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Situation of human rights in Cambodia

Report of the Special Rapporteur on the situation of human rights in Cambodia

Comments by the State*

* The present document is being issued without formal editing.



1. Overview to the Report

1. This is to comment on the Draft Report of the Special Rapporteur on the Situation of Human Rights in Cambodia, Mr. Vitit Muntarbhorn upon the request of the Office of the High Commissioner for Human Rights in Geneva dated on 23 June 2022.
2. Cambodia recognizes the roles and mandates of the Special Rapporteur on the Situation of Human Rights in assisting Cambodia in the promotion and protection of human rights. Cambodia maintains the view that the assistance or cooperation must always be driven by the needs of the relevant State and be aligned to its national objectives and priorities, taking into account the national particularities and ownership. The primacy of the role of the State as the human rights duty bearer should be in this process.
3. The assistance and support provided by the Special Rapporteur on the Situation of Human Rights in Cambodia to the government and people of Cambodia in the promotion and protection of human rights is much appreciated. However, the Government of Cambodia is dismayed by the countless accusation in this report without any evidence base, which is mostly made and provided by the opposition and their alliance. Therefore, we would like here to provide some brief clarifications to those groundless accusations as the following.

2. Comments on the Draft Report by Paragraphs

IV. Commune Election

B. Insight

Paragraph 13

4. In March 2022, there were 45 political parties with 17 parties, accredited by the Ministry of Interior, applying to run for the commune council election. 32 members of the political opposition had been reinstated and their political rights restored. There were 86,092 candidates, of whom 27,813 were women. They were competing for 11,622 commune councilor seats. The party fielding candidates in all communes was the Cambodian People's Party (CPP). This was followed by the Candlelight Party (CLP) which is derived from former members of the CNRP; it fielded candidates in the majority of but not all of the communes. It is now the biggest competitor for the CPP. The former CNRP leadership has issued a call for the public to participate in the 2022 commune council election. (the Special Rapporteur should refer to any formal certification to confirm that the CLP is derived from former members of the CNRP).

Paragraph 14

5. Per the list provided by the NEC below in Table/Inset 1, the CPP fielded 28,008 candidates in 1,652 communes while the CLP fielded 23,939 candidates in 1,623 communes. The women candidates of the former numbered 25,788, while the figures of the latter were 27,813 women. An interesting development is that as compared with the previous commune elections, the numbers of registered voters increased by 1,340,948 (since 2017); the figures stood at 9,205,681 persons in 2022 as compared with 7,865,033 persons beforehand. Election campaigns were run from 21 May till 3 June 2022, with Election Day on 5 June 2022, followed by preliminary election result proclamation from the evening of the Election Day till 12 pm of 6 June 2022.

Paragraph 19

6. The Special Rapporteur had better not raise the question concerning the NEC composition, contrary to the spirit of Article 151 new (two) of the constitution.

Paragraph 20

7. Treated the rejection of non-complaint candidates, who were found unable to read and write Khmer as stated in article 35 and 42 of the Law on the Election of Commune/Sangkat Council (LECC) as the rejection of CLP potential candidates. The NEC decision was made

based on the facts and the laws in force along with a thorough investigation. Moreover, during the hearing the NEC jurisdictional council decided to reject or remove those CLP candidate lists through finding out several reliable testimonies, including deliberate forgery, the party even realized that its candidates were not qualified as stated in article 35 and 42 of LECC, the party kept forging the documents enabling its candidates to meet the requirement. Second, the candidates have confessed at NEC hearing that they did not even neither agree to stand as CLP candidates nor fill in and provide any documents to CLP team, especially they were not voluntary to stand as candidates for CLP. Such putting their names as candidates, thus, is an infringement of their rights. Meanwhile, in the meeting on 11 April 2022 between NEC general secretariat managements and high level delegate of CLP, Mr. Son Chhay, accepted the limit awareness of the party' officials at ground level and the party officials' mistakes in preparing candidates and candidate lists not compliant with the conditions determined in the laws, regulations and procedures of the election.

Paragraph 22

8. As for 5 June 2022 election day itself, there was high voter turnout at 80.32 per cent. The total number of eligible voters was 9,205,981 persons, 7,394,427 of whom cast the ballot, according to the NEC. Local media reported that the election took place under the observation of 88,050 political agents, and 74,885 local observers and 110 international observers from 19 organizations.

Paragraph 22

9. The new voter turnout rate is about 80% or 7.38 million of the total 9.2 million eligible voters, according to the NEC.

Paragraph 23

10. The official election result on 26 June 2022 indicated that the CPP won 9,376 seats. CLP won 2,198 seats. Other parties including FUNCINPEC winning 19 seats, Khmer National United Party gaining 13 seats, Grassroots Democratic Party winning 6 seats, Cambodia National Love Party winning 5 seats, Cambodian Youth Party winning 3 seats, Kampuchea Niyum Party winning 1 seat and Beehive Social Democratic Party winning 1 seat. Out of 1,652 communes, 1,648 commune chief positions were won by the CPP while 4 were won by the CLP.

Paragraph 24

11. A nation which has constantly conducted regular elections, without having postponed or pre-mandate elections, should not be judged as predominating power monopoly country as defined by the Special Rapporteur.

V. Benchmarks

A. Desist from applying and Reform draconian laws

Paragraph 28

12. The Law on Preventive Measures against the Spread of COVID-19 and other severe and Dangerous Contagious Diseases 2021 aims to implement public health measures including limited travel, quarantine, or lockdown if necessary to spot/control the transmission of dangerous contagious diseases and maintain population health. These measures are in line with WHO's strategy and IHR's recommendations.

