



# General Assembly

Distr.: General  
5 August 2013

Original: English

---

## Human Rights Council

### Twenty-fourth session

Agenda item 10

### Technical assistance and capacity-building

## Report of the Special Rapporteur on the situation of human rights in Cambodia, Surya P. Subedi

### *Summary*

Having produced four substantive and substantial reports with a thorough analysis of the situation of human rights and the challenges that Cambodia faces in terms of the promotion and protection of human rights since his appointment by the Human Rights Council in March 2009, the Special Rapporteur focused his last two missions to the country – one conducted in December 2012 and the other in May 2013 – on the follow-up to the recommendations made in his reports and on monitoring the situation of human rights in Cambodia. His previous annual reports to the Council focused on judicial, parliamentary and electoral reform and on the human rights impact of economic and other land concessions. His reports included a series of recommendations designed to assist the Government with their reform agenda and the process of democratization in the country. Rather than taking up a new human rights theme, he considered it timely to take stock of the progress made on the follow-up to the recommendations made in his previous reports.

The reception that the Special Rapporteur received from the Government during his mission to the country in December 2012 was a frosty one during which no senior member of the Government was available to meet with him. In the wake of the publication of two major reports by the Special Rapporteur – one on electoral reform and the other one on economic and other land concessions – he was subjected to some raw remarks descending to the personal level. This was highly regrettable, as the focus of the dialogue between the Special Rapporteur and the Government should remain strictly on the substance of the work he is mandated to carry out by the United Nations, and not on him as a person. However, the Government cooperated with him during his mission to the country in May 2013, when he met with a broad range of stakeholders. They included senior members of the Government who were forthcoming with information, prepared to acknowledge deficiencies where they existed, and willing to work with the Special Rapporteur in a constructive manner to address the remaining challenges concerning greater protection of human rights, stronger democracy and genuine rule of law in Cambodia. He was satisfied with the level of engagement and dialogue with various government interlocutors; the dialogue was candid, cordial and constructive.

While the private meetings with senior members of the Government were

constructive, the Special Rapporteur regrets that he was subjected to some unpleasant incidents during the mission. If the media reports are to be believed, these were staged protests designed to intimidate and harass the Special Rapporteur in order to distract him from his focus on substantive issues. He was also subjected to baseless allegations of bias against the Government. These were all familiar lines of criticism of the work of the Special Rapporteur and were not much different from the treatment meted out to his predecessors. While the experience was unpleasant, this did not distract the Special Rapporteur from the objectives of his mission and he continued to advocate the reform agenda of the national institutions responsible for promoting and protecting human rights to move forward. In fact, as a reaction to these incidents, he received tremendous messages of support for his work in Cambodia from people from various walks of life, by which he was greatly encouraged. In addition to the government interlocutors, the Special Rapporteur also interacted with various other stakeholders in Cambodian society, including the various political parties, civil society, local communities, private citizens and development partners of Cambodia.

Overall, Cambodia seems to be moving along on the road to democracy. It has come a long way since the conclusion of the Paris Peace Agreements in 1991 and adoption of the new Constitution founded on liberal democratic values in 1993. Some of the major steps taken in a positive direction within the review period were the release of Mr. Mam Sonando, a prominent human rights defender, and the granting of pardon to the leader of the opposition, Mr. Sam Rainsy, paving his return to the country from exile in France to participate in the political process in the country. However, Cambodia still has some way to go in promoting and protecting human rights, strengthening good governance, enhancing the independence and capacity of State institutions responsible for upholding people's rights, as was acknowledged by government interlocutors throughout the Special Rapporteur's mission to the country in May 2013. He sees as a sign of progress that the Government has readily admitted these shortcomings in his meetings, showing its willingness to work with him in its endeavour to improve the human rights situation for the people of Cambodia. While the Constitution of Cambodia speaks of a liberal democracy, in reality the situation is akin to a limited democracy in many respects. The country has some way to go in conforming to international human rights standards that flow from the human rights treaties voluntarily ratified by Cambodia and is striving towards that end.

The international community has invested heavily in Cambodia since the conclusion of the Paris Peace Agreements and the first democratic elections held under the auspices of the United Nations Transitional Authority in Cambodia (UNTAC) in 1993. The wish of the State parties to the Paris Peace Agreements and the national stakeholders that participated in the Paris Conference on Cambodia was to see Cambodia develop as a liberal democracy. The Special Rapporteur sees a role for the international community, including that of his mandate, in assisting the people and the Government of Cambodia in moving towards a fuller liberal democracy underpinned by sustainable peace and equitable economic development. As will be seen from an account of the achievements made in implementing his recommendations throughout this report, while some of his recommendations seem to have been implemented, some others seem to be under active consideration for implementation. These are encouraging indications and the Government should be commended for these achievements. While the process of judicial, parliamentary and electoral reform has been slow, the Government is yet to act on most of the recommendations relating to the granting and management of economic and other land concessions. It is in this context that, as ever, he stands ready to assist the Government of Cambodia. With this in mind, he urges the Government to speed up the process of promised reform of State institutions responsible for protecting and promoting human rights and to accelerate the process of democratization of the country so that the benefits of economic growth can be shared equitably by all in the country.

---

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction .....	1–6	4
II. Communications sent to the Government .....	7–13	5
III. Follow-up to recommendations on the judiciary .....	14–28	7
IV. Follow-up to recommendations on Parliament .....	29–32	9
V. Follow-up to recommendations on elections .....	33–47	10
VI. Follow-up to recommendations on economic and other land concessions .....	48–59	14
VII. Conclusions .....	60–64	17
VIII. Recommendations .....	65–75	18

## I. Introduction

1. This is the fifth report of the present Special Rapporteur on the situation of human rights in Cambodia submitted pursuant to Human Rights Council resolution 18/25.

2. During the year under review, the Special Rapporteur continued to monitor the situation of human rights in Cambodia. He continued to receive information on the situation of human rights from different stakeholders in Cambodia, including the Government, the opposition political parties, civil society organizations and private citizens, some of whom had sought the help of the Special Rapporteur in addressing the violation of human rights in the country. The Special Rapporteur conducted two country visits during the review period – one in December 2012 and the other in May 2013. While the Government resumed its regular mode of cooperation with the Special Rapporteur and he was able to meet with a broad range of stakeholders within the Government in May 2013, the Special Rapporteur regrets the gap in information that was created by the Government's refusal to meet with him in December 2012. The key pillars to the work of a special rapporteur are independence, impartiality and objectivity. To this end, it is imperative in the exercise of his mandate that the Special Rapporteur have the opportunity to interact with all segments of Cambodian society, without any exception. The missed opportunity for dialogue with the Government is a significant one, particularly as the objective of the two missions was to take stock of the progress achieved on the implementation of the recommendations the Special Rapporteur had made in his previous reports and to jointly identify how best to address the remaining challenges. It is in this context that the Special Rapporteur presents this report to the Human Rights Council.

