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Technical assistance and capacity-building

Role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights

Report of the Secretary-General*

Summary

The present report, submitted pursuant to Human Rights Council resolution 42/37, outlines the role and achievements of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Cambodia from 1 June 2021 to 31 May 2022.

During the reporting period, OHCHR continued to provide technical cooperation to various government ministries, the Cambodian Human Rights Committee, the National Committee against Torture, the Disability Action Council, the National Social Protection Council and other governmental and civil society actors. OHCHR also maintained cooperation with the Government of Cambodia with regard, in particular, to the provision of technical assistance, as specified in the memorandum of understanding between the Government and the United Nations Human Rights Office in Cambodia. OHCHR expanded its work on economic and social rights, in particular on the protection of land rights for indigenous peoples and social security for vulnerable people. OHCHR also documented cases of serious restrictions of fundamental freedoms and civic space in the country, as well as ongoing attempts by the Government to limit pluralism, including in the lead-up to the fifth communal elections held on 5 June 2022.

* The present report was submitted after the deadline so as to include the most recent information.



I. Introduction

1. The present report, submitted pursuant to Human Rights Council resolution 42/37, outlines the role and achievements of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in assisting the Government and people of Cambodia in the promotion and protection of human rights from 1 June 2021 to 31 May 2022.
2. OHCHR provided technical support to the judiciary, the Ministry of the Interior, the Ministry of Justice, the Ministry of Social Affairs, Veterans and Youth Rehabilitation, the Ministry of Rural Development, the Ministry of Land Management, Urban Planning and Construction, the Ministry of the Environment, the Ministry of Planning, the Ministry of Economy and Finance, the Cambodian Human Rights Committee, the National Committee against Torture, the Disability Action Council, the National Social Security Fund, the National Social Protection Council and other governmental and civil society actors. OHCHR continued to monitor the human rights situation, focusing on fundamental freedoms, economic and social rights and the administration of justice and continued to support the United Nations country team in Cambodia.
3. OHCHR continued to assist the Special Rapporteur on the situation of human rights in Cambodia in delivering on his mandate through the provision of technical support. In addition, OHCHR assisted the Government in making progress towards the implementation of its obligations under international human rights law, including in the context of the universal periodic review process. In particular, OHCHR supported the voluntary mid-term report elaborated by the Government on the implementation of the recommendations from the third universal periodic review cycle. OHCHR also provided comments on the first draft law to establish a national human rights institution, stressing, *inter alia*, the importance of adequate consultations with relevant stakeholders in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

II. Context

4. While there have been a number of positive developments in the area of poverty reduction in Cambodia, notably the drop in the poverty rate from 22.1 per cent in 2010¹ to 9.6 per cent in 2020,² the situation nevertheless remains precarious for many people, with the impact of the coronavirus disease (COVID-19) pandemic having doubled the national poverty rate, which is currently at 17.8 per cent.³ The economic burden has been exacerbated by cost-of-living increases, including those brought about by the armed conflict in Ukraine. With inequality in access to basic services prevalent throughout the country, any small negative shock to income may push large numbers of households below the poverty line. Currently, 51.3 per cent of households still use firewood as their main source of energy for cooking; 19.6 per cent do not have access to improved sanitation facilities; and 20.3 per cent have no access to an improved source of water (piped, protected well, rainwater or bottled water).⁴ The population continues to rely heavily on microfinance loans. Outstanding debts

¹ World Bank, policy brief, “Poverty headcount ratio at national poverty line (% of population) – Cambodia”, available at <https://data.worldbank.org/indicator/SI.POV.NAHC?locations=KH> (accessed on 30 June 2022).

² These data were estimated by the United Nations Development Programme (UNDP) using a computable general equilibrium model (see https://www.undp.org/sites/g/files/zskgke326/files/migration/kh/UNDK_KH_POLICY_BRIEF_first.pdf).

³ Asian Development Bank, “Poverty Data: Cambodia” (see <https://www.adb.org/countries/cambodia/poverty>).

⁴ Government of Cambodia, National Institute of Statistics, Report of Cambodia Socio-Economic Survey 2019–20 (see https://nis.gov.kh/nis/CSES/Final%20Report%20of%20Cambodia%20Socio-Economic%20Survey%202019-20_EN.pdf).

from microfinance institutions as a percentage of gross domestic product (GDP), currently at 26.59 per cent of the total loaned, are among the highest in the world.⁵

5. The fifth communal elections in Cambodia took place on 5 June 2022, and general elections are scheduled to take place in July 2023. The elections follow years in which the political opposition has been marginalized and subjected to routine judicial and extrajudicial intimidation, which continued throughout the reporting period. In November 2021, Sin Khon, an opposition activist associated with the Cambodia National Rescue Party, which was dissolved by the Supreme Court in 2017, was killed near his home. In March 2022, Sam Rainsy, one of the two former leaders of the party, was once again convicted, in absentia, on incitement and plotting charges, and six other former leaders of the party (including two women) and 14 male supporters and activists were convicted for the establishment, in 2018, of the Cambodia National Rescue Movement, an overseas opposition movement. The conviction came a year after Mr. Rainsy and seven senior leaders of the party (including two women) were sentenced to 20–25 years in prison following convictions on charges of endangering the institutions of Cambodia.

6. Despite the above developments, opposition parties, particularly the Candlelight Party, registered a significant number of candidates in the communal elections, with 58,084 out of 86,092 candidates approved by the National Election Commission standing for opposition parties – 23,939 of whom stood for the Candlelight Party. The Commission disqualified approximately 300 opposition candidates on procedural grounds. The decisions of the Commission are not subject to appeal.

7. In the lead-up to the communal elections, OHCHR documented practices of interference in the form of intimidation of opposition candidates, activists and supporters. A total of six opposition candidates and activists, including one woman, were arrested, with three men remaining in pre-trial detention at the time of writing. Most of these cases appear to be lacking any legal basis and to be politically motivated. At least, 99.6 per cent of registered non-party election observers are from organizations affiliated with or run by members of the ruling party, the Cambodian People's Party, with 62 per cent from a youth organization linked to the ruling party, calling into question the independence of election monitoring arrangements.