The Spread of Covid-19 and other Severe and Dangerous Contagious Diseases.

13. The establishment of covid-19 law is neither, by nature, a human rights violation nor a power-gathering tool as alleged by a handful of opposition groups, but it is a valuable legal tool for the defense of the right to life, the right to peace, social stability, public health and development, which is the people's aspiration throughout the country and in compliance with the principles of the rule of law in the democratic society. This Law also provides a legal basis for determining Government's authorities to introduce measures which are, by nature,

prohibitions or restrictions on the rights of citizens. However, this measure is indispensable, proportionate, legitimate and necessary in response to covid-19 for the purpose of protecting national security and public order, people's lives and health.

14. In regard with sanctions for obstruction and violations of government measures in this law, it is very necessary for the effectiveness of law enforcement; without sanction law cannot be enforced. Comparing to law in many other advanced democratic countries, the sanction mechanism in Cambodia's law is much lenient. Harsher penalty and heavy fine in Cambodian law are reserved only for those acting with more serious consequence to the society, such as escaping from treatment centers or hospitals, infecting others intentionally and under a clearly organized criminal enterprise. Comparing with penalties and fine in other countries, penalties and fines in Cambodian law are not any harsher and should not be a cause for any concerns. Accordingly, Cambodia should not be unfairly singled out.

15. From the enforcement of this law and as reported by the covid-19 law enforcement authority, several hundred have been arrested, educated and allowed to return back home and around one hundred people have been sent to court and among them only 30 people have been detained for the serious violation.

16. **Measures against Covid-19:** The government has introduced necessary measures, including social, economic, health, administrative and legal measures, to prevent the spread of Covid-19, to protect the lives of the citizens and to support their daily lives, which guarantees and protects their basic rights over the course of Covid-19, especially the right to life, socio-economic rights and the right to access to health and medical services, etc. The introduction of the government's administrative and legal measures is not to restrict the rights and freedoms and to punish its own citizens, but it is necessary, in this dangerous circumstance, to protect their lives, public order and public health, based on the principle of legality and proportionality; and these measures are not permanently taken, including mandatory vaccination and identification of those infected with Covid-19.

17. Apparently, in terms of ownership and preparedness, Cambodia has revised and developed new provisions aimed at combating and preventing the Covid-19 disease, including a basic law called the "**Law on Measures to Prevent the Spread of Covid-19 and Other Severe and Dangerous Contagious Diseases**" (promulgated on **11 March 2021**). A closer look at the penalties set out in the law relating to Covid-19 reveals that while the penalties are severe, they are appropriate in the context of Cambodia itself, and are designed to ensure effective law enforcement for the purpose of effectively combating and preventing the spread of this deadly disease. On the other hand, if [Cambodian] law is compared to those of other countries, the penalties in the Cambodian law are still lighter than those in Europe or Asia.

18. Apart from the points in relation to the penalties in the Covid-19 Law, Cambodia has also been criticised by certain organisations or civil society groups for the mandatory vaccination of civil servants as coercion and violation of individual freedoms. However, the measures are now found effective to prevent the spread of Covid-19, especially among public service officials who are considered serving in the front line and facing Covid-19 high risk infection. Given the effectiveness of these measures, certain countries, including the United States, France, Australia, Canada, the United Kingdom, etc. have adopted mandatory vaccination measures as has Cambodia for those facing Covid-19 high risk infection (such as public officials, health personnel, and public drivers).

Overuse of Criminal Law and Laws' Ambivalence

19. The criminal law of Cambodia was established with the support from French experts and most of its stipulation is taken from the French criminal code as well. Ministry of Justice, from its legal and judicial reform program, is also on the process to review all the four fundamental laws in justice sector which are criminal code, criminal procedure code, civil code and civil procedure code, to make it more consistent with internal principle of human rights and also responsive to people need according to the social context of Cambodia. We realize that there is always the imperfection of law; however, having law better than no law and we can review it later to make it better.

Paragraph 30

20. The Ministry of Information would like to reaffirm that freedom of the press and freedom of expression in the Kingdom of Cambodia have been assured by the country's laws and regulations in conformity to the Constitution of the Kingdom of Cambodia. The Law on the Press of the Kingdom of Cambodia, Article 2 stated that "the press has the right to maintain the confidentiality of its sources." and Article 3 stated that to maintain the independence of the press, pre-publication censorship shall be prohibited." Based on these two Articles, media outlets and journalists in Cambodia have been given rights to exercise their duties freely without discrimination, and political tendency and are allowed to collect news anywhere in the Kingdom of Cambodia, without prior informing to the authority upon to their arrival or on their news dissemination. The Ministry of Information always encourages close cooperation between media outlets and journalists and relevant authorities. The Ministry of Information also advise media outlets and journalists to enhance their profession and gain more knowledge about the right of journalists as well as the right of competence authorities. In 2021, only 29 cases of journalist disputes were recorded of which 6 cases were under the legal proceedings and 23 cases were resolved out of the court with the coordination and legal assistants of the Ministry of Information and in the first semester of 2022, 8 of journalist disputes were recorded of which one cases was under the legal proceedings and 7 cases were resolved out of the court with the coordination and legal assistants of the Ministry of Information. These disputes do not imply the journalists and media personnel in Cambodia are suffering from attacks or harassment from the authorities. Additionally, the disputes were not due to authorities' criticism. Instead, those journalists were found guilty of their illegal practices that there is need for legal actions based on the facts and laws, and the principle of the rule of laws.