3. During his mission to the country in May 2013 the Special Rapporteur was able to meet with a broad range of stakeholders from the Government, other political parties, civil society and development partners of Cambodia. He met with senior members of the Government, notably, the Deputy Prime Minister and Minister of the Interior, Mr. Sar Kheng, the Senior Minister and the President of the Cambodian Human Rights Committee, Mr. Om Yentieng, the President of the National Election Committee, Mr. Im Soudy, the Chairman of the Commission on Foreign Affairs, International Cooperation, Information, and Media of the National Assembly, Mr. Chheang Vun, the Secretary-General of the Senate, Mr. Oum Sarith, and Secretary of State in the Ministry of Justice Mr. Prum Sidhra. The Special Rapporteur was very pleased with the constructive engagement and dialogue he had with these dignitaries. During his meeting with the Special Rapporteur, Mr. Om Yentieng handed over an undated document to the Special Rapporteur outlining the response and comments of the Government to some of the issues contained in the previous reports of the Special Rapporteur. The document had never been submitted by the Government to the Special Rapporteur and thus he was pleased to receive the document which was helpful in understanding the position of the Government on some of the human rights issues facing the country. While helpful for understanding the position of the Government, its response did not significantly alter the analysis presented by the Special Rapporteur in his reports or the recommendations contained therein.

4. Generally speaking, Cambodia continues to do well on a number of economic indicators, supported by political stability. The country appears to be on course to achieve some of the Millennium Development Goals. With the death, in October 2012, of the former king, Norodom Sihanouk, who played such a crucial role in preserving the independence and integrity of the country through some of the most challenging times in modern history, the country has entered a new era. The Special Rapporteur visited the Royal Palace to pay his last respects to the late king during his mission to the country in December 2012 and expressed the view that the mourning period of the death of the king

was also an opportunity to celebrate what he had achieved during his lifetime for peace, stability, political reconciliation, democracy, rule of law and human rights and what Cambodia had achieved since the conclusion of the Paris Peace Agreements in 1991. This was a period for contemplation and demonstration of a new resolve to move forward in harmony and reconciliation for the greater good of the country.

5. Since his appointment as Special Rapporteur on the situation of human rights in Cambodia by the Human Rights Council in March 2009, the Special Rapporteur has produced four substantive and substantial reports each with a thorough analysis of the situation of human rights and a series of constructive recommendations designed to assist the Government with its reform agenda and the process of democratization in the country. However, in spite of the progress made in a number of areas, there are a number of other human rights issues that remain a matter of concern for the Special Rapporteur.

6. For instance, land rights continue to be a major issue in this country. Another area of concern is freedom of expression which remains weak and has come under attack throughout the review period. Impunity is a long-standing issue. So are the independence of the judiciary and the ability of parliament to function as an effective check on the executive. It is in this context that the Special Rapporteur chose to focus both of his missions during the review period on the follow-up to his recommendations.

## **II. Communications sent to the Government**

7. During the reporting period, the Special Rapporteur addressed a number of communications to the Government on specific cases of human rights concern as outlined below.

8. On 4 June 2012, a joint urgent appeal was made in relation to the families in the Boeung Kak Lake dispute. The communication was sent jointly by the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on violence against women, its causes and consequences. The appeal drew attention to information regarding the arrests and sentencing of 13 women from the Boeung Kak Lake community during their peaceful protest, including the arrest of two other representatives from the area, as well as the arrest of Venerable Loun Savath and exertion of undue influence on him to cease his human rights work. Concerns were expressed that the rights to freedom of expression and peaceful assembly of the 15 representatives of the Boeung Kak Lake community and Venerable Loun Savath might have been violated, and that those violations might have been directly related to their activities in the defence of human rights.

9. On 13 August 2012, an allegation letter was sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the Special Rapporteur on the situation of human rights defenders. The communication addressed the situation of Mr. Pen Bonnar and Mr. Chim Savuth, two staff members of the human rights non-governmental organizations (NGOs), Cambodian Human Rights and Development Association (ADHOC) and the Cambodian Center for Human Rights (CCHR) respectively. CCHR, along with other human rights NGOs, was the subject of a communication sent on 26 September 2011 regarding the events that took place on 27 July 2012. Mr. Pen Bonnar and Mr. Chim Savuth

were delivering a training course on land rights issues in Patang village. Despite a letter to the Village Chief of Patang to inform him of the training session, law enforcement officials interrupted the session. Law enforcement officials also accused ADHOC of undertaking “incitement activities” and warned both men to leave the area, otherwise their security would not be guaranteed. Concerns were expressed that the disruption of the human rights training course and the threats against the two staff members might have been related to the exercise of their rights to freedom of peaceful assembly, of expression and of association.

10. Another joint urgent appeal was sent on 29 August 2012 with the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the Special Rapporteur on the situation of human rights defenders. The letter addressed charges brought against Mr. Mam Sonando, director and owner of independent radio station 105 (Beehive Radio). Mr. Sonando was the subject of a number of communications submitted to the Government of Cambodia on behalf of special procedures of the Human Rights Council, including an urgent appeal letter sent on 14 October 2005 and an allegation letter of 28 February 2006. On 16 July 2012, Mr. Sonando (president of an NGO established to promote democratic freedoms and raise awareness of civil political rights) was formally charged by the Phnom Penh Municipal Court in accordance with six articles derived from the Penal Code including “insurrection” and “inciting people to take up arms against the authorities”. Reports suggested that the charges brought against Mr. Sonando might have stemmed from a speech made by Prime Minister Hun Sen in which Mr. Sonando was accused of instigating a plot for a village in Kratie Province to secede from Cambodia and become an independent state. The Prime Minister’s speech came a day after Beehive Radio had broadcast a report about a complaint lodged in the International Criminal Court on 22 June, accusing the Government of committing crimes against humanity by displacing thousands of people through forced evictions. Concern was expressed that the alleged arrest, detention and sentencing of Mr. Sonando might have been directly related to his legitimate work in raising awareness of civil and political rights in Cambodia. There was also concern that the charges brought against him might have represented a direct attempt to prevent him from exercising his legitimate right to freedom of expression.

