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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

Submitted pursuant to Human Rights Council resolution 42/37, the present report outlines the role and achievements of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Cambodia from 1 June 2019 to 31 May 2020.

The period was marked by shrinking civic space and continued political tensions. OHCHR continued its provision of technical cooperation in key areas, including strengthening the administration of justice, and protecting fundamental freedoms and economic, social and cultural rights. It also addressed the human rights implications of the coronavirus disease (COVID-19) pandemic.



I. Introduction

1. Prepared pursuant to Human Rights Council resolution 42/37, the present report 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 2019 to 31 May 2020. It provides an update to the report of the Secretary-General on the same subject, presented to the Human Rights Council at its forty-second session (A/HRC/42/31). OHCHR received factual comments on the draft report from the Government of Cambodia on 1 July 2020, and these have been included where appropriate.
2. Throughout the reporting period, OHCHR proceeded with technical cooperation activities with the judiciary, the Ministry of the Interior, the Ministry of Justice, the Ministry of Rural Development, the Ministry of Land Management, Urban Planning and Construction, the Ministry of Labour and Vocational Training, the Ministry of Agriculture, Forestry and Fisheries, the Ministry of Environment, the Cambodian Human Rights Committee, the National Committee against Torture, the Disability Action Council, and other governmental and civil society actors. OHCHR continued to monitor the human rights situation, including with regard to land and housing rights, the enjoyment of fundamental freedoms, the right to participation in civic and political life, the conduct of trials, and the condition of places of detention. OHCHR also adapted its technical cooperation activities to respond to the outbreak of coronavirus disease (COVID-19) in Cambodia.
3. OHCHR continued to work closely with the United Nations system in Cambodia, chairing the human rights theme group. It supported the mainstreaming of human rights within the United Nations Development Assistance Framework for 2019–2023, and co-led an outcome group on participation and accountability. OHCHR also supported joint United Nations actions, including in response to the COVID-19 pandemic, to advance human rights in Cambodia.¹

II. Context

4. OHCHR provided technical assistance to the Government in a shifting context. While Cambodia was spared the scale of COVID-19 incidence experienced in some other countries, the pandemic required a significant pivot in OHCHR activities, balanced against the need for continuity of engagement on core issues of concern.
5. OHCHR offered technical assistance to the Government, seeking to ensure that the Government's COVID-19 response was aligned with its obligation to take all necessary steps to prevent, treat and control the disease as a component of the right to health.² To ensure that no one is left behind, OHCHR advocated for the adoption of special measures to protect groups and individuals in situations of particular vulnerability to the pandemic, including indigenous peoples and minorities, persons deprived of their liberty, and poor and rural communities.
6. Also in that context, on 28 April 2020, the Law on the Management of the Nation in State of Emergency came into effect. Drafted in response to COVID-19 without public consultation, it empowers the Government to declare a state of emergency for up to three months, which can be extended for a further three months without review. It also allows for restrictions on – inter alia – the exercise of freedoms of movement and assembly, the right to obtain information, the right to privacy and the right to work. The Special Rapporteur on the situation of human rights in Cambodia and other special procedures of the Human

¹ Art. 12 (2) (c) of the International Covenant on Economic, Social and Cultural Rights, to which Cambodia is a party, requires the Government to take steps for the prevention, treatment and control of epidemic, endemic, occupational and other diseases. Art. 72 of the Constitution of the Kingdom of Cambodia also requires the Government to give “full consideration to disease prevention and medical treatment”.

² See www.ohchr.org/EN/NewsEvents/Pages/COVID19Guidance.aspx.

Rights Council³ sent a communication⁴ to the Government on the then bill. In a joint statement on 17 April 2020, several special procedure mandate holders stated that the draft law risked “violating the right to privacy, silencing free speech and criminalizing peaceful assembly”.⁵ The Permanent Mission of the Kingdom of Cambodia to the United Nations Office and other international organizations at Geneva issued a response,⁶ maintaining that the law was “permissible by national and international human rights instruments, namely the Constitution”. OHCHR shares the Special Rapporteurs’ concerns both as to the expedited passage of the law and to its substance, and that the provisions relating to derogation were vague and overly broad in scope, and subject to insufficient review and oversight.

7. OHCHR also provided technical assistance in a context of shrinking civic space and continuing political tension. Sam Rainsy, one of the leaders of the former main opposition party, the Cambodia National Rescue Party, announced that he would return to Cambodia from self-imposed exile on 9 November 2019, Independence Day. The announcement was met with a countrywide deployment of security forces and a partial closure of the border with Thailand to prevent his re-entry. On 8 November 2019, the Special Rapporteur on the situation of human rights in Cambodia “expressed grave concerns about the heightened political crackdown across the country, calling on the Government to respect the rights to freedom of opinion, expression and assembly”.⁷

8. While Mr. Rainsy did not ultimately return, between 1 June 2019 and 31 May 2020 at least 140 persons associated with the former Cambodia National Rescue Party were arrested, charged with plotting against the State, incitement to commit a felony, and discrediting judicial decisions, and held in pretrial detention. This raised serious human rights concerns, as in numerous cases the authorities failed to adhere to national laws and to international human rights law on arrest, due process, and the deprivation of liberty. This included the absence of arrest warrants, failing to provide reasons for arrest, lack of access to lawyers and family members, discriminatory treatment in detention, and prolonged detention without trial in overcrowded facilities.

