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**Statement of the  
Special Rapporteur on the Situation of Human Rights in Cambodia  
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**Human Rights Council**

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**Madam President, Excellencies, Ladies and Gentlemen,**

I have the honour to address the Council to provide a brief account of the progress made and the challenges remaining in the promotion and protection of human rights in the Kingdom of Cambodia since I addressed the Council last year. My statement covers the period of the last 12 months. It is based primarily on the information that I obtained during my two missions to the country, information received from various independent and credible sources and the communications received from the Royal Government of Cambodia.

During my missions I had the privilege to meet with His Excellency the Prime Minister and other senior members of the Royal Government, President and members of the National Assembly, a good number of members of the Senate and civil society representatives, as well as members of the United Nations Country Team and foreign diplomats based in the country.

I would like to begin by thanking the Royal Government and all of my interlocutors for the welcome and cooperation that I received. The approach I have taken to deliver my mandate has been a constructive one and I have received a good level of cooperation from the Royal Government in implementing my mandate. I also would like to thank the Office of the United Nations High Commissioner for Human Rights – both in Geneva and Cambodia – for the excellent support that I received.

This year marks the twentieth anniversary of the adoption of the Paris Peace Agreements in 1991, which set in motion the peace process in Cambodia. The mandate of the Special Rapporteur has its origins in these Agreements. What has been achieved in Cambodia in a number of areas since the conclusion of the Agreement on a comprehensive political settlement of the Cambodia conflict is commendable. The conflict was resolved, the transitional period was managed reasonably well, the new democratic Constitution was adopted in 1993 and periodic elections have taken place since then. There has been steady economic growth and political stability in recent years which has enabled many people to come out of poverty, at least in urban areas. The overall situation of human rights has improved over the years, especially with the enactment of a number of key legislations to this effect in the recent past.

However, there still is a great deal of work to be done to fulfil Cambodia's obligations under international human rights treaties ratified by the country. The Paris Peace Agreements established the rule of law, human rights and democracy as major pillars of the new political architecture for the country. Thus, the peace process cannot be regarded as complete until the democratic institutions created under the Constitution are able to work effectively and independently. The international community has a particular stake and a responsibility in this regard: It is in this context that the Government agreed to my proposal to carry out a systematic assessment of the State institutions with a view to exploring the ways and means of strengthening their capacity and independence in upholding people's rights. Accordingly, my report last year was focused on the judiciary, and the present report is focused on Parliament.

I am pleased to note that the Government has responded positively to accelerate its legislative programme designed to implement, inter alia, the key recommendations that I made relating to the judiciary. The Government has indicated that the recommendations made in my previous report are being implemented or in the process of planning for implementation. I am, for example, encouraged by indications that the long-delayed organic laws on the judiciary are finally moving forward. It is noteworthy that an inter-ministerial working group has been set up in this regard. However, the Government has not yet responded to my request to commit itself to a time frame or a concrete plan of action to implement my key recommendations.

Cambodia has made some progress during the last year in protecting and promoting human rights, including addressing one of the major and long-running land rights related dispute in the Boeung Kak lake area in the capital city of Phnom Penh. It was the Prime Minister himself who took the lead in addressing this land and housing dispute by accepting to offer land title to the families remaining in the area. The recent demolition of five houses affecting 8 families in the Boeung Kak lake community, however, reflects an alarming departure from this progress. Carrying out evictions before the conclusion of good faith negotiations and consultations with communities, without notice, and failing to plan sustainable relocation options when eviction is used as a last resort, are all trends I call on the Government of Cambodia to reverse.

The Government continues to be engaged with the UN human rights mechanisms and with some civil society organizations to address the situation of human rights in a number of areas. However, I am concerned by the overall state of various human rights issues, and especially freedom of expression, land and housing rights, and changes proposed by the Government to the environment for NGOs. I am also concerned about the narrowing of space for people, including those belonging to different political parties, to express their views peacefully and without fear.

I am particularly concerned in this regard by the charges of incitement, defamation and dissemination of information "intended to create social disorder" that have been brought against human rights defenders, land rights activists and individuals of communities defending their land and housing rights in the face of eviction. In addition, the past twelve months have seen a number of individuals charged, tried and jailed for producing leaflets critical of members of the Government or – in the case of a United Nations staff member – for merely printing such material from an internet site and sharing it with others.

**Excellencies, Ladies and Gentlemen,**

On 15 December 2010, the Ministry of the Interior publicly released the first draft of the law on Associations and Non-governmental Organizations, and invited NGOs and other stakeholders to participate in a first public consultation on the draft on 10 January 2011. The role of civil society actors in the political and economic development of Cambodia has been acknowledged by the Prime Minister and by other senior members of the Government. Many of the civil society organizations have been playing a complementary role to that of the State

in helping or delivering key social services in the areas of education, health, rural development, sanitation, social welfare and the protection of natural resources and the environment. This has been shown as recently as last week when in response to serious flooding across the country, the authorities called for "the support and donations from all NGO partners" because of the magnitude of the challenge. I take the opportunity to extend my words of support to all those affected by the floods, and condolences to families of the 62 people who have lost their lives so far.