11. Further, a joint allegation letter sent on 25 October 2012 concerned Mr. Sonando’s trial, and was also written by the Special Rapporteur on the right to freedom of opinion and expression, 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 situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers. On 1 October 2012, Mr. Sonando was found guilty of being the instigator of an insurrectionary movement, inciting people to take arms against State authority, obstruction of public officials with aggravating circumstances, and unlawful interference in the discharge of public functions. Mr. Sonando reportedly contracted a serious respiratory infection in prison and required access to the necessary medical care. Serious concern was expressed that the long prison sentence imposed on Mr. Sonando might have represented a direct attempt to prevent him from exercising his legitimate right to freedom of expression. Further, concern was expressed at allegations received indicating that Mr. Sonando’s situation could have been linked to his activities in the promotion of human rights and fundamental freedoms.

12. On 15 March 2013, the Special Rapporteur welcomed, through a press statement, the release of Mr. Sonando following the decision of the Cambodian Court of Appeal on 14 March 2013. He noted that the Court of Appeal had found that there was no evidence to support many of the charges, after first instance sentences of periods up to 20 years on charges including instigating insurrection. He also noted that some of the significant defects in the original trial, which were highlighted by some of his interlocutors with whom the

Special Rapporteur met during his mission to Cambodia in December 2012, were remedied on appeal. However, he regretted that some of the convictions remained in place, and new charges and convictions were introduced, with no opportunity for the accused to prepare his defence.

13. In addition, on 8 May 2013, the Special Rapporteur appealed to the Minister of Land Management, Urban Planning and Construction for disaggregated data by province on the implementation of Directive 01 on the Measures to Strengthen and Foster Effectiveness for the Management of ELCs (economic land concessions), including the number of hectares distributed for the purposes of private title, the location in which the titles had been issued and which private companies had been involved. He noted with appreciation the updated information placed on the website by province, and called for enhanced information related to the concessions subject to excision of land, and the role of the concessionaires. In this regard, the Special Rapporteur looks forward to further dialogue on how the ministry is addressing titling in disputed areas, including addressing petitions by villagers who have protested against their exclusion from the titling programme, or disagreement related to the measuring process during the 30-day period of public display. Preventing encroachment and ensuring the right to remedy remain of paramount concern to the Special Rapporteur.

### **III. Follow-up to recommendations on the judiciary**

14. The report of the Special Rapporteur to the fifteenth session of the Human Rights Council in 2010 focused on the judiciary (A/HRC/15/46). Three years on, the Special Rapporteur sought to assess the status of implementation of the recommendations contained in that report.

15. In terms of legal reform, the Special Rapporteur is pleased to note that the four main codes are now in place, namely the Criminal Code, the Code of Criminal Procedure, the Civil Code and the Code of Civil Procedure. Nonetheless, several other important pieces of legislation remain pending after many years. In particular, the three fundamental laws on the status of judges and prosecutors, on the organization of courts and the reform of the Supreme Council of Magistracy have still not been adopted. Nonetheless, he was encouraged by the assurance given to him that drafts of the three fundamental laws that were part of his key recommendations were almost ready and will be tabled before Parliament in the first half of 2014.

16. Overall, the situation of the judiciary in Cambodia has not fundamentally changed since 2010. Despite some progress, the pace of judicial reform remains very slow. The challenges are the same, namely lack of independence, problems of capacity, lack of resources, widespread corruption, all resulting in a lack of confidence by the general public in the ability of the court system to provide effective remedies when human rights violations do occur.

17. During his May 2013 mission, the Special Rapporteur was able to meet with representatives of the Ministry of Justice, representatives of the Bar Association and NGOs working in the legal and judicial sector. Despite several attempts, he regrets that he was not able to meet with any judge or prosecutor during his mission.

18. In order to protect the independence of judges and prosecutors, it is imperative that Cambodia adopt the three fundamental laws on the status of judges and prosecutors, on the organization and functioning of the courts, and on the reform of the Supreme Council of Magistracy. The Special Rapporteur encourages the Government to engage in full and meaningful consultations with all the relevant stakeholders before the adoption of these three laws and looks forward to their adoption in 2014.

19. In the meantime, the Special Rapporteur notes with concern that according to information received, some judges and prosecutors continue to be actively involved in political activities. The Special Rapporteur reiterates his previous recommendation that the current draft Law on the Status of Judges and Prosecutors ban active party political members from holding judicial positions and ban judges and prosecutors from acting as advisers to party political leaders or ministers.

20. Adequate remuneration of judges and prosecutors remains essential to ensure their independence. The Special Rapporteur notes that the basic salary and allowance of judges and prosecutors has not been increased since his last report on the judiciary. Moreover, the overall budget of the justice system has not increased in any significant way. According to figures contained in the annual report of the Ministry of Justice, the justice sector received US\$ 9 million in 2011, which amounts to a paltry 0.36 per cent of the national budget.

21. The Special Rapporteur wishes to recall that the independence of prosecutors is as important as the independence of judges in order to ensure the integrity of the justice system. On the status of prosecutors, it remains unclear whether prosecutors will be under the control of the Ministry of Justice or the Supreme Council of Magistracy when the new law on the status of judges and prosecutors is adopted.

22. The Special Rapporteur was encouraged by some positive developments in the criminal justice sector. He was informed that following a donors meeting convened by the Office of the United Nations High Commissioner for Human Rights (OHCHR), Australia (AusAID) agreed to fund an additional building for the Court of Appeal. The construction of this building has been completed and the new building was inaugurated in 2012. There are now two additional courtrooms which allows for more cases to be heard, and upgraded facilities for the court clerks. The number of appeal judges has also increased. Appeal cases are now heard within one or two years, which is a great improvement on the previous situation. The President of the Court of Appeal and OHCHR worked together over the past year to reduce the appeal backlog – it is expected that the backlog of oldest cases (pending for more than seven years) will be cleared by the end of 2013. Australia has provided funding for a new computerized system to register and manage cases. Overall, court management at the Court of Appeal has improved. According to information received, the draft law on the organization of courts provides for the creation of new courts of appeal in the provinces, which will hopefully further improve the appeal process.

