Banteay Meanchey provincial court to claim ownership of the land. The provincial court granted ownership to the village chief, based on an allegedly invalid title. On 27 February 2001, the Appeal Court reaffirmed the court's decision despite several complaints of irregularity in the handling of the case. There were three attempts to evict the community after the Appeal Court decision. The final attempt took place on 21 March 2005, when at least 120 military police, district police and provincial police surrounded the village. The operation resulted in five deaths, many injuries,

the burning down of houses and the destruction of private belongings. The villagers stated they had not been officially informed about the eviction. Following the destruction of their houses they moved to a nearby location, but moved back to Kbal Spean in April 2005 when no alternative housing acceptable to them was provided. The community has been offered relocation to a site approximately 4 kilometres from Kbal Spean, but has refused. According to the villagers, the proposed site is too far from the border with Thailand, from which they earn their daily livelihoods.

55. Some of the authorities involved in the March 2005 eviction were taken to court over the death of the five villagers, but the charges against them were dropped by the Battambang Provincial Court in August 2005 owing to lack of evidence. The Special Rapporteur observed that there has been no adequate response from the Government in finding those responsible and in responding to the villagers' entitlement to effective remedies. The case also shows the subservience of the courts and the need for an independent investigation. The case is on appeal and according to recent reports in the media, the General Prosecutor of the Court of Appeals may reopen the case, a step which the Special Rapporteur would welcome.

C. Phnom Penh (2000-2005)

56. In Phnom Penh, the housing situation is similar to that of other cities in the region. The rate of population and economic growth can be compared to that of Hanoi. In 2004, Phnom Penh had a population of 1,313,851 compared with 1,039,607 in 1998. Based on statistics from the First Revision of Population Projections for Cambodia 1998-2020, conducted by the National Institute of Statistics, in 2020 the population of the capital will represent 10.5 per cent of the total population of Cambodia, compared with 9.8 per cent in 2008 and 8.5 per cent in 1998. The projected net migration to Phnom Penh from 1999 to 2020 is 21,834 persons a year.[3] The speculative game of public authorities and economic actors is analogous to the one played in Bangkok in the 1970s and in Kuala Lumpur in the 1980s: dilapidation of the public domain, weak regulation of the land and estate markets, tacit agreements between economic actors and public administrations.[4] One of the biggest problems is that the main political and economic actors are also the main land and estate speculators. Therefore, it becomes difficult to determine sustainable objectives for the development of the city. The urban poor are the primary victims of these dubious practices.

57. Some positive developments that started in the mid-1990s have been hindered by the burning of houses where large communities were living, such as in the Bassac in 2000 and 2001, and the rooftop community of Bloc Tanpa in 2002. These tragic events led to the public announcement of a major policy change by the Prime Minister on 24 May 2003, just before the national election of July 2003. In 2003, the Solidarity for the Urban Poor Federation estimated that 569 urban poor communities equivalent to 62,249 households (374,836 people), were living in Phnom Penh, which represented 35 per cent of the total population in the capital. The Prime Minister announced a policy to provide secure land tenure and to assist in the on-site upgrading of 100 inner-city poor communities each year for the coming five years, until all of Phnom Penh's urban poor communities have secure land tenure and full basic services. Since the Prime Minister's significant announcement there has been no systematic, large-scale programme to tackle slum upgrading in Phnom Penh. An important opportunity has been lost to give many thousands of families secure tenure. There have been several smaller upgrading

initiatives involving infrastructure upgrading and organizing savings groups (through various projects, including UN-Habitat and Urban Poverty Development Fund), but nothing on a larger scale that also formalizes land rights. In addition, the "upgrading" policy should also be assessed in the light of the number of communities that have actually been "downgraded" through forced evictions and involuntary relocations and resettlement.

58. In July 2005, the press reported that construction in Phnom Penh was booming. In 2004, 911 construction permits were issued, compared with 671 in 2000. In 2004, 8,879 new housing constructions were approved, compared with only 1,182 in 2000.[5] As land and real estate became the top sectors of investment before tourism and industry, a new wave of land speculation began to impact dramatically on housing prices.

59. Land disputes have therefore increased and the prospect for the violation of housing rights and forced evictions of vulnerable groups, especially urban poor, is growing. Between 2000 and 2005, 6,810 families were forcibly evicted in Phnom Penh according to the cases documented by the Housing Rights Task Force. This figure is an underestimation, as all cases have not been documented during the period 2000-2003.