21. The enacting or issuing extra legal documents is only with the aim of law enforcement, in conformity to the principles of the rule of laws in any democratic society. It is not the restriction of freedom of expression, in this regard, the Ministry of Information reaffirmed that the inter-ministerial proclamation (Prakas) No. 170 between the Ministry of Information, the Ministry of Interior and the Ministry of Post and Telecommunication on the Management of Web-Based Media and Social Media in the Kingdom of Cambodia is not a tool for restricting press freedom or freedom of expression. This Prakas is rather the division of responsibilities between the competent ministries to fight against cybercrime and prevent any activities that spread disinformation, misinformation or other images that cause harms to national security and privacy.

22. Ministry of Post and Telecommunications (MPTC) would like provide comments on the draft report of the Special Rapporteur on the situation of human rights in Cambodia and wish to reaffirm MPTC's position in regard with the freedom of online expression in Cambodia. MPTC have always played a vital role in upholding the right to expression particularly digital rights of the Cambodian people. There is a remarkable progress during the last decade in increasing the internet penetration rate in the country. MPTC has focused on developing digital policies and legal documents regarding to digital infrastructure, building, and expanding internet coverage across the country, protecting telecommunication consumer's rights, and promoting the quality of telecommunication services. A number of digital policies, laws, and regulations have been adopted and several new legal documents and policies are being formulated to bring digital transformation and to protect the right of telecommunications users and to develop telecommunication sector in the country.

23. During the past years, there has been some misunderstanding and confusions particularly among some civil society organizations and media outlets on the issuance of digital related regulations and laws. For instance, Law on Telecommunications which was promulgated in late 2015 is to ensure the effective, safe, quality, reliable, affordable telecommunication infrastructure, to protect telecommunication users and to increase national budget. The accusation of some NGOS on the law was unfounded and lack of technical understanding about the law. However, this law is to be updated and amended to be in line with international standards and the fast development of technology.

24. The Inter-Ministerial Prakas No. 170 on the management of publication on website and social media processing via internet in the Kingdom of Cambodia is intended to clarify the roles and responsibilities in addition to the existing laws. It aims to mention the clear

division of responsibilities between competent government institutions: the Ministry of Interior, Ministry of Information and the Ministry of Post and Telecommunications. The recently issued sub-decree National Internet Gateway is not a tool to restructure or suppress the freedom of expression or collect user data and conversations. The purpose of National Internet Gateway is to increase the effectiveness of national revenue collection on the basis of fair and honest competition, and transparency between the state and operators, as well as to prevent illegal cross-border network connections, illegal online gambling, cyber threats, pornography and online frauds. There is no provision in the Sub-Decree that authorizes the collection of consumers' data and restriction on freedom of expression. Instead, MPTC is currently drafting Personal Data Protection Law and the Cyber Security Law which are the main legal instruments that will protect consumers' rights in the cyber space.

Paragraph 28

25. The outbreak of COVID-19 has reached to the situation that the government found it difficult to control. With this regard, imposing lockdown was due to concerns over the health of the citizen and was aimed at identifying and treating those infected by COVID-19 immediately. This medical and administrative measures was not imposed only by Cambodia, but also many countries across the world. The penalties were intended to prevent the spread of COVID-19, and aimed to protect other individuals' right in response to eradicate the infectious disease promptly. These restrictions over the freedom of expression and peaceful assembly were also legitimate under the provision of Article 19 (3) and 21 of International Covenant on Civil and Political Rights as for the protection of public health.

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

26. **The recent law enforcement against environmental and human rights activists** is neither because they are working to protect human rights, the environment and society nor because they are activists, but because they have engaged in criminal activities, violating the law with regard to insulting, disseminating false information, inciting violence in order to cause social unrest, insulting the King and conspiracy, etc., of which the authorities have clear evidence and legal basis for prosecution and judicial proceedings. Civil society campaigns to protect these illegal activists will have no effect on the courts, which are independent bodies, because it is not a legal means for them to protect accused persons. Instead, [they] have to participate in the court proceedings and present strong legal evidence so as to exculpate and face the charges brought by the authorities, which is the only legal way to defend accused persons in a democratic, rule of law society.

27. The arrest, charges and conviction of the aforesaid persons are in accordance with the laws of the Kingdom of Cambodia. In a society governed by the rule of law, individual rights and freedoms shall be exercised within the framework of the law, and the exercise of rights beyond the limits of the law affects the rights of others, and [they] shall be responsible before the law. Cambodia is committed to promoting respect for human rights in accordance with its laws, and the democratic process takes place as usual. Cambodia is currently updating its voter list for the 2022 and 2023 forthcoming elections. Besides, each country always has different priorities; for example, the United States of America is "American First", as for Cambodia "Peace First". Based on its bitter history, the phrase "**Thank you peace**" has become the slogan of the Cambodian people for expressing their desire to live happily under the shadow of peace. Therefore, *"any action taken for the purpose of undermining or attempting to undermine peace in Cambodia is not a matter of human rights or democracy, but it is illegal and against the Cambodian people's common aspirations and against the Kingdom of Cambodia's great interests."*

28. **Law enforcement on the case of the minor Kak Sovanchhay:** The accused Kak Sovanchhay, 17-year-old Cambodian male, was charged with incitement to provoke severe social unrest and insult, which was committed in Cambodia in 2021 and one 23 June 2021, i.e. being the criminal offences punishable under the provisions of Articles 494, 495 and 502 of the Criminal Code of the Kingdom of Cambodia.

29. On 1 November 2021, the Court ruled that the interests of the juvenile offender were to be carefully considered and gave the accused Kak Sovanchhay half his sentence in prison, which was imposed by the law with regard to minors; and only part of his sentence in prison was served and the rest was suspended, requiring the convicted person to comply with certain judicial measures. The accused is to be released on 8 November 2021 after having been detained for 4 months and 15 days and handed over to his parents for good education, guidance and supervision.