23. The Special Rapporteur was encouraged to hear that the Bar Association has amended its Code of Professional Conduct for lawyers, with the technical assistance of OHCHR. The new Code was adopted in September 2012. It provides that lawyers will respect and promote human rights. The new Code also provides that lawyers do not need to consult, nor inform the Bar President when they wish to speak to the media, which was the case under the old Code. Earlier this year, the new Bar President caused controversy by warning lawyers to be careful before participating in law dissemination programmes on radio or television. This was interpreted as a veiled attempt to dissuade lawyers from speaking to the media. The Special Rapporteur was pleased to hear a representative of the Bar President confirm that lawyers are free to speak to the media.

24. The number of lawyers remains extremely low in Cambodia in comparison to many other countries. The number of legal aid lawyers is clearly insufficient and most of them work in Phnom Penh. Under the Code of Criminal Procedure, those who are arrested have access to a lawyer only after 24 hours. Even then, very few in practice enjoy access to a lawyer, either because the judicial police continue to deny such access or because there are simply no lawyers available. In this regard, the Special Rapporteur would like to reiterate his previous recommendation that the Government consider amending the Code to provide for immediate access to a lawyer during police custody, in line with international good practices.



25. Legal aid is mainly provided through NGOs supported by international donors. However, funding has been significantly reduced in recent years. In addition, most donor funding is earmarked for specific types of cases such as trafficking cases, cases of domestic violence, juvenile cases, etc. There is little funding available for general legal aid work. In several provinces of Cambodia, there is not a single legal aid lawyer, which raises serious problems in terms of access to justice. Under the Code of Criminal Procedure, legal representation is compulsory in felony and juvenile cases, which means that if there is no lawyer available, the case cannot proceed.

26. In order to ensure access to justice for the poorest, the Government needs to urgently consider the establishment of a national legal aid system, in line with the recently adopted United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (General Assembly resolution 67/187 of 28 March 2013). The Special Rapporteur also wishes to recall that access to justice can also be improved through measures such as increasing the number of lawyers and using paralegals in the criminal justice system, and encourages the Government to explore these avenues.

27. The Special Rapporteur is concerned that judges continue to use the provisions of the Criminal Code against human rights defenders and all those who express opinions which are not favourable to the Government. The Special Rapporteur has observed over the last few years that prosecutors have tended to abandon defamation and disinformation charges and use incitement instead (arts. 494-498 of the Criminal Code). It should be noted here that defamation can lead to a fine, whereas incitement can lead to a prison sentence.

28. Over the last year, the most high profile case that also attracted significant international attention was that of Mam Sonando, the owner of the Beehive Radio station, who was sentenced to 20 years' imprisonment on some spurious charges focusing on incitement to secession. His sentence was reduced on appeal and he was released. According to information received, it appears that NGO workers are regularly threatened with prosecution for incitement.

#### **IV. Follow-up to recommendations on Parliament**

29. In his 2011 report to the eighteenth session of the Human Rights Council (A/HRC/18/46), the Special Rapporteur outlined a series of measures that he considers critical for Cambodia in order to accelerate the process of democratization in the country in relation to the Parliament. Many of them concerned specific matters that directly impact on the ability of the Parliament to function properly, to enact laws that promote and protect human rights, to be accessible to its diverse constituency, and to be a model for society in internalizing a culture of constructive criticism, the sharing of views and power, and a genuine sense of common purpose.

30. Among his key recommendations:

(a) He suggested that the procedure for removing parliamentary immunity and other disciplinary actions against sitting Members of Parliament should be brought in line with the principles of natural justice, constitutional standards and freedom of expression;

(b) The Government should increase the resources allocated to Parliament to enhance the overall capacity of Parliament as an independent and effective institution and the capacity of individual Members of Parliament to scrutinize draft laws tabled before Parliament by the Government;

(c) He also highlighted that the Constitution of Cambodia makes it mandatory to hold a National Congress once a year under the chairmanship of the King to enable the people to be directly informed on various matters of national interest and to raise issues of

concern to the authorities of all three main organs of the State. One interlocutor was of the view that the concept of the National Congress was no longer needed in the country now that the National Assembly and Senate were bodies composed of people's representatives. The Congress however remains a constitutional requirement. As the King is the guarantor of the Constitution, the monarch should be able to receive people in audience and receive information from people from all walks of life. It should be held every year as mandated by the Constitution. For this, the organic law relating to the National Congress should be enacted without delay;

(d) He called for the strengthening of the role of the Human Rights Commissions in Parliament to mainstream human rights as a cross-cutting issue and to ensure the compliance of domestic laws with international human rights standards.

(e) He called on all Members of Parliament, including members of opposition parties, to participate fully in the work of Parliament and cooperate, in particular in the work of the Commissions of the National Assembly;

(f) Regarding the Constitutional Council, he recommended that it review not only the laws enacted by Parliament but also the internal rules of Parliament in general and the National Assembly in particular, to ascertain whether they were compatible with the Constitution, international human rights standards, and the principles of rule of law, including the principles of natural justice;

(g) Among the urgent tasks before Parliament is the review of the new Criminal Code with a view to ensuring its compliance with the permissible limitation to freedom of expression under international human rights law. Parliament should safeguard the right to freedom of expression of its own members and protect their parliamentary immunity.

31. With regard to his recommendations on parliamentary reform, the Special Rapporteur was encouraged by a positive response from the President of the Foreign Relations Commission of the National Assembly and the Secretary-General of the Senate and by a willingness to implement many of them in the next Parliament. He was given information about the efforts being made to implement some of his recommendations and the difficulties involved in implementing others. In regard to nearly all of them, however, he regrets that recent developments demonstrate not an advancement towards better protection of human rights but, on the contrary, a disturbing reversal. The passage of most of the critical laws raised in his report had not progressed. The days following his mission saw the dismissal of 29 opposition Members of Parliament on 5 June 2013, on the eve of the start of the official electoral campaigning period. By this act, those Members of Parliament were denied not only the ability to carry their messages through Parliament, but also their salaries and parliamentary immunity from prosecution, which has created an unhealthy and undemocratic environment for this important imminent milestone in the political development of the nation.

32. With this in mind, the Special Rapporteur once again calls upon the Government to revisit the recommendations on parliamentary reform contained in his report with a view to implementing them without further delay.

## **V. Follow-up to recommendations on elections**

33. The subject of the Special Rapporteur's report to the twenty-first session of the Human Rights Council (A/HRC/21/63) was electoral reform. While the Special Rapporteur's mission in May 2013 took place at an important time when the country was on the cusp of elections for the National Assembly, the present report was finalized some

weeks prior to the parliamentary elections and thus does not contain developments in the fast-moving election process since then.

