

**Human Rights Council****Fifty-fourth session**

11 September–6 October 2023

Agenda item 10

Technical assistance and capacity-building**Situation of human rights in Cambodia****Report of the Special Rapporteur on the situation of human rights in Cambodia, Vitit Muntarbhorn***Summary*

This is the third report submitted by Vitit Muntarbhorn, holder of the mandate of Special Rapporteur on the situation of human rights in Cambodia. The theme of the present report is “Electoral vibrations and generational reverberations”. The Special Rapporteur traces the path from the 2022 commune elections to the 2023 national elections and then reviews the implementation of the 20 human rights-related benchmarks identified in the previous report. A key challenge for implementation is the intergenerational power shift in the country, which is interwoven with the political and electoral processes, and coupled with the constrained civic-political space; some progress has been made, however, on the socioeconomic front. The Special Rapporteur then issues his intergenerational call to all to abide by the principles of democracy and human rights.



I. Introduction

1. This is the third report submitted by the Special Rapporteur on the situation of human rights in Cambodia, Vitit Muntarbhorn. The theme of the present report is “Electoral vibrations and generational reverberations”. The report covers the period from early June 2022 to the first week of June 2023, which began with the commune elections, in June 2022, the results of which were noted tentatively in the previous report,¹ and their aftermath. In the present report, the Special Rapporteur describes developments in the period leading up to the July 2023 national elections, which was vibrating with uncertainty, from the angle of human rights and democratization. That progression is linked with the actual and potential transfer of key portfolios in the governmental field to the next generation, especially the close relatives of those already in top ranks of power, with the ensuing reverberations at the ministerial level.

II. Methodology

2. The methodology of the present report is similar to that explained in the previous report,² with the addition of more field work and access to information. The analysis is based on a variety of input from plural sources, governmental, non-governmental and intergovernmental, which was cross-checked and balanced between the various submissions. Much was learned in August 2022, when the Special Rapporteur paid his first visit to Cambodia, and the findings are integrated into the report. On that occasion, he advocated a 10-point Cambodian human rights action agenda (see annex I). It complements the 20 benchmarks identified in the previous report to help to assess the implementation of human rights in the country, a summary of which is contained in annex II to the present report. The Special Rapporteur then assesses the degree to which the authorities have attained or fulfilled those benchmarks through their effective implementation.

3. In March, a public call for information to all stakeholders was issued by the Special Rapporteur, with deadline for replies of 15 May 2023. Two long replies were received from civil society, while oral input was derived from various informal consultations with some 25 embassies and 10 United Nations agencies on the implementation of the benchmarks. The present report takes into account information from the authorities sent to the Special Rapporteur during the year, including the “Cambodia human rights situationer”, as well as information obtained during the country visit. Deepest thanks are conveyed to the range of stakeholders who kindly offered a helping hand during the year.

III. Electoral vibrations

4. A number of positive developments occurred during the reporting period. Cambodia was recovering impressively from the coronavirus disease (COVID-19) pandemic, receiving praise from the international community with regard to its extensive vaccination programme. Cambodia chaired the Association of Southeast Asian Nations in 2022, despite regional and international difficulties linked with Myanmar and the Ukraine-related conflict. It engaged with the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights, in its reporting under the Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights, respectively, to which it is a party. The concluding observations of those bodies are infused into the analysis set out in the present report.³ The country has made commitments to key human rights treaties and the realization of the Sustainable Development Goals, undergirding the Agreements on a Comprehensive Political Settlement of the Cambodia Conflict (Paris Peace Agreements) of 1991.

¹ A/HRC/51/66.

² *Ibid.*, sect. II.

³ CRC/C/KHM/CO/4-6 and E/C.12/KHM/CO/2.

5. Cambodia invited the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity to undertake a mission to the country. A separate report will be issued by the Independent Expert on the subject. The country's endeavours to extend social protection enjoyed recognition and appreciation, with increasing outreach to key groups through broader provisioning and access to a social protection floor. There is an innovative initiative to offer coverage to tuk-tuk drivers.⁴

6. With regard to the commune elections and upcoming national elections, it is imperative to be aware of the wider context. Elections are closely linked with civil and political rights, and the country is bound by international standards, especially the International Covenant on Civil and Political Rights, to which it is a party, which help to objectivize the process, together with the Paris Peace Agreements.

7. The 2022 commune elections were preceded by commune elections in 2017. The situation in 2017 indicated a burgeoning political pluralism, with a variety of political parties competing for votes among the electorate. The Cambodia National Rescue Party (CNRP) won some 43 per cent of the votes, as compared with the Cambodian People's Party (CPP), which won some 50 per cent of the votes. Subsequently, however, the situation deteriorated. CNRP was taken to court later in 2017 for plotting to overthrow the CPP Government, an allegation denied by CNRP, but the Supreme Court found against the latter, and it was disbanded unjustly by court order. Nearly 120 CNRP leaders and members were also banned from politics for five years.

8. When the elections loomed for the National Assembly in 2018, CNRP members declined to stand for election in the national elections, and the CPP won all 125 seats in the Assembly, resulting in single party rule and the related absolutism. The years that followed were marked by the consolidation of power by the ruling elite, which led to personalized institutions under the influence of that monopoly. However, a new opposition party arose from the ashes of 2017. The Candlelight Party (CLP) began to take shape, with a regrouping of politicians who had once been part of CNRP.

9. The table below contains the results of the 2022 commune elections, which were monitored by the National Election Committee. There were some 45 political parties, with 17 parties having been registered for the elections. The final results indicate the majority of seats being allocated to CPP, while CLP made noticeable headway. CPP won about 80 per cent of the votes, resulting in its obtaining some 9,400 seats. CLP won about 19 per cent of the votes, resulting in its obtaining nearly 2,200 seats. A group of other parties won about 20 seats. Most of the commune chief positions were won by CPP, numbering about 1,650, while four such positions went to CLP.

Results of the 2022 commune elections

Province	Votes		Commune chief		Commune councillor seats						Total
	CPP	CLP	CPP	CLP	CPP	CLP	FUN	KNU	GDP	Other	
Banteay Meanchey	194 543	55 900	67	0	429	96	0	7	0	1	533
Battambang	347 062	94 744	103	0	676	147	0	0	0	0	823
Kampong Cham	339 279	125 675	108	1	619	196	0	0	0	5	817
Kampong Chhnang	202 957	66 991	71	0	337	90	0	0	0	0	427
Kampong Speu	384 954	90 002	88	0	520	90	0	0	0	0	616
Kampong Thom	205 882	94 323	78	3	406	165	12	0	2	0	585
Kampot	232 479	75 909	93	0	440	117	2	0	1	1	561
Kandal	481 744	154 371	127	0	727	187	1	0	0	0	915

⁴ See <https://www.khmertimeskh.com/501263884/public-health-insurance-for-phnom-penh-tuk-tuk-drivers/>.