9. On 15 January 2020, the trial of Kem Sokha, another former Cambodia National Rescue Party leader, commenced at Phnom Penh Municipal Court. His trial was indefinitely adjourned on 12 March 2020 on account of COVID-19. Indicted for “conspiracy with a foreign power”,⁸ Mr. Sokha faces a custodial sentence of between 15 and 30 years if convicted. Several special procedure mandate holders noted in a statement on 17 January 2020 that there were “strong grounds to believe that the treason charge against Mr. Sokha” was “politically motivated and forms part of a larger pattern of the misapplication of laws to target political opponents and critics of the Government”.⁹ The Government issued a press statement in response.¹⁰

³ Namely the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, and the Working Group on Arbitrary Detention.

⁴ KHM 1/2020, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25186>.

⁵ The Special Rapporteur on the situation of human rights in Cambodia, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Working Group on Arbitrary Detention. See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25801&LangID=E.

⁶ See <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35228>.

⁷ See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25260&LangID=E.

⁸ Art. 443 of the Criminal Code (2010).

⁹ The Special Rapporteur on the situation of human rights in Cambodia, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers. See https://cambodia.ohchr.org/sites/default/files/pressstatementsource/KemSokhaTrial_Final_EN.pdf.

¹⁰ Available at www.facebook.com/cambodiaembassy.ch/posts/2271392509820033.

10. The United Nations High Commissioner for Human Rights shares concerns in these areas. On 27 February 2020, in a global update at the forty-third session of the Human Rights Council, the High Commissioner stated:

“In Cambodia, we continue to receive reports of acts of intimidation against civil society and human rights organizations, which impede their capacity to monitor and report – including to this Council. Critics and political opponents also continue to be targeted by repressive measures, including arbitrary detention and apparent misuse of criminal laws. While the authorities’ cooperation with the Office on technical and capacity-building activities is welcome, I call on the Government to respect its commitment to uphold all the human rights of its people – including freedom of the media, the impartial rule of law, and the right to freely participate in public affairs without fear of persecution.”¹¹

III. Enhancing participation and protecting civic space

11. Civic and democratic space has continued to shrink since the Cambodia National Rescue Party was dissolved by the Supreme Court in 2017. On 4 June 2019, the Special Rapporteur on the situation on human rights in Cambodia and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a communication¹² to the Government addressing “the continued use of police and judicial authority to intimidate, harass or detain” former members and supporters of the Cambodia National Rescue Party “for having exercised their rights to freedom of expression and of peaceful assembly”.

12. Despite the lifting of the requirement for civil society organizations to give three days’ notification in advance of planned activities,¹³ from June 2019 to April 2020, OHCHR documented 46 instances in which the activities of human rights and civil society organizations had been subjected to undue interference, intimidation, or harassment by authorities. On at least three occasions when OHCHR was present, police officers asked civil society organizations to produce permits in advance of planned meetings, or attempted to enter private premises to take photographs of, and gather information on, the participants during events. On 1 August 2019, OHCHR sent a letter to the Ministry of the Interior describing reported instances of interference with civil society activities, raising concerns that such acts could unduly restrict the rights to freedom of peaceful assembly and association, and create an environment of fear and intimidation. OHCHR received no reply from the Ministry of the Interior to its letter.

13. OHCHR continued to engage with the Government on the proposed revision of the Law on Associations and Non-Governmental Organizations, in partnership with civil society organizations. The Ministry of the Interior held five consultative forums on the law, at which civil society raised concerns about the restrictive registration requirements on non-governmental organizations (NGOs).

14. OHCHR also received reports of excessive restrictions of the rights to freedom of expression and peaceful assembly in the context of COVID-19. OHCHR documented the arrest of a number of individuals for COVID-19-related public comments and social media posts, at least 14 of whom have been charged with offences including spreading fake news or false information, incitement to commit a felony, and plotting against the Government.¹⁴ The Government also revoked the media licence of the news outlet TVFB, after its editor

¹¹ See www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=25621&LangID=E.

¹² KHM 2/2019, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24636>.

¹³ Directive No. 175, issued by the Ministry of the Interior on 27 November 2018, stated that “NGOs and associations, including local communities that have already registered with the Ministry, have complete freedom to legally carry out activities without having to inform local authorities three days beforehand as they did before.”

¹⁴ The offences under the Criminal Code are public insulting (insulting the King) (art. 307), plotting (art. 453), incitement to commit a felony (art. 495) and false information (art. 425).

accurately quoted public remarks by a senior official evoking the Government's inability to financially support motorbike taxi drivers during the COVID-19 crisis. The editor faces criminal charges of incitement of hatred and violence.¹⁵

15. OHCHR engaged with the Ministry of Labour and Vocational Training, and partnered with the International Labour Organization (ILO), trade unions and civil society partners, in seeking further amendment of the Law on Trade Unions. Amendments made to the law in January 2020 failed to incorporate a number of recommendations from trade unions, civil society organizations and companies – including empowering the Arbitration Council to decide cases relating to the termination of employment of shop stewards and trade union leaders, and easing union registration requirements.

16. In other legislative developments, the Ministry of Information held consultations on a draft law on access to information. While acknowledging the importance of such a law, OHCHR encourages the Government to ensure that recommendations made by relevant United Nations agencies and stakeholders are incorporated, in order to sufficiently meet the objective of the law. The Ministry of the Interior reported progress in its development of a draft cybercrime law, but civil society has expressed concern at the potential impact of the draft law on freedom of expression online and at the lack of transparency in the process. OHCHR remains concerned about lack of progress towards addressing the key human rights concerns raised by civil society organizations.

17. OHCHR continued human rights monitoring related to the right of peaceful assembly and the right to participation in civil and political life, including of International Human Rights Day celebrations. From 7 to 9 December 2019, it monitored marches and events in Phnom Penh and in Battambang, Kampong Chhnang, Koh Kong, Siem Reap and Svay Rieng Provinces. In two instances, OHCHR advocated with authorities in support of local communities and partner organizations to allow the celebration of International Human Rights Day.