34. Cambodians will go to the polls on 28 July 2013 for the eighth time since the 1991 Paris Peace Agreements.<sup>1</sup> The National Election Committee (NEC) announced that 9.67 million Cambodians would be eligible to cast their ballots in 19,009 polling stations to elect the 123-seat Parliament by proportional representation.<sup>2</sup> The election is contested by 8 political parties.<sup>3</sup> Seats in the current National Assembly are held by the Cambodian People's Party (90 seats), the Sam Rainsy Party (26 seats), the Human Rights Party (3 seats), FUNCINPEC (2 seats) and the Norodom Ranariddh party (2 seats). In July 2012, the Sam Rainsy Party and the Human Rights Party agreed to merge to create a new political party, the Cambodia National Rescue Party (CNRP).

35. Compared to previous national elections, the overall pre-electoral situation was very calm at the time of drafting. In rural areas, human rights groups reported only rare cases of politically motivated violence or physical intimidation. This consistent reduction in the level of political violence is showing an important improvement towards democratization. However, a campaign of intimidations and pressure still prevails particularly in rural areas. Local State human resources such as the village chiefs and the commune chiefs have been reported to have been used as political agents to persuade people to vote for the ruling party. That is a clear breach of the electoral law. It has also to be reported that a number of signboards advertising the CNRP have been pulled down or destroyed in Svay Rieng, Prey Veng, Takeo, Kandal and Battambang provinces, contributing to the creation of more intimidation. One mass rally was organized by the opposition in Phnom Penh in May. The Special Rapporteur was pleased to see that it unfolded peacefully and he hopes that mass gatherings, whether for election purposes or to highlight particular concerns or issues such as working conditions or forced evictions, will also be conducted and dealt with peacefully.

36. A number of concerns have been raised, however, in relation to the context in which the elections are taking place, some of which might not be conducive to a free and fair outcome. In this regard, while the Special Rapporteur realizes that time may be required to implement some of his recommendations and to generate the necessary political will to do so, he regrets that most of his recommendations with regard to electoral reform have not been acted upon. Specifically, the Special Rapporteur continues to have concerns over the independence of the NEC, freedom of expression, access to media for all political parties (particularly television) during the pre-electoral period, use of State resources by political parties in campaigning, the use of threats of legal action against politicians, concerns over the integrity of the voter list, reports of intimidation of voters, and a general lack of transparency in the electoral process.

37. During his mission in May, the Special Rapporteur reiterated these concerns during his meetings with the President of the NEC and the Deputy Prime Minister and Minister of the Interior. He sought assurance from them that the necessary measures would be taken to

<sup>1</sup> 1993 national election under the supervision of UNTAC, 1998 national election, 2002 commune election, 2003 national election, 2007 commune election, 2008 national election, 2012 commune election.

<sup>2</sup> Until 2006, a majority of two-thirds was required to form a government. An amendment to the Constitution now allows for a 50 per cent plus one majority in the National Assembly to form a government.

<sup>3</sup> 1. Cambodian Nationality Party (CNP); 2. Front Uni National pour un Cambodge Indépendant, Neutre, Pacifique et Coopératif (FUNCINPEC); 3. Republican Democracy Party (RDP); 4. Cambodian People's party (CPP); 5. Khmer Economic Development Party (KEDP); 6. Khmer Anti-Poverty Party (KAPP); 7. Cambodia National Rescue Party (CNRP); 8. League for Democracy Party (LDP).

ensure equitable access to State media by all political parties and the impartiality of the police and army personnel and civil servants during the elections. The NEC provided a detailed response to the recommendations of the Special Rapporteur on electoral reform contained in his report and on the current concerns of civil society and opposition political parties in this regard. While the Special Rapporteur was satisfied by some of the responses and assurances provided, the response to many of the recommendations was unsatisfactory as explained below.

38. In particular, the Special Rapporteur regrets that the principal law governing elections in Cambodia, the Law on Election of Members of the National Assembly (LEMNA) has not been amended since the publication of his report on elections in July 2012, despite his recommendations to that effect. The Special Rapporteur is, however, aware that the NEC made efforts to strengthen its independence by appointing two senior retired judges to its membership. It has also accepted some suggestions of civil society organizations such as the prohibition of the use of State resources such as cars, buildings and the services of civil servants in partisan election campaigns; the granting of permission to use public places such as the market for political campaigning by all parties; the prohibition of the placement of signboards and campaign materials supporting specific political parties in or on State buildings. Unfortunately, these welcome efforts are offset by a number of instances of political interference by civil servants that are still being reported. Despite the assurances expressed by the NEC that public servants are not permitted as officials to engage in active campaigning for a political party during their working hours, public servants from the lowest to the highest levels of Government have not strictly abided by this rule. This is even more pronounced in the rural areas. The Special Rapporteur is therefore obliged to recall that all civil servants, police and military, are not permitted to carry out activities that favour one political party. The Special Rapporteur is also concerned about several issues brought to his attention by a number of independent election monitoring and human rights organizations.

39. A key concern is the integrity of the voter registration process and subsequent voter lists. Two audits of the voter lists undertaken in early 2013, one by the National Democratic Institute (NDI) and the election monitoring group, the Neutral and Impartial Committee for Free and Fair Elections in Cambodia (NICFEC), the other by the election monitoring group, the Committee for Free and Fair Elections in Cambodia (COMFREL) have revealed flaws that would directly impact the vote. While the Special Rapporteur is not in a position to verify the accuracy of these findings, he is of the view that such concerns must be noted and if appropriate, duly addressed, particularly given that they originate from more than one source. The NDI/NICFEC Voter Registry Audit (VRA) reported “an overall decline in the quality of the voters list since 2008 with regard to comprehensiveness, accuracy and currency”. It suggests that the voter registration rate has decreased from 87.9 per cent eligible voters in 2008 to 82.9 per cent in 2013 and that “10.8% of eligible citizens who believe they are registered cannot be found on the list and will not be able to vote on the election day”. The audit also revealed that “only 63.6% of the names on the voters list can be verified in person to currently live where they are registered, while another 17.9% of respondents exist but live most of the time in another location and a further 10.4% do not exist in person”. Another survey conducted by COMFREL, using a different methodology, arrived at similar conclusions. The NEC declared the audits unreliable for methodological reasons. The Special Rapporteur has been informed that the NEC hired an independent firm to conduct another audit of the voter list. It found that 9.7 per cent of the voter names were missing, which is close to the results of the NDI/NICFEC and COMFREL audits. However, by cross-checking the results with their private database, the NEC finally reported that only 3 per cent of eligible voters who claimed to have registered were unaccounted for in the registry. The Special Rapporteur regrets that, based on the results of the first audits, the correction of the list could not have been made earlier, permitting a larger number of people

to exercise their right to vote. The Special Rapporteur commends the initiative of the NEC to undertake its own audit. He maintains his view that only a transparent check of the voter registration list, conducted through a process that allows for corrections in case of errors, will conclusively determine that exclusion from the list will not lead to a denial of the right to vote of any eligible voters. There is concern that public confidence in the process and the results of the election will be undermined.