Province	Votes		Commune chief		Commune councillor seats						Total
	CPP	CLP	CPP	CLP	CPP	CLP	FUN	KNU	GDP	Other	
Koh Kong	44 992	10 356	29	0	145	21	0	0	0	1	167
Kratie	120 550	35 216	48	0	244	56	1	0	0	0	300
Mondulkiri	29 676	4 434	21	0	104	3	0	0	0	0	107
Phnom Penh	536 625	151 262	105	0	743	154	1	1	0	0	899
Preah Vihear	85 791	25 130	51	0	260	70	0	1	2	0	333
Prey Veng	398 045	140 728	116	0	684	206	0	0	0	2	892
Pursat	195 656	32 143	49	0	311	30	0	0	0	0	341
Ratanakiri	69 838	11 735	50	0	236	22	0	1	1	0	260
Siem Reap	306 668	115 589	100	0	514	153	0	1	0	0	688
Preah Sihanouk	86 308	17 400	29	0	161	16	0	0	0	0	177
Stung Treng	55 898	12 009	34	0	155	19	2	0	0	0	176
Svay Rieng	245 164	75 528	80	0	416	100	0	0	0	0	518
Takeo	406 958	118 061	100	0	597	139	0	0	0	0	734
Kep	19 284	2 893	5	0	29	2	0	0	0	0	31
Pailin	25 456	5 095	8	0	47	5	0	0	0	0	52
Tboung Khmum	276 895	78 419	64	0	432	102	0	2	0	0	536
Uddor Meanchey	87 069	16 353	24	0	139	13	0	0	0	0	152
Total	5 378 773	1 610 556	1 648	4	9 376	2 195	19	13	6	10	11 622
Percentage	74.32	22.25	99.76	0.24	80.67	18.88	0.16	0.11	0.08	0.10	100

Source: United Nations country team in Cambodia, 2022.

Notes: Voter turnout: 80.32 per cent; valid ballots: 7,237,037; invalid ballots: 157,390; total registered voters: 9,205,681; "Other" comprised four parties: Khmer National Love Party, Khmer Youth Party, Kampuchea Niyum Party and Beehive Social Democratic Party; women commune chiefs (CPP): 173; young commune chiefs (defined as 35 years of age or younger): 37; women councillors: 2,562 (22.04 per cent); National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (commonly referred to as FUNCINPEC) party is led by Prince Norodom Chakravuth, son of the late Prince Norodom Ranariddh; Khmer National United Party is led by former General Nhek Bunchhay, former FUN senior official; Grassroots Democratic Party is led by Yeng Virak and Yang Saing Komar, a former leader of civil society organizations.

Abbreviations: FUN, National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC) party; CLP, Candlelight Party; CPP, Cambodia People's Party; GDP, Grassroots Democratic Party; KNU, Khmer National United Party.

10. The 2022 commune elections took place peacefully, but there were irregularities.⁵ There was a glimmer of diversity in political participation and the results, which opened the door for a limited number of seats to be won by the opposition. The next stepping stone is for Cambodia to hold national elections on 23 July 2023, the seventh quinquennial election since the 1990s.

11. Upon scrutiny, there were glaring impediments during the 2022 elections, which might affect the lead up to the 2023 elections. They included negative pressures to influence the voting process, such as the lingering presence of officials at various polling stations, voters' names being recorded, transport being provided to take voters to polling places and house visits. A large number of candidates, especially of CLP, were delisted in 2022 and therefore prevented from participating in the elections under questionable circumstances. During the months leading up to the election, there were a range of reports concerning the harassment, threats and intimidation of candidates seen as belonging to the political opposition.

⁵ A/HRC/51/66, paras. 9–25.

12. Some complaints from those involved in the 2022 elections were lodged with the National Election Committee for investigation. However, members of that body are known to have close ties with the ruling CPP, therefore affecting its independence. In addition, Cambodians are not permitted to vote from abroad, thereby disenfranchising millions of Cambodian migrant workers working in neighbouring countries, and the anomaly invites the reform of the electoral system.

13. To overcome such irregularities, various preferred practices for free and fair elections geared to a multiparty system emerged as lessons learned in 2022. While waiting for reform of the National Election Committee, to make it more pluralistic, there should be broader recruitment of election-related personnel at all levels to distance the staff from political parties and to ensure their impartiality. Local authorities, police and military should not be present near polling stations; only legitimate personnel related to the elections should be near polling places. The public should be allowed to monitor the vote counting process nearby, rather than the current rule that obliges them to be separated by at least 15 metres from the polling station. It is necessary to ensure that the form (No. 1102) stipulating the voting results should be filled in fully and correctly and posted publicly. There is a need for a law to make campaign financing public information. Independent observers are needed to monitor the next elections.

14. In fairness, the openings in 2022 offered by the results of the commune elections signalled that there was some space to be retained or broadened before the 2023 national elections. However, regrettably, since the first quarter of 2023, the political atmosphere has become more prohibitive and debilitating, especially for civil and political rights, begging the question of why.

15. It may be implied that the top level wishes increasingly to ensure the guaranteed transfer of power to their successors, without risking the results of the popular vote in 2023, which might open the floodgates to more pluralism. There is therefore a political clampdown by the older generation as a strategic ramp up for the younger generation.

16. Other factors are pertinent to the 2022–2023 period. There were various mass trials of members of the opposition, which prevented a large number of key political leaders from participating in the elections. Details are provided against the benchmarks in section V below. The media became more constrained, as seen by the forced closure of Voice of Democracy, a key independent media channel, for reporting on the alleged role of the premier's son in relation to the disbursement of aid to another country, despite a subsequent apology from the channel.

17. The main opposition party, CLP, together with another party, the Khmer United Great Nation Party, were refused registration by the National Election Committee in May 2023, under dubious circumstances concerning documentation; that blockage straitjacketed the hope for a pluralistic and transparent setting for the July 2023 elections. The appeal lodged by those parties to the Constitutional Council, a nine-member body known to have close ties with the ruling elite, was rejected on 25 May 2023. Towards the end of May 2023, 20 political parties had sought registration with the National Election Committee for the upcoming national elections, and 18 were recognized.

18. The scenario was also replete with provocative messages from the top of the executive branch, against the political opposition and human rights commentators, and even diplomats. There were intimidating attacks on those whose views were seen as being antithetical to the power base. The legal machinery, including an equivocal judicial system, was instrumentalized by the power base against human rights and democratic aspirations.

IV. Generational reverberations

19. The next generation taking up the reins of power from their forebears has already begun. Therein lies the quandary of whether the long-standing monopoly of the predominant non-democratic elite is on the verge of being perpetuated by dynastic automatization and is soon to be consecrated by the 2023 elections.

20. To facilitate the perpetuation of the status quo, the tenth round of constitutional amendments were adopted, in 2022, hastily and with little public participation.⁶ In substance, the amendments are weighted in favour of those in power. One of the changes is to shift the power to nominate and appoint the Prime Minister from the President and Vice-Presidents of the National Assembly to the majority party, or the ruling party. The Premiership will also have the power to nominate and appoint a temporary Premier. There are obvious implications for intrafamily transfer of power.

21. However, current and future generations have an important interest in remedying the concerns inherent to the 20 benchmarks below, as the country's destiny is at stake. It is the humble hope of the Special Rapporteur that there will still be room to remedy the excesses of the past. Attention is therefore called to the implementation of human rights, which is closely linked with peace, democracy and sustainable development.

V. Benchmarks

22. The Special Rapporteur has formulated 20 benchmarks to help to promote the implementation of human rights in the country, and they cover a whole range of civil, political, economic, social and cultural rights.

23. The performance of the authorities against the benchmarks can be measured through three grades: on target, implying fulfilment or en route to fulfilment, variable, implying an ambivalent record, with some good outcomes, some not, as well as works in progress, and off target, implying non-fulfilment and/or regression.