III. Enhancing participation and protecting civic space

8. In October 2021, the Human Rights Council expressed serious concerns about the deteriorating situation of civil and political rights in Cambodia and reiterated calls for the Government to expand political and civic space, in particular in the lead-up to the elections.⁶ OHCHR has documented judicial and extrajudicial interference in forms of intimidation against members of the political opposition, civil society, media personnel and others.

9. During the reporting period, OHCHR documented 14 incidents involving what appears to be arbitrary arrest and detention of 18 members of opposition parties, many of whom are affiliated with the Cambodia National Rescue Party and the Candlelight Party. Of those detained, 10 men and 8 women have been charged with various offences, including: plotting to commit or committing treason; incitement; lèse-majesté; fabricating documents; use of forged document; illegal fishing; and/or obstruction of the implementation of measures introduced to combat the coronavirus disease (COVID-19) pandemic (COVID-19 law).⁷ In April 2022, Seam Pluk, a former member of the Cambodia National Rescue Party, was arrested on charges of falsifying documents and placed in pretrial detention following an allegation that he had forged thumbprints in documentation to register his political party, the Khmer Heart Party. He remains in pretrial detention at the time of the writing of the present report.

⁵ International Monetary Fund (IMF), Data Access to Macroeconomic and Financial Data (see <https://data.imf.org/?sk=E5DCAB7E-A5CA-4892-A6EA-598B5463A34C&sId=1460043522778>).

⁶ Human Rights Council resolution 48/23, para. 25.

⁷ See <https://www.ohchr.org/en/press-releases/2022/03/dialogue-cambodia-experts-human-rights-committee-ask-about-freedom>.

10. OHCHR also documented physical attacks against eight political actors (including four women), including the alleged extrajudicial killing of Sin Khon, an activist member of the Cambodia National Rescue Party, who was killed in a machete attack on 21 November 2021 in Phnom Penh.⁸ Before the attack, Sin Khon had been active on social media, expressing criticism of the Government and support for the Cambodia National Rescue Party. He was previously attacked in May 2021 by unidentified men and sustained injuries to his head and hand. Following that attack, he received at least one anonymous threatening phone call. An alleged perpetrator of the murder is currently in detention awaiting trial. While OHCHR monitoring of the case indicates that more than one perpetrator was involved in the killing, it also shows that the perpetrator was driven from the scene by an accomplice. OHCHR has called for an independent and impartial investigation into this crime.⁹ At the time of writing, OHCHR was not aware of any investigation into the involvement of other potential perpetrators of the crime.

11. In November 2021, four activists for the Cambodia National Rescue Party (including two women) whose refugee status had been recognized by the multi-country office of the United Nations High Commissioner for Refugees in Bangkok, were deported by Thailand to Cambodia, where they were immediately detained on criminal charges. The deportations were described by OHCHR as violations of the principle of non-refoulement.¹⁰ Two of the four have since been sentenced to between two and five years in prison on charges of incitement and plotting, while the others remain in pre-trial detention.

12. The earlier killings of Kem Ley, Chea Vichea, Ros Sovannareth, Chut Wutty, Heng Chantha and five male demonstrators and one female bystander in 2013 and 2014, and the disappearance of Khem Sophath, remain unaddressed, and impunity for those grave violations persists, despite repeated calls for accountability by the Human Rights Council and the Human Rights Committee. In October 2021 and March 2022, respectively, the Human Rights Council and the Human Rights Committee reiterated calls for Cambodia to ensure accountability for past violations, including extrajudicial killings.¹¹

13. During the reporting period there were a significant number of convictions against human rights defenders, including 21 people (10 men and 11 women) who were all sentenced to between 1 and 5 years of imprisonment on charges that included incitement and illegally encroaching on State forest land.¹² Between October and November 2021, 19 of the 21 people were released after their sentences were suspended, although they must remain under judicial supervision for the remainder of their sentences and face the threat of immediate arrest. Two human rights defenders remain in prison at the time of the writing of the present report.

14. Arrests and convictions against environmental human rights defenders continue, with aim of silencing those who speak out to expose the illicit exploitation of the national resources in Cambodia and associated corruption. On 10 November 2021, Chhorn Phalla was convicted and sentenced to five years in prison for clearing State forest land, although his conviction appears to be based on his human rights work. He was arrested on 20 September 2020 after he filed complaints against public officials over alleged failure to protect natural resources and forestlands in Ratanakiri Province. The case of Chhorn Phalla highlights the precarious environment in which environmental rights defenders operate in Cambodia.

15. The judgment against three of the five environmental human rights defenders (including two women) associated with the grassroots organization Mother Nature Cambodia, who were arrested on 3 September 2020 and convicted on 5 May 2021 on charges of

⁸ OHCHR, “Comment by UN Human Rights spokesperson Rupert Colville on killing of Cambodian activist and refoulements from Thailand”, 3 December 2021 (see <https://www.ohchr.org/en/2021/12/comment-un-human-rights-office-spokesperson-rupert-colville-killing-cambodian-activist-and>).

⁹ Ibid. The Human Rights Committee is also concerned about the lack of effective and impartial investigations into the killings, which remain unaddressed (CCPR/C/KHM/CO/3, para. 20).

¹⁰ Ibid.

¹¹ Human Rights Council resolution 48/23, para. 21; and CCPR/C/KHM/CO/3, paras. 12–13.