40. In order to allow the voter list to be verified in time for the election, civil society organizations urged the NEC to post voter lists in all villages so that voters could easily check their names and report any anomalies to the Commune/Sangkat Election Commissions (CECs), which could then review and revise the voter list. During its meeting with the NEC, the Special Rapporteur raised these issues. The NEC reiterated its refusal to post the voter lists at village level for the reason that “the law, regulation and procedures do not state about the posting of voters’ list in the village”.<sup>4</sup> At the same time, the Special Rapporteur noted that the NEC agreed to post the lists at the level of Communes/Sangkats one month before election day and proposed the establishment of telephone hotlines and the posting of the voter list on a website in order to facilitate the checking of the names. He understands that the NEC has acted on these two points. The Special Rapporteur acknowledges the significant improvements that they represent, while also noting that they are nevertheless insufficient to ensure easy access to this basic information for the majority of the population that inhabits the Cambodian countryside.

41. Another measure proposed by civil society organizations to ensure the neutrality and the independence of the CECs was to establish an ad hoc commission to recruit and accredit CECs and polling/counting station officers involving members of political parties who hold a seat at the National Assembly. This was rejected by the NEC.

42. In addition, the Special Rapporteur notes that an excessive number of extra ballots have been printed (more than 2.5 million more ballots than registered voters). He expresses hope that every single ballot will be accounted for by the NEC, as this would go far in alleviating some of the potential apprehension about the results of the election.

43. The weeks following the Special Rapporteur’s visit were marked by intimidation against opposition leaders through the use of legal actions such as their removal from the National Assembly and the use of laws to penalize some of their alleged statements and activities.

44. On 5 June 2013, the 12-member National Assembly Standing Committee comprised of legislators from the ruling party (CPP) decided to strip 29 opposition members of their parliamentary status. While the question of the legality of this action is open to discussion, this action resonates as politically motivated intimidation against the opposition parties. This builds on a number of other developments that appear aimed at intimidating opposition figures. The loss of their status also deprives opposition Members of Parliament of parliamentary immunity, which impacts their ability to speak out safely and leaves them open to criminal prosecution.

45. Legal action, notably prosecution for defamation or incitement, has been used to discredit the main opposition party, the CNRP. Kem Sokha, the acting President of the CNRP, has found himself in several controversies which erupted into lawsuits filed against him and threats of more.

46. On 25 May 2013, a transcript of an alleged audio recording of Kem Sokha was released by the Press and Quick Reaction Unit of the Council of Ministers, purportedly

---

<sup>4</sup> Letter from the NEC (N. 05.22/13 NEC/S.G/PIB) dated 9 May.

saying that the Khmer Rouge's notorious S-21 prison, also commonly known as "Tuol Sleng", was an artificial invention set up by the Vietnamese. On 27 May, the Prime Minister called for a law to criminalize denial of crimes by the Khmer Rouge to be drafted and enacted. On 7 June, following the removal of all opposition Members of Parliament, 86 participating lawmakers from the ruling Cambodian People's Party and its coalition FUNCINPEC party unanimously approved a Law on the Denial of Crimes Committed during the Period of Democratic Kampuchea. The Special Rapporteur is deeply concerned that this important law was voted upon without any public debate.

47. Another area of concern is the restriction on freedom of expression. The ruling party has a near monopoly on national radio and television in the country. The predominantly rural population has little access to independent news other than through programmes broadcast by foreign radios. On 28 June, the Ministry of Information released two directives aiming to ban foreign radio broadcasting during the election period. One signed on 25 June stated that all FM radio stations must suspend relaying and airing all Khmer-language foreign radio programmes during the 31 days prior to election day, adding that if any FM radio station did not respect the directive, the Ministry of Information would take legal measures. The second directive dated 21 June ordered a halt to broadcasting and direct relay from foreign radio stations about surveys or the results of surveys related to the election process during the five days preceding election day and a halt to broadcasting on all campaign activities during the final 24 hours before the election and on election day. From that very day, the ban immediately silenced Khmer-language radio broadcasts from several foreign stations, which media and civil society organizations said are a vital source of independent information. On 29 June, the Ministry of Information issued a reversal on the first directive but maintained the second. The Special Rapporteur stresses that ensuring public access to independent media is essential for levelling the playing field in the electoral process and allowing voters to make an informed choice on election day. He welcomes the rescindment of the 25 June directive but regrets that the 21 June directive has not been revoked. The Special Rapporteur firmly recommends that such initiatives that are not provided for in law and contravene freedom of information and expression be effectively prohibited in the future.

## **VI. Follow-up to recommendations on economic and other land concessions**

48. Regarding the recommendations in the report on economic and other land concessions submitted to the twenty-first session of the Human Rights Council in 2012 (A/HRC/21/63/Add.1), the Special Rapporteur notes the positive developments resulting from the private land titling programme of the Government led by the Prime Minister himself. During his visit to Kompong Chhnang Province in December 2012, the Special Rapporteur spoke directly with villagers who had received their long-awaited land titles. Along with many national and international stakeholders, the Special Rapporteur had long been calling for a speedy land titling programme and he is pleased to see it now taking place. Nevertheless, further implementation of the existing framework on land rights and strengthening of land management institutions are necessary for these gains to be sustainable, and a significant number of the recommendations outlined in the above-mentioned report have not yet been adequately addressed.

49. Insecure land tenure, ineffective systems (court and cadastral) to handle claims related to land and other obstacles to access to justice, and widespread land disputes continue to be a challenge. The continued number of clashes between authorities (civilian and military), company representatives involved in agro-industry and infrastructure and property development (including private security personnel) and communities affected is a

concern, especially as a number of incidents involved the use of live ammunition and other violence. Human rights defenders involved in land rights education and advocacy and individuals making land claims continue to be persecuted and freedom of expression and assembly has been continually curtailed.