24. The 20 benchmarks can be analysed, as set out below.

A. Desist from applying, and reform, draconian laws

25. The country is impeded by a state of over-legislation, in particular laws of a draconian kind. The many prosecutions during the reporting period illustrated the abusive use of a variety of national laws, especially on criminal defamation and incitement. Critique of these prosecutions is usually rebutted by a perfunctory and dismissive message from the authorities, asserting that everything is done in accordance with national law, despite its inconsistency with international standards. Such is the trajectory of "rule by law".

26. Those laws remain on the books and have not been reformed. There is a long list in the previous report of the Special Rapporteur.⁷ An intriguing development is the subdecree on the management and use of national domain names on the Internet, which allows the authorities to impose their version of securitized limitations based on "culture, morality, traditions, customs, individual rights, consumer rights, public legal interests, national security or social order", beyond what is permissible under international law.

27. Legal tools which deserve caution include the following sections of the Criminal Code: (a) sections 305 and 309, on public defamation and related procedure; (b) section 307, on public insult and libel; (c) section 425, on falsification of information; (d) section 443, on conspiracy with a foreign power; (e) section 453, on plotting against the Government and conspiring to commit treason; (f) sections 494 and 495, on incitement to commit an act which may bring turmoil to the country. Now there is also a law on *lèse-majesté*, namely, section 437 bis, which can impose up to five years' imprisonment, with additional fines, per count.

28. From the civil society angle, official estimates indicate that there are some 6,000 non-governmental organizations operating in the country.⁸ However, those working on human rights advocacy and environmental issues tend to be in a difficult position in interacting with the authorities, owing to the extensive pressures from the latter. There is a well-known law on non-governmental organizations, the Law on associations and non-governmental

⁶ See <https://constitutionnet.org/news/cambodias-constitutional-amendments-consolidating-control>.

⁷ A/HRC/51/66, sects. V.A and V.B.

⁸ Cambodia, "Cambodia human rights situationer V", January–September 2022 (Geneva, September 2022).

organizations, constraining the work of civil society, with ongoing discussions for reform. From another angle, the country is in need of a law for the protection of personal data.

29. The Special Rapporteur applies the benchmark implementation grade of off target.

B. Release detained human rights defenders and political dissidents and drop the charges against them

30. During the reporting period, the Special Rapporteur continually received reports of attacks, coupled with unjustified arrests and prosecutions, on human rights defenders, journalists and media personnel, political dissidents and others seen as being opponents of the authorities.⁹ Even the loading from the Internet of satirical rap music led to the intimidation of key non-governmental organizations by the authorities as part of the censorship.¹⁰

31. As at the beginning of 2023, scores of human rights defenders and environmentalists were estimated to be in detention. There was a rise in those numbers, as compared with the previous year. Various political dissidents were detained in prisons far and wide.

32. On occasion, through the intervention of the Premiership, prosecutions are dropped. This is usually the result of an apology by the accused or detained person to that entity and the acceptance thereby. However, this has also been a method of converting some opposition members to join CPP instead, reportedly with pressure imposed on those members to do so.

33. There was a case from the end of 2021 involving the arbitrary arrest and detention of a number of trade unionists and workers at the Naga World casino in relation to their year-long peaceful strike to advocate their rights as workers against unfair dismissal and other grievances.¹¹

34. On 25 May 2023, nine union leaders and activists from the Labor Rights Supported Union of Khmer Employees of NagaWorld were convicted on charges of incitement to commit a felony or to disturb social security, under sections 494 and 495 of the Criminal Code, for the organization of that lengthy strike. A key trade union leader, Chhim Sithar, was kept in pretrial detention since November 2022, on questionable grounds, after having returned from abroad, received a two-year custodial sentence, while the others were placed under judicial supervision or received suspended sentence.

35. The Special Rapporteur applies the benchmark implementation grade of off target.

C. Restore and re-enfranchise a variety of political parties and ensure free and fair elections

36. This benchmark is very much linked with the much-criticized dissolution of CNRP in 2017, as already noted above. That decision has not been reversed, and the situation has deteriorated. The recent traumatic history of CLP indicates even more disenfranchisement, due to the refusal of the authorities to register it for the 2023 elections. Multiparty pluralism is being undermined precipitously.

37. Developments concerning amendments to the Law on political parties have benefited the political constituents in power, as discussed in the previous report. In that report, the Special Rapporteur gave details of electoral laws and their anomalies. There has been continual political disbarring of opposition politicians.¹²

38. The Special Rapporteur applies the benchmark implementation grade of off target.

⁹ See <https://cchrcambodia.org/>.

¹⁰ See <https://www.civicus.org/index.php/media-resources/news/6234-cambodia-blocking-of-music-video-another-blow-to-freedom-of-expression> Accessed 28 May 2023.

¹¹ See <https://www.ohchr.org/en/press-releases/2022/01/cambodia-arrests-strikers-may-amount-breach-human-rights-law-un-experts>.

¹² A/HRC/51/66, sect. V.C.

D. End mass trials of the political opposition and guarantee space to engage in democracy and political pluralism

39. The first mass trial led to the conviction, on 1 March 2021, of nine senior leaders of the former CNRP in absentia, including key opposition leader Sam Rainsy, who is now in exile, on charges related to attempt to commit a felony” and “attack on and endangering institutions of the Kingdom of Cambodia”, which, under the Criminal Code could lead to up to 25 years’ imprisonment.

40. The second mass trial led to the conviction, on 17 March 2022, of 21 persons allegedly affiliated with CNRP, including 7 leaders with a penalty of 10 years’ imprisonment and 14 CNRP supporters and relatives with a penalty of five years’ imprisonment. The charges were in relation to the attempted return of Mr. Rainsy to Cambodia, and there were allegations of incitement, plotting and inciting military personnel to disobedience.

41. The third mass trial resulted in a guilty verdict, on 14 June 2022, by which 51 former CNRP members, including leaders who were already convicted in March 2021 and March 2022, were convicted on charges of incitement and plotting and sentenced to up to eight years’ imprisonment in relation to Mr. Rainsy’s attempt to return to Cambodia in 2019. The sentences were suspended in part for 20 of the accused. In the meantime, straddling the third and fourth mass trials, there was a case concerning seven former CNRP members, which resulted in their conviction for incitement with a penalty of 18 months’ imprisonment in relation some social media s calling upon Cambodians to fight for change, on 10 August 2022.

42. As for the fourth mass trial, on 22 December 2022, 36 former CNRP members, including CNRP leaders who were already convicted in March 2021, March 2022 and June 2022, were convicted of plotting and sentenced to between five and seven years’ imprisonment for allegedly supporting another opposition leader, with regard to a deputy leader’s attempts to return to Cambodia in December 2020 and January 2021. Three CNRP members received suspended sentences. Additional penalties were ordered against 11 of the activists, with political rights suspended for five years, under article 455 of the Criminal Code. The charges against one of the accused were dropped. Thirty-four of the 37 defendants were tried and convicted in absentia. More details are contained in annex III.

43. On 3 March 2023, Kem Sokha, former CNRP president, was found guilty of treason and conspiracy with a foreign power and sentenced to 27 years imprisonment, after a trial convened after a three-year delay. He was also stripped of his rights to vote and to stand for election, under article 450 of the Criminal Code. The court ruled that Mr. Sokha had repeatedly attempted a “colour revolution” to oust the Government, with the backing of an unnamed foreign power. He is now under house arrest with restricted access to counsel. His appeal is pending.