¹² OHCHR, “Cambodia: UN experts condemn conviction of trade union leader, systematic crackdown on human rights defenders”, 23 August 2021 (see <https://www.ohchr.org/en/press-releases/2021/08/cambodia-un-experts-condemn-conviction-trade-union-leader-systematic>).

incitement, was upheld by the Court of Appeal on 5 November 2021; the remainder of their sentences were suspended with a three-year probation. In July 2021, the three convicted human rights defenders, along with four other activists, were charged in a separate case, under 453 of the Criminal Code, of “plotting”, and under article 437 of the Criminal Code, with “insulting the King”. If convicted, they face a possible prison term of up to 10 years for “plotting” and 5 years for “insulting the King”. On 30 June 2021, OHCHR and the United Nations Environment Programme issued a joint statement calling for the Government to respect the rights of environmental defenders to freedom of expression, association and peaceful assembly.¹³

16. During the reporting period, OHCHR has documented instances of the targeting of trade union leaders and activists through criminalization and unfair dismissals for speaking up about violations of workers’ rights, with the COVID-19 pandemic being used by authorities as a pretext to stop strikes, including in the case of the strike at the NagaWorld casino in Phnom Penh. In this regard, the High Commissioner has raised concerns about “the authorities’ use of COVID-19 restrictions to further erode democratic and civic space, including as a pretext to break a lawful strike by casino workers”.¹⁴

17. Since 18 December 2021, workers at NagaWorld have been staging a strike to protest the mass layoff of more than 1,300 employees and union-busting activity by the owners of the casino. Authorities have implemented a range of measures that appear designed to pressure the workers – the overwhelming majority of whom are women – into ending the strike. OHCHR has monitored the strike on 47 occasions, observing a pattern of violations. With an average of 117 individuals who appear to be arbitrarily detained on each day of the strike, OHCHR has documented 4,323 individual instances of what appears to be the arbitrary detention of strikers for short periods of time.

18. After some weeks, during which authorities permitted workers to demonstrate near the casino, starting in February 2022, police have prevented workers from getting within sight or sound of the casino. The strikers are forced onto buses, with security forces routinely using arbitrary force, including punching, kicking and slapping. From 21 February to 17 March 2022, workers were bused to a quarantine facility and arbitrarily detained for up to 48 hours, without adequate food and water. Since March, workers are instead bused an hour outside Phnom Penh, where they appear to be arbitrarily detained on board the buses for a period of three to five hours before being told to make their own way home, at their own expense. Criminal cases have been initiated against 11 leaders (including 7 women) of the Labour Rights Supported Union of Khmer Employees of NagaWorld, who were held in pre-trial detention for periods of between 70 and 74 days before being released in March 2022. At the time of writing, the strike continues, with the leaders awaiting trial on charges of incitement.

19. Despite a 2018 Ministry of Interior notification affirming that civil society organizations have complete freedom to carry out their activities,¹⁵ they continue to face undue interference. OHCHR documented 18 instances of threats, intimidation and surveillance of human rights defenders, including undue interference in the activities of civil society organizations by the Government, public officials and unknown groups during the reporting period. Such acts include: the intimidation of human rights defenders while conducting training activities; the monitoring of strikes and protests; surveillance of civil society organizations and their staff; and one death threat posted on the door of an activist’s home.

20. OHCHR continued to engage in dialogue with the Ministry of the Interior and has encouraged further consultations with civil society on proposed amendments to the Law on

¹³ OHCHR and the United Nations Environment Programme, “UN Human Rights and the UN Environment Programme are concerned by the detention of environmental human rights defenders in Cambodia”, 30 June 2021 (see <https://bangkok.ohchr.org/ehrd-cambodia>).

¹⁴ United Nations High Commissioner for Human Rights, “Human Rights Council hears High Commissioner present her global oral update”, 8 March 2022 (see <https://www.ohchr.org/en/news/2022/03/human-rights-council-hears-high-commissioner-present-her-global-oral-update-and-her>).

¹⁵ Government of Cambodia, Ministry of the Interior, Notification No. 2006, 27 November 2018.

Associations and Non-Governmental Organizations (2015). Despite acknowledgements from the Ministry of the need to continue discussions on the amendments, no consultations have been held since July 2020.

21. The situation of the media remains dire. OHCHR has documented 17 incidents of intimidation, as well as what appear to be arbitrary arrests involving at least 12 journalists. In September 2021, a journalist was charged and sentenced to one year in prison for publishing allegations about the involvement of a provincial deputy governor in a land dispute. The journalist is one of two members of the press in prison at the time of writing, with three others in pre-trial detention in cases that all relate to their work as journalists. Since the rejection of an appeal by the Supreme Court of Cambodia in October 2021 from two journalists of Radio Free Asia who sought to reverse an order to re-investigate their case, there have been no further developments, raising concerns about the violation of their rights to due process and to be tried without undue delay. Between February and March 2022, on six occasions, OHCHR documented the intimidation of nine journalists (including three women) who were reporting on the NagaWorld strike. On 15 March, the licenses of three online media outlets were revoked, with the authorities accusing the outlets of publishing “information that violated journalistic professional ethics and corporate contracts”.¹⁶ The media outlets in question had published articles on corruption scandals allegedly involving government officials. OHCHR is concerned that the revocation of these licences violates the Law on the Press (1995), is contrary to international standards and further erodes media freedom in the country.

22. Cambodia continues to criminalize online expression. OHCHR documented seven incidents in which social media users were targeted for criticizing the Government, with at least five individuals summoned and questioned by the authorities. One incident involved a farmer who posted criticisms of Government farming policies. He was charged and sentenced to 10 months in prison for incitement to commit a felony. An emerging trend over the last two to three years involves the detention of social media users who have criticized the Government and who are released after publicly apologizing or after having been “educated”, the term used by the authorities in such cases, but which has no specific basis in law. In February 2022, three social media users were summoned by the police for having criticized firefighters. Under threat of legal action, two have posted apology videos, while a third has declined and continues to face the threat of legal action.

23. OHCHR remains concerned about the impact of the sub-decree on the establishment of the national internet gateway on freedom of expression. The sub-decree aims to establish a single government-run “gateway” through which all internet traffic in the country would be channelled. Many of the articles contain broad and ambiguous language, as well as undefined grounds for government action. Article 6 of the law stipulates that operators shall manage and facilitate the access of connection and utilization of infrastructure, networks and internet services, as well as Internet infrastructure across the land borders. This could enable the authorities to carry out arbitrary mass surveillance of private communications and widespread censorship of online content. On 1 February 2022, United Nations human rights experts called on the Government to halt implementation of the law, stating that it is “repressive and further undermines privacy rights and democratic freedoms”.¹⁷ The sub-decree was due to come into force on 16 February 2022, but implementation has been postponed to an unspecified date.