60. The municipality of Phnom Penh began the preparation of a master plan of the city for 2020 in October 2002 following circular No. 2 of the Council of Ministers adopted on 15 January 1996. The coordination of this work was given to the *Bureau des Affaires Urbaines* of the municipality with the participation of the Office of the Governor, municipal departments, *khans* and Sangkat. NGOs and urban communities were not associated with this work. The objective of the master plan is to propose a framework for urban planning and to give new impetus to an urban development that corresponds to the exigencies of urban growth. The master plan will not become a public document until it is approved by the Government. As concerns have been expressed by NGOs and representatives of the urban poor on the lack of consultation, during a workshop on 29 August 2005 the Special Rapporteur with the municipality and UN-Habitat explored ways and means of making this important process more consultative in order to better respond to the realities faced by the urban poor. Following the Special Rapporteur's proposal, the municipality agreed to further engage in a dialogue with civil society and the urban poor on the master plan through public consultation.

III. ISSUES OF PARTICULAR CONCERN

A. Main trends

61. According to information collected by the Special Rapporteur, the following trends have been identified:

- *Eviction from private land.* The rapid development of Phnom Penh can be expected to lead to an increase in disputes in the near future. For the year 2004, 10 disputes that led or could lead to forced evictions were reported by the Housing Rights Task Force. This trend is reinforced by the current land exchanges;

- *Forced evictions ordered by the court*. Forced evictions ordered by the court appear to be on the rise. One trend is that some evictions are being conducted in violation

of the law on the basis of interim injunctions, such as the case of Koh Pich. Another trend is the shift from civil cases to criminal cases. Claimants file complaints for criminal offences against communities under article 247 of the Land Law. This method is especially used when the land is not titled. According to the Land Law, the Cadastral Commission has jurisdiction to determine property ownership in the absence of title. However, the process can be very slow and uncertain because of the current Cadastral Commission dysfunction. The criminalization of these cases is used by claimants and their legal representatives to speed up legal proceedings and to intimidate vulnerable families;

- *A rise in intimidation and threats*. The main trend today is the use of threats and intimidation by local authorities and private developers leading to dubious deals and involuntary relocations or resettlements without fair and just compensation. This includes the use of military police and police forces, the threat to use force, the use of misinformation and rumours, incrimination of representatives for being "political", or for committing criminal offences as well as limiting access of affected families to their houses and discouraging villagers to organize meetings. The use of threats and intimidation was reported by the Housing Rights Task Force in nine cases for the period 2004-2005 in Phnom Penh, including Koh Pich, the University of Fine Arts, Monivong Hospital, Bassac community and national road number 1;

- *Development of urban infrastructures*. The enlargement of roads and other infrastructure projects risk resulting in involuntary relocations in and around Phnom Penh in the near future. According to UN-Habitat Phnom Penh, 4,771 poor families (53 communities) will be affected by the development of roads, canals, lakes and railway lines in seven *khans* of Phnom Penh during 2005 and 2006. This figure may understate the true number of cases according to other information received by the Special Rapporteur;

- *"Beautification" of the city*. Every year in November, during preparations for Cambodia's Water Festival, the Phnom Penh police forcibly pick up the homeless, beggars and street children and send them to the Social Affairs Center near Wat Pry Speu where they are arbitrarily detained. Such "street cleansing" happens at other significant times of the year. The Council of Ministers adopted a sub-decree in October 2005 creating a national committee for resolving vagrancy. Headed by the Ministry of Social Affairs, the Committee will have the authority to clear around 1,800 vagrants each year from the streets of Phnom Penh. Homeless people, beggars and children will become subject to arbitrary interference with their privacy, family and homes, as well as to arbitrary detention and violations of their freedom of movement.

B. Poor standards of living

Urban areas

62. The majority of low-income neighbourhoods visited by the Special Rapporteur had no access to water, electricity and sanitation. Because of the lack of access to public utilities, many

turn to private companies, which charge considerably higher rates. The provision of services by private companies sometimes fails to follow minimum safety standards. In slums located in central Phnom Penh, electrical installations seem precarious, with low cables hanging over crowded streets. Sanitary conditions in those areas are also extremely poor, with open-air sewage and refuse spread under and around houses. This situation is especially disturbing in view of the annual floods, which exacerbate the risks of outbreaks of disease.