18. OHCHR continued to build the capacity of Cambodian civil society organizations. It trained human rights monitors and activists on the documentation and reporting of alleged human rights violations and on associated advocacy with authorities. OHCHR helped to strengthen civil society networks, forming new networks in Battambang, Preah Sihanouk and Phnom Penh Provinces which included trade unions, and forestry and land rights activists and organizations. OHCHR increased its engagement with women's rights organizations and with groups promoting the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons.

19. In October 2019, OHCHR, jointly with ILO, the Ministry of Labour and Vocational Training and the Ministry of the Interior, delivered four training sessions to police officers on the Law on Peaceful Demonstration and its implementation guide developed by the Ministry of the Interior with support from OHCHR and civil society.

20. OHCHR strengthened its collaboration with youth organizations and informal youth networks, supporting their engagement on human rights. Under the global theme of "Youth standing up for human rights", OHCHR organized a Young Human Rights Champion competition. Involved groups developed projects that promoted human rights through civic participation in their communities, as featured in five short films posted on the OHCHR Facebook page.¹⁶ Local audiences voted for their favourites, with the winners announced at an International Human Rights Day celebratory event. The participating groups met with various national authorities, including members of the Senate, and representatives from government ministries and the Cambodian Human Rights Committee to discuss youth issues. OHCHR conducted research entitled "Youth knowledge, attitudes and practices on human rights and participation", the findings of which will help define its youth participation work.

21. Promoting the protection of civil society organizations, OHCHR finalized a protection handbook drafted in consultation with civil society. The handbook includes

¹⁵ Under arts. 494 and 495 of the Criminal Code.

¹⁶ Available at <https://bit.ly/2xL9qud>.

practical information in a simple format to assist individuals and organizations to develop safety and security plans, and to increase their understanding of human rights protection mechanisms. The handbook will be published in the second half of 2020 and will be incorporated into a mobile phone application for easy reference and access.

IV. Administration of justice

A. Legal and judicial reform

22. OHCHR continued to support legal and judicial reform efforts. OHCHR and the Ministry of Justice served as co-chairs of the technical working group on legal and judicial reform, which acts as a coordinating body for the justice sector. In June 2019, the co-chairs adopted joint monitoring indicators to support the implementation of the National Strategic Development Plan (2019–2023). These indicators incorporate the recommendations of international human rights mechanisms to Cambodia, including the need for national laws, policies and programmes to meet international human rights standards.

23. OHCHR monitored proceedings in more than 35 trials. In many cases, OHCHR observed inconsistent compliance with due process and fair trial guarantees protected under international human rights law, as well as under the Constitution of the Kingdom of Cambodia and national laws,¹⁷ including in relation to arrest, the right to be promptly informed of charges, the right to legal representation, the presumption in favour of release on bail, the right to be tried without undue delay, and the presumption of innocence.

24. OHCHR continued its efforts to professionalize the criminal justice system. On 6 December 2019, in Phnom Penh, it organized a legal dialogue for local lawyers, drawing on the experience and practice of the Extraordinary Chambers in the Courts of Cambodia. Issues discussed included the provision of legal assistance at the pretrial stage, and the rights to the presumption of innocence, to have adequate time and facilities for the preparation of a defence, and to an effective remedy for violations of rights.

B. Strengthening the rule of law and access to justice

25. On 27 and 28 June 2019, in partnership with the Ministry of Justice, OHCHR organized a national conference on the criminal justice system, in Phnom Penh. The conference was aimed at strengthening coordination among courts, prosecutors and prisons and at standardizing processes within the criminal justice system with a view to reducing undue delays in criminal proceedings, lengthy pretrial detention, and delayed release upon completion of sentences, which constitute unlawful and arbitrary detention. The Ministry of Justice has launched a six-month campaign to address court case backlogs, which will apply recommendations from the conference. According to the Government, lengthy pretrial detentions result from the large number of cases and the low number of judges, prosecutors and lawyers, compounded by the increasing number of arrests, particularly for drug-related offences. The lack of communication of final judgments results in arbitrary confinement of prisoners after their sentences have been completed. In follow-up, OHCHR supported “police-courts-prison” meetings in four provinces, led by provincial prosecutors, to enhance communication and information-sharing between the police, the courts and prison authorities.

26. OHCHR continued to support the roll-out of the Criminal Case Database, which is now operational in all courts of first instance across the country. The database is designed to increase transparency and efficiency in the courts, and to avoid excessive periods of pretrial detention and delayed release after completion of sentences, by improving access to information and communication between entities for the administration of justice.

¹⁷ Arts. 32 and 38 of the Constitution of the Kingdom of Cambodia.

27. OHCHR continued to advocate for a comprehensive legal aid system and for the adoption of a national legal aid policy. The Government's legal aid budget increased to \$300,000 in 2019, yet access to legal aid, overseen by multiple government institutions, remains complicated. OHCHR provided grants to NGOs to support their provision of legal aid. Through an OHCHR grant, the Community Legal Education Center provided legal advice and representation in at least 47 criminal and civil cases related to land and housing rights. While a number of these cases were sub judice, all recipients of legal aid were released under judicial supervision, thus avoiding lengthy detention during the pretrial stage. This highlights the importance of access to legal aid in the early stages of judicial processes, as the availability of legal assistance often determines whether a person can participate in relevant proceedings in a meaningful way.¹⁸

28. In July 2019, OHCHR published a report on "popular justice",¹⁹ documenting 73 incidents of mob violence, attacks and acts of persecution against persons accused of witchcraft from 2010 to 2018. This was the first analysis of violence against such persons in Cambodia. The report identified driving factors behind such acts of violence, including long-existing prejudices, discriminatory societal attitudes, a lack of trust in the formal justice system, poverty, and lack of education. OHCHR has since worked with police to disseminate the report and to support the development and adoption of guidelines on police interventions in such cases. OHCHR also ran an associated communications campaign on popular justice for over five months on national television²⁰ and radio, in print, and on social media.