44. Other individual cases of concern during the reporting period include the following. Two Vice-Presidents of CLP were prosecuted for various alleged offences. Son Chhay was adjudged to have defamed the National Election Committee and CPP and was fined over \$1 million. Thach Setha was prosecuted for issuing dishonoured cheques and later for incitement. He is now in pretrial detention. A more recent Vice-President of CLP, Rong Chunn, had to resign from his post, due to earlier convictions for various political offences. A senior advisor of the party also left his post, after one of the ministries pressured him for the return of disputed land. A Cambodian-American lawyer, Theary Seng, was sent to a distant prison, allegedly guilty of treason.

45. Irregularities inherent to these trials include a lack of credible evidence, failure to respect fair trial rights and due process guarantees, limited ability for cross-examination and the fact that several of the so-called accused are being tried in absentia. The trials silence potential voices from participating in the electoral process of 2023.

46. The Special Rapporteur applies the benchmark implementation grade of off target.

E. Ensure the independence and transparency of the judiciary and related personnel, such as prosecutors and lawyers

47. Various new courts, including a commercial court and a labour court, are in the offing. More judges and lawyers are to be trained. However, a major concern is that all the pillars of the system, including the judiciary, are very much beholden to the monopoly that prevails at the top of the executive branch. The image and substance of independence and impartiality are therefore compromised; this ambivalence was highlighted explicitly by the Human Rights Committee in its concluding observations on the third periodic report of Cambodia submitted under the International Covenant on Civil and Political Rights.¹³

48. Three laws have opened the door to executive infiltration of the judiciary and related institutions, namely the 2014 Laws on the organization of the courts, the Statute of Judges and Prosecutors and the organization and functioning of the Supreme Council of the Magistracy. They enable the executive branch to impinge on that other pillar of the State, resulting in influence over the selection and promotion process of members of the judiciary and other personnel and reign over the administration of the courts and justice. Those laws need reform, and safeguards are needed to ensure judicial independence, respectful of the separation of powers and functions as a check and balance against abuse of power. Not only is there a need for the improved selection, formation and incentivization of members of the judiciary and other law enforcers, but it is also essential to impose various conditions to help to separate them from political parties. For instance, those personnel should be prohibited from sitting on the executive committees of political parties.

49. The Special Rapporteur applies the benchmark implementation grade of off target.

F. Improve the capacity of the overloaded prison system and adopt more non-custodial measures, especially in relation to pretrial cases

50. The Special Rapporteur learned from discussions with personnel of various ministries and lawyers that there have been some recent improvements with regard to law reform and the criminal justice system, aiming at increasing the provision of legal aid and enabling alternative dispute resolution mechanisms, such as mediation. Backlogs of court cases are now being cleared. There are also new regulations on conditional release that open the door for the use of non-custodial measures, bail and pretrial release. A welcome innovation would be to set up libraries in most prisons with the help of a foreign embassy.

51. During the mission in August 2022, the Special Rapporteur was particularly interested in observing the situation concerning closed or semi-closed institutions, including prisons, centres for youth rehabilitation, drop-in centres for homeless people and centres for mental health, in various localities. The lessons learned included that there is the need to ensure that all those who are kept in such locations must have full access to their families before and during their institutionalization. There should be as much access as possible to breathe fresh air outside the constraining buildings where inhabitants are kept and to be involved in outdoor activities, such as gardening, which can help to nurture the spirit. One institution, Prey Speu, housing primarily homeless people, regrettably locked up most of the inhabitants for most of the day, even though they had not committed any crime, with the presumption that they needed counselling. There were also suspicious deaths of inmates. The closure of this institution should be seriously considered.

52. All closed and semi-closed settings should be well monitored. In reality, many of those who are kept in such institutions should not be there at all. The country should therefore not only move towards non-custodial measures and more community-based rehabilitation, but also monitor against wrongful detention. In addition, there is an acute overcrowding rate of about 300 per cent, with some 40,000 inmates.¹⁴

¹³ CCPR/C/KHM/CO/3.

¹⁴ See E/C.12/KHM/CO/2. On prisons and political cases, see <https://www.licadho-cambodia.org/topic/prison>.

53. The Special Rapporteur applies the benchmark implementation grade of variable.

G. Explore more rehabilitative measures, rather than retributive sanctions, in drug-related cases

54. The approach has, to date, been anchored on retribution, rather than rehabilitation, of those convicted in drug-related cases, and an inordinate number of those involved in consumption for personal use are incarcerated. There are recurrent reports of innocent bystanders being swept up by overzealous law enforcers and landing in detention through anti-drug operations. At times, people perceived to be involved in the drugs process, often from poor communities, are detained, despite a lack of convincing evidence that they have committed a crime.

55. There are links with the need to review the 2012 Law on the control of drugs, as it currently leads to too much incarceration, rather than to alternatives to detention, such as community-based care and recovery. There is also a gender perspective; while some 60 per cent of all prisoners in Cambodia are held on drug-related charges, some 70 per cent of all women prisoners are imprisoned on drug-related charges.¹⁵

56. The Special Rapporteur applies the benchmark implementation grade of off target.

H. Follow-up effectively on cases of enforced disappearance and other key violations concerning Cambodians and foreign nationals, especially to overcome the atmosphere of impunity

57. A number of cases of enforced disappearance still await effective investigation and resolution in the country. There is the 2016 case of Kem Ley, a key political commentator who was shot to death, with the culprit enjoying impunity to date. With regard to non-nationals, there is the case of the enforced disappearance of a Thai democracy activist, Wanchalearm Satsaksit,¹⁶ who was abducted outside his apartment in Phnom Penh and whose fate and whereabouts are unknown. This intimidating scenario deserves effective, impartial and timely investigation and fact-finding.

58. The Special Rapporteur applies the benchmark implementation grade of off target.

I. Give attention to increasing indebtedness, leading to loss of land, as collateral for loans linked with microfinance, and diminishing food security

59. Microloans, of usually about \$5,000 or less, have emerged as a lure leading to debt and deprivation, especially given that they are tied to massive loss of land used as collateral and compounded by the rise in poverty due to the years of the COVID-19 pandemic. Cambodia has the highest private debt to gross domestic product ratio among developing countries. A source estimates that 167,000 Cambodian households have been pressured to sell land to repay loans over the past five years.¹⁷ Even though there are some decrees to regulate loans, they are inadequate.

60. This implies the need for more direct governmental action to regulate negative financial practices and to monitor the lenders, especially through client protection laws and programmes. The debt of the poor requires further measures, through debt relief, loan restructuring, social protection measures, increasing financial know-how and educational measures to prevent manipulation and exploitation.

61. The Special Rapporteur applies the benchmark implementation grade of off target.

¹⁵ See <https://www.amnesty.org/en/documents/asa23/6356/2023/en/>.

¹⁶ A/HRC/51/66, para. 46.

¹⁷ See <https://opendevelopmentcambodia.net/announcements/joint-press-release-german-government-funded-study-confirms-grave-problems-in-cambodias-microfinance-sector/>.

J. Improve access to and the resumption of education, after the disruption caused by the pandemic, including by overcoming the gaps in equal access to and usage of the Internet and promoting related formal and non-formal education programmes

62. The country was performing well with regard to access to education, especially at the primary level, before the pandemic. During the pandemic, schools were closed, and the education process had to go online, but it also pushed out children from economically disadvantaged groups. There is a gap between those who have access to the Internet and those who do not. However, the targets under the Sustainable Development Goals are still valid and provide a national threshold for action on behalf of children and their families.¹⁸

63. This is an area where it is quite easy to tap into political will to help, and it can be prospected that educational resuscitation can take place in due course. The decline in budget for the education sector is now being overturned by a bigger budget for education, and this is a welcome development. The education sector is an area where improvements can be nurtured without being embroiled in much politicization.