30. In the past, he has once committed similar acts. The authorities have guided and educated him, without bringing charges against him in court proceedings, as he was found to be a minor who committed these offences for the first time; however, he is still badly-behaved, hence legal action taken against him in this second case.

31. In particular, the claim that he has autism is personal, without showing proof, no medical certificate and previous medical records and no forensic certificate. The Court examined his physical condition and inquired about his general understandings, finding that he is as normal as any other children, with no abnormalities, as opposed to the family's claim.

32. **Law enforcement on some union leaders and activists at Naga World:** Peaceful assembly and protest, in cooperation with the authorities and in compliance with security, safety and public health measures are the exercise of the rights guaranteed by the Constitution and the law. On the contrary, assembly and protest without notifying and cooperating with the authorities violate security, safety and public health measures, causing violence and social unrest, affecting public order, national security and the rights and freedoms of others, as well as putting pressure on the judiciary, which is an independent body; [these actions] are a violation of the law, and the authorities must take all possible measures to prevent them, and protesters are also held responsible before the applicable law.

33. In regard with the recent illegal protest of the worker at Naga World, the authority found with a clear evidence that the leaders of the union as the organizers of the protest have a malicious intention to destroy the company property and incite the violence to cause the social unrest and insecurity by using the workers and protester as a political tool. As the result, three of them have been arrested and sent to the court for further proceeding in accordance with article 494 and 495 of the criminal code of Cambodia. In addition to this, another three protesters have also been arrested and charged of the obstruction of health measure against Covid-19 of the government in accordance with article 11 of Covid-19 Law of Cambodia and now they are released under judicial supervision.

D. Mass trials of political opposition

34. **The case of Mr Kem Sokha:** He was arrested on 3 September 2017 in connection with conspiracy with foreign power to overthrow the legitimate government in Cambodia, acting in a colour revolution fashion, following the colour revolution carried out in Yugoslavia and Serbia. The authorities arrested him in connection with a criminal offence under Article 443 of the Penal Code of the Kingdom of Cambodia on Conspiracy with Foreign Power. He was detained on 5 September 2017 and released and placed under judicial supervision by the Investigating Judge (and shall perform certain obligations) through the Decision of 9 September 2018.

35. The Phnom Penh Municipal Court held a hearing in relation to Mr Kem Sokha's case; however, due to the spread of Covid-19 and at the request of his own lawyer, the Court decided to adjourn the hearing for a while. The case is currently in the hands of the Court and any decision made is at the discretion of the Court which is an independent body. The court has now resumed the hearing as normal with a transparent manner which is open to public and all stakeholders who want to see and monitor the hearing.

36. Furthermore, the proceedings against his case, which is a serious crime related to national security and has taken only more than three years, must not be considered too long, compared to other cases in the Phnom Penh Municipal Court and the practice in developed countries.

37. **Case of 9 November Event:** The 9 November event was planned by a handful of overseas politicians led by Sam Rainsy (1) to incite the armed forces not to listen to orders and to revolt against the Royal Government; (2) to inspire and incite the population across the country to rise to their feet and act against the authorities; (3) to raise funds to support these activities. Thus, the 9 November plan is a coup plot, a serious crime that affects national security as stipulated in the Criminal Code of the Kingdom of Cambodia.

38. Many people inside and outside the country involve in the 9 November plan. However, because the plan was prevented and cracked down on time, the number of those involved is relatively small compared to foreign cases. If the plan were carried out, the number of people arrested would be higher. For this reason, what is important is not about having the number of many or more people; it is about having irrefutable evidence. The coup plotters shall face a prosecution for attack, while those involved face a conspiratorial prosecution.

39. Until now, a number of former opposition politicians were reinstated, bringing the total number of 29 members. They intended to form a political party and so did many other former members of the opposition party; however, they were barred by their leaders, alleging and publicly declaring that they were traitors. This is a serious violation of their political rights.

F. Improve the overload of the prison system and adopt more non-custodial measure, especially in relation to pre-trial cases

40. **Overcrowding and Covid-19 spread in prisons:** Appeals for the release of prisoners made by a handful of civil society organisations to address overcrowding in prisons, without basing on the applicable legal basis and procedures, are not an appropriate measure and in fact will have a negative impact on security and social order.

41. [Issues of] overcrowding in prisons shall be addressed in accordance with applicable laws and provisions. The only release, based on applicable legal procedures, which are also implemented now, such as measures of amnesty and commutation of sentence, resolving prison overcrowding through the implementation of campaigns to resolve the backlog of court cases in the trial chambers issued by the Ministry of Justice and conditional release, as well as other measures (dismissal, decisions to release on bail, acquittal, the complete execution of sentence, normal suspension of sentence, suspension with probation, pretrial release orders), can ensure social security and significantly reduce the number of inmates in prisons.

42. The release of detainees appealed by civil society organisations in order to address the spread of Covid-19 in prisons is not an appropriate and effective measure. Instead, the only health and administrative measures to manage the prisons strictly, which the Ministry of Health and the General Department of Prisons have been implementing, are appropriate and can ensure social security and effectively prevent the spread of Covid-19 in prisons.

43. Obviously, the outbreak of Covid-19 in prisons was under control, and the Royal Government has taken into account the detainees' welfare, having taken a number of necessary measures (such as the transfer of detainees to other prisons, legal considerations for the release of detainees who have committed minor offences...) and having hurriedly vaccinated inmates in prisons and prepared the third dose.