C. Access to justice for persons with disabilities

29. OHCHR continued implementing its joint project with the United Nations Development Programme on access to justice for persons with disabilities, with a focus on capacity-building. OHCHR contributed to the development of the Government's second National Disability Strategic Plan (2019–2023), aimed at empowering and ensuring the inclusion of persons with disabilities, including in the justice sector. The drafting process helped to build the capacity of the members of the Disability Action Council, a State institution responsible for streamlining national efforts on disability rights, as well as of organizations representing persons with disabilities. On 22 April 2020, OHCHR participated in a working group led by the Disability Action Council to discuss the upcoming review of the Law on the Protection and Promotion of the Rights of Persons with Disability. The formal review process commenced in May 2020, and OHCHR will continue to advocate for the law to be brought into line with international human rights law, notably the Convention on the Rights of Persons with Disabilities, which Cambodia ratified in 2012.

30. Through training programmes and direct support, OHCHR increased the capacity of civil society organizations representing persons with disabilities to document and monitor alleged human rights violations and abuses against persons with disabilities in Banteay Meanchey, Battambang and Siem Reap Provinces. These organizations referred 50 cases, including 15 cases involving women, to national judicial and non-judicial mechanisms.

31. Through an OHCHR grant, Legal Aid of Cambodia, an NGO, provided legal advice to 16 persons and legal representation to 13 other persons with physical and psychosocial disabilities. OHCHR supported this organization in developing practical guidelines on legal aid for persons with disabilities, which involved consultation with representative forums of persons with disabilities.

¹⁸ See Human Rights Committee, general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 10.

¹⁹ Office of the United Nations High Commissioner for Human Rights, *People's Court: Preventing and Responding to "Popular Justice" in Cambodia*. Available at <https://cambodia.ohchr.org/sites/default/files/report/other-report/OHCHR%20Report%20EN.pdf>.

²⁰ The public service announcement is available at <https://bit.ly/2yyYuA4>.

32. OHCHR supported the Operation Unchained project, of the Transcultural Psychosocial Organization Cambodia, which treats and provides rehabilitation to persons with psychosocial disabilities who are locked up or otherwise physically restrained by family members, in many cases due to stigma and a lack of access to treatment. Through the work of this organization, 78 persons were released and reintegrated into their communities between June and December 2019.

D. Supporting prison reform

33. The prison population in Cambodia has continued to increase. Despite overcrowding, the use of alternatives to detention – including the granting of bail, release under judicial supervision, and the imposition of suspended sentences – remains limited. During March and April 2020, OHCHR met with Phnom Penh court authorities to advocate for bail for 25 pregnant women and women with children in pretrial detention. Lacking access to legal aid, the women applied for bail with the support of local NGOs that had developed a simplified bail application form. In a welcome development, 12 women were released from detention, some on bail, and others after their trials had been expedited. OHCHR will continue to advocate for the simplified bail form to be used more broadly.

34. OHCHR continued to monitor places and conditions of detention and the treatment of detainees. The Government did not allow confidential interviews, “in accordance with the Law on Prisons”. OHCHR consistently found that conditions of detention generally fell short of international standards, including with regard to detainees’ access to health care and medical treatment, sanitation, and visits from family members and legal representatives.

35. OHCHR documented three deaths in custody. In two cases, the General Department of Prisons took some corrective measures; authorities, however, found no evidence of torture or ill-treatment. OHCHR is unable to confirm whether those investigations met the principles of independence, impartiality, transparency and promptness. In the third case, which took place in Banteay Meanchey Province in December 2019, two police officers have been charged in relation to the death and remain in pretrial detention.

36. The Police Academy of Cambodia introduced a new module on the Convention on the Rights of Persons with Disabilities in its four-month training for new prison staff. The training, which was delivered by OHCHR, covers the national and international legal frameworks related to detention, including the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

37. OHCHR and the National Committee against Torture²¹ organized four joint awareness-raising sessions for law enforcement and prison officials. Held in Kampong Cham, Kampot, Prey Veng and Svay Rieng Provinces between 24 October and 28 November 2019, the sessions focused on the role and mandate of the National Committee against Torture. In collaboration with provincial prosecutors, OHCHR delivered briefings for law enforcement officials on the prevention of torture, use-of-force violations, and rights upon arrest, in Svay Rieng and Takeo Provinces on 19 and 26 December 2019 respectively.

38. The COVID-19 crisis presented a serious risk to prison populations, especially as chronic overcrowding made physical distancing practically impossible. On 20 March 2020, the Ministry of the Interior temporarily suspended all prison visits as a preventative measure. A subsequent instruction required a 14-day quarantining and isolation of all new detainees. The Government stated that it expedited prosecutorial processes, including the use of bail for minor offences, to ease prison overcrowding. On 6 April 2020, OHCHR, the United Nations Children’s Fund (UNICEF) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) sent joint letters to the Ministry

²¹ The national preventive mechanism of Cambodia under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

of Justice, the Ministry of the Interior and the General Department of Prisons, advocating for the release of prisoners in situations of particular vulnerability to COVID-19, including pregnant women, older persons and persons suffering from underlying illnesses. OHCHR received no reply to the letter and is not aware of any release of prisoners and detainees on COVID-19 grounds.