24. COVID-19 restrictions and the alleged disturbance of public order were frequently used by authorities as pretexts to restrict, prevent or disrupt peaceful assemblies. Individuals actively involved in organizing or participating in public gatherings were reportedly arbitrarily arrested, detained and subjected to various forms of threats, intimidation and surveillance. During the reporting period, OHCHR documented a total of 82 demonstrations, of which 31 were prohibited and 51 were otherwise restricted. In addition, OHCHR

¹⁶ Ministry of Information, information note to directors of provincial departments of information, No. 026, 15 March 2022.

¹⁷ OHCHR, “Cambodia: Data surveillance legislation is ‘repressive’, must not be implemented – UN experts”, 1 February 2022 (see <https://www.ohchr.org/en/press-releases/2022/02/cambodia-data-surveillance-legislation-repressive-must-not-be-implemented-un>).

documented 21 instances in which peaceful protests by the Friday Women of Cambodia, a network of family members of detained members of the Cambodia National Rescue Party, were restricted by the authorities.

25. In October 2021, OHCHR launched a programme focused on enhancing protections for human rights defenders, targeting activists from several non-governmental organizations (NGOs), trade union members, journalists, lawyers and others who work to protect the rights of others. The project provided training on security, monitoring and advocacy to 47 activists (including 14 women) during the reporting period.

IV. Administration of justice

A. Legislative developments and their impact on human rights

26. Since participating in the third cycle of the universal periodic review in 2019, Cambodia has yet to develop an implementation plan. In late 2021, the Cambodian Human Rights Committee, in cooperation with line ministries, developed, for the first time, a voluntary mid-term report on the implementation of the recommendations from the third cycle. In March 2022, OHCHR and the Committee co-organized a consultative workshop to invite stakeholders to provide feedback.

27. From July to December 2021, at least 1,341 persons were arrested under the COVID-19 law, mostly for breaching bans on gatherings. These cases mostly ended in fines or the release of detainees following “education”: 22 cases led to criminal charges resulting, to date, in 3 convictions. In some cases, article 11 of the COVID-19 law was invoked to restrict individuals’ freedom of expression. For example, in January 2022, a journalist was sentenced to two years of imprisonment on charges of incitement and obstructing the implementation of COVID-19 measures for comments he posted online about the Government’s use of COVID-19 vaccines produced in China.

28. A law on child protection is being drafted in consultation with national and subnational authorities, United Nations entities and NGOs. OHCHR shared a human rights-based analysis of the draft law with the Government in the light of applicable international human rights law and standards, highlighting the need for inclusion of civil and political rights of children, the criminalization of corporal punishment in all settings and the establishment of family courts.

29. Progress has been made on the draft law on the protection of the rights of persons with disabilities, with many comments from various stakeholders, including OHCHR and organizations representing persons with disabilities, having been incorporated. The law is expected to be adopted by the end of 2022.

30. In late 2021, the Government renewed its efforts to finalize a law on religion, which has been under development since 2013. In the light of international human rights law and standards protecting the freedoms of thought, expression and assembly and the right to participate in public affairs, it is of concern that the draft law prohibits clergy from “political activities or serving political activities” and criminalizes engagement “in demonstrations, strikes and riots against the public authorities and the Royal Government”, an offence that may carry a prison sentence of up to five years according to the draft viewed by OHCHR. OHCHR also has concerns regarding provisions that place undue restrictions on freedom of religion or belief.

B. Access to justice and the independence of the judiciary

31. OHCHR continued its support to the Ministry of Justice in the assessment of the criminal case database, which tracks case progression through the justice system and has been installed in all courts of first instance since 2015. The database is being upgraded to include extraction of statistics and search functions. Seven additional courts of first instance will be connected to a central server and the database will be installed at all courts of appeal by the end of 2022.

32. While the national legal aid budget has steadily been increased over recent years, there remains no centralized system to coordinate legal aid. A centralized system was proposed in the government legal aid policy, which has remained in a draft form since 2018 without a clear plan for its adoption. Concerns remain about the lack of legal aid for persons charged with misdemeanours, a failure that has resulted in high numbers of persons in pre-trial detention who are unaware of their rights, including their right to request release under judicial supervision. To address caseload issues and enhance access to justice, the Ministry of Justice is finalizing a concept note on the creation of an alternative dispute resolution mechanism. Considering that legal aid and alternative dispute resolution serve different purposes, parallel efforts on both are necessary to ensure access to justice for all, in line with international norms and standards.

33. To help address the gap in legal aid, OHCHR provided a grant to a local legal aid organization to address 60 long-pending appeals and to draft a policy paper outlining challenges and recommendations. OHCHR continued to work with another local NGO on the submission of simplified bail applications by vulnerable individuals without lawyers, which resulted in the pre-trial release and acceleration of procedures for a large number of inmates, including 53 women, since June 2020.

34. OHCHR monitored 36 court hearings in 7 cases involving 99 people (14 women), including 88 members and supporters of the opposition (14 women), 10 human rights defenders and environmental activists (5 women) and 1 boy. At the hearings, defendants routinely stated that arrests were made without warrants and that they were interrogated without being informed of the charges and without the presence of a lawyer. OHCHR documented procedural violations in most cases, including some violations that demonstrated a lack of respect for fair trial rights, in particular the guarantees of presumption of innocence, the requirement of factual and conclusive evidence and the right to be tried without undue delay.

35. OHCHR observed that the provisions of Cambodian law, in particular articles 495 and 496 of the Criminal Code on incitement to commit a felony, are routinely interpreted by the courts in a manner inconsistent with international human rights law and standards, including the rights to freedom of expression and to a fair trial. In one case monitored by OHCHR, a 16-year-old boy with autism, the son of a jailed opposition activist and of a member of the Friday Women of Cambodia network, was arrested and charged for a Facebook post critical of the Government. OHCHR observed a total lack of consideration by the judges for the age and mental health of the accused. The judges did not allow a medical expert or further inquiry into the mental impairment of the accused, despite repeated requests by the defence.¹⁸ In an unusual occurrence, the Phnom Penh municipal court issued a press release seeking to justify the conviction.¹⁹

36. The treason trial of former opposition leader Kem Sokha resumed in December 2021 after a 20-month suspension attributed to COVID-19. The long suspension and slow progress of proceedings since his arrest in 2017, with only one hearing a week, raises concerns in terms of the defendant's right to be tried without undue delay. Two mass trials involving 80 individuals associated with the Cambodia National Rescue Party resumed in December 2021 after a suspension that was also attributed to the COVID-19 pandemic. As outlined above, the trial involving Sam Rainsy and 20 other members and supporters of the Cambodia National Rescue Party resulted in a guilty verdict on 17 March 2022. High-ranking officials tried in absentia were given prison sentences of 10 years, and the 14 others accused, 13 of whom had been in pre-trial detention for nearly 2 years, were given sentences of 5 years. The second mass trial, involving 60 individuals, was carried out during the reporting period.²⁰ A third mass trial involving 76 individuals has been suspended since November 2020. On 30

¹⁸ See KHM 9/2021; this and all communications in the present report are available at the OHCHR communications website, <https://spcommreports.ohchr.org/TmSearch/Results>.

