



PRESS STATEMENT

Statement by the United Nations Special Rapporteur
on the situation of human rights in Cambodia
Professor Rhona Smith

Phnom Penh, 18 August 2017

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1. Introduction

I have now completed my fourth mission to the Kingdom of Cambodia. I would like to thank the Government for its invitation to visit and the willingness of so many ministers to meet with me and discuss openly the progress and challenges in implementing human rights in Cambodia. I would also like to record my appreciation for the hard work of all OHCHR staff in Cambodia, both in Phnom Penh and Battambang, who have so ably supported my mission.

During this visit, I have had the privilege of meeting with senior Government officials: Samdech Kralahom Sar Kheng, Deputy Prime Minister and Minister of Interior; H.E. Ang Vong Vathana, Minister of Justice; H.E. Hang Chuon Naron, Minister of Education, Youth and Sports; H.E. Mam Bunheng, Minister of Health; H.E. Vong Sauth, Minister of Social Affairs Veterans and Youth Rehabilitation; H.E. Ouch Borith, Secretary of State, Ministry of Foreign Affairs and International Cooperation; H.E. Keo Remy, President of Cambodia Human Rights Committee; H.E. Sik Bun Hok, President of National Election Committee; as well as H.E. Sou Arafad, Deputy Governor of Battambang Province and H.E. Om Reatrey, Deputy Governor of Banteay Meanchey Province. I also met with the leader of the Cambodia National Rescue Party, H.E. Kem Sokha.

In addition to those meetings in Phnom Penh, I undertook a field visit to Battambang, and to Sisophon and Poipet in Banteay Mancheay province. Both in Phnom Penh and in the northwest provinces, I have had the opportunity to meet with a wide range of other interlocutors including non-Governmental organisations, trade unions, development partners and the UN Country Team. I am grateful to all those who took the time to share insights and information with me during this mission, and indeed, over the last few months.

In meetings with Government ministers, I was struck by their willingness to identify challenges in meeting the country's human rights standards, and their expressed commitment to improve the situation. I look forward to receiving information, when available, on the localisation of the UN

Sustainable Development Goals. It is important that Cambodia continues to transform plans and strategies into positive measures of implementation to progress rights and freedoms in this country.

I was pleased that the voter registration process progressed well and that high numbers of voters were registered to vote in the 2017 elections. It is encouraging that the commune/sangkat elections on 4 June 2017 were orderly and peaceful with some ninety percent of the electorate casting votes. However, I remain concerned at the atmosphere of intimidation and threats of violence, including by high level officials, in the lead up to the election and in the weeks which have followed.

2. Substantial issues

I remain concerned about the plight of many vulnerable groups of peoples in Cambodia. As I have said before, it is important that when localising the UN Sustainable Development Goals, the Government ensures that no one is left behind. Following Article 31 of the Constitution, all Khmer citizens should have equal rights and liberties without discrimination. However, there remain examples of peoples whose situation is concerning.

Children – During this mission, I focussed on children. I welcome the removal of charges for birth registration up to thirty days after birth and I urge greater promotion of this at the village and commune level. Ensuring all children are registered at birth is a major milestone in recognising rights of the child. In the absence of a comprehensive child protection system, the Commune Committee for Women and Children (CCWC) are an important element, within their capacity, at the local level. Although training of Committee members has been undertaken, it may not be sufficient to offer adequate independent child centred protection. Ever more children are being left with elderly relatives when their parents become migrant workers, moving to factories or construction sites in Cambodia or seeking employment overseas. Many of these children are abused, others turn to drugs and other substances, some end up in street situations. Children who suffer physical or psychological abuse within the community or family frequently have no means of seeking assistance or safety. I acknowledge the Government's Violence against Children Survey and Action Plan, but as I noted when considering the rights of women, victims of domestic violence all too frequently remain in the household with the perpetrator and the perpetrator is not brought to justice in accordance with the Law on the Prevention of Domestic Violence and the Protection of Victims. I welcome the Action Plan for Improving Child Care by which the MoSAVY, in cooperation with UNICEF, several NGOs and civil society organisations as well as the Partnership Programme for the Protection of Children (3PC), is aiming at reducing by thirty percent the number of children in institutional settings in five provinces, reintegrating them into their communities. I hope this plan succeeds and can be rolled out to other provinces. It is most important to ensure that returned children are properly cared for and reintegrated into their communities, in accordance with the best interests of the child.