V. Economic and social rights

A. Situation of land rights and housing

39. Challenges persisted in the area of land and housing rights, due to forced evictions, a lack of proper standards on resettlement, and lengthy, complex, opaque and prohibitively expensive land titling processes. The allocation, sale, and use of land continued to operate on a patronage system that sustains structural inequality, disproportionately affecting persons living in poverty and in situations of marginalization. No new State laws or policies relating to land and housing rights were developed or adopted.

40. OHCHR received petitions from individuals and groups seeking its intervention in land disputes, including from communities living inside protected natural areas at risk of forced eviction. OHCHR conducted field visits to ascertain facts, engaged with relevant authorities, facilitated dialogue between local authorities and aggrieved parties, monitored the work of dispute-resolution mechanisms, and provided technical assistance to communities and civil society organizations. OHCHR also participated in the land sector coordination group. Composed of United Nations agencies, development partners and civil society organizations working on land and housing issues, this forum facilitates information-sharing and enables coordinated action.

41. In June 2019, in follow-up to its monitoring of land disputes related to economic land concessions, OHCHR organized, in partnership with Oxfam, a multi-stakeholder dialogue entitled “Responsible foreign direct investment in agriculture in Cambodia”. The dialogue identified gaps in the implementation of the economic land concession framework and developed recommendations for the Government. As an outcome, local authorities in Kampong Speu, Mondulkiri, Ratanakiri and Stung Treng Provinces engaged in formal mediation processes to solve pending land disputes involving private companies.

42. OHCHR used the findings of its May 2018 study entitled “Assessing the impact of social land concessions on rural livelihoods”²² as a basis for advocacy with national and local authorities. Social land concessions allow for the transfer of State land to poor or landless individuals and families for residential and income-generating purposes, such as agriculture. In November 2019, OHCHR and Open Development Cambodia produced an infographic summarizing the main findings of the report, and a fact sheet on the social land concession process. OHCHR also conducted follow-up field visits to Kampot, Mondulkiri and Preah Sihanouk Provinces to discuss the findings and recommendations of the study with local authorities and residents. In December 2019, OHCHR organized a national consultation to discuss lessons learned and ways forward. Key recommendations included conducting social and environmental impact assessments before social land concessions were granted, and only issuing social land concessions on land adjacent to that of indigenous groups once their claims for communal or individual titles had been fully assessed and processed.

43. OHCHR continued to advocate with authorities on forced eviction cases, including in support of prior consultation with affected families and individuals, relocation procedures, access to information, and compensation. This included engagement with the Ministry of Land Management, Urban Planning and Construction on remedies for affected communities. OHCHR carried out seven monitoring missions in relation to foreseen evictions involving approximately 2,000 families across Kampong Thom, Koh Kong,

²² See <https://cambodia.ohchr.org/sites/default/files/InfoNotes/Finding%20SLC%20Infographic%20with%20cm%20bleed-20%20Sep%202019%20low.pdf>.

Phnom Penh, Pursat and Preah Sihanouk Provinces. In one case, OHCHR negotiated the postponement of a community's eviction, and the subsequent granting of a social land concession by local authorities to 31 affected families. In two other cases, one involving 1,000 forcibly evicted families in Kampong Thom Province, and the other involving 347 families at risk of eviction in Pursat Province on account of dam construction, local authorities agreed to solve the land disputes and to provide compensation to evicted families. As of May 2020, compensation had yet to be paid.

44. OHCHR progressed its study of 17 resettlement sites in Cambodia, interviewing 43 per cent of an estimated 2,341 affected households. The study will be published in 2020, together with draft guidelines on evictions and resettlement.

45. In March 2020, OHCHR and Klahaan, a women's rights organization, published six fact sheets exploring the links between women's economic, social and cultural rights and violations of land and housing rights in Cambodia.²³

46. At the request of the Ministry of Justice, in November 2019, OHCHR held a training of trainers for Department of Mediation and Local Justice staff in Phnom Penh. Organized in partnership with civil society organizations, the training provided guidance on non-judicial grievance settlement mechanisms, with a particular focus on gender-related land rights disputes. OHCHR monitored and supported a mediation process in Monduliri Province between the Socfin rubber company and Bunong indigenous peoples' communities. The mediation, which started in 2017, has addressed traditional land granted to the company as an economic land concession. With the support of OHCHR, most land disputes relating to collective areas have been resolved and will be included in the communities' applications for communal land titling.

47. In July 2019, OHCHR organized a training programme on responsible business conduct and access to non-judicial remedies for local civil society organizations. Held in cooperation with development partners the Interchurch Organization for Development Cooperation, the Cooperation Committee for Cambodia, and Action Aid, the training addressed national and international non-judicial grievance mechanisms.

48. Supported by an OHCHR sub-grant, the Cambodian Center for Human Rights completed its project on promoting human rights standards in the business and land sectors in December 2019. The project produced 21 awareness-raising tools on business and human rights, including leaflets, fact sheets and infographics, and hosted 12 radio shows. It provided four training programmes on business and human rights for State officials, lawyers and private sector representatives.

49. These developments aside, the Government is yet to develop a national action plan, and adherence to the Guiding Principles on Business and Human Rights by the public or private sectors remains relatively limited.

B. Access to land for indigenous peoples

50. OHCHR worked with the Ministry of Land Management, Urban Planning and Construction, the Ministry of Rural Development, the Ministry of the Interior, the Ministry of Agriculture, Forestry and Fisheries, the Ministry of Environment, local authorities, the World Bank and civil society organizations to support efforts by indigenous peoples to secure collective land titles.