64. The Special Rapporteur applies a benchmark implementation grade of on target.

K. Allocate additional resources to the social sector, bearing in mind that public expenditure on this front has been declining in recent years

65. The pandemic has stretched the resources of all countries, and a key challenge is to allocate the maximum available resources to fulfil economic, social and cultural rights. Bearing in mind the issue of more equitable budget allocation, as raised by the Committee on Economic, Social and Cultural Rights, one piece of promising news is the increase in the educational budget, which is now targeted at about \$1 billion for the next year.¹⁹ This is complemented by a national gross domestic product growth rate of about 6 per cent, as an encouraging indicator of the economic recovery process.²⁰

66. While this is propitious news, much will also depend on sustainable financing, which calls for transparency measures, fair taxation, sound fiscal policies and equitable allocation. This is also to be shaped by the country's next national development plan, which is due to start in 2024; it will put more emphasis on sustainability and the linkage with a greener economy.

67. The Special Rapporteur applies a benchmark implementation grade of on target.

L. Ensure comprehensive and gender-sensitive protection and assistance for special groups, including women, children, persons with disabilities, migrant workers, Indigenous Peoples, minorities and lesbian, gay, bisexual, transgender and intersex persons

68. The Special Rapporteur recalls the details set out in his earlier reports on special groups.²¹ There is notable intersectionality between the characteristics of such groups. With regard to women, while there has been much progress with regard to the maternal mortality rate, violence against women is a key concern. The Domestic Violence Act opens the door excessively for recourse to mediation, without accountability, and requires reform to enable a more victim-sensitive response. There should be more room for women's participation in

¹⁸ Especially Sustainable Development Goal 4.

¹⁹ See <https://eacnews.asia/home/details/17434>.

²⁰ See <https://www.worldbank.org/en/news/press-release/2023/05/18/cambodia-s-economy-on-firm-path-to-recovery>.

²¹ A/HRC/48/79, paras. 52–64.

key positions, such as in the judiciary. Women constituted only 10 per cent of those elected to positions in the commune elections of 2022.²²

69. There are challenges concerning gender norms, unpaid work, gender-based violence and unequal representation. While 84 per cent of women are in the work force, more than 30 per cent of women lost their jobs during the COVID-19 pandemic, and those in family-related work often perform unpaid labour.²³ The Special Rapporteur is of the view that women's rights would be an innovative theme for a future report and country analysis.

70. A host of recommendations on children's rights are found in the concluding observations of the Committee on the Rights of the Child on the combined fourth to sixth periodic reports submitted by Cambodia under the Convention on the Rights of the Child.²⁴ There is potential for good recovery with regard to access to education after the COVID-19 pandemic, bearing in mind the Committee's assessment of the need for a law on compulsory education. Violence is a key issue, and the country should prohibit corporal punishment. With regard to children in conflict with the law, there is a Law on juvenile justice, of 2016, but the country does not yet have family courts or dedicated juvenile judges. There is no evidence that the Law is being applied well in regular proceedings, as shown by the number of children who are in detention, including in pretrial detention, often for minor offences. There needs to be diversion from detention and other alternatives found, with the support of families and communities, as part of restorative justice. There is also a reported increase of child labour due to the pandemic.

71. A key issue during the reporting period was the reported lifting of the moratorium on intercountry adoptions, given that non-governmental organizations have reported on many negative situations in the past.²⁵ Measures are needed to prevent the abuse and sale of children, which is linked with the trafficking issue described below. There is also the unsettling issue of surrogacy and the commercial exploitation that might ensue. In one major case, the anti-trafficking law was applied against the persons involved in the surrogacy, which involved Cambodians and foreigners.²⁶ There is a need for a law on surrogacy to prevent violations in this regard.

72. Cambodia has been trying to amend its law on persons with disabilities. A key consideration is the informed participation of persons with disabilities in the reform process, in addition to integrating the principle of reasonable accommodation into law and practice. An often-overlooked challenge is the issue of persons with psychosocial disabilities and the need to have humane means of enabling them to live in society without the use of coercive methods against them.

73. There are a plurality of Indigenous Peoples in the country, and there is a specific national policy for such communities. Much of the debate is on the issue of the right to land, timely land titling and the preservation of their cultures and surrounding natural resources, including action against illegal logging and deforestation committed by outsiders. Two draft laws, on forestry and on protected areas, give rise to problems.²⁷ There are concerns that the former law will impede the participation of local communities and Indigenous Peoples in patrolling and safeguarding forests, which is jeopardized by the presence of armed hunters and outsiders. There are concerns about the latter law's lack of recognition of the rights of Indigenous Peoples and non-respect for the principles of protection against displacement and of free, prior and informed consent, to prevent evictions.

74. While some Indigenous Peoples in the country also belong to minority groups, there are other minorities, such as the ethnic Vietnamese and Muslim communities. Access to the basic requirements of life, such as birth registration, family-related documentation,

²² See <https://www.phnompenhpost.com/national/parties-need-field-more-women-candidates-elections-csos-urge>.

²³ See <https://cambodia.un.org/en/174010-gender-equality-deep-dive-cambodia>.

²⁴ CRC/C/KHM/CO/4-6.

²⁵ See <https://www.khmertimeskh.com/501050095/fostering-hopes-cambodia-resumes-inter-country-adoptions-after-eight-year-hiatus/>.

²⁶ See <https://www.nytimes.com/2022/11/26/world/asia/surrogacy-cambodia.html>.

²⁷ See <https://vodenglish.news/fears-grow-as-draft-laws-leave-out-indigenous-allow-hunting/>.

education, work opportunities and citizenship, are recurrent issues. On a constructive front, freedom of religion is enjoyed in the country.

75. On lesbian, gay, bisexual, transgender and intersex persons, the visit of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity was an occasion to reiterate human rights linked with gender diversity. There is the possibility of enacting an anti-discrimination law that would be inclusive of sexual orientation and gender identity and help to protect the rights of lesbian, gay, bisexual, transgender and intersex persons. The country also needs to have a law to recognize gender identity, a key issue for transgender communities. In addition, there is space for a law to recognize same-sex marriage.

76. Migrant workers, including returnees from other countries, are another case in point, with regard to their access not only to health facilities, but also to social protection and support for their reintegration into society.

77. The Special Rapporteur applies the benchmark implementation grade of variable.

M. Enable the effective participation of local communities in the protection of natural resources, in particular land holdings, land titling and the related privatization of State land, and guarantee against the seepage of vested interests often linked with the power base

78. Competition for land and resources in a growing economy has been one of the most visible points of conflict in recent years and poses challenges for the conservation of natural resources. For a period, there was a moratorium on economic land concessions, but this is now in doubt, with the report of a recent concession to those close to the power base.²⁸ During the reporting period, the spread of special economic zones raised the issue of whether land would be readily taken over by the authorities and their cohorts.

79. Another problem is the privatization of State land, especially when facilitated by those in power in favour of their vested interests in the business sector. It is linked with evictions and the displacement of communities, including low-income settlements and Indigenous groups. During the reporting period, there were incidents of mass evictions around Angkor Wat, with some United Nations monitoring.²⁹

80. During his 2022 visit, the Special Rapporteur took note of lessons learned with regard to urban land and related displacement. A compromise might be reached by using an existing land law constructively. Governmental circular No. 3, on the resolution on the temporary settlements on land which has been illegally occupied in the capital, municipal and urban areas, is an instrument which can bridge the gaps between the various actors from the 2010 period. Instead of relocation, the preferred solution of such settlements is often to become part of on-site upgrading so that inhabitants can stay on and adapt to the new land use. Community mapping prepared by the communities is an important consideration to be borne in mind. Where relocation is to take place, there are further issues of consultation and compensation and whether the relocation facilities are adequate. It should not be forgotten that the location of the settlements is important with regard to access to work, and relocation may cause difficulties in this regard.