¹⁹ Available in Khmer only on the website of the Ministry of Justice (see <https://www.moj.gov.kh/kh/announcement/243>).

²⁰ The verdict, issued on 14 June 2022, stated the conviction of at least 43 individuals associated with the Cambodia National Rescue Party, including Sam Rainsy and 11 former party leaders tried in absentia, and their sentencing to prison for 5–8 years.

March 2021, the Human Rights Committee expressed its grave concerns about arbitrary arrests, mass trials and acts of violence against members of the opposition ahead of the communal elections.²¹

37. After growing exponentially from 2015 to 2020, the prison population has remained stable for the second year in a row, with a slight decrease from 38,977 (including 2,489 women) inmates and detainees in April 2021 to 37,986 in April 2022,²² as a result of the campaign initiated in 2020 to reduce the case backlog before courts of first instance. Nevertheless, prisons continue to operate at over 300 per cent of capacity; with overcrowding resulting from continuously high numbers of arrests, especially for drug-related offences – 53 per cent of prisoners are in prison for drug offences.²³ From interviews with a dozen prisoners released from Correctional Centres 1 and 2 in Phnom Penh conducted between September 2021 and April 2022, OHCHR has determined that corruption in prisons continues to be rampant. According to the information received, payment of bribes determines conditions of detention, treatment, family visits and telephone calls, as well as access to and the quality of necessities such as food, water, hygiene supplies, medical care, daylight and fresh air. OHCHR remains concerned that prison conditions may, at times, constitute cruel, inhumane or degrading treatment or punishment.

38. A sustainable solution to prison overcrowding requires institutionalized policies, especially alternatives to detention. The Government has taken positive steps towards implementing parole, an alternative to detention contained in the Cambodian Code of Criminal Procedure, by developing an institutional framework and regulatory guidance.²⁴ There has been limited progress with regard to alternatives to detention under the Juvenile Justice Law (2016). In a pilot project, 49 convicted male juveniles were transferred to a newly opened youth rehabilitation centre in Kandal Province in December 2021, which is expected to accommodate juveniles currently housed in regular prisons across the country. There were 1,307 incarcerated juveniles in the country as at April 2022, including 730 in pre-trial detention.²⁵ OHCHR urges that priority be given to diversion away from closed settings and that any planned transfer to the rehabilitation centre be used as an opportunity to review cases with a view to diversion.²⁶ The rehabilitation centre is not yet fully staffed, equipped and operational. Only one such facility is planned, which could prevent access to material and moral support routinely provided by family members. The plan to designate specialized judges in each court of first instance, with a view to establishing juvenile courts, should be implemented as a matter of priority.

39. Despite the Secretary-General's call on the Government to grant confidential access to all places of detention,²⁷ confidential interviews were not facilitated during the reporting period. Access to places of detention was further affected by an unprecedented three-month delay in early 2022 in the process of authorizing visits due to a newly introduced clearance procedure.

40. In July 2021, OHCHR investigated two cases of suspicious deaths of male inmates in custody in Battambang Province, one of which occurred in prison in April 2020, the other in a police station in April 2021. In both cases, there are reasonable grounds to believe that torture or ill-treatment may have occurred in custody. In the first case, the Battambang Court of First Instance dismissed a complaint brought against a police officer, a decision which was confirmed on appeal in September 2021. In the second case, that National Committee against Torture issued a press release on 16 June 2021 highlighting its initial conclusion that torture

²¹ See [CCPR/C/KHM/CO/3](#); and OHCHR, "UN Human Rights Committee publishes findings on Bolivia, Cambodia, Iraq, Israel and Qatar", 30 March 2022 (see <https://www.ohchr.org/en/press-releases/2022/03/un-human-rights-committee-publishes-findings-bolivia-cambodia-iraq-israel>).

²² Statistics provided by the General Directorate for Prisons to OHCHR, May 2022.

²³ *Ibid.*

²⁴ Official proclamation (Prakas 090/21) on procedures for monitoring, following up, supervising and integrating conditionally released convicted persons into the society, 14 July 2021; and decision 16 KSR/21 on the composition and organization and functioning of the National Committee for granting conditional release, 14 August 2021.

²⁵ Statistics provided by the General Directorate for Prisons to OHCHR, April 2022.

²⁶ See [CCPR/C/KHM/CO/3](#).

²⁷ [A/HRC/48/49](#), para. 66 (l).

may have occurred and encouraging the police to further investigate the case. There have not been any further developments, including in relation to the complaint by the victim's sister to the Ministry of the Interior.

41. OHCHR initiated capacity-building in torture prevention at the request of the National Committee against Torture, which is the national preventive mechanism under the Optional Protocol against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In March 2022, OHCHR co-organized a workshop on the investigation of torture in cooperation with the National Committee and the Cambodian Human Rights Committee. In December 2021, to help strengthen the legal framework governing the National Committee, OHCHR shared a legal analysis of the draft law on amendment of the law establishing a national human rights institution, which will replace the current royal decree. OHCHR stressed that the law should specify protections for reprisals against and privileges and immunities of members and staff of the National Committee against Torture, their families or any persons who have communicated with it.