51. OHCHR continued to advocate for the simplification of the collective titling process. Since the adoption, in 2009, of sub-decree No. 83 on the registration procedures for the land of indigenous communities, 151 indigenous communities have had their indigenous identities recognized, which is the first step in the process. Another 131 indigenous communities have progressed to the second step of the process, by being

²³ See <https://cambodia.ohchr.org/sites/default/files/Promotional-materials-soft/ESC%20rights%20and%20land%20rights%20violations%20OHCHR%20Klahaan%202020-compressed.pdf>.

registered as a legal entity. Thirty other communities have progressed to the third and final step, which involves land measurement, before final approval and the issuance of the land title. OHCHR supported four communities with the first step and three communities with the third step of the process.

52. In December 2019, OHCHR held a training programme on the collective land titling process for local officials from Kampong Thom, Kratie, Monduliri, Preah Vihear, Ratanakiri and Stung Treng Provinces. The training was co-organized with the Ministry of Rural Development, the Ministry of the Interior, and the Ministry of Land Management, Urban Planning and Construction.

53. In February 2020, OHCHR joined an assessment mission by the Ministry of Land Management, Urban Planning and Construction and the NGO Forum on Cambodia on difficulties faced by indigenous communities living in environmentally protected areas. The mission focused on the registration of ancestral land as indigenous communal land. In visits to Kratie and Stung Treng Provinces, OHCHR observed a lack of consistency and of standardized procedures in the allocation of land classified as environmentally protected areas to indigenous communities.

C. Situation of ethnic minorities

54. OHCHR continued to address the situation of ethnic minorities, including ethnic Vietnamese, some of whom are stateless. While some progress has been noted in granting residency status for foreigners, OHCHR documented allegations of violations of the rights to a nationality, to education and to family life, as well as to freedom from discrimination. OHCHR translated four administrative regulations²⁴ addressed at immigrants and foreigners from Khmer into English to support the broader advocacy work of civil society organizations, international development actors and other entities working with minorities. Following OHCHR monitoring and advocacy with provincial authorities, and associated recommendations by the Special Rapporteur on the situation of human rights in Cambodia,²⁵ local authorities in Kampong Chhnang Province stopped plans that would have resulted in the forced eviction of approximately 10,000 ethnic Vietnamese living in floating houses on Tonle Sap Lake. On 25 March 2020, OHCHR sent a letter to the Phnom Penh Municipality regarding the planned forced eviction of 42 Khmer and ethnic Vietnamese families from floating communities in Phnom Penh.

55. In August 2019, OHCHR facilitated meetings in Phnom Penh between the United Nations Office on Genocide Prevention and the Responsibility to Protect²⁶ and civil society organizations working on minority issues. Some participants had been involved in case No. 002/02 at the Extraordinary Chambers in the Courts of Cambodia, which has entered first instance convictions for genocide against Cham and Vietnamese minorities.²⁷ The meetings gave the Office on Genocide Prevention and the Responsibility to Protect an opportunity to learn about the situation of minorities in Cambodia and to assess atrocity-related risks.

56. As highlighted in the Secretary-General's policy brief on COVID-19 and human rights,²⁸ indigenous peoples and minority communities face particular risks as a

²⁴ The directive on the issuance of administrative and civil status letters to Khmer spouses, children and foreign immigrants; the *prakas* on ceasing to receive applications for foreign immigrants and permanent resident cards; the nationality law, as amended in 2018; and sub-decree No. 129 (of 15 December 2017) on the annulation and revocation of Cambodian irregular administrative documents currently possessed and used by foreign immigrants.

²⁵ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24579&LangID=E.

²⁶ The Office supports the Special Adviser to the Secretary-General on the Prevention of Genocide and the Special Adviser to the Secretary-General on the Responsibility to Protect.

²⁷ "The [Trial] Chamber found Nuon Chea and Khieu Samphan guilty of crimes against humanity, grave breaches of the Geneva Conventions and genocide of the Vietnamese ethnic, national and racial group. The Chamber additionally convicted Nuon Chea of genocide of the Cham ethnic and religious group under the doctrine of superior responsibility." See www.eccc.gov.kh/en/case/topic/1298.

²⁸ "COVID-19 and human rights: we are all in this together" (April 2020), available at www.un.org/sites/un2.un.org/files/un_policy_brief_on_human_rights_and_covid_23_april_2020.pdf.

consequence of COVID-19. Acts of discrimination were documented against Cham persons (a largely Muslim ethnic minority), following a spate of infections in Cambodia that were linked to a religious event attended by some Cham in Malaysia. The Government affirmed its commitment to providing public health services in an inclusive and equitable manner. This is compounded by an absence of specific laws addressing hate speech and hate crimes, and of an anti-discrimination law. OHCHR released a series of social media posts addressing discrimination, xenophobia and stigma in the context of COVID-19.

D. Economic and social rights in the context of COVID-19

57. The Government took certain positive steps to address the COVID-19 pandemic. It formed a National Committee on COVID-19 and an Interministerial Committee to Combat COVID-19, and has launched a National Master Plan for COVID-19. It adopted economic stimulus measures, including a cash transfer programme for the poor, conducted community awareness campaigns, issued daily press releases, and carried out weekly press conferences, and the Ministry of Health set up a COVID-19 hotline. The Government cancelled the Khmer New Year holidays (13 to 15 April 2020) and introduced an associated ban on travel between provinces from 9 to 16 April 2020. On 17 April 2020, the Ministry of Labour and Vocational Training announced that an estimated 30,000 factory workers who had travelled between provinces despite the ban would be required to self-quarantine for 14 days. Ten makeshift quarantine facilities were set up in Phnom Penh schools to accommodate workers who were COVID-19 symptomatic or were unable to self-quarantine.

