

which Cambodia is a state party; provide support to bona fide human rights groups in Cambodia; contribute to the creation and/or strengthening of national institutions for the promotion and protection of human rights; continue to assist in the drafting and implementation of laws to promote and protect human rights; and, continue to assist with the training of individuals responsible for the administration of justice.

During 1997 the Special Representative made three visits to Cambodia (March, June and August/September). The report notes that the areas of focus for the missions were, *inter alia*: access to and quality of education; offences committed by the military and the police; the continuing structural impunity for the military; conditions in prisons; use of torture by police in several provinces; effective functioning of the justice system; the need to address past human rights violations; children's rights; labour rights; and, extrajudicial executions.

On preparations for the May 1998 elections, the report identified a number of needs and issues that remain to be resolved, including: the need for a national election law; the need for a law on political parties to guarantee the legal status and operations of all parties, including opposition parties; establishment of an independent electoral commission; establishment of the Constitutional Council; assurances of fair and equal access to the media for all political parties as well as equal access to the operation of television and radio stations; and, the need to ensure the neutrality of the security forces (military, gendarmerie, police and other forces) during the election campaign.

The report emphasizes the problem of impunity, noting that it poses a crucial challenge to the establishment of rule of law and is both political and institutional in nature. The report states that those who commit human rights violations, in particular members of the military, police, gendarmerie and other armed forces, are not arrested or prosecuted even when their culpability is well known to the authorities and the general public. The report refers to the fact that no progress has been made on repeal or amendment of article 51 of the 1994 Law on Civil Servants which provides that, except in cases of *flagrante delicto*, no civil servant may be arrested or prosecuted for any crime unless the government or the Minister concerned consents in advance. The point is recalled that the Council of Ministers has made it clear that the provision also covers military and police personnel and that article 51 contravenes the basic principle of equality of all persons under the law. In the climate of impunity that prevails, and in addition to violations arising from armed conflict, violations have been reported including incidences of summary executions, torture and rape of civilians by military personnel outside the context of combat. The report comments that in those instances where investigations were attempted and cases brought before tribunals both military and police engaged in intimidation tactics and issued death threats. It is recalled that the gendarmerie was principally established in 1994 to remedy the problem of the reluctance of the regular police to investigate crimes, carry out arrests and execute court orders in cases involving military personnel. The report states that there is growing evidence of the gendarmerie's nationwide activities which shows that this force is not only failing to fulfil its judiciary police and military police mission but is

increasingly becoming an agent of human rights abuses and enjoying the same impunity as other security forces.

On the question of the implementation of recommendations made by the Special Representative, the report notes, *inter alia*, that: the courts have still not achieved independence from political authorities; the courts have, at times, come under intolerable pressure from the military; serious crimes, including murders, with a political connotation continue to be left unresolved; steps have not been taken to ensure fair access to the media for all political parties; conditions in prisons have not improved and, in fact, have deteriorated; and, further and more systematic steps need to be taken to combat child prostitution and child labour.

Resolution adopted by the General Assembly (A/C.3/52/L.68)

In the resolution, the General Assembly, *inter alia*: noted the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, signed in 1991; recognized that the tragic history of Cambodia requires special measures to assure the promotion and protection of the human rights of all people and the non-return to the policies and practices of the past; expressed the desire that the UN respond positively to assist efforts to investigate Cambodia's history, including responsibility for past international crimes, such as acts of genocide and crimes against humanity; welcomed the continuing role of the High Commissioner for Human Rights (HCHR) in the promotion and protection of human rights in Cambodia; noted the concerns of the Special Representative related to a legislative framework for the forthcoming national elections, the problem of impunity, the independence of the judiciary and the establishment of the rule of law, the use of torture, the administration of prisons and the ill-treatment of prisoners, and child prostitution and trafficking; noted with concern the lack of response by the government to several of the recommendations contained in the Special Representative's previous reports and urged that it respond as soon as possible; expressed grave concern about numerous instances of violations of human rights, including extrajudicial executions, torture, rape, illegal arrest and detention and called on the government to prosecute all those who have perpetrated human rights violations; also expressed grave concern about the serious violations of human rights during the armed violence of early July 1997 and its aftermath, and urged the government, to investigate thoroughly and impartially and to bring to justice those responsible for serious crimes; noted that the perpetrators of the violence in Phnom Penh on 30 March 1997 against a peaceful and lawful opposition rally have not been identified and brought to justice and urged the government to take action; noted with serious concern the Special Representative's comments about corrupt practices within the judicial system and in the prison administration and strongly urged the government to address the problem of corrupt practices and to increase its efforts to create a functioning and impartial system of justice, including convening the Supreme Council of Magistracy; urged the government to institute a system to guarantee the essential sustenance of prisoners and to continue its efforts to improve the physical environment of prisons; stressed the need to address the continuing problem of impunity; stressed that ensuring security of persons and the rights of association,