V. Economic and social rights

A. Macroeconomic issues

42. OHCHR is concerned that microfinance debt is heading towards a level that threatens financial stability and heightens the vulnerability of many households. Total outstanding debts from microfinance institutions as a percentage of GDP, at 26.59 per cent, are among the highest in the world.²⁸ As of January 2022,²⁹ the average loan size per borrower was 17.06 million riel (approximately \$4,100),³⁰ about 85 per cent of the median disposable income of Cambodian households.³¹ Approximately two-thirds of loans are being utilized for non-production purposes, indicating that the Government needs to invest substantially more in social protection.³²

43. Studies have found that coercive land seizure is a common payment collection practice.³³ Growing loan amounts and continued land seizures place low-income people at heightened risk. It is necessary for the Government to implement financial literacy programmes, introduce an effective financial consumer protection plan and increase expenditure on social protection measures.

44. Cambodia is at risk of continued inflation, including as a result of the impact of armed conflict in Ukraine. Petrol and diesel prices in Cambodia increased by 23 per cent and 39 per cent, respectively, three weeks after the conflict began.³⁴ In March 2022, the Food and Agriculture Organization of the United Nations (FAO) reported that the FAO Food Price Index increased by 12.6 per cent from February, reaching its highest level since 1990.³⁵ In

²⁸ IMF, Financial access survey, 5 August 2022 (see <https://data.imf.org/?sk=E5DCAB7E-A5CA-4892-A6EA-598B5463A34C&sId=1390030341854>).

²⁹ National Bank of Cambodia, *Economic and Monetary Statistics*, January 2022 (see https://www.nbc.org.kh/download_files/publication/eco_mon_sta_kh/Review%20339%20Jan-2022-Kh.pdf) (in Khmer).

³⁰ National Bank of Cambodia, *Economic and Monetary Statistics*, September 2021 (see https://www.nbc.org.kh/download_files/publication/eco_mon_sta_eng/Review%20335%20Sep-2021%20En.pdf).

³¹ National Institute of Statistics, *Cambodia Socio-Economic Survey 2019–20* (see <https://nis.gov.kh/index.php/en/14-cses/86-cambodia-socio-economic-survey-2019-20>).

³² Ibid.

³³ European Microfinance Platform, “Microfinance Index Market Outreach and Saturation” (see <https://www.e-mfp.eu/mimosa>).

³⁴ GlobalPetroPrices, Cambodia fuel prices, electricity prices (see <https://www.globalpetrolprices.com/Cambodia/>) (accessed 11 April 2022).

³⁵ Food and Agriculture Organization of the United Nations (FAO), “The FAO Food Price Index makes a giant leap to another all-time high in March”, 8 April 2022 (see <https://www.potatopro.com/news/2022/fao-food-price-index-makes-giant-leap-another-all-time-high-march>).

addition, the Cambodian people have already reduced food consumption during the pandemic.³⁶

B. Right to social security

45. During the ongoing COVID-19 pandemic, Cambodia has put a social assistance scheme in place to ensure social protection for the poorest and most vulnerable households.³⁷ Social protection must apply a human rights-based and gender-responsive approach, with the Government as the duty bearer and the people as rights holders. Under the International Covenant on Economic and Social Rights, to which Cambodia is a party, the Government has committed to take steps, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the Covenant by all appropriate means, including particularly the adoption of legislative measures. These could aim at reordering the allocation of resources to broaden the scope of social protection schemes.

46. Budget preparation and financial resource allocation practices in Cambodia do not appear to meet international standards, such as those provided in the Fiscal Transparency Code of the International Monetary Fund (IMF).³⁸ Public expenditure data show that social sector expenditure as a percentage of total expenditure declined from 28 per cent in 2010 to 8.8 per cent in 2020.³⁹ During the same period, expenditure on the education and health sector of total social sector expenditure declined from 75.7 per cent to 41 per cent.⁴⁰ Declining social sector spending runs contrary to the principle of progressive realization of economic and social rights.

47. OHCHR has received information through organizations representing informal workers that the country's social protection schemes remain limited to civil servants and employees in the private sector, and that civil servants face difficulties accessing health care, pensions and other services. In February 2022, OHCHR held introductory meetings with the National Social Protection Council, the National Social Security Fund and the Ministry of Planning to explore ways to incorporate human rights into social protection efforts.

C. Situation of land and housing rights

48. Despite the call by the Human Rights Council urging the Government to enhance its efforts to resolve land issues in a fair and open manner,⁴¹ OHCHR continued to receive complaints of the use of violence in the context of land conflicts. OHCHR documented an incident on 3 June 2021 in which the Cambodian Armed Forces shot and injured a 55-year-old man in Angk Snuol district, Kandal Province. The incident involved an assembly of 100 families to protest against the military clearing their land. The military opened fire at protestors leading to the above-mentioned injury. OHCHR arranged a meeting with the Governor of Kandal Provincial to raise its concerns about the case, including the injury to the man, but the meeting was cancelled by the Governor.

49. On 7 March 2022, OHCHR published its *Study on the Human Rights Situation of Communities Living in Resettlement Sites in Cambodia and Draft Resettlement Guidelines*, which looked at 645 households that were evicted and resettled in 17 sites located in Phnom

³⁶ UNICEF-Cambodia, "Going hungry - how COVID-19 has harmed nutrition in Asia and the Pacific", press release, 1 February 2021 (see <https://www.unicef.org/cambodia/press-releases/going-hungry-how-covid-19-has-harmed-nutrition-asia-and-pacific>).

³⁷ See A/HRC/48/49.

³⁸ Organization for Economic Cooperation and Development, "Budget transparency toolkit" (see www.oecd.org/governance/budget-transparency-toolkit/international-standards/list-of-standards/imf).

³⁹ IMF, *Government Finance Statistics Manual 2014* (see <https://www.imf.org/external/Pubs/FT/GFS/Manual/2014/gfsfinal.pdf>).

⁴⁰ The NGO Forum of Cambodia, Cambodian national budget, database (see <http://www.cambodianbudget.org/index.php?page=00112>).

⁴¹ Human Rights Council resolution 48/23, para. 16.