58. While acknowledging these efforts, OHCHR notes a lack of available information on key aspects of the Government's COVID-19 preparedness and health response, including dedicated medical facilities, quarantine protocols, specialist medical staff, and availability of essential equipment. COVID-19 testing has also been limited and tightly restricted, and the extent to which rural, vulnerable and marginalized communities have had access to it remains unclear.

59. OHCHR offered technical assistance to the Government with the aim of ensuring that its COVID-19 response aligned with its human rights obligation to take all necessary steps to prevent, treat and control the disease, as a component of the right to health. In a letter to the Ministry of Health dated 15 April 2020, OHCHR requested the Government to take active steps and to introduce special measures to protect groups in situations of particular vulnerability to COVID-19, including indigenous peoples and minorities.

VI. Gender and LGBTI rights

A. Rights of women and girls

60. OHCHR Cambodia sustained its efforts to advance the rights of women and girls, and was one of the first two OHCHR country offices to receive gender accreditation under the Gender Accreditation Programme.²⁹ The programme, which comprises three levels of accreditation, examines the gender equality culture, practices, and achievements of OHCHR country offices, and offers tools to strengthen their performance.

61. The Committee on the Elimination of Discrimination against Women considered the sixth periodic report of Cambodia (CEDAW/C/KHM/6) on 29 October 2019 and issued its concluding observations (CEDAW/C/KHM/CO/6) on 12 November 2019. The United Nations country team developed a set of advocacy points to take forward the implementation of select concluding observations of the Committee.

²⁹ *United Nations Human Rights Report 2019* (May 2020), available at www2.ohchr.org/english/OHCHRreport2019, p. 79.

62. OHCHR documented the prosecution, under the Law on Suppression of Human Trafficking and Sexual Exploitation, of more than 40 women serving as surrogates. On 31 March 2020, Phnom Penh Municipal Court convicted 33 women of attempted sale of a person for cross-border transfer under this same law. On 5 and 6 December 2019, OHCHR participated in an expert consultation on draft principles for the protection of the rights of the child in the context of surrogacy, organized by the International Social Service. At the consultation, OHCHR addressed surrogacy in Cambodia through the lens of the rights to identity and nationality, and issues associated with legal parentage, intermediaries, and non-discrimination.

63. OHCHR also investigated allegations of sexual violence against indigenous women in Ratanakiri Province. The continuing investigations are being conducted in partnership with the Cambodia Indigenous Women's Working Group, a local civil society organization working with indigenous peoples. A report will be finalized in 2020.

64. In promoting International Women's Day, OHCHR partnered with the United Nations country team, development partners and local artists on a joint #HeForShe campaign. Three round tables were held, with artists and women influencers, along with a concert that was live-streamed on social media.

B. Situation of LGBTI persons

65. Cambodia accepted all of the recommendations relating to LGBTI persons during the third cycle of its universal periodic review, in January 2019 (see A/HRC/41/17). This included recommendations to amend the law to allow same-sex marriage, and to adopt a specific law prohibiting discrimination on the basis of sexual orientation and gender identity. OHCHR strengthened its engagement with NGOs advocating for the rights of LGBTI persons.

66. In July 2019, with the support of the United Nations country team, OHCHR launched a campaign to promote the rights of LGBTI persons, as part of the United Nations Free and Equal campaign. This included a video aimed at breaking down barriers that prevent LGBTI persons from participating equally in society. An OHCHR campaign video posted to Facebook,³⁰ which featured the life of a gay Cambodian man, has been viewed on Facebook 633,000 times.

VII. Mainstreaming human rights within the United Nations framework

67. OHCHR continued to promote the mainstreaming of human rights in the work of the United Nations country team by leading, with UN-Women, the results group on participation and accountability under the United Nations Development Assistance Framework (2019–2023).

68. OHCHR chaired the human rights theme group, coordinating United Nations country team actions: for example, on the situation of persons held in social affairs centres, including with regard to the increased vulnerability of residents – who include homeless persons, sex workers, and persons living with HIV/AIDS – during the COVID-19 pandemic. OHCHR continued to be an active member of the United Nations gender theme group and the youth task force.

69. OHCHR coordinated joint submissions by the United Nations country team to the human rights treaty bodies and to the special procedures of the Human Rights Council. This included submissions to the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women and the Human Rights Committee. OHCHR and UN-Women conducted a mock session for government officials in advance of the review of Cambodia by the Committee on the Elimination of

³⁰ Available at <https://bit.ly/2ZRJM0Z>.

Discrimination against Women. The United Nations country team submitted information towards a study by the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, regarding safeguards for child protection in surrogacy arrangements (A/HRC/37/60), and towards a study by the Special Rapporteur on violence against women, its causes and consequences, on domestic violence in the context of COVID-19, to be presented at a future session of the Human Rights Council.

70. On 4 November 2019, OHCHR, UN-Women and UNICEF trained a group of Cambodian United Nations peacekeepers before their deployment as military observers. The training covered the prevention of sexual abuse and exploitation, women, peace and security, and child protection.