Lengthy pre-trial detention

44. In principle, the charged person shall remain at liberty. However, the charged person may be provisionally detained under the conditions stated in Article 205 of the criminal code and the decision on the pre-trial detention is under the competent authority of the investigating judge in compliance with the criminal code (Articles 203 to 222). According to Article 208 of the criminal code, this provisional detention is six-month and can be extended twice, for a maximum period of six months each time. The length of detention as determined by the investigating judge shall be used to conduct the investigation in accordance with the Code of Criminal Procedure for a period of up to 18 months.

45. The period of provisional detention in felony cases as stipulated in the criminal code is similar to the period of detention for felony cases in some countries in the world. In the case of the French provisional detention for serious felony, the maximum period can be up to 24 months or more.

46. Lengthy trial detentions are a direct result of large amount of cases and a low number of judges, prosecutors, and defense attorneys while law enforcement agencies are making more arrests, particularly drug related offenders.

47. Lengthy pre-trial detention and arbitrary confinement of prisoners after their sentences have been completed at times took place because the final court judgments have not been communicated to the prison authorities. Prison directors are instructed to work closely with the court to notify beforehand those whose sentences are reaching their final days to issue releasing papers on time.

H. Follow up effectively on cases of enforced disappearance

The Case of Mr. Kem Ley

48. Mr. Kem Ley was murdered on July 10, 2016 in Caltex Bokor's Star Mart, located at the corner of Preah Monivong Boulevard and Mao Zedong road, Tonle Basac Commune, Chomkarmon District, Phnom Penh.

49. Following the murder, Mr. Choub Somlab (real name: Oeaut Ang) was apprehended in flagrante delicto by the police together with the gun used in the shooting of Mr. Kem Ley. Based on the warrant issued on July 13, 2016, Oeaut Ang was charged by the prosecutor on the counts of premeditated murder and unauthorized use of weapon and was sent to the investigating judge for further action. At the conclusion of the investigation, the investigating judge collected sufficient evidence to convict Oeaut Ang, inter alia a video extracted from the closed-circuit security camera at Caltex Bokor petrol station showing this actual act of shooting and the gun used in the shooting, the confession of Oeaut Ang. The investigating judge took two parallel actions: 1) sending Oeaut Ang to the court for prosecution; 2) initiating further investigation to look for other suspects including the individual who procured the weapon used in the commission of the crime. After the public trial, Oeaut Ang was sentenced for life imprisonment by the Phnom Penh Municipal Court of First Instance pursuant to the Criminal Judgement dated on March 23, 2017. He also has the right to appeal the lower court judgement in accordance with the prevailing laws and procedures of the country and the case is now at the appeal court.

50. In conclusion, the case related with Oeaut Ang's appeal against the lower court decision to sentence him for life imprisonment is at the Supreme Court now and another case related to further investigation to look for other suspects involved in this crime is still at the lower court.

51. The competent authorities have urged anyone who may have with evidence and information related to this murder case to come forward.

Enforced Disappearance of Thai Activist Mr. Wanchalearm Satsaksit

52. On June 2020 Cambodian authorities received information from an unknown source about the abduction of a Thai man named Wanchalearm Satsaksit in the east of Mekong River in Phnom Penh. The authorities of Ministry of Interior has conducted the investigation at the area where suspicious abduction reported and where the Thai national was reportedly staying. As a result, Wanchalearm Satsasit was not found in the accommodation list in the reported location.

53. The General Commissariat of National Police continues to gather further information in country and abroad by cooperating with relevant authorities, especially with Thai authorities to find out the truth and confirm that did this really happen in Cambodia?

54. Suggest to have further cooperation from all relevant sources in country and abroad including witnesses who have heard about this incident to provide specific information and

evidence for assisting Cambodian authorities in investigation and to avoid any inaccurate evaluation which may affect the investigation process carry out by the authorities.

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

Paragraph 55

55. The outbreak of COVID-19 has reached to the situation that the government found it difficult to control. With this regard, imposing lockdown was due to concerns over the health of the citizen and was aimed at identifying and treating those infected by COVID-19 immediately. This medical and administrative measures was not imposed only by Cambodia, but also many countries across the world. The penalties were intended to prevent the spread of COVID-19, and aimed to protect other individuals' right in response to eradicate the infectious disease promptly. These restrictions over the freedom of expression and peaceful assembly were also legitimate under the provision of Article 19 (3) and 21 of International Covenant on Civil and Political Rights as for the **protection of public health**.

Paragraph 56

56. **Request to review:** Under the National Social Protection Policy Framework, the Royal Government has implemented national social assistance programs, such as: cash-sponsorship to low-income family and vulnerability program during the Covid-19 outbreak; additional monthly allowance for workers whose contracts were suspended due to the closure of factories; and social assistance program by providing financial support to the low-income households facing financial hardship during the lockdown, low-income individual and their families whom are infected by Covid-19, and those families whom their family members have died from the Covid-19 during the Cambodia's February 20 community event, etc... based on the additional strategic mechanism in cycle to tackle the effects on the essential sectors of state during the crisis and recovery context stimulating the development of Cambodian economy after the Covid-19 pandemic. These programs aim to provide protection to maintain a stable standard of living by providing cash to low-income and vulnerable families during the outbreak Covid-19. In addition, during the lockdown, the Royal Government also provided "emergence assistance during the lockdown" including rice, noodles, sardine, fish sauce and soy sauce to vulnerable families, low-income individuals, workers and families of other low-income and disadvantaged people living in geographically lockdown areas, along with the establishment of mechanisms to enable people to buy food and commodities that is secured from Covid-19 infection with the reasonable price. At the same time, in December 2021, the Royal Government launched a Strategic framework and programs for economic recovery and to promote Cambodia's economic growth in living with COVID-19 in the new normal for 2021-2023. It has shown that the Royal Government has put in place strict measures to support low-income and vulnerable families related to food security. However, in relation to the food security program, there should be a review with the Council for Agricultural and Rural Development (CARD) regarding government measures and action plans, as well as strategic frameworks related to food security.