63. The high population density in slums has become a safety concern. Small housing units are often home to more than one family and the number of housing units in some neighbourhoods is considerably high. A possible measure to address this situation is the upgrading of slums. Four upgrading projects in Phnom Penh were announced by the Prime Minister in May 2003: Borey Keila, Dey Krahom and Roteh Ploeung A (Santipheap) and B. The Special Rapporteur visited Borey Keila, which is intended to benefit 1,776 families. The Government has approved a plan whereby a private company, Phan Imex, will construct 10 six-storey apartment buildings for the residents and, in return, will receive the right to develop commercial units covering approximately 20 per cent of the site surface. The construction of three of the buildings started in July 2004. Some residents interviewed by the Special Rapporteur seemed to be satisfied. If carried out with the full involvement and agreement of the affected population, similar public-private partnerships could be an effective strategy to address the poor living conditions in slum areas. The Special Rapporteur, however, would like to urge the authorities to investigate complaints of flawed consultative and participatory processes in Borey Keila, all the more so in view of similar complaints in relation to slum upgrading projects in Dey Krahom and Roteh Ploeung A and B.

64. While slum upgrading projects, when implemented in accordance with human rights standards, can be a positive step towards addressing the precarious situation of people already living in slums, preventive measures are needed, through the development of sound housing policies, in order to avoid the creation and proliferation of slums in urban areas. Both short- and long-term action plans and comprehensive citywide strategies are needed which include provision of basic services, flood prevention and identification of housing alternatives that will not only enable those relocated to sustain their livelihoods but also create adequate housing for slum-dwellers.

Rural areas

65. The almost complete lack of public services is a main concern in rural areas. During the Special Rapporteur's mission, while lands alongside main rivers were entirely flooded, many rural areas distant from larger water flows were suffering the effects of unusually sparse rain. Because of the long drought, families in rural areas had been unable to cultivate the land; even rice fields were unproductive, aggravating the situation of poverty in those areas. This situation is not new and has led many families to send their children, especially young women and teenage girls, to the cities to find jobs, for example in the garment industry.

66. Families in rural areas also reported increasing land speculation. According to testimonies collected by the Special Rapporteur, with Cambodia's increasing stability, land that until recently had no market value is being bought by outsiders at low prices and left untouched. Some urban planners affirm that these areas will benefit in the near future from State-led

development projects which will significantly increase their market value. Owing to the drought, many families reported that they had been compelled to sell their land to obtain money for food and other basic expenses. It is common in Cambodia's rural areas for families to use two plots of land: one where they live and another for farming. When families sell their land in the circumstances described above, they normally sell their farming plot. Therefore, land speculation has not caused, so far, massive displacement. In the long term, however, the selling of agricultural land may significantly compromise those families' livelihoods and lead to further rural exodus.

C. Indigenous people

67. The Special Rapporteur met with representatives of indigenous peoples from different ethnicities (Jarai, Phnong, Suy, Kuoy, Tampoen, Kreung) coming from different provinces. Based on the findings of his mission, the Special Rapporteur would like to stress that land concessions,[6] logging, mining and other large-scale development projects[7] in areas previously occupied by Cambodia's indigenous peoples may cause, in the long term, further dislocation of traditional communities. Besides causing immediate displacement when affecting residential areas, these projects also impact on those groups' livelihoods; many areas now fenced off and closed to public access were previously used by indigenous communities for the collection of forest products and as reserve land for cultivation as part of their traditional rotational agricultural system. The right to adequate housing is interlinked with the right to health, food and a safe environment and, inasmuch as the indigenous communities' right to adequate housing as an element of the right to an adequate standard of living may be affected by such activities, the Special Rapporteur would like to further discuss them below.

68. In addition, illegal individual land sales are on the rise. According to the Land Law, indigenous groups, even prior to the formal recognition and demarcation of their lands, shall manage their property according to their traditions. As already discussed above (subsection I.C.), the Land Law provides for the collective ownership of traditional lands occupied by indigenous groups for both residential and agricultural purposes.

69. However, the effective implementation of the provision on collective title is subject to the adoption of a sub-decree, the elaboration of which awaits the adoption of legislation to define indigenous peoples/minorities in Cambodia being drafted by the Ministry of the Interior. Illegal land transactions have taken place pending its adoption. Individual land sales, for example, are being used to dispossess indigenous communities from their communal lands. Many cases of the sale of indigenous property by community members or commune chiefs without prior consultation with the community have been reported. Complaints of payment of non-official fees for the issuance of forged titles have also been brought to the Special Rapporteur's attention. The Special Rapporteur would like to stress that the transfer of collective ownership of a given indigenous community to the private ownership of one member of this community can take place only after the adoption of the aforementioned sub-decree. At the time of writing, there is no established procedure to allow such transfers. Therefore, any sale of indigenous people's land by an individual member of the community is illegal.

