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COMMISSION ON HUMAN RIGHTS
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**ADVISORY SERVICES AND TECHNICAL COOPERATION IN THE FIELD OF
HUMAN RIGHTS**

**Australia*, Belgium, Canada, Denmark*, Finland*, Germany, Hungary*, Iceland*,
Ireland*, Israel*, Italy, Liechtenstein*, Luxembourg*, Netherlands*, New Zealand*,
Norway, Portugal, Romania, Spain, Sweden*, United Kingdom of Great Britain and
Northern Ireland: draft resolution**

2001/... Situation of human rights in Cambodia

The Commission on Human Rights,

*Guided by the purposes and principles embodied in the Charter of the United Nations, the
Universal Declaration of Human Rights and the International Covenants on Human Rights,*

*Recalling the Agreement on a Comprehensive Political Settlement of the Cambodia
Conflict, signed in Paris on 23 October 1991, including Part III thereof, relating to human rights,*

*Bearing in mind its resolution 2000/79 of 26 April 2000, General Assembly
resolution 55/95 of 4 December 2000 and previous relevant resolutions,*

*Recognizing that the tragic history of Cambodia requires special measures to assure the
protection of the human rights of all people in Cambodia and the non-return to the policies and
practices of the past, as stipulated in the Agreement signed in Paris on 23 October 1991,*

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional
commissions of the Economic and Social Council.

Desiring that the international community continue to respond positively to assist efforts to investigate the tragic history of Cambodia, including responsibility for past international crimes, such as acts of genocide and crimes against humanity during the regime of Democratic Kampuchea from 1975 to 1979,

Bearing in mind the request in June 1997 by the Cambodian authorities for assistance in responding to past serious violations of Cambodian and international law, the letter dated 15 March 1999 from the Secretary-General to the President of the General Assembly and the President of the Security Council (A/53/850-S/1999/231) and the report of the Group of Experts appointed by the Secretary-General annexed thereto, and the discussions held between the Government of Cambodia and the United Nations Secretariat on standards and procedures for bringing to justice the Khmer Rouge leaders most responsible for the most serious violations of human rights in the years 1975-1979,

Recognizing the legitimate concern of the Government and people of Cambodia in the pursuit of internationally accepted principles of justice and of national reconciliation,

Recognizing also that accountability of individual perpetrators of grave human rights violations is one of the central elements of any effective remedy for victims of human rights violations and a key factor in ensuring a fair and equitable justice system and, ultimately, reconciliation and stability within a State,

Welcoming the continuing role of the United Nations High Commissioner for Human Rights in the promotion and protection of human rights in Cambodia,

I. SUPPORT OF AND COOPERATION WITH THE UNITED NATIONS

1. *Requests* the Secretary-General, through his Special Representative for human rights in Cambodia, in collaboration with the office in Cambodia of the United Nations High Commissioner for Human Rights, to assist the Government of Cambodia in ensuring the protection of the human rights of all people in Cambodia and to ensure adequate resources for the continued functioning of the operational presence in Cambodia of the Office of the United Nations High Commissioner for Human Rights and to enable the Special Representative to continue to fulfil his tasks expeditiously;

2. *Welcomes* the report of the Secretary-General on the 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 (E/CN.4/2001/102);

3. *Also welcomes* the report of the Special Representative of the Secretary-General for human rights in Cambodia (E/CN.4/2001/103), commends the Government of Cambodia for its openness and spirit of cooperation during the visits of the Special Representative and encourages the Government to continue its cooperation at all levels of government, and supports the Special Representative's appeal to increase international assistance to Cambodia and to continue working towards the reduction of poverty;

4. *Requests* the Government of Cambodia and the Office of the United Nations High Commissioner for Human Rights to sign without further delay the memorandum of understanding for the extension of the agreement for the implementation of the mandate of the office in Cambodia after March 2000, notes with regret the delays thus far encountered in the process, and encourages the Government of Cambodia to continue to cooperate with the office;

5. *Notes with appreciation* the use by the Secretary-General of the United Nations Trust Fund for a Human Rights Education Programme in Cambodia to finance the programme of activities of the office of the High Commissioner in Cambodia, as defined in resolutions of the General Assembly and the Commission, and invites Governments, intergovernmental and non-governmental organizations, foundations and individuals to consider contributing to the Trust Fund;