There is no comprehensive network of Government social workers. Ideally, there should be at least one per commune. I have, however, learned of the child protection and rehabilitation work being undertaken by social workers funded by NGOs and by UN agencies and would encourage the Government, in furtherance of the National Social Protection Policy Framework 2016-2025, to consider actively recognising, promoting and supporting social work education and career opportunities. Trained social workers can work with CWCC in communes to better protect children and other vulnerable people.

I do note the positive developments with regard to children's health and education. The Minister of Health informed me that infant and child mortality rates continue to decrease, regional transmission of measles has been eliminated completely in Cambodia, the use of anti-viral therapy limits transmission of HIV/AIDS from mother to child during birth, and health equity funds ensure free access to healthcare for the poorest families, including their children. The Government has also embarked on an HPV vaccine programme for girls to combat cervical cancer. Nevertheless, the Minister concedes that there is more work to be done reducing child and infant mortality as well as child malnutrition, particularly in rural communities. The Minister of Education, Youth and Sports informed me there is gender parity in education enrolment and completion, though I note children from indigenous and ethnic minority groups still suffer disadvantages, including availability, accessibility, acceptability and adaptability of education. In education and health, it is also clear that children with disabilities do not receive equal access to facilities. Physical access to buildings remains a problem as does the availability of information in sign language or Braille.

The Ministers of Justice and of Social Affairs, Veteran and Youth Rehabilitation discussed with me the Law on Juvenile Justice promulgated last year. This is now entering the implementation phase through the Strategic and Operational Plan. In essence, this is a positive development. However, care must be taken to ensure that the law is implemented in compliance with the UN Convention on the Rights of the Child and related guidelines. In particular, it is necessary to fully resource the new juvenile justice system. The new centre for rehabilitation must conform to the relevant UN standards. When I visited Correctional Centre 2 this week - the principal woman and juvenile prison in Phnom Penh - there were 482 juveniles, 38 of whom were female. The level of overcrowding was such that convicted female juveniles were being held in the same cells as adult women. This is contrary to the human rights standards accepted by Cambodia. I am also concerned at delays in accurately ascertaining ages of juveniles following arrest in order to determine whether they are below or above the minimum age of criminal responsibility. Turning to children as witnesses and victims of crimes, information was received that few courts have the necessary screens/TV links to permit testimony to be provided remotely, minimising the exposure of the child to the alleged perpetrator, and preventing their re-victimisation.

I am concerned that many juveniles are being detained or taken to drop-in and rehabilitation centres, as well as residential care institutions, by their families. While this can be a consequence of

the anti-drug campaign, I am particularly concerned that some children with serious disabilities are also being taken to these facilities, although they have no history of drug or substance dependency. This emphasises the need for comprehensive social and child protection systems in Cambodia and appropriately trained social workers in all communes. However, it also raises issues of comprehensive support for families of children with disabilities.

I was pleased to learn that child rights NGOs are generally able to cooperate well with the Government although I am concerned that many services that we would expect to be provided by the State are provided by NGOs.

I urge the Government to ensure a child rights based approach is taken to all matters related to children. Children in street situations, in institutional settings, unaccompanied migrant and trafficked children are especially vulnerable and require a holistic approach to their safety and wellbeing. The rehabilitation and reintegration into communities of juvenile drug and substance users with dependency problems, and convicted juveniles must be subject to careful management and ongoing support to ensure genuine rehabilitation and reintegration. It is necessary to ensure adequate awareness raising of children's rights, as well as the Juvenile Justice Law, amongst all law enforcement officials and judicial officers.