81. The Special Rapporteur applies the benchmark implementation grade of off target.

²⁸ See <https://cambojanews.com/government-approves-new-economic-land-concession-despite-moratorium-conflict-ensues>.

²⁹ See <https://www.theguardian.com/global-development/2022/nov/29/evictions-cambodia-angkor-wat-unesco-world-heritage-site>.

N. Establish comprehensive mitigation and adaptation programmes to counter climate change

82. The country has the Cambodia climate change plan, 2014–2023, and, more recently, in 2021, the long-term strategy for carbon neutrality, aiming to be carbon neutral by 2050. It submits under the climate change-related framework of nationally determined contributions. The measures to be taken include less reliance on fossil fuels, increased use of clean and renewable energy, reforestation and practicing sustainable agriculture. Mitigation targets include the agricultural and waste sectors.

83. The Committee on Economic, Social and Cultural Rights underlined the need for more adaptation measures.³⁰ This is an approachable issue that is likely also to be covered in the new national development plan, which is due to start in 2024.

84. The Special Rapporteur applies a benchmark implementation grade of on target.

O. Eschew the forced return of its nationals from other countries, when and where they are internationally recognized refugees, and release all deported detainees with this status

85. The deportation or refoulement of Cambodian refugees back to Cambodia from abroad, against their will, with returnees being detained on arrival, is of great concern to the Special Rapporteur. Recently, four Cambodian dissidents who were sent back from a neighbouring country were detained upon return. It is suspected that there are informal arrangements between various countries in the vicinity to deport, from the potential country of asylum, those considered to be averse to those in power in the country of origin. Given that the country is a party to the international Convention relating to the Status of Refugees, it should eschew the forced return of its nationals from other countries, when and where they are internationally recognized refugees. In 2022, the Special Rapporteur visited with some of the returnees who are now in prison; they should be released expeditiously.

86. The Special Rapporteur applies the benchmark implementation grade of off target.

P. Ensure more victim-friendly law enforcement and national and international anti-crime cooperation, in response to reported situations of modern slavery in the form of human trafficking and forced labour through Internet fraud and other forms of deception

87. The issue of Internet scams through which people from many countries are duped into a situation of human trafficking, forced labour or other forms of exploitation was highly publicized during the 2022 trip of the Special Rapporteur.

88. There are various elements of note. In contrast with a decade ago, when Cambodia was a source, rather than a destination, country of these abuses, the country is now faced with the challenge of being a major destination country. The group of victims is different from before. While it was the poor and vulnerable who were often duped in the past, today's victims often come from persons who are skilled and computer-savvy and from more middle-class level of society, including a large number of men. Precisely because this cyberphenomenon is a cross-border one, countries must explore more cooperation of an innovative kind, which requires not only law enforcement cooperation but techno-digital know-how. One country is now warning its nationals at the airport to beware of online scams, if they are hoping to reap benefits from working online in the country of destination for suspicious employers.

89. A key concern is to implement effectively the plan put forward by the National Committee for Countering Trafficking, in cooperation with its partners, and establish accessible mechanisms and rights-based processes to identify victims and separate victims

³⁰ See E/C.12/KHM/CO/2.

from other categories.³¹ Even if they enter the country illegally, if they were tricked by Internet fraud, they should be recognized and treated as victims, rather than as illegal immigrants. Over a dozen countries are affected in concert, and they are now realizing the significance of the phenomenon and promoting international cooperation and support, but more must be done to prevent, protect and remedy the situation. An emerging issues is forced labour, including in prisons, which is now being examined by the International Labour Organization.

90. The Special Rapporteur applies the benchmark implementation grade of off target.

Q. Adopt measures to prevent and eliminate corruption, especially with regard to those who are related to the power base, to improve transparency and accountability

91. According to a Transparency International, the country was ranked at 150 out of 180 countries, in 2022, indicating a sullied scenario.³² Inevitably, it is linked with the power accumulation at the top, with multitiered patronage. While there can be many suggestions for improvements on this front, the country's being a party to the United Nations Convention against Corruption already provides a list of needed actions to make the situation more transparent. They include the call to protect whistleblowers and witnesses and victims, to probe political contributions to political parties and the interplay with national and Commune elections and to ensure that politicians and their immediate families list their assets openly. The Committee on Economic, Social and Cultural Rights also expressed concern on the issue.³³ The public should have easier access to the information on these issues to check for accountability and transparency than they do at present. This is interlinked with the need for a law on access to public information and for political demonopolization.

92. The Special Rapporteur applies the benchmark implementation grade of off target.

R. Demonstrate commitment and establish a concrete time frame for 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), ensuring the participation of wide range of stakeholders, including civil society

93. The Government-linked Cambodian Human Rights Committee is overseeing a bill on the establishment of a national human rights institution and has engaged in various consultations. It must be well grounded in broad stakeholder participation, with the fuller participation of a variety of civil society actors, primarily reflecting the Paris Principles. In essence, independence of the emerging institution is key, and this means independence from executive control, as well as the pluralism of its composition and the effectiveness of its work. In addition, especially because key non-governmental organizations are hesitant about the whole process, due to the shrunken political and civic space, that space must be liberalized so as to advance an atmosphere where a viable national human rights institution can function effectively.

94. The Special Rapporteur applies the benchmark implementation grade of variable.

³¹ See <https://opendevelopmentcambodia.net/tag/national-committee-for-counter-trafficking-ncct/#!/story=post-165090>.

³² See <https://www.transparency.org/en/countries/cambodia> (accessed 28 May 2023).

³³ See E/C.12/KHM/CO/2.

S. Adopt post-pandemic recovery measures, including on combating poverty, access to health care and re-vaccination, employment opportunities and education, and other social protection measures, to help needy groups, in keeping with international standards

95. Economic, social and cultural issues need to be well attended to, so as to ensure that post-pandemic recovery is people-centred and that it is guided by the principles of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, to which the country is a party, and the Sustainable Development Goals. The country already supports the poor through its ID Poor programme, which is being expanded. Benefits include income support, health care, education, work and other welfare-related benefits. Specific aspects of support were started at the beginning of the pandemic and, by May 2023, over \$1 billion had been disbursed as cash handouts with payments on 35 occasions, to millions of persons affected by social deprivation compounded by the COVID-19 pandemic.³⁴

96. A social protection law, a new law on disabilities, a child protection law and a national road map on universal health coverage are now being drafted. Under the national social protection policy framework, 2016–2025, the burgeoning social protection measures will now seek to access those in the informal economy to offer basic support, especially occupational back-up and facilitating access to health care. The country will also participate in the 2023 review of the implementation of the Sustainable Development Goals.

97. The Special Rapporteur applies a benchmark implementation grade of on target.

T. Support the international contributions to help Cambodia and Cambodians through technical cooperation and capacity-building

98. On a more international and historical front, the Extraordinary Chambers in the Courts of Cambodia, dealing with the period of genocidal Khmer Rouge rule in the mid-1970s, is now in the concluding wrap-up phase.³⁵ The archives of the tribunal will need to be well looked after and opened to researchers, as they will be instrumental in the teaching of history, so that the lessons learned from the tragedy of the 1970s and after will not be forgotten. The tribunal also advocated against the use of the death penalty, as a constructive example for the region.