J. Improve access to and resumption of education, after the disruption caused by the pandemic, essentially to overcome the online gap between those who have and those who have not, and to promote related formal and non-formal education programmes

Paragraph 58

57. **Request to review:** The Royal Government of Cambodia has launched the national social assistance programs, such as: scholarships for low-income primary and secondary students and school feeding programs using community-based agricultural products, which have driven the increase enrollment rate, reduce the dropout rate of children from low-income

families, encourage children to enroll on time and encourage them to pursue their academic to high school, which is a crucial key in reducing poverty rate over the generations. These National Social Assistance Programs are part of the “Human Capital Development” in annex of the Cambodian Social Assistance System, which are defined in the framework of the National Social Protection Policy 2016-2025.

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

Paragraph 59

58. Although the outbreak has brought immediate interruption in all sectors of economic activity in Cambodia, the Royal Government of Cambodia provided considerable fiscal support to all the social sectors. Since July 2020, the Government of Cambodia has introduced seven stimulus measures to mitigate the socio-economic impacts of the COVID-19 pandemic. Especially, the measure includes cash transfers to about 700,000 of the poorest and most vulnerable households, hit the hardest by the pandemic. Significantly, the Government and others partnership have worked hard to support schoolchildren across Cambodia ever since classrooms first closed until schools reopen and has improved equitable access to basic education and respond rapidly to crises affecting the education system.

59. **Suggestion:** The author should raise about the allocation of budget from educational purpose to social protection within the reported made by the United Nations International Children’s Emergency Fund. Although there was a decline from 3.4 percent in 2020 to 2.9 percent in 2021, the social protection budget had been transferred for poor and vulnerable household from 2.1 percent in 2020 to 2.5 percent in 2021. From 2020-2021, the allocation of budget is a considerable measure made by the Royal Government of Cambodia since health care and social protection were the primary sector to tackle the outbreak of COVID-19 in the community.

L. Ensure comprehensive and gender sensitive protection and assistance to special groups, including women, children, persons with disabilities, (migrant) workers, indigenous peoples, minorities and LGBTI communities

Paragraph 62

60. The Special Rapporteur [...] retraumatization. ~~There is now fear of increasing exploitation due to the pandemic.~~ *Due to pandemic of Covid-19, children are most vulnerable groups and could be faced the challenges such ignoring and lack of caring from parents, Mental health and psychosocial stress and violence and other abuse.*

Paragraph 64

61. **Request to review:** General Secretariat for the National Social Protection Council used to participate in reviewing and comment on the new draft law of the Protection of People with Disabilities, in which stated about the protection and promotion of the right, livelihood support, elimination of the discrimination against the person with disabilities, and disabilities inclusiveness that every types of people with disabilities are going to be divided into physical, intellectual, mental health, nervous system, sense, auto organ, and so on. In this regard, the General Secretariat for the National Social Protection Council recognizes that this draft law has taking into account of the obstacles for those people with disabilities related to intellectual, mental health, nervous system, sense, and auto organ. However, the author should review more with Ministry of Social Affairs, Veterans and Youth Rehabilitation and Disability Action Council which are the ministry and institution in charge of drafting the new law of the Protection of Persons with Disabilities.

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

Paragraph 70

62. [...] The country has the Cambodia Climate Change Strategic Plan 2014-23 and more recently in 2021, the Long Term Strategy for Carbon Neutrality aiming to be neutral by 2050.

63. Adaptation and mitigation measures regarding climate change was already set in Cambodia's Updated Nationally Determined Contribution and was submitted to the UN since last year already. Most measures are already being implemented now.

R. Demonstrate commitment and concrete timeframe for the establishment of a National Human Rights Institution, in accordance with the Paris Principles, ensuring participation of wide range of stakeholders, including civil society

Paragraph 75

64. The Cambodian Human Rights Committee (CHRC) is currently re-drafting the law on the establishment of national human rights institution in accordance with the Principles related to the Status of National Institutions (the Paris Principle) with the technical support and cooperation of experts from the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Cambodia and the Asia-Pacific Forum (APF).

65. In July 2021, CHRC published a first draft of the Law on Establishment of the Functioning of National Human Rights Commission (NHRC) which is an independent and impartial body working to promote and protect human rights. To ensure the pluralism of the NHRC, the draft law has stated the clear process for the Selection Committee and the publicly announce for the application for the members of the NHRC. This draft law has been launched for a two-way consultative process, invite for comments from the public through social media and conduct the consultative workshops with a wide range of stakeholders, aiming to collect views, comments and inputs for the draft law.

66. To ensure transparency in the drafting process, the Cambodian Human Rights Committee has issued an official invitation to the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Cambodia to participate and co-chair a consultative meeting and invite civil society parties to participate. However, the civil society sides rejected the invitation of the OHCHR and issued a joint statement on 24 August 2021, refusing to participate in the consultation meeting on the grounds that the human rights institution in Cambodia was not good and criticizing the government, which clearly shows their political agenda and attitude and irresponsibility.