Indigenous peoples - I was pleased to note that events to mark the International Day of indigenous Peoples passed peacefully. I also note the enhanced education provision, including bilingual education, being progressed by the Ministry of Education, Youth and Sports. There remain many issues with land titling for indigenous peoples. I recall, in particular, Por indigenous peoples in Battambang province, whose communal land title cannot proceed because the land is still waiting to be demined, the Suoy indigenous peoples in Kampong Speu province, whose communal land title claim is being affected by concurrent Directive 001 claims and the Bunong peoples in Stung Treng province who are at risk of losing their homes, livelihood, spiritual forest and burial grounds with the flooding associated with the Lower Sesan II hydroelectric power project. **I repeat my recommendation that the Government considers simplifying the communal land title systems (CLTs), reducing the number of steps required and ensuring that indigenous groups can benefit from CLTs including by borrowing collectively against the title for development projects.**

Persons in street situations – I was very concerned when I visited the Por Senchey Drop In Centre (“Prey Speu”), this week to learn that 544 people, including 6 children, were being kept there. This is a substantial increase from my last visit, which I was told was partly attributable to the Government’s anti-drug campaign. There was no visible improvement in the facilities, only more overcrowding. Many of the people I met claimed to be held against their will and had been there for much longer than a week, the period indicated as necessary to check identification documentation and ensure the safety and protection of those released. Some had been there for six months or more. This amounts to arbitrary detention. Whilst the Minister of Social Affairs, Veterans and Youth

Rehabilitation (MoSAVY) explained that a new facility being built in Kandal province should alleviate overcrowding at Prey Speu, providing appropriate facilities for rehabilitation of drug and substance users with dependency problems and the care and treatment of persons with psychosocial disabilities. This facility will not be ready until the end of this year or early 2018 so there is no sign of imminent reduction of overcrowding at Prey Speu or improvement of the conditions in which people are held.

The Government is reminded that holding persons against their will means that drop in centres fall within the international definition of detention centres and the Government must take steps to ensure that the minimum standards of treatment for detainees is met. This includes clean drinking water, adequate nutritious food, adequate sanitation, ventilation and adequate healthcare including psychosocial support, as well as visitation rights for families, NGOs and UN staff. I repeat my call for the Government to implement the recommendations of the National Conference on Persons in Street Situations (December 2015) and to ensure that drop in centres are not used as detention centres, but offer the necessary care, services and assistance to persons in street situations on a truly voluntary basis. I also recommend that the Government systematically review the legal basis for their detention, accurately identify the individuals and work to ensure their release and return to their families and communities. Assistance may be sought from international non-governmental actors, including OHCHR, in this regard.

Drug and substance users with dependency problems – In January 2017, the Government commenced the first phase of its campaign against drugs. This programme is now in its second phase. Whilst this appears a positive initiative to rid Cambodia of the scourge of drugs, a worrying consequence has been the explosion in numbers held in prison, drop in centres and drug rehabilitation centres. In both Battambang and Banteay Mancheay provinces, the Deputy Governors invited me to visit their drug rehabilitation centres. I had time to accept the invitation in Sisophon and proceeded immediately to the Chivit Thmey Drug Rehabilitation Centre, briefly touring the facilities. I also visited the Por Senchey Drop-In Centre (Prey Speu) and Correctional Centres 1 and 2. I am alarmed at the large number of people being detained due to the anti-drug campaign and note that, if people are held against their will, the facility is *de facto* a place of detention in accordance with the human rights standards accepted by Cambodia. The level of overcrowding is such that many places of detention breach Cambodian and international standards. Adequate food, clean water, sanitary facilities, exercise opportunities, room ventilation, and healthcare are lacking. The system is simply overwhelmed. It is important to ensure that adequate training and education is available, particularly for younger people, to enable successful reintegration into the community.

According to the Ministry of Health, there are now 177 healthcare centres with staff trained to deal with drug dependencies. Last month, 522 people received medical checkup and treatment at these centres, of whom 96 percent were male. I agree with the Ministry that it is necessary to work on counselling and recognised therapies to reduce cravings, particularly given the prevalence of use of

methamphetamine. These centres support those with drug dependencies who remain in communities.