50. As with the previous reporting period, activists (mostly women) associated with the Boeung Kak Lake and Borei Keila communities continued to be on the front line of regular protests, with a number of excluded families' cases still unresolved by the Municipality of Phnom Penh and Shukaku Inc. and the Phan Imex Company, respectively. Representatives of the communities threatened by the planned expansion of Phnom Penh International Airport have also protested regularly during the reporting period. Phnom Penh continues to be a site of regular protests, demonstrations and, regrettably, violence between communities and police, including now the use of electrified riot shields and water cannons by authorities. In some cases, private security personnel were employed by the Municipality of Phnom Penh for use in confrontations and detentions of activists. Two women housing activists sentenced to prison terms were believed to be targeted for their activism, namely Tim Sakmony of Borei Keila and Yorm Bopha of Boeung Kak Lake. On appeal Ms. Sakmony's sentence was suspended after three months in prison, while Ms. Bopha remains in prison after her appeal.

51. Those already evicted and relocated reportedly suffer poor living conditions (including low standards of housing and unsafe water and sanitation conditions) and scant opportunities for employment, coupled with limited access to health and education services. Resettlement sites have continued to be poorly planned and developed before evictions, and promises by the companies involved and municipal governments have many times not materialized. For example, the Phnom Bath relocation site, housing over 100 families from Borei Keila, including those forcibly evicted in January 2012, has developed in part with the assistance of donors, but assistance from the Phan Imex Company and the Municipality of Phnom Penh has been minimal.

52. During the reporting period there was little progress in tackling the root causes of land disputes in Phnom Penh and other major cities, and access to justice and remedy remain key concerns. For example, a forced eviction in March 2013 in Sihanouk province affecting 21 families occurred while an appeal was still pending with the court. The issue was ultimately solved following a demonstration by the families in Phnom Penh, and the subsequent intervention by the Prime Minister. As highlighted before, obstacles such as time-consuming administrative and procedural processes, financial costs associated with submitting a complaint, power inequalities and political interference have led to inconsistent use of the courts.

53. In rural areas, the Special Rapporteur was encouraged by the campaign for private land titling targeting State land (including economic land and forestry concessions, and other land managed by the Ministry of Environment) initiated by the Prime Minister under the auspices of the Ministry of Land Management, Urban Planning and Construction in June 2012, which has reported aggregate statistics on its website. This campaign followed a directive issuing a moratorium on the granting of new ELCs and a review of existing concessions on 7 May 2012, but the full progress of the review is unknown. In August 2012, the Special Rapporteur sent a letter to the Ministry of Land Management outlining a number of preliminary concerns with the implementation of this directive, and acknowledges the detailed response provided to him by the Ministry in September 2012. The Special Rapporteur also notes that despite some new ELCs reported in the *Royal Gazette* from May to December 2012, no new ELCs were reported during the first half of 2013.

54. The granting and management of economic and other land concessions was the subject of the Special Rapporteur's May 2012 mission and thematic report to the twenty-

first session of the Human Rights Council.<sup>5</sup> The aim of the report, which followed the 2004 and 2007 reports of previous mandate holders on this theme, was to improve awareness about the lack of compliance with the legal and policy framework governing the granting and management of land concessions, information on the use of protected areas (location, size, use), and the lack of evidence of economic benefits of land concessions for the majority of Cambodians.

55. Since the presentation of the Special Rapporteur's 2012 report on economic and other land concessions, the Ministry of Land Management has made progress in attempting to address long-standing land disputes and improve tenure security for families living on and around land concessions by devoting human and financial resources to measuring land and providing titles. There was little progress, however, on developing an improved system for the granting, management, reporting and cataloguing of economic and other land concessions with the Ministry of Agriculture, Forestry and Fisheries and other ministries, and the issues of access to information and transparency highlighted in the report of the Special Rapporteur remain of concern.

56. Despite the progress in registering land in rural areas under the Prime Minister's initiative, there were a number of concerns with this process as well. Foremost of concern is the connection reportedly drawn by authorities in a coercive fashion between the provision of land titles and the outcome of the elections. In addition, it is not clear, for example, why some land is being measured and other areas excluded. This resulted in a number of communities making appeals to the Prime Minister directly. For example, communities' land associated with the sugar plantations, which benefit from the European preferential trade agreement (Everything But Arms) in Koh Kong, Oddar Meanchey and Kampong Speu provinces, have reportedly not yet had their land measured. In addition, NGOs, which often fill a gap in explaining rights and procedures to communities, were barred from monitoring the process, contributing to confusion in some cases. In addition, there have been reports of encroachment by concessionaires of land already in the process of titling, for example by the Pheapimex Company in Pursat province and the Kao Su Ea Lev rubber company in Ratanakiri province (involving Jarai indigenous peoples). In some cases disputes have been violent, such as involving a clash between representatives of the DM Group rubber plantation and the military in Ratanakiri province, which resulted in multiple injuries to community members.

57. It appears that the Government, at least in the short-term, is only making slow progress in implementing the well-developed domestic legal framework which recognizes indigenous peoples' right to collective land title. At least in the short-term, it seemed that the indigenous land titling programmes were being deprioritized, and resources diverted from the Ministry of Land Management, Urban Planning and Construction. There have been reports of intimidation, harassment and coercion of indigenous peoples in some cases, and in other cases confusion among some indigenous individuals who opted for private land title without fully understanding their rights to communal land title. Affected villages include those of the Suoy peoples in Kampong Speu province, the Jarai, Tumpoun, Krung and Kachak peoples in Ratanakiri province, the Phnong and Stieng peoples in Mondulakiri, and the Kuy people in Preah Vihear.

58. In another case of concern regarding the construction of a dam by Hydropower Lower Sesan 2 Company Ltd. (of the Royal Group of Cambodia in partnership with China's Hydrolancang International Energy Co. Ltd. and Viet Nam's EVN International Joint Stock Company), there are reportedly inadequacies regarding consultation on the

---

<sup>5</sup> "A human rights analysis of economic and other land concessions in Cambodia" (A/HRC/21/63/Add.1/Rev.1 of 11 October 2012).



environmental, social and economic impacts of the project, on compensation and on resettlement planning. The Special Rapporteur visited these communities in May 2012 and investigated their complaints. The National Assembly has approved a guarantee for financial backing of the project, and construction is reportedly imminent, but communities still lack information on the plans, and have yet to agree to terms of remedy and relocation.