70. Many of the properties irregularly acquired from indigenous communities are used for logging activities, which also represent a threat to the habitability and sustainability of the

environment where these communities have been living for generations. The expansion of environmentally hazardous activities in indigenous inhabited areas is also a consequence of an increasing number of economic concessions and large-scale development projects. Many such projects are negotiated by the Government with no involvement of indigenous communities, although the concessions will be exercised over what is considered to be their ancestral lands. According to testimonies received and site visits carried out by the Special Rapporteur, indigenous communities deprived of their traditional sustainable livelihood as a result of logging activities, military concessions and major tourism enhancement projects, are now increasingly forced to leave their traditional homes and move elsewhere.

71. These operations have often been carried out in the absence of proper informed participation of indigenous communities, with intimidation and threats, and have resulted in unfulfilled promises, displacement and harm to their environment and traditional heritage. The enjoyment of the right of these communities to equal protection of the law and personal security has been jeopardized. They have also encountered restrictions on their freedoms of association, assembly, expression and movement.

D. Women

72. A round-table consultation with women from several deprived neighbourhoods in Phnom Penh was organized during the mission to discuss the main obstacles they face in their efforts to secure adequate housing conditions for themselves and their families. The testimonies collected during the consultation added to the reports and statistics provided and interviews carried out during on-site visits in Phnom Penh and the provinces, including with indigenous women. The testimonies focused mainly on the effects of forced evictions and relocation programmes on women.

73. When communities are under threat of eviction, women are more likely to be the ones confronting the situation, which in many cases involves intimidation and violence. In relocation sites inadequate sanitary conditions are especially difficult for women, who are reluctant to use open areas for their personal hygiene. Many women living in slums perform some kind of commercial activity or other casual work to guarantee some extra money to add to the family's scarce income. Because relocation sites are normally far from city centres, such activities are compromised by the high costs of transportation.

74. Women's reports also reflect the difficulties arising from cultural perceptions concerning the role of women in Cambodian society. According to them, women commonly face discrimination when dealing with officials and private companies to negotiate compensation, the terms of relocation and access to basic services. For female heads of household the situation appears to be worse, with reports of cases where - when not accompanied by a man - women were paid lower compensation in eviction cases and offered smaller plots in relocation sites.

75. Instability resulting from inadequate living conditions deeply affects women's daily affairs - owing to the precarious conditions in slums they are always afraid of fires or floods or concerned about the well-being of their children. They testify that there are very limited channels of dialogue with relevant officials on possible upgrading efforts; they are repeatedly

told that they are illegal residents and, for that reason, no improvements can be brought to the sites.

76. Another major concern is the situation of victims of domestic violence. Women that experience abuse have, owing to economic and cultural constraints, very limited possibilities to leave their homes and gain access to adequate housing elsewhere. A new law on domestic violence has recently been adopted by the National Assembly. According to this new piece of legislation, abused women can be granted a protection order by courts which prohibits the man entering, or even approaching, the house he used to share with the victim. Women subjected to violence also greatly suffer from the insufficiency of public shelters available to victims.

77. Women also testified on the apprehension caused by limited access to and ownership of housing and land. Cambodian Family Law provides for equal ownership rights of spouses. Property acquired during the marriage belongs to both husband and wife and should be divided in the case of divorce. The practice, however, is that titles are normally issued solely in the name of the husband.

78. The 2001 Land Law and its new provisions on cadastre seem to have encouraged some change in this respect. A 2003 survey (Land Management and Administration Project, World Bank, 2003) indicates that 80,000 new titles have been issued since 2001 and an estimated 78 per cent of those have been issued in the names of both husband and wife. The same study points out, however, that "women, especially women-headed households, are vulnerable to having their rights ignored, partly due to a lack of knowledge of land rights and land-titling procedures".[8]

79. This data is especially disturbing considering that, in accordance with a 2001 Asian Development Bank survey, female-headed households are among the poorest in the community and, in rural areas, widows with young children and no adult workers in the family are identified as the group most vulnerable to poverty.[9] The 1998 national census reported that 25.7 per cent of households in Cambodia are headed by women, with disaggregated data for rural areas indicating a slightly higher ratio of 27.2 per cent.[10]

IV. CONCLUDING REMARKS AND RECOMMENDATIONS

80. In Cambodia, historical elements serve to explain many of the challenges faced today by the country, including the fragility of the legal and institutional framework in place and the links between access to adequate housing and access to land.