99. With regard to technical cooperation and capacity-building, the country has benefited enormously from such inputs during the past three decades. A lesson learned is that, while external assistance has been critically important to help to rebuild the basics and functioning of Statehood, stocktaking is needed to ensure that it does not aggravate the democracy deficit and the human rights lacunae, especially with regard to political and civic space.

100. Cambodia is also in a position to help other countries as part of technical cooperation. For instance, it already contributes military personnel to international peacekeeping operations, with the welcome presence of a large group of women peacekeepers. It has a wealth of experience to be shared with other countries on demining. It has offered help on this issue to Ukraine. Technical cooperation and capacity-building should therefore be appreciated as a two-way flow.

101. The Special Rapporteur applies a benchmark implementation grade of on target.

VI. Conclusions and recommendations

102. The Special Rapporteur has reviewed the lessons learned from the 2022 commune elections and the aftermath, and described key areas of concern for the national elections to

³⁴ See <https://www.khmertimeskh.com/501297077/govt-releases-1b-pay-out-to-poor-vulnerable-households/>.

³⁵ See <https://www.eccc.gov.kh/en>.

be held in July 2023, after the time of drafting of the present report, especially the regrettable disenfranchisement of the political opposition and the impending intergenerational power shift. He has also assessed the implementation of the 20 human rights-based benchmarks set in the previous report and found that the attainment or fulfilment thereof fluctuates, with five areas are being on target for implementation, three areas with variable levels of implementation and 12 areas being off target; all areas require more responsive measures and continued international and national monitoring. The latter 12 embody key loopholes intersecting with civil and political rights under international law. Nevertheless, there remain various possible entry points for propelling change, such as building on anti-poverty and social protection measures, education, health care, environmental adaptation, equitable budgeting and mutually beneficial international cooperation.

103. For effective follow-up, the Special Rapporteur makes the following recommendations.

104. The Special Rapporteur recommends that the next generation of leaders:

(a) Commit to human rights, democracy, peace and sustainable development premised on international law, interlinked with the principles set out in the human rights treaties, the Sustainable Development Goals and the Paris Peace Agreements;

(b) Help to rectify past wrongs and cooperate with the plurality of national and international stakeholders on reforms to ensure compliance with international standards, complemented by local wisdom;

(c) Assist in advocacy and the implementation of the various recommendations made by the Special Rapporteur and other United Nations mechanisms and abide by the principles of democracy and human rights.

105. The Special Rapporteur recommends that the Government:

(a) Fully implement the full range of human rights and suggested adjustments under the 20 benchmarks listed by the Special Rapporteur above, and provide consistent updates thereon;

(b) Rectify discrepancies concerning the elections, especially to re-enfranchise political parties;

(c) Open up political and civic space for the elections and beyond, in particular to ensure a genuine multiparty system, free and fair elections, checks and balances against power abuse and guarantees for people's participation and shared power;

(d) Release detained human rights defenders, political dissidents, journalists, media personnel and other advocates of human rights and democracy, drop court cases against them and refrain from harassing or attacking them;

(e) Suspend and reform draconian laws, policies and practices, which are antithetical to human rights;

(f) Address the vulnerabilities of specific groups and tackle violence and discrimination, bearing in mind gender sensibility and the intersectionality of concerns;

(g) Open up to political pluralism and ensure the separation of powers and functions, especially to safeguard the judiciary from executive seepage;

(h) Investigate alleged violations fairly and provide remedies for the affected parties;

(i) Respond substantively and constructively to the communications and statements of the Special Rapporteur;

(j) Cooperate effectively with civil society and the United Nations on the implementation of human rights, including through the provision of key services, such as health care, human rights education and high-quality education, including on the history of the country;

(k) Offer technical help and capacity-building to other countries where the country can provide value-added assistance.

106. The Special Rapporteur recommends that civil society and other stakeholders:

- (a) Strengthen measures to promote and protect human rights and strengthen networks in the process;
- (b) Assess the implementation of human rights in the country, and send consistent updates to the Special Rapporteur;
- (c) Monitor the national elections in 2023 and thereafter and enhance transparency;
- (d) Act on behalf of victims and their safety in relation to the call for remedies and accountability;
- (e) Promote human rights education and knowledge of the country's history.

107. The Special Rapporteur recommends that the United Nations and the international community:

- (a) Support and monitor the implementation of the full range of human rights, taking into account the benchmarks set out above, and send consistent updates to the Special Rapporteur;
- (b) Pressure the national authorities to liberalize the political and civic space so that it is geared towards democracy, with pluralism, a multiparty system, free and fair elections, checks and balances, people's participation and the separation of powers and functions;
- (c) Support post-pandemic recovery measures consistent with international standards, especially to integrate social protection measures inclusively and effectively;
- (d) Assist civil society to promote and protect human rights, especially to monitor the elections, and provide technical aid to them, for instance, on digital security;
- (e) Take stock of the technical cooperation and capacity-building offered to Cambodia to date, ensure a positive human rights impact and build on areas where the international community has a value added on guarantees for peace, democracy, human rights and sustainable development;
- (f) Maximize access to physical and legal protection, tracking and tracing consistently the well-being of detainees in prisons and closed institutions, and use leverage to promote catalytic improvements to ensure humane treatment of those deprived of liberty, with engagement and support at multiple levels.

Annex I

Ten-point forward-looking Cambodia human rights action agenda

The Special Rapporteur on the situation of human rights in Cambodia, at the end of his first mission to Cambodia, in August 2022,¹ recommended that the Government of Cambodia, expeditiously and responsively:

- (a) Implement effectively the recommendations of the Special Rapporteur and the human rights treaty bodies and those emanating from the universal periodic review mechanism, through practical policies and related practices;
- (b) Open up civic and political space, including by suspending and reforming laws of a draconian nature, as identified in the reports of the above-mentioned international human rights mechanisms;
- (c) Adjust the path towards the 2023 national elections, including to ensure that election-related personnel are chosen pluralistically and are separated from political parties;
- (d) End the prosecution of the political opposition and human rights defenders and related personnel, release them and drop the charges against them;
- (e) Address land-related issues through a more participatory approach and enable settlements in order to find satisfactory solutions as set out in governmental circular No. 3, on the resolution on the temporary settlements on land which has been illegally occupied in the capital, municipal and urban areas;
- (f) Respond to the vulnerabilities of various groups by adhering to the principles of non-violence and non-discrimination, guided by the recommendations of the various international human rights mechanisms;
- (g) Improve the quality of law enforcers, including the police and the judiciary, by means of careful selection and incentivization, in particular to distance them from the power base and to ensure their independence and impartiality, and reform the criminal justice system so as to enable more non-custodial measures to be used and to make the system more child-sensitive;
- (h) Support post-pandemic measures to ensure broader coverage of social protection to help needy groups, such as through access for the poor and providing family support, overcome the injustices linked with debt and microfinance institutions by introducing more accessible debt relief programmes and consumer protection against exploitation and target special efforts to overcome the gaps in access to the Internet and the educational retrogression due to the pandemic;
- (i) Undergird gender-responsiveness with effective measures against violence and discrimination, with due regard given for increasing women's participation at the top of the power spectrum and respect for gender diversity, enhanced by child-friendly facilities;
- (j) Move beyond the historical accent placed on peace to promoting the synergy between peace, sustainable development, human rights and democracy, with intergenerational bridges anchored in respect for international standards, complemented by local wisdom and balance based on the pluralization of shared power.