II. ADMINISTRATIVE, LEGISLATIVE AND JUDICIAL REFORM

6. *Notes with concern* the continued problems related to the rule of law and the functioning of the judiciary, *inter alia*, of corruption, including interference by the executive with the independence of the judiciary, welcomes the Government's continued commitment to reform the judiciary, commends its current efforts to prepare the laws and codes that are essential components of the basic legal framework, and urges the Government to continue to take the necessary measures to promote the independence and impartiality of the Supreme Council of the Magistracy and the judicial system as a whole;

7. *Urges* the Government of Cambodia to continue to take the necessary measures to develop an independent, impartial and effective judicial system, including through the early adoption of the draft statute on magistrates, a penal code, a code on criminal procedures, a new civil code and a code of civil procedure, the reform of the administration of justice and enhancing the training of judges and lawyers, and appeals to the international community to assist the Government to this end;

8. *Welcomes* the adoption of the Governance Action Plan by the Government of Cambodia, encourages its early implementation, and appeals to the international community to assist the Government in its efforts to implement the plan;

9. *Expresses serious concern* about the continuing situation of impunity in Cambodia, recognizes the commitment and efforts of the Government of Cambodia to respond to this problem, calls upon the Government of Cambodia to take further measures, as a matter of critical priority, to investigate urgently and prosecute, in accordance with due process of law and international human rights standards, all those who have perpetrated serious crimes, including violations of human rights, and encourages the international community to provide means, such as technical assistance or expertise, to help the Government meet its own commitments to bring perpetrators to justice more effectively;

10. *Notes with interest* the efforts by the Government of Cambodia with regard to the review and the stated commitment to the downsizing of the police and the military, welcomes the adoption of the White Paper on National Defence, encourages the Government to implement it and to continue carrying out effective reform, including continued downsizing, aimed at professional and impartial police and military forces, and invites the international community to continue to assist the Government to this end;

11. *Welcomes* the enactment of the Law on the Administration of the Commune/Sangkat and the Law on the Election of the Commune/Sangkat Council, recognizes and stresses the importance of independent and transparent functioning of the National Election Committee, urges the Government of Cambodia to conduct free and fair communal elections, which are scheduled for 3 February 2002, and encourages the international community to assist the Government to this end;

12. *Notes with serious concern* the prison conditions in Cambodia, notes with interest some important efforts to improve the prison system, recommends the continuation of international assistance to improve the material conditions of detention, and calls upon the Government of Cambodia to take further measures to improve prison conditions, especially with regard to solving the problem of overcrowding, providing the minimum standard of food and health care and meeting the special needs of women and children, including through strengthening of the coordinating role of the Prison Health Department with the Ministry of Health, provincial authorities and non-governmental organizations working in this field;

III. HUMAN RIGHTS VIOLATIONS AND VIOLENCE

13. *Expresses grave concern* about the continued violations of human rights, including torture, excessive pre-trial detention, violation of labour rights and forced evictions, as well as the apparent lack of protection from mob killings as described in the report of the Special Representative, and notes some progress made by the Government of Cambodia in addressing these issues;

14. *Notes with concern* the continued reports of violence and intimidation related to political activity as described in the report of the Special Representative, welcomes the investigations by the Cambodian authorities into some cases of violence and urges the Government to undertake further investigations, in line with its stated commitments, and to take appropriate measures to prevent violence and intimidation related to political activity in the future, particularly in the run-up to the communal elections;

15. *Urges* an end to racial violence against and vilification of ethnic minorities, including the ethnic Vietnamese, and also urges the Government of Cambodia to take all steps to prevent such violence, as well as to meet its obligations as a party to the International Convention on the Elimination of All Forms of Racial Discrimination, *inter alia* by seeking technical assistance;

IV. THE KHMER ROUGE TRIBUNAL

16. *Reaffirms* that the most serious human rights violations in Cambodia in recent history have been committed by the Khmer Rouge, welcomes the final collapse of the Khmer Rouge, which has paved the way for the restoration of peace, stability and national reconciliation in Cambodia and the investigation and prosecution of the leaders of the Khmer Rouge, and notes with interest the steps taken by the Government of Cambodia in bringing to justice the Khmer Rouge leaders most responsible for the most serious violations of human rights;

17. *Welcomes* the progress towards the adoption by the Parliament of a draft law on the establishment of extraordinary chambers in the courts of Cambodia for the prosecution of crimes committed during the period of Democratic Kampuchea, urges the Government of Cambodia to complete the remaining necessary procedures without delay to enable the extraordinary chambers to be established and start functioning, appeals strongly to the Government to ensure that the Khmer Rouge leaders are brought to account in accordance with

international standards of justice, fairness and due process of law, encourages the Government to continue to cooperate with the United Nations on this issue, and welcomes the efforts of the Secretariat and the international community in assisting the Government to this end;