81. Unclear and incomplete legal provisions and their poor implementation by the relevant authorities should be addressed as a main and first priority, setting up the ground for the development of innovative policies to address the country's housing deficit and the deep impacts of poverty and landlessness on the right to adequate housing.

82. The Special Rapporteur, therefore, strongly argues for the adoption of an indivisibility approach with respect to the right to adequate housing and other rights relating to his mandate, and would like to submit the following specific recommendations:

(a) There is an urgent need for a clear mapping of the housing needs of the country and interpretation of the data from a human rights perspective, aiming at the development of a comprehensive national housing policy;

(b) In connection with the previous recommendation, there is also a need for increasing transparency in the development of policies and openness in the assessment of priorities and results, with space for public monitoring and full participation of the affected population;

(c) Urgent attention must be given to those living in distressed housing and living conditions, including slum and relocation site dwellers, with the immediate provision of basic amenities;

(d) The housing-related provisions of the 2001 Property Law should be immediately implemented, including those of the newly adopted sub-decrees. Regulations should be adopted that include provisions regarding the housing situation of families living in State property and clarify the legal situation of all land swaps that occurred between the 2001 Property Law and its own adoption. In addition, information concerning all land swaps under negotiation should be immediately disclosed. In the meanwhile, besides halting all swaps, full attention should be given to the families already affected to guarantee adequate housing conditions and security of tenure in their relocation sites. Whenever evictions are still pending, all efforts should be made to actually consider relocation as a last resort and ensure consultation with the affected community;

(e) A national evictions act should be adopted in accordance with international human rights standards, especially CESCR's general comments 4 and 7;

(f) The judiciary and the Cadastral Commission have an important role in housing conflicts and their work should be strengthened through strict respect for the rule of law and due process, including the establishment of impartial investigative procedures to verify the authenticity of ownership claims and impartial review of court and administrative decisions;

(g) Specific policies should be developed to address discrimination against women in relation to equal access to and ownership of housing and land. Such policies should address the disproportionately adverse impact that forced evictions, displacement and poor living conditions have on women;

(h) Measures aiming at the realization of the indigenous peoples' right to adequate housing should include respect for their traditional lands and elaboration of culturally sensitive land and housing policies. Until the adoption of the sub-decree on collective ownership of indigenous lands, a moratorium on land sales affecting indigenous peoples should be considered by relevant authorities;

(i) Measures should be adopted to facilitate the work of human rights and development NGOs in the country, with full respect for the rights to freedom of association, expression and movement.

83. **The existing obstacles against the implementation of the right to adequate housing are of enormous proportions and facing the challenges will require joint efforts by not only the Government, but also national non-governmental actors and the international community alike.**

Notes

[1] See, in particular, E/CN.4/2005/116, paras. 42-60 and E/CN.4/2006/110.

[2] NGO Economic, Social and Cultural Rights Monitoring Committee, *Parallel Report Under the International Covenant on Economic, Social and Cultural Rights*, August 2002, pp. 25-26.

[3] Kingdom of Cambodia, *First Revision Population Projections for Cambodia 1998-2020*, June 2004, p. 28. The 2004 census survey realized by the National Institute of Statistics contains serious mistakes. The Phnom Penh population in 2004 is estimated at 1,043,669 while the population projections conducted by the same institute estimates the population at 1,272,386 for the same year. The first survey did not take into consideration the migration of 150,000 female garment workers since 1998 (in Phnom Penh/Urbanisme, lettre d'information, juin 2005).

[4] Eric Huybrechts, *Evolution des formes urbaines de Phnom Penh*, Cambodge Nouveau, Mai 2005, p. 13.

[5] Ministry of Foreign Affairs, Embassy of France in Cambodia, *Le marché immobilier de Phnom Penh, rapport de mission*, février 2005, p. 13.

[6] See report and recommendations of the Special Representative of the Secretary-General for Human Rights in Cambodia, Land concessions for economic purposes in Cambodia: A human rights perspective, November 2004.

[7] NGO Forum on Cambodia, Rethinking poverty reduction to protect and promote the rights of indigenous minorities in Cambodia. A human rights approach to land and natural resources management, April 2005.

[8] United Nations Development Fund for Women, World Bank, Asian Development Bank, UNDP and Department for International Development/UK in cooperation with the Ministry of Women's Affairs, *A Fair Share for Women*, April 2004, p. 61.

[9] Ibid., p. 27.

[10] Ibid., p. 30.

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