Penh and in eight other provinces.⁴² The study incorporated a gender analysis, ensuring that women’s voices were reflected. The data was also disaggregated to analyse how indigenous peoples were affected. Prior to publication, OHCHR consulted eight ministries and seven NGOs. The report, which concluded that the evicted households were sent to resettlement sites before infrastructure had been installed, and with insufficient notice of relocation from the authorities, provides draft resettlement guidelines, outlining steps the Government should take to ensure full respect of national laws and international human rights norms and standards and responds to specific challenges faced by indigenous peoples.⁴³

50. OHCHR monitored the construction of the Techo Takhmao International Airport, in Phnom Penh, which has affected at least 429 families – approximately 2,000 people. Those families have not accepted the compensation of \$8 per square meter offered by the Government, which is substantially below the reported \$110 – \$120 market value of the land before construction. From June 2021 to May 2022, community members organized six protests. On 12 September 2021, a clash between the villagers and officials resulted in the arrest of 30 people, 9 of whom were charged (including 4 women) with intentional acts of violence, incitement to commit a felony and obstruction of a public official with aggravated circumstances – those arrested remain under judicial supervision awaiting trial. On 14 September 2021, OHCHR met with the Governor of Kandal Province to express concerns arising from the situation.

D. Situation of ethnic minorities

51. In June 2021, OHCHR documented the forced eviction of hundreds of ethnic Vietnamese families and other people living and farming along the Tonle Sap River in Phnom Penh. On 8 June 2021, OHCHR submitted a letter to the Phnom Penh municipality requesting a postponement of the eviction until a long-term solution was made available for the affected communities. No reply was received. On 12 June 2021, the authorities proceeded with dismantling the structures. On 27 September 2021, four special procedures mandate holders issued a communication to the Government.⁴⁴ On 1 February 2022, the Phnom Penh municipal administration defended the use of force and eviction against “illegal occupants”. Ethnic Vietnamese were referred to as “immigrants”, despite evidence, including testimonies to OHCHR, that they had lived in Cambodia for generations.⁴⁵

E. Access to land for indigenous peoples

52. In August 2021, after a five-year mediation process, an agreement was reached in a land dispute between five Bunong indigenous minority communities in Bousra commune, Mondulkiri Province, and the company Socfin-KCD, a company that has acquired two economic land concessions, which overlapped with customary land owned and used by the communities.

53. Although the Government pledged to provide at least 10 indigenous communities with collective land titles per year starting from 2014, that road map appears to be too slow to meet demands. There are approximately 455 indigenous communities in Cambodia, and only 2.5 per cent hold a collective land title.⁴⁶ In 2019 and 2020, 54 collective land titles were

⁴² The full report is available at https://cambodia.ohchr.org/sites/default/files/report/other-report/Resettlement%20report_En%20FINAL.pdf.

⁴³ Ibid., annex 4.

⁴⁴ See KHM 10/2021 (see <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26621>).

⁴⁵ See note verbale from the Permanent Mission of Cambodia, No. 2021/11/770, 1 December 2021 (see <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36659>).

⁴⁶ Government of Cambodia, Ministry of Land Management, Urban Planning and Construction, *Report Year 2021*, 5 January 2022 (see [https://docs.google.com/a/servingweb.com/viewer?url=http://mlmupc.gov.kh/items/12.2%20Report%20yearly%202021%20\(C\).pdf](https://docs.google.com/a/servingweb.com/viewer?url=http://mlmupc.gov.kh/items/12.2%20Report%20yearly%202021%20(C).pdf)) (in Khmer).

issued for just three communities. In 2021, no new titles were granted.⁴⁷ As customary tenures are often disregarded, such titles are key documents that allow indigenous peoples to claim and defend their rights. In April 2022, OHCHR delivered a discussion paper to relevant ministries, proposing amendments to current complex existing legal provisions.⁴⁸

F. Human trafficking

54. The Government of Cambodia has taken steps to strengthen national processes for identifying and supporting Cambodian victims of trafficking in persons, including women and children. However, despite a considerable level of legal and institutional protection to address the situation, OHCHR observed increased reports of human trafficking of foreign nationals into and within the country. According to information received, vulnerable people, including people with intellectual and psychosocial disabilities, have been recruited from overseas on the promise of well-paid jobs, only to find themselves trapped in Cambodia, detained by traffickers and business owners, with their passports confiscated, working in illegal call centres and scam operations. Many of those rescued report having been subjected to violence or having witnessed violence and threats of a physical, psychological and financial nature. A number of high-profile rescue operations were carried out during the reporting period, following requests from countries of origin.

VI. Rights of lesbian, gay, bisexual, transgender and intersex persons

55. OHCHR and the United Nations country team conducted consultation workshops with lesbian, gay, bisexual, transgender and intersex people to discuss progress on the implementation of recommendations on sexual orientation, gender identity and expression and sex characteristics rights accepted by Cambodia within the framework of the 2019 universal periodic review.⁴⁹ Civil society organizations stated that the Government has yet to take concrete action to advance the process of legal reforms necessary for the full implementation of recommendations on sexual orientation, gender identity and expression and sex characteristics rights.⁵⁰ While some progress has been made in addressing discrimination of lesbian, gay, bisexual, transgender and intersex people, there is still insufficient legal protection from discrimination and violence based on sexual orientation and gender identity and no legal recognition of self-defined gender identity or marriage equality under the law. Civil society organizations and the United Nations office in Cambodia have called on the Government, as well as other stakeholders, to step up efforts to take concrete actions to fulfil commitments in the universal periodic review, in particular, on legal marriage equality, which members of lesbian, gay, bisexual, transgender and intersex people in Cambodia have identified as a priority to protect their rights and reduce discrimination.

⁴⁷ Ministry of Land Management, Urban Planning and Construction, *Report Year 2020*, 11 March 2021 (see https://docs.google.com/a/servingweb.com/viewer?url=http://mlmupc.gov.kh/items/12.2%20Yearly%202019%20_.pdf) (In Khmer).

⁴⁸ OHCHR, *Collective Land Titling In Cambodia – A Case For Reform*, April 2021 (see https://cambodia.ohchr.org/iplands/wp-content/uploads/2021/05/CLT-RECOMMENDATION_ENG.pdf).

⁴⁹ United Nations, “Consultation of the universal periodic review mid-term report”, 23 March 2022 (see <https://cambodia.un.org/en/175726-consultation-universal-periodic-review-upr-mid-term-report>).

⁵⁰ Joint statement, “Protect the rights of LGBTIQ people in Cambodia, in line with the universal periodic review recommendations accepted by Cambodia”, 27 September 2021 (see <https://www.ilgaasia.org/news/joint-statement-cambodia-upr2021>).