71. OHCHR supported the response of the United Nations country team to the COVID-19 pandemic. In May 2020, OHCHR provided a comprehensive briefing to country team members on the human rights aspects of the United Nations socioeconomic framework as articulated by the Secretary-General. OHCHR was a member of the technical working groups on social and economic responses, and of the core team on quarantine. The latter developed for the Government a code of conduct and a checklist for quarantine centres that set out minimum standards for creating safe spaces for women and children, in line with human rights principles. To mark International Human Rights Day on 10 December 2019, OHCHR organized a large public event in Phnom Penh under the theme “Youth standing up for human rights”, in partnership with the United Nations country team, the European Union delegation in Cambodia and the Cambodian Human Rights Committee. This event attracted more than 6,000 participants and offered a space to youth and to human rights and other civil society organizations to showcase their work, including on women’s rights, LGBTI rights and environmental issues.

VIII. Increasing implementation of the outcomes of international human rights mechanisms

72. OHCHR supported the Government’s preparations for its periodic reviews under the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination. The Cambodian National Council for Women, a governmental mechanism, translated the concluding observations of the Committee on the Elimination of Discrimination against Women into Khmer, and will disseminate them to relevant agencies, with the support of UN-Women.

73. OHCHR continued to provide technical assistance to the Cambodian Human Rights Committee, including in follow-up to the recommendations of the human rights treaty bodies and the outcomes of the third cycle of the country’s universal periodic review.

74. OHCHR supported civil society and community organizations to engage with the United Nations human rights system. In October 2019, OHCHR and the Resident Coordinator organized two workshops on the universal periodic review and on best practices to support the implementation of recommendations and associated indicators. OHCHR also provided advice to civil society organizations and other stakeholders on developing alternate reports to treaty bodies and submissions to the special procedures.

75. In October 2019, in follow-up to the third cycle of the universal periodic review of Cambodia, OHCHR organized a workshop in partnership with the Resident Coordinator, the Cambodian Human Rights Committee, and the international NGO UPR Info. The workshop focused on the outcomes accepted by Cambodia and highlighted best practices on implementation, including with civil society. Representatives of government ministries, civil society and the diplomatic community attended the event.

76. The Government’s initial reports under the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance are overdue. Its replies to the list of issues of the Committee against Torture, in advance of its third review, is also overdue.

IX. Conclusions and recommendations

77. The Secretary-General acknowledges the engagement of the Government of Cambodia with OHCHR and stresses the centrality of human rights for strengthening economic development and maintaining peace and social cohesion, particularly during a time of crisis. Human rights are critical to the COVID-19 response and recovery, and are central to ensuring that no one is left behind.³¹ The Secretary-General highlights the important role that OHCHR can continue to play in assisting the Government and people of Cambodia in the realization of all human rights for all, including in the context of COVID-19.

78. The Secretary-General:

(a) Calls upon the Government and other political actors to engage in a dialogue to reduce tensions and fully restore the rights to freedom of expression, association and peaceful assembly and the right to take part in the conduct of public affairs;

(b) Calls upon the Government to strengthen civic and democratic space, including through guarantees for the unhindered work of human rights and other civil society organizations and community groups by consolidating and broadening their space to operate. In particular, amendments to the Law on Associations and Non-Governmental Organizations should incorporate recommendations from civil society organizations and OHCHR, and be aligned with the international human rights obligations of Cambodia;

(c) Encourages the Government to ensure that the draft law on access to information is developed in a participatory manner and complies with international human rights law. It should also include clearly defined categories of exceptions to disclosure, define types of information subject to disclosure, and establish an independent oversight body;

(d) Calls upon the Government to ensure that any extraordinary measures introduced to protect the health and well-being of the population during the COVID-19 pandemic are temporary, proportionate, strictly necessary for the prevention of the spread and the treatment of the disease, non-discriminatory, and aligned with the international human rights obligations of Cambodia;

(e) Calls upon the Government to introduce special measures to protect groups and individuals in situations of particular vulnerability to the COVID-19 pandemic, including indigenous peoples and minorities, poor and rural communities, floating communities, returning migrants, persons deprived of their liberty, persons in quarantine, pregnant women, persons with disabilities, older persons, and persons with underlying illnesses;

(f) Calls upon the Government to ensure access to information about prevention, as well as testing and treatment, for all during the COVID-19 pandemic, and to ensure that a robust rights-based approach is integrated into all national disaster and health emergency protocols;

(g) Encourages the Government to guarantee the right to legal assistance, including by adopting a national policy on legal aid and creating a centralized legal aid system;

(h) Encourages the Government to introduce non-custodial measures and alternatives to detention with a view to reducing prison overcrowding; and to develop guidelines and procedures to reduce lengthy pretrial detention and delayed release upon sentence completion, and to review the ban on sentence reductions and pardons for drug-related offences;

³¹ "COVID-19 and human rights: we are all in this together" (April 2020), available at www.un.org/sites/un2.un.org/files/un_policy_brief_on_human_rights_and_covid_23_april_2020.pdf.

(i) Calls upon the Government to grant OHCHR access to all places of detention, including to conduct confidential interviews with detainees;

(j) Encourages the Government to simplify the community land-titling process for indigenous peoples;

(k) Urges the Government to adopt national guidelines on evictions and relocations that are aligned with the basic principles and guidelines on development-based evictions and displacement;

(l) Urges the Government to constructively and systematically engage with United Nations human rights mechanisms, including by submitting its overdue reports to the human rights treaty bodies, responding to communications and requests for information from the special procedures of the Human Rights Council, and accepting visit requests by them;

(m) Invites the Government to strengthen the promotion of human rights in the context of implementing the Sustainable Development Goals and other development strategies, in particular by introducing more and clearer targets and indicators under Sustainable Development Goal 16, and by undertaking studies, with the assistance of OHCHR, to identify those at risk of being left behind in development processes.