67. The Cambodian Human Rights Committee still continues to work with the OHCHR on this consultation process and had held a regional and international consultation workshop on this draft law online, with the participation of national and international experts, international human rights institutions, including the ASEAN Intergovernmental Commission on Human Rights (AICHR). From November 2021 to April 2022, CHRC in cooperation with the OHCHR in Cambodia had conducted 6 consultative workshops with various group from civil society organizations, Trade Unions, Higher Education Institutions, the Bar Association of the Kingdom of Cambodia, media, NGOs working with person with disabilities, NGOs working with women and children, and 2 consultations with sub-national level. A second version of the draft law is expected in July 2022, after which the consultation process will continue to be conducted with political parties, line ministries/institutions, the Senate, the National Assembly and other relevant stakeholders, with a view to finalizing the draft law by the end of 2022.

S. Adopt Post-Covid Revival Measures, including on anti-poverty, access to health care and re-vaccination, employment opportunities, education and other social protection measures, to help needy groups in keeping with international standards

Paragraph 76

68. The Royal Government of Cambodia has implemented additional frameworks in rounds to control over the major sectoral effects of economy during the crisis and recovery context of post-pandemic through cash-sponsorship to low-income family and vulnerability program during the Covid-19 outbreak; additional monthly allowance for workers whose contracts were suspended due to the closure of factories; and social assistance program by providing financial support to the low-income households facing financial hardship during the lockdown, low-income individual and their families whom are infected by Covid-19, and those families whom their family members have died from the Covid-19 during the Cambodia's February 20 community event. During these circumstances, the Royal Government of Cambodia consistently keep track on the situation of Covid-19 along with economic and finance situation in the region and across the globe to review and evaluate the effect Cambodia's economy. With regard to the financial support, as of May 24 2022, low-income households that have received the financial support include:

- Number of low-income family 1: 255 198 families
- Number of low-income family 2: 432 173 families
- Total number of low-income family: 687 372 families
- Total number of family members: 2 713 578

69. Total expenditure (started from June 2020): 2 734 561 039 Riels equal to 683.64 million dollars. In this program, vulnerable members in the family are also included such as children under 2 years old, people with disabilities, people having HIV/AIDs, and elder people. Among these supports, the number of elder people receiving benefits is around 360,000. Moreover, the Royal Government of Cambodia has also implemented the new disabilities identification framework in order to create an inclusive environment for this vulnerable group. Other than these mechanisms, in December 2021, the Royal Government of Cambodia has also adopted the Strategic Framework and Programs for Economic Recovery in the Context of Living with Covid-19 in New Normal 2021-2023. Based on these main strategies of the government elaborated above, it enhances that the Royal Government of Cambodia has effectively taken action of implementing social assistance and social security program.

70. **Request to adjust:** "Accordingly, a social protection law, a new law on disabilities, a child protection law, ~~and~~ a national roadmap on Universal Health Coverage, a family package framework and a Shock Responsive Social Protection Framework (SRSP) are now being drafted. All these instruments are ~~needed to be~~ well-grounded in human rights, especially the principle of non-discrimination".

T. Support international contribution to help Cambodia and Cambodian contribution to help the international community in relation to technical cooperation and capacity building

Paragraph 77. (ECCC)

71. On a more international and historical front, in regard to the Extraordinary Chambers in the Courts of Cambodia (ECCC), dealing with the period of genocidal Khmer Rouge rule in the mid-1970s, there have been three convictions and two of those convicted have died. The only remaining convict, Khieu Samphan, has appealed his sentence. Three other cases were terminated recently. As of today, the ECCC has judicially concluded six cases out of its seven cases in accordance with international standards of justice. The last case file--appeal judgment in case 002/02 remains projected to be issued by end of this year. The Addendum

to the Agreement on the arrangement and implementation of the residual functions of the ECCC which was entered into force on 22nd December 2021; now sets the tone for the final phase of the Tribunal's work and legacy. A key area of concern is to ensure justice for the victims. The practice of "civil parties' participation" has been invaluable in enabling victims to participate in the proceedings of the tribunal and redress has been offered through the innovative schemes of judicial reparations and non-judicial measures when compared to other international tribunals. Based on the Addendum, the archives of the case files are to be managed and preserved by the ECCC in accordance with international standards, and the general public and researchers are provided with broad electronic and physical access to the archives so that the lessons learned from the tragedy of the 1970s and after, will not be forgotten. In addition, the education and dissemination of the achievements of the ECCC are planned to broadly conduct towards the public and national and international researchers, and the ECCC's legacy would be further promoted for educating the next generation, with the aim of remembrance and prevention of the recurrence of the genocidal regime in Cambodia and in the whole world.

Annex

No.12.

- The National Policy on Gender equality and the National Action Plan to Prevent Violence Against Women 2019-2023 (NAPVAW III) is focused on the special vulnerable groups, including women, children, person with disabilities, (migrant) workers, indigenous people, minorities and LGBTI communities.
- We will conduct the final evaluation of NAPVAW III and develop the next action plan in 2023.
- MoWA and DAC/MoSVY are implementing the programme which focus on the promotion of Equitable Sustainable Services for women victims of GVB and people with disabilities inclusion (ACCESS).
- The Draft Child Protection law is in the process of consultations with all key stakeholders and hope to be adopted by 2023.
- Cambodian laws are not discriminated anyone (Article 31 of the Constitution).
- MoWA always support the activities of LGBTI communities, including raising public awareness about their rights.
- Although Cambodian law not allow for same-sex marriage, in practice many same sex couples can live in the community openly without any discrimination.
- The government and local authorities take serious attention to protect the health of all citizens, including indigenous people for health care services and necessary materials for preventing COVID-19 and they can access to information by using bi-languages, and provide free testing, treatment and vaccines. We also provide free vaccines to foreigners and their family members who are living in Cambodia.

No. 13 (a).