¹ OHCHR, "UN expert proposes human rights reform agenda for Cambodia", 26 August 2022, press release. Available at www.ohchr.org/en/press-releases/2022/08/un-expert-proposes-human-rights-reform-agenda-cambodia.

Annex II

Twenty benchmarks on human rights implementation in Cambodia

<i>Benchmark¹</i>	<i>Timeframe for implementation and follow-up</i>
Desist from applying, and reform, draconian laws	2022–2023
Release detained human rights defenders and political dissidents and Drop the charges against them	2022–2023
Restore and re-enfranchise a variety of political parties and ensure free and fair elections	2022–2023
End mass trials of the political opposition and guarantee space to engage in democracy and political pluralism	2022–2023
Ensure the independence and transparency of the judiciary and related personnel, such as prosecutors and lawyers	2022–2023
Improve the capacity of the overloaded prison system and adopt more non-custodial measures, especially in relation to pretrial cases	2022–2023
Explore more rehabilitative measures, rather than retributive sanctions, in drug-related cases	2022–2023
Follow-up effectively on cases of enforced disappearance and other key violations concerning Cambodians and foreign nationals, especially to overcome the atmosphere of impunity	2022–2023
Give attention to increasing indebtedness, leading to loss of land, as collateral for loans linked with microfinance, and diminishing food security	2022–2023
Improve access to and the resumption of education, after the disruption caused by the pandemic, including by overcoming the gaps in equal access to and usage of the Internet and promoting related formal and non-formal education programmes	2022–2023
Allocate additional resources to the social sector, bearing in mind that public expenditure on this front has been declining in recent years	Progressively linked with the Sustainable Development Goals 2015–2030
Ensure comprehensive and gender-sensitive protection and assistance for special groups, including women, children, persons with disabilities, workers, including migrant workers, Indigenous Peoples, minorities and lesbian, gay, bisexual, transgender and intersex persons	2022–2023
Enable the effective participation of local communities related to protection of natural resources, in particular land holdings, land titling	2022–2023

¹ For further details, see A/HRC/51/66.

<i>Benchmark¹</i>	<i>Timeframe for implementation and follow-up</i>
and the related privatization of State land, and guarantees against the seepage of vested interests often linked with the power base	
Establish comprehensive mitigation and adaptation programmes to counter climate change	Progressively linked with the Sustainable Development Goals 2015–2030
Eschew the forced return of its nationals from other countries, when and where they are internationally recognized refugees, and release all deported detainees with this status	2022–2023
Ensure more victim-friendly law enforcement and national and international anti-crime cooperation, in response to reported situations of modern slavery in the form of human trafficking and forced labour through Internet fraud and other forms of deception	2022–2023
Adopt measures to prevent and eliminate corruption, especially with regard to those who are related to the power base, to improve transparency and accountability	2022–2023
Demonstrate commitment and establish a concrete time frame for 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), ensuring the participation of wide range of stakeholders, including civil society	2022–2023
Adopt post-pandemic recovery measures, including on combating poverty, access to health care and re-vaccination, employment opportunities and education, and other social protection measures, to help needy groups, in keeping with international standards	Progressively linked with the Sustainable Development Goals 2015–2030
Support the international contributions to help Cambodia and Cambodians through technical cooperation and capacity-building	Progressively linked with the Sustainable Development Goals 2015–2030

Annex III

Mass trials of political activists in Phnom Penh Municipal Court

<i>Date of verdict announcement</i>	<i>Charge</i>	<i>Judgment</i>
Trial of nine former leaders of the Cambodia National Rescue Party (CNRP)		
1 March 2021	Attempt to commit a felony, and attack (articles 27 and 451 of the Criminal Code).	<p>S.R., a former CNRP leader, was convicted and sentenced to 25 years' imprisonment and deprived of his rights to vote and to stand for election.</p> <p>Other senior leaders were sentenced to 22 years' imprisonment (M.S. and E.C.E.) and 20 years' imprisonment (T.S., M.S., O.C., H.V., L.R. and N.R.).</p> <p>They were also ordered to pay compensation of 1,800 million riel (about \$42,500).</p>
Trial of 20 former members of CNRP and one official of the Ministry of the Interior		
17 March 2022	Plotting and incitement	<p>On 17 March 2022, the Court convicted 20 former CNRP members, councillors and activists.</p> <p>Seven defendants (S.R., T.S., M.S., E.C.E., T.V., N.R. and H.V.) were sentenced to 10 years' imprisonment in absentia for incitement and plotting to cause social unrest, under articles 453, 471, 494 and 495 of the Criminal Code. All seven live in exile, but warrants were issued for their arrest.</p> <p>Thirteen other defendants (L.P., K.C., N.K., C.B., Y.S., K.P., K.T., N.V., C.C., S.C., T.S., P.M. and S.T.) were convicted of conspiracy and incitement. All were sentenced to five years' imprisonment, suspended to three years and eight months.</p> <p>Another CNRP defendant, H.C., was convicted of incitement and plotting, but had his entire five-year sentence suspended, due to alleged health problems. The grounds for the case are varied and include S.R.'s planned 2019 return, comments about the coronavirus disease (COVID-19) pandemic and the formation of an opposition movement overseas called the Cambodia National Rescue Movement. Multiple rights organizations have called the trial politically motivated.</p> <p>On 30 March 2023, the Supreme Court upheld the verdict of the Phnom Penh Municipal Court, which had convicted 13 former CNRP members on charges of incitement and plotting and sentenced each to five years' imprisonment, with 16 months suspended. The 13 individuals are C.B., L.P., K.C., N.K., Y.S., K.P., T.S., K.T., N.V., C.C., S.C., P.M. and S.T.</p> <p>C.B. was a former official of the Ministry of the Interior and a member of the Cambodian People's Party who was named in the mass trial because he had communicated by phone with former CNRP members, including his brother.</p>

<i>Date of verdict announcement</i>	<i>Charge</i>	<i>Judgment</i>
Trial of 51 CNRP supporters and former officials		
14 June 22	Plotting and incitement	<p>The court sentenced 12 defendants to eight years' imprisonment, 20 defendants to five years' imprisonment (which was suspended), and 19 defendants to six years' imprisonment.</p> <p>The court also ordered the arrest of S.T., who was sentenced to six years' imprisonment. She was arrested after the court announced its judgment and was sent to detention at correctional centre two.</p>
Trial of six CNRP supporters and former officials		
10 August 2022	Incitement	<p>The Court convicted six former CNRP activists (L.R., M.T., M.P., M.S., K.T. and L.T.) of incitement to commit a felony, for inciting people to go against the authorities and overthrow the Government.</p> <p>Except for L.T., who had been extradited from Thailand to Cambodia in November 2021, the defendants were convicted in absentia. All were sentenced to 18 months' imprisonment. Their alleged crimes took place between 2018 and 2021. In a 2018 Facebook post, L.T. had called upon the Cambodian people to fight for change against the Prime Minister, Hun Sen.</p>
Trial of 37 CNRP supporters and former officials		
22 December 2022	Plotting	<p>The Court sentenced 36 defendants to between five and seven years' imprisonment, and one defendant received an acquitted charge.</p> <p>The charges were related to former CNRP Vice-President M.S.'s attempt to return to Cambodia to attend one of the mass trials in early 2021.</p>