I urge the Government to deploy adequate resources to complete building of the new rehabilitation and drop-in centres, ensuring that these centres meet and ideally exceed the minimum standards set in the UN instruments and that they provide adequate treatment and therapies. The anti-drug campaign should be regularly reviewed and a human rights based approach adopted. Appropriate training and education should be provided by the Ministries of Labour and of Social Affairs, Veteran and Youth Rehabilitation as well as considering education opportunities through the Ministry of Education, Youth and Sports. I support the awareness raising programme against drug and substance abuse which is being implemented through the Ministry of Education, Youth and Sports and suggest the Government builds on this and the work of the Ministry of Health in healthcare centres to roll out awareness raising across communities as well as amongst those involved in detaining and treating those with drug and substance dependencies. In the meantime, access to those detained should be fully opened to the families, NGOs, international organizations and others who may lend support.

Asylum-seekers: I am concerned about the situation of 36 Montagnards whom UNHCR has offered to find a solution outside of Cambodia based on the seriousness of their asylum claims. The Government of Cambodia has to date not agreed to facilitate their transit to a safe third country. **I ask the Government of Cambodia to liaise with UNHCR to ensure that the 36 montagnards in need of international protection as refugees will not be returned to Vietnam.**

Rule of Law and Administration of Justice - I had positive, constructive meetings with both the Minister of Justice and with the Minister of Interior. I am pleased to learn that the Ministry of Justice has had an increase in budget and is now making progress on a number of long discussed initiatives. In particular, I note the progress on strengthening the organisation of courts to help build the foundation of a more efficient judiciary. I understand that the three fundamental laws may be amended and urge the Ministry to ensure any amendments reflect the concerns expressed and are in compliance with human rights standards, operating to strengthen, not further undermine, independence of the judiciary. I also welcome the rolling out of the electronic criminal database. Some 23,000 cases have now been registered and the Ministry is planning on developing a central criminal database, then integrating civil cases, and rolling out a comprehensive electronic case management system. This is a move towards greater transparency in the justice system. I welcome the increased use of pre-trial detention forms but am concerned that their use is inconsistent. I remain very concerned that pre-trial detention is still used in almost all cases, not least when the prison system is dangerously overcrowded. I welcome plans to work on a campaign for raising awareness about judicial supervision for those arrested and awaiting trial. I also welcome plans for a pilot project on alternatives to custodial sentencing in Battambang province as the first stage towards increasing the use of the alternatives to custody provided for in the Criminal Procedure

Code. The Minister also assured me that lists of all court fees and related charges will be displayed at all courts. This should reduce additional unofficial fees being charged for court related business.

I am concerned at reports of communities taking justice into their own hands. This is unacceptable - a reflection of the need to strengthen the judicial system and build confidence in its independence. I welcome the increase in the legal aid budget but am concerned at the lack of lawyers available and willing to represent the most vulnerable. I also welcome plans to pilot alternative dispute resolution in remote provinces though reiterate that it is not suitable for several offences including domestic violence.

The pressing problem of overcrowding in prisons has already been mentioned. When visiting CC1 and CC2, I was pleased to note that posters were displayed noting prisoner's rights and visitor's rights, although often only in English. I was however concerned that when visiting CC1, an OHCHR official accompanying me was not permitted access, neither was I permitted to have confidential interviews with detainees at either CC1 or CC2. Such a repeat denial of access is contrary to the terms of reference under which Cambodia agrees to my visits.

I recommend the planned pilots on judicial supervision, non-custodial sentencing and alternative dispute resolutions are executed, reviewed and, as deemed appropriate, rolled out. The problem of prison overcrowding has to be urgently addressed. I reiterate my earlier recommendations highlighting that detention should only be used when absolutely necessary. I also recommend that all courts display clearly any fees which can be charged. In prisons, I repeat my recommendation that posters explaining the processes for visiting prisons, including the prohibition on payments, are clearly displayed in Khmer at the entrance and in each cell. To this end, I ask OHCHR to provide the Mol/OHCHR/IBJ posters to all prisons.