(a). Develop and adopt a legal framework to recognize and protect the rights of indigenous peoples, including a simplified procedure for obtaining communal land titles;

72. The Kingdom of Cambodia has established laws and regulations to recognize, guarantee and protect the land rights of indigenous communities such as:

- The Constitution of the Kingdom of Cambodia.
- The Land Law 2001.
- The Policy on Land Registration and Right to Use Land of Indigenous Communities dated 24 April 2009.
- Sub-decree No. 83 ANKr.BK dated 09 June 2009 on Procedures for Indigenous Communal Land Registration.
- Inter-ministerial Circular No. 34 SR dated 31 May 2011 on Temporary Protective Measures for Land Requested for Registration by Indigenous Communities Pending the Completion of Land Registration as Communal Collective Land Ownership in Accordance with the Procedure.
- Prakas No. 109 Pr.K/DNS dated 09 June 2011 on the Establishment and Launch of Necessary Documents to be Used for Indigenous Communal Land Registration.
- Instruction No. 015 SNN-DNS-KKD dated 04 July 2012 on the Implementation of RGC Directive No. 01 BB dated 07 May 2012 on the Measures for Reinforcing and Increasing the Effectiveness of Management of Economic Land Concessions (ELCS) Involving Indigenous Community Arcas, Jungles, Semi-jungles, Prey Lang forest, national defense base, cultural and historical heritage sites.
- Instruction No. 020 SNN/KKD dated 26 July 2012 on the Implementation of RGC Directive No.01 BB dated 07 May 2012 on the Measures for Reinforcing and

Increasing the Effectiveness of Management of Economic Land Concessions (ELCS) involving indigenous Community Areas.

- Instruction No. 069 DNS.SNN dated 08 July 2016 on the implementation of the Procedure of Registration Land to be Included as Collective Land or to be Excluded from the Collective Land of Indigenous Communities Already Registered as Legal Entities.

73. The above-mentioned legal instruments recognize the land rights of indigenous communities, including residential land, land for traditional agriculture, and reserved for shifting cultivation, spirit forests, and burial grounds.

74. As of June 2022, the Ministry of Land Management, Urban Planning and Construction has registered and issued 948 ownership titles for 38,718.75 hectares of land of 37 indigenous communities or 3,652 families. The objective of the Ministry's action plan set out in the indicator is to register land for 10 indigenous communities per year.

No. 16

1. Prevention

- The Cambodian National Council for Children (CNCC) has developed a plan to implement the national policy on child protection system 2019-2029.
- The Victims Protection Team of CNCC has developed and is updating the minimum policies and standards on the protection of victims of human trafficking.
- The Migration Team of CNCC pays close attention to the implementation of children's work based on three main principles, (1) To exclude children from the harsh forms of labor so that children can receive vocational education and training and to integrate children into society; (2) to cooperate with civil society organizations to combat trafficking in women and children; (3) to promote appropriate job for child safety.
- The working group conducted regular visit to the brick-making handicrafts to inspect the child labor, developed the questionnaire for inspection of child labor in the field of handicrafts, brick kilns, cassava and sugarcane plantations.
- Develop an executive policy for young workers in two public automation systems: a list of types of work for young workers aged 12 to under 15 and a list of hazardous types of work for workers and young workers aged 15 to Under 18 years old.
- Campaign to prevent the employment of child labor in handicrafts, brick production, cassava and sugarcane plantations.
- Implement core interventions to prevent child labor in the handicraft sector, brick production, cassava, and sugarcane plantations.

2. Suppression and rescue of victims of human trafficking (first quarter 2022)

75. The Law Enforcement Team of CNCC has investigated and suppressed 37 cases out of 85 cases of human trafficking and sexual exploitation, (Compared to the First Quarter of 2021, the case has been decreased by 48 Cases). 43 suspects (6 females) were sent to court, including 2 juvenile and 7 foreigners, which was five Chinese, one Bangladeshi and one Thai national. Rescued 86 victims including 31 victims aged under 15 years old, 9 victims aged between 15-17 years old, and 46 victims aged over 18 years old. 5 victims were handed over to the Department of Social Affairs and 81 others handed over to their respective families.

A. Trafficking in persons

76. There are a total of 11 cases out of 54 cases which decreases 43 cases. There are 17 suspects (2 females), including 1 minor and 6 foreigners, which was 5 Chinese and 1 Thai national. Rescued 49 victims including 6 victims aged under 15 years old, 1 victim aged between 15-17 years old, and 42 victims aged over 18 years old. 49 victims had been handed over to their respective families.

B. Sexual exploitation

77. There are a total of 26 cases out of 31 cases which decreases 5 cases. There are 26 suspects (4 females), including 1 minor and 1 Bangladeshi national. Rescued 37 victims, including 25 victims aged under 15 years old, 8 victims aged between 15-17 years old, and 4 victims aged above 18 years old. 5 victims were handed over to the Department of Social Affairs and 32 others were handed over to their respective families.

3. Sentencing (First Quarter 2022)

78. The trial judges of the municipal and provincial courts have received on a total of 234 cases including the previously pending 117 cases. There were 253 victims (72 females), including 110 minors (89 females) and 9 foreigners (2 females). 420 accused persons (109 females), including 11 minors (3 females).

79. There were 89 cases were finally tried, the verdict acquitted 15 accused persons (9 women) in 9 cases. 10 cases were fined; 56 cases were imprisoned involved a total of 70 accused (40 women). Suspension sentence in 6 cases and one female accused.

- Appeal: Opposition complaint (None), Appeal 1 case.
- Handing over the seized items to the owner: 2 vehicles and 4 mobile phones. There are 145 cases are being processed.

80. 5. H.E. Mr. Vong Sauth, Minister of the Ministry of Social Affairs, Veterans and Youth Rehabilitation