59. Finally, during the reporting period there were a number of legislative developments. The Special Rapporteur was informed that the draft law on the management and use of agricultural land was under revision, and hopes that a more inclusive consultation would ensue led by the Ministry of Agriculture, Forestry and Fisheries with the support of the Asian Development Bank. He was encouraged by the consultation process for a draft law on environmental impact assessment led by the Ministry of Environment with the support of a public interest law firm. He regrets that the draft housing policy pending for some years has yet to be finalized and approved by the Council of Ministers.

## VII. Conclusions

60. It has been four years since the present Special Rapporteur took up his functions following his appointment by the Human Rights Council in March 2009. Over this time, he witnessed the country's move forward in a number of areas. Cambodia is a forward-looking country which has benefited tremendously from the work of civil society organizations supplementing the services delivered to the people by the Government, particularly where they fall short. Civil society is increasingly vibrant in many areas, including the defence of human rights. As stated in the preceding paragraphs, having presented four substantial reports on judicial, parliamentary and electoral reform and on the human rights impact of economic and other land concessions, each containing a series of recommendations, the Special Rapporteur has focused his attention during his last two missions on the follow-up to his recommendations. While there have been encouraging developments in some areas, as outlined throughout the present report, progress in a number of other areas remains unnecessarily slow and developments in some areas disturbing.

61. Tolerance is a bedrock of democracy. However, the degree of tolerance on the part of the Government and the ability to listen to constructive criticism of its policy decisions and shortcomings seems to be decreasing. Democracy is about dialogue and that dialogue is missing especially amongst the Government and the opposition parties. Political leadership is about forging consensus on issues of national importance through dialogue and reconciliation. The Special Rapporteur urged for political reconciliation to be achieved before the country went to the polls to elect the National Assembly in July 2013. In this regard, the Special Rapporteur welcomed the granting of a royal pardon to the Cambodian opposition leader, Sam Rainsy, on 12 July 2013, just ahead of the elections due to take place on 28 July 2013. The Special Rapporteur hoped that with that development, the Government would take the necessary action in order to allow Sam Rainsy to play a full part in the national politics of Cambodia and applauded the Government for having taken that important step towards reconciliation, which was in the interests of stronger and deeper democratization in Cambodia. However, the Special Rapporteur remains of the view that the culture of reconciliation and consensus-building on major issues of national interest is very weak in Cambodia. The country could benefit a great deal if the leadership were to be more open to ideas, in the absence of which the political situation will inevitably suffer from stagnation and lost opportunities from stifled creativity.

62. Much of the political mindset seems to be trapped in the past. For democracy to function properly in Cambodia and for the democratic culture to take root in society, those holding public positions must be willing to acknowledge shortcomings, for only then can solutions be found that are acceptable to all. This realization does not yet seem to be prevalent in contemporary Cambodian society. As the Special Rapporteur has stated elsewhere,<sup>6</sup> criticism is not a crime but an exercise of freedom of conscience, an act of intelligence. These are inherent attributes of democracy. Their absence is one of the reasons why Cambodia falls short of the full liberal democracy envisaged in the Constitution of the country. It is important for the international community to continue assisting Cambodia on the road to democracy. The manner in which the Special Rapporteur has sought to implement his United Nations mandate in the country is part of that endeavour. He regrets the unhelpful raw remarks made against him that degenerated to the personal level in the aftermath of the publication of his reports on electoral reform and on land concessions and the orchestrated protests against his human rights work in the country during his mission in May 2013. However, the Special Rapporteur remains firm in his belief that Cambodia continues to require assistance in the form of his mandate, particularly in the light of the many expressions of support for his work from the general public that followed the latter protests.

63. There still seems to be a lack of proper comprehension of the nature of the work and mandate of the United Nations Special Rapporteur for the country. However, the mission to the country in May 2013 was helpful in bringing the dialogue between the Special Rapporteur and the Government back on track and the Special Rapporteur thanks the Government for the cooperation that he received. He looks forward to continuing to work with the Government and all other stakeholders in Cambodia for the greater good of the country.

64. To conclude, Cambodia has come a long way, but the Special Rapporteur is of the view that there is still some way to go in promoting and protecting human rights, strengthening good governance, and enhancing the independence and capacity of State institutions responsible for upholding people's rights. Accordingly, the Special Rapporteur calls on the Government of Cambodia to keep moving forward on the implementation of his recommendations regarding the judiciary, Parliament, electoral reform and economic and other land concessions. He stands ready to assist with remaining challenges.

## VIII. Recommendations

65. The Government should commit to a clear time frame to implement the Special Rapporteur's recommendations, identifying areas of difficulty wherever relevant.

66. The Government should accelerate the implementation of its promised reform agenda of State institutions responsible for upholding people's rights, including enacting the three fundamental laws concerning enhancing the independence and capacity of the judiciary.

67. Regardless of the results of the elections to the National Assembly, due to take place on 28 July 2013, appropriate measures should be taken to enhance the independence and capacity of the National Election Committee to enable it to

---

<sup>6</sup> Press statement of the present Special Rapporteur released in Phnom Penh at the end of his human rights fact-finding mission to Cambodia on 24 February 2011.

command the full trust and confidence of the entire electorate within the country in future elections. In particular, much greater efforts to enable all eligible voters to exercise their political rights in a meaningful way must be made.

68. Freedom of expression of all stakeholders in Cambodian society should be respected at all times, including prior to, during and after elections.

69. Human rights defenders and especially those defending land rights should be allowed to carry on with their work without intimidation and harassment.

70. The promised review of the existing economic and other land concessions should be carried out as a matter of priority and the interests of the people affected by such concessions should be at the heart of such review.

71. Further attention should be given to improving access to information and transparency on a range of issues, including consultation and oversight, in line with the recommendations contained in the Special Rapporteur's report on the granting and management of economic and other land concessions.

72. Additional measures should be taken to further implement the access to remedy related to land disputes, whether through strengthening formal and dedicated national dispute resolution systems, ensuring improved oversight over business enterprises which are party to disputes, or through improving the conflict prevention and consultation capacity of officials and armed forces in their dealings with affected communities.

73. The Government should develop an action plan with a time frame to accelerate the process of parliamentary reform.

74. The Government should expedite its investigation of a long list of cases which have not been properly investigated in which no one has been brought to justice.

75. The Special Rapporteur expresses hope that all the political parties and the National Election Committee will have ensured free, fair and peaceful elections on 28 July 2013, with all sides enabled to play on a level playing field.

---