Democratic space - I was pleased to note the release of the four staff of the human rights NGO Adhoc and the Deputy Secretary General of the National Electoral Committee in June though am concerned they remain on judicial supervision. The prevalence of pre-trial detention and the increased tendency to rule *by law* in Cambodia is worrying. Although the Criminal Procedure Code establishes a statute of limitations for different kinds of crimes, these are interrupted by an act of prosecution or investigation. It is concerning that such provision may allow for charges to hang over someone's head indefinitely, in violation of the obligation to be tried without undue delay - the law is not clear on time limits for investigations if a person is not in detention. There are many examples, including the female land activist Tep Vanny whom I met, trade unionists and political activists.

All laws should be fairly applied and potentially affect everyone equally without distinction on any ground. Many human rights defenders are still being excessively targeted. The range of laws being employed to restrict criticism against the Government to quell political debate continues to increase. Peaceful demonstrations and public debate, including human rights and election monitoring and

holding the Government to account, is neither contrary to state sovereignty nor a threat to public order or national security. I remain concerned that the Law on Peaceful Demonstrations and its guidelines are not necessarily being implemented at local levels and the Minister of Interior requires civil society organisations to report all their activities to the commune and district authorities, including education/training activities. In reality, even the celebration of commemorative days must be reported. Unnecessary restrictions on freedom of assembly impedes many legitimate civil society activities. Cambodia should be a vibrant pluralist democracy where all reasonable debate and opinions are encouraged, not punished, and productive political discussions pave the way for full and free elections. It is difficult to understand why civil society organisations and trade unions must be politically neutral. Civil servants, the police and the military on the other hand should be politically neutral.

Notwithstanding the relative success of the commune/sangkat elections, I remain concerned over the violent rhetoric expressed by members of the Government and the military. Such comments should not be made by Government ministers, even in private. They have no place in a peaceful society, such as Cambodia, which still bears the scars of its turbulent history. I have noted the various amendments to the Political Parties Law and in particular the revision which prohibits a party from using voice messages, images, written documents or activities of a person convicted of felony or misdemeanour. Many famous world leaders, past and present, have been convicted of offences at some point, including in this region. I welcome the collaboration of NGOs as the Situation Room and their extensive observance of the electoral process in June 2017. The Situation Room is not an NGO and therefore has no obligation under the Law on Associations and Non-Governmental Organisations (LANGO).

The general situation in the country remains tense. Cambodia appears to be approaching a precipice. The raft of legal actions against politicians, allegations of violations of political neutrality of non-Governmental organisations, extensive pre-trial sentencing, intimidation and fear are not compatible with an environment conducive to free elections. I urge the Government to ensure that all parties enjoy open debate and discussion on issues of concern to all Cambodians.

3. Final remarks

It should be noted that my 2017 report to the United Nations Human Rights Council was written in May and submitted to the UN in Geneva early in June 2017. In accordance with normal procedures, that report was shared with the Government, then processed in accordance with UN editing and translation protocols. It should be published very soon as UN Document A/HRC/36/61. I will attend the UN Human Rights Council in Geneva at the end of September 2017. At that point I will present the report, update the Council on the situation since June and orally report on my current mission. The information on the situation following the commune/sangkat elections and this mission will be in the 2018 report.

It is my hope that moving forward, Cambodia will retreat from the precipice with no more threats of violence, quelling insurrections or war, or racial inflammatory statements. So many have worked tirelessly in Government and outwith to ensure the peaceful transition of Cambodia from conflict and genocide to democracy, in accordance with the constitution on which modern Cambodia is based. This path must be continued. It is what all Cambodians deserve.

END

Professor Rhona Smith (United Kingdom) was appointed as [Special Rapporteur on the situation of human rights in Cambodia](#) by the UN Human Rights Council in March 2015. As Special Rapporteur, she is part of what is known as the [Special Procedures](#) of the Human Rights Council. Special Procedures, the largest body of independent experts in the UN Human Rights system, is the general name of the Council's independent fact-finding and monitoring mechanisms. Special Procedures mandate-holders are independent human rights experts appointed by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world. They are not UN staff and are independent from any government or organization. They serve in their individual capacity and do not receive a salary for their work.

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