Of course, as a sovereign country, Cambodia is entitled to enact the law on NGOs, but the decision to adopt a law to regulate NGOs and associations is a critical initiative which requires careful attention, given its long-term implications for the development of Cambodian society - and in turn the country - itself. I was encouraged by the consultations on the draft law on NGOs carried out by the Ministries of Interior and Foreign Affairs with concerned parties, and expressed hope that this good practice will be replicated in other areas. However, for consultations to be meaningful, the final draft of this law should incorporate appropriate suggestions made during the consultations, so that the laws enacted will enable the concerned associations to strengthen their activities rather than restrict them.

In my opinion an open, mutually respectful and constructive dialogue is necessary to jointly develop an NGO law that would further promote the development of civil society in Cambodia. While there is growing cooperation, there remain challenges, for instance, those concerning onerous requirements for registration and the lack of clear criteria on which registration applications will be considered, some of which could be resolved through increased contact and discussion. I have consulted with the Special Rapporteurs on the situation of human rights defenders and the freedom of peaceful assembly and of association, who join me in urging the Government not to proceed with the current draft NGO law, that may hamper the legitimate work of NGOs, and to take fully on board the concerns raised during the consultation process before enacting the law.

**Madam President,**

During my most recent visit, I focussed on another key institution of state with a vital role to play in the promotion and protection of human rights.

The Cambodian Parliament has faced the same institutional and structural upheavals faced by the country as a whole in the last 40 or so years. Like the judiciary, Parliament and parliamentary culture had to be rebuilt from scratch following the systematic destruction of all democratic institutions during the Khmer Rouge period. The structure of Parliament and its physical facilities are now as good as any in a developing country and in many respects well above the average. Similar to many other parliaments, the Cambodian Parliament has oversight, legislative and representative functions.

What Parliament in general and the various specialized commissions in particular have been able to achieve in Cambodia is commendable. The work of the Human Rights Commissions of both houses of Parliament has been encouraging. While I was encouraged by the progress made by the country in developing parliamentary practices within a relatively short period of

time, there remain a number of shortcomings in the workings of Parliament in general and the National Assembly in particular.

A key obstacle is the lack of a properly functioning parliamentary culture. The notions of pluralism and liberalism enshrined in the Constitution were designed to ensure space for all to participate in the process of democratization and nation-building. However, there is an absence of a culture of debate and discussion and political will to foster a climate that is conducive to constructive dialogue and accelerating the process of democratization of the society.

In my opinion, parliament is the soul of democracy. For democracy to work properly, all individual members of parliament should be able to exercise their freedom of speech in the course of discharging their official duties. It is a fundamental condition for a member of parliament to be able to speak his or her mind without fear. Democracy is about dialogue and debate on all issues of national importance, and this is especially so in the case of the parliament, which by definition is a chamber where members can debate freely any issues of national importance. It is for this reason that they have been accorded parliamentary immunity.

However, some of the current internal rules of procedure of the National Assembly are not conducive to enabling all individual members to enjoy their freedom of speech when holding the executive to account and defending the rights of the people that they represent. In the recent past, the scope for Members of Parliament in Cambodia to participate in parliamentary debate has been limited and the parliamentary immunity of a number of Members of Parliament has been lifted, even for speaking out on issues of national importance. Further, many of these members have not been given an opportunity to make a representation in their defence, which goes against the basic principles of natural justice.

A properly functioning democracy requires effective checks on the executive and on the majority. Some of the provisions of the Law on the Status of National Assembly Members seem to go beyond the freedom of speech guaranteed to members through the Constitution. With this in mind, I have made a series of recommendations in this year's report in a constructive manner and hope that the Government, Parliament and other stakeholders will implement them.

**Madam President, Excellencies, Ladies and Gentlemen,**

The Extraordinary Chambers in the Courts of Cambodia made significant achievements during the reporting period. Following the landmark conviction of Kaing Guek Eav, alias "Duch", in July 2010, the Court has advanced its second case - against Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan. The Trial Chamber last week ordered the severance of proceedings in case 002. Under this decision, an unknown number of discrete trials on various issues will be held, starting with the issue of forced movement of populations. The first trial is envisaged to start before the end of 2011. At the same time, the Supreme Court Chamber of the Tribunal has been considering the appeals in the case of Duch. The Chamber heard submissions from the co-prosecutors and the defence in March 2011. It is anticipated

that the Chamber will issue its verdict in the coming months. The Court's activities in this regard continue to set an important example for the national sector of the administration of justice in accordance with international fair trial standards. I would again encourage relevant actors in Cambodia to take advantage of the presence of the Court in the Kingdom to maximize its legacy for the national legal system

**To conclude**, I have enjoyed a good level of cooperation from the Government. The dialogue with the Prime Minister and other senior Ministers has been candid but cordial and we have agreed to continue our cooperation. All in all, Cambodia has made a huge transformation, from a State in which the institutional framework had all but been completely destroyed, to one whose law-making and institution-building processes are functioning. However, Cambodia needs to accelerate the process of democratization in the country and strengthen the rule of law. There should be a genuine will and attempt at political reconciliation so that all political actors enjoy equal opportunities to make their contribution to the country's political and economic development and parliamentary process.

It is in these areas that I stand ready to assist the Government and I also know that the United Nations Office of the High Commissioner for Human Rights – both in Geneva and Cambodia – are also committed to supporting the Royal Government of Cambodia in this regard.