VII. Mainstreaming and implementing human rights through the United Nations country team and international human rights mechanisms

56. OHCHR continued to co-convene the United Nations Development Assistance Framework results group on participation and accountability. As convener of the human rights theme group, OHCHR contributed to the development of the United Nations country team's human rights strategy, which aims to delineate a common approach for the United Nations in Cambodia to respond with one voice to concerns about existing or potential human rights violations. OHCHR organized two human rights-based approach training sessions for the United Nations Communications Group in October 2021 and for all United Nations heads of agencies in November 2021. OHCHR coordinated joint advocacy and action by the United Nations country team on various human rights issues, including the rights to privacy, education, discrimination, adequate housing and fundamental freedoms.

57. In February, April and May 2022, the United Nations country team, facilitated by OHCHR, made submissions to the Human Rights Committee, the Committee on the Elimination of All Forms of Discrimination against Women and the Committee on the Rights of the Child. In March and May 2022, OHCHR supported the preparations by the Government for its periodic reviews before the Human Rights Committee and the Committee on the Rights of the Child, providing technical assistance and briefing delegations. The overdue report for the Committee on Enforced Disappearances was submitted in July 2021⁵¹ and the list of issues was released in April 2022.⁵² The initial reports under the Convention on the Rights of Persons with Disabilities and replies to the list of issues of the Committee against Torture, in advance of its third review, remain overdue.

58. OHCHR continues to support the Cambodian Human Rights Committee in the process of drafting a law on the establishment of a national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). In July 2021, the Committee published a first draft of the law on the establishment and functioning of the national human rights commission and launched a consultative process, including an invitation for comments through social media. In August 2021, over 60 civil society organizations and trade unions voiced their intention not to engage in the process unless the Government took measures to improve the human rights situation before establishing a national human rights commission, and questioned its prospects for independence under the current circumstances.⁵³ From November 2021 to April 2022, the Committee led a process of six consultations with various groups selected through relevant line ministries, including civil society organizations, trade unions, lawyers and academia and media, and two consultations at the subnational level. A second version of the draft law is expected in July, after which the consultation process will continue, with a view to finalizing it by the end of 2022.

VIII. Conclusions and recommendations

59. **The Secretary-General acknowledges the positive engagement of the Government with OHCHR and stresses the need to adopt a human rights-based approach to mitigating the social and economic impacts of current global crises and building back better from the COVID-19 pandemic. In the context of the current election cycle, he also stresses the need to create an enabling environment for the right to participation, including freedom of expression, peaceful assembly and an open civic**

⁵¹ See [CED/C/KHM/1](#).

⁵² See [CED/C/KHM/Q/1](#).

⁵³ Cambodian Center for Human Rights, "Redress Cambodia's human rights situation before establishing an NHRI", 24 August 2021 (see https://cchrcambodia.org/index_old.php?title=JOINT-STATEMENT-Redress-Cambodia-s-human-rights-situation-before-establishing-an-NHRI&url=media/media.php&p=press_detail.php&prid=852&id=5).

space. The Secretary-General highlights the crucial role of OHCHR in assisting Cambodians in realizing their human rights in all spheres.

60. The Secretary-General calls upon the Government:

(a) To invest in meaningful, inclusive and safe participation channels at all levels, strengthen civic and democratic space, end intimidation of human rights defenders, including women human rights defenders and political actors, particularly in the context of the elections, and ensure that legislation is in line with international human rights law;

(b) To end arbitrary arrests and detention of human rights defenders, political activists, environmental defenders, journalists and trade union leaders and activists by ensuring that the application of laws, including the COVID-19 legislation, is gender-responsive and complies with the principles of legality, proportionality and necessity;

(c) To ensure that draft laws, including on maintaining public order, access to information, child protection, the protection of the rights of persons with disabilities, and the establishment of the national human rights institution, are drafted, adopted and promulgated in a timely manner, following broad consultations and in line with international human rights norms and standards, and that certain existing laws, including the Law on Associations and Non-Governmental Organizations (2015), are amended to ensure compliance with international human rights law and standards;

(d) To guarantee fair trial rights, in particular the guarantees of presumption of innocence, factual and conclusive evidence and against undue delays, including with respect to the specific cases identified in the present report;

(e) To guarantee the right to legal assistance, adopt a national policy on legal aid and create a centralized legal aid system;

(f) To reduce the size of the prison population by releasing juveniles, non-violent offenders and persons detained for engaging in conduct that is protected by international human rights law and adopting institutionalized long-term policies, including alternatives to detention;

(g) To ensure that OHCHR once again has full and unattended access to prisons and detention facilities and grant such access to other service providers and human rights monitors;

(h) To strengthen the capacity of the National Committee against Torture and adopt a law on the establishment of a national committee against torture that includes protections against reprisal, privileges and immunities, and commitments to reporting to human rights mechanisms, in full compliance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(i) To increase financial resource allocation for social sector expenditure in line with the principle of progressive realization and non-retrogression, including by investing in human rights-based and gender-responsive social protection systems;

(j) To put in place measures to mitigate the impact of rising food prices worldwide and their spillover effects on the livelihoods of the Cambodian people;

(k) To adopt draft national resettlement guidelines that are in line with the basic principles of the United Nations and with guidelines on development-based evictions and displacement and the rights of indigenous peoples and minorities, including ethnic and religious minorities;

(l) To simplify the communal land titling process for indigenous peoples;

(m) To ensure support for returning migrants in vulnerable situations, including in the context of COVID-19, based on policies that incorporate human rights and are responsive to age and gender;

(n) To provide public information on steps being taken to end human trafficking, including internal and cross-border trafficking and trafficking in the context of scam operations, and to bring perpetrators to justice;

(o) To guarantee legal protection from discrimination and violence based on sexual orientation and gender identity, as well as legal recognition of self-defined gender identity and marriage equality;

(p) To continue engagement with United Nations human rights mechanisms, including by submitting overdue reports to the treaty bodies, including periodic reports to the Committee against Torture;

(q) To carry out a review of outstanding recommendations by United Nations mechanisms and finalize a timeline for their implementation.