V. LABOUR RIGHTS, AND PROTECTION OF WOMEN AND CHILDREN

18. *Welcomes* the creation of an inter-ministerial commission to receive labour complaints and the steps taken by the Government of Cambodia to establish a labour monitoring team, and notes with interest the training programmes on the Cambodian Labour Code and labour rights for government labour inspectors;

19. *Also welcomes* the progress made under the five-year action plan by the Government of Cambodia, in particular by the Ministry of Women's and Veteran's Affairs, to improve the status of women, and urges the Government of Cambodia to continue to take appropriate measures to eliminate all forms of discrimination against women, to combat violence against women in all its forms, *inter alia*, trafficking and sexual exploitation, and to take all steps to meet its obligations as a party to the Convention on the Elimination of All Forms of Discrimination against Women, including by seeking technical assistance;

20. *Requests* the Government of Cambodia to continue to address the problems of trafficking and sexual exploitation of children, to improve their health conditions and access to education, to provide and promote free and accessible birth registration and to establish an adequate juvenile justice system, commends the efforts of the Cambodian National Council for Children in preparing a workshop to follow up the concluding observations of the Committee on the Rights of the Child, and invites the international community to continue to assist the Government to this end;

21. *Notes with serious concern* the problem of child labour in its worst forms, calls upon the Government of Cambodia to ensure adequate health and safety conditions for children and to outlaw, in particular, the worst forms of child labour, invites the International Labour Organization to continue to extend the necessary assistance in this regard, and encourages the Government of Cambodia to consider ratifying the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention No.182) of the International Labour Organization;

VI. ENHANCEMENT OF HUMAN RIGHTS

22. *Recognizes* the importance of human rights education and training in Cambodia, commends the efforts of the Government of Cambodia, the Office of the United Nations High Commissioner for Human Rights and civil society in this field, encourages further strengthening and wider dissemination of these programmes, and invites the international community to continue to assist these efforts;

23. *Commends* the vital and valuable role played by non-governmental organizations in Cambodia, *inter alia* in the development of civil society, and encourages the Government of Cambodia to ensure the protection of those human rights organizations and their members and to continue to work closely and cooperatively with non-governmental organizations in efforts to strengthen and uphold human rights in Cambodia, particularly in the run-up to the communal elections;

24. *Notes with interest* the activities undertaken by the governmental Cambodian Human Rights Committee, the National Assembly Commission on Human Rights and Reception of Complaints and the Senate Commission on Human Rights and Reception of Complaints, and stresses the importance of further promoting trust in those institutions;

25. *Encourages* the Government of Cambodia in its efforts for the establishment of an independent national mechanism for the promotion and protection of human rights, which should be based on the Principles relating to the status of national institutions for the promotion and protection of human rights, known as the Paris Principles, working in close cooperation with civil society, and requests the Office of the High Commissioner to continue to provide advice and technical assistance in these efforts;

26. *Requests* the Government of Cambodia to follow up the recommendations made by the international human rights treaty bodies regarding the reports submitted by the Government of Cambodia, calls upon the Government to meet its reporting obligations under all international human rights instruments to which Cambodia is a party, and requests the office of the United Nations High Commissioner for Human Rights in Cambodia to continue to provide assistance in this regard;

VII. LANDMINES AND SMALL ARMS

27. *Expresses grave concern* at the devastating consequences and destabilizing effects of the use of anti-personnel landmines on Cambodian society, encourages the Government of Cambodia to continue its support and efforts for the removal of those mines and for victim assistance and mine awareness programmes, and commends donor countries and other actors of the international community for their contributions and assistance to mine action;

28. *Expresses concern* about the large number of small arms in society, commends the efforts of the Government of Cambodia, with the cooperation of the international community, to control their spread and reduce their number in society, and encourages the Government to cooperate in regional initiatives and United Nations efforts to reduce the circulation of illicit small arms;

VIII. CONCLUSION

29. *Requests* the Secretary-General to report to the Commission at its fifty-eighth session on the role and achievements of the Office of the High Commissioner in assisting the Government and the people of Cambodia in the promotion and protection of human rights and on the recommendations made by the Special Representative on matters within his mandate;

30. *Decides* to continue its consideration of the situation of human rights in Cambodia at its fifty-eighth session under the agenda item entitled "Advisory services and technical cooperation in the field of human rights".

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