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ការិយាល័យនៃឧត្តមស្នងការទទួលបន្ទុកសិទ្ធិមនុស្សប្រចាំកម្ពុជា



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The road to justice is the best path to peace

Today is Human Rights day. It is a holiday in Cambodia. It is a day to rejoice and celebrate our common humanity: our common humanity is made of what we have in common as human beings, but also of our differences as human beings. The theme of this year is tolerance and the elimination of discrimination. This is an occasion to take stock and reflect about our own practices, but also the policies and practices of the Government, which should set the example in society about how to behave in a tolerant manner.

Discrimination and intolerance are often at the root of all kinds of violations throughout the world. Wars, social unrest, financial and economic crises, and famine often result from political or religious intolerance, economic competition, and development policies excluding entire communities and even threatening the fragile balance of ecology of the earth. It is not by chance that Ms. Navi Pillay, the High Commissioner for Human Rights, stated recently that "Our main objective is to help promote discrimination-free societies and a world of equal treatment for all". This is because the road of justice is the best path to peace.

Definition:

To discriminate means to distinguish and separate individuals or groups from the rest of society and to treat them less well by restricting their rights. Discrimination is a matter of behavior, at individual and social level; and of policy and practices at the Government level. In the latter case, discrimination undermines the principle of equality before the law, which is the cornerstone of the rule of law. Discrimination leads to unfair, unequal treatment.

Roots of discrimination:

People can be discriminated against for many reasons: because of their race, color, sex, language, religion, social origin or status, fortune or political opinion; they can be treated differently in terms of access to food or water, education, health care, employment, or protection under the law; in the worst cases they can be killed, disappeared, tortured, or thrown in prison. During the Khmer rouge period, intolerance and discrimination were institutionalized policies and led to hundreds of thousands of deaths. Political intolerance and conflicts internationally led to further war and destruction during the eighties, and to many killings after 1993.

Behind discrimination is an attitude which consists in looking at differences of behavior, opinions, modes of life, etc., as inferior. The logic seems to be: if they are not like me they are different, and if they are different, they are less human, **less valuable than me**. This attitude generates intolerance, at all levels of society, and leads to all sorts of abuses and injustice.

Global illustrations of discrimination:

According to World Bank, women make two-thirds of the world's working hours and produce half of the world's food, but earn only 10 percent of the world's income and own less than 1 per cent of the world's property. 98 percent of children with disabilities in developing countries do not attend school. Indigenous people's represent 5 per cent of the world's population, but 15 percent of the world's poorest people. These are just a few examples.

Let's take examples closer to us: If I consider my daughter less important than my son because she is a girl, I will give her less chances to study, to develop her competences and build her life than my son - - is this fair? Is my daughter less intelligent, less able than my son? She is not. But if I treat her differently, I harm her life.

If I am an employer and I refuse to hire a competent person because she is a woman or a she has a different skin color or is a homosexual, is this fair? In spite of her competence, I use her difference to exclude her. Does this attitude not shock our inner sense of justice?

If I am a judge and have to resolve a land conflict between a poor person and powerful person, and I decide in favor of the rich person, because he is powerful, is this fair? As a judge my role is to decide who the legitimate owner of the disputed land is according to the criteria set by the law: the criteria do not mention the wealth or status of the owners. If I decide on the basis of wealth and status, I do not treat these persons equally, I disrespect the law and I treat the poor person as a lesser human being. If as a judge, I violate the law, who will protect justice?

Discrimination and the rule of law

In society, education and the rule of law are the best instruments to combat discrimination and intolerance.

What does international law says about discrimination? ICCPR (Art. 26): "All persons are equal before the law and are entitled, without any discrimination, to the equal protection of the law".

What does the Cambodian Constitution say? (Article 31): "Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, color, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status."

In a rule of law system, it is the law that governs society and regulates its conflicting interests. This is what distinguishes it from tyranny, where power is exercised by an individual or a small group of individuals. In the system of the rule of law, the law applies to everyone and no one is above it. This is the principle of equality of all before the law. If this principle is applied, in policies and practices, discrimination will gradually diminish. This will take time. The building of the rule of law and a more tolerant society is a long process, with progress and setbacks.

Let us recall of several positive examples:

Policy of promotion of women in society: Women are the backbone of Cambodian society, not only do they work in all sorts of fields, but they in addition assume much of the domestic work, and raise and educate children. Positive action has included the establishment of Gender Mainstreaming Action groups in 25 ministries; an increasing number of women elected in National Assembly; the appointment of female provincial and district deputy governors throughout the country; the quota for female recruitment in the civil service, etc. These policies are supported from the top of the leadership and are gradually showing results.

Religious freedom is guaranteed by the Constitution, and is respected in practice: we are not aware of any serious restriction applying to minority religions.

Freedom of association Since 1993, Cambodia has established a liberal regime for NGOs, both domestic and foreign. This is an example of tolerance towards citizens organizing themselves to contribute to national development. We hope that Cambodia will maintain its leadership in this regard. However, in recent years NGOs expressing critical views of the Government have been increasingly subject to pressure. We hope that the Government and civil society will engage in dialogue that will help foster tolerance and respect for diversity of opinions, especially if a law on NGOs is to be adopted. Such dialogue will ensure that if a law is to be adopted it will be an enabling one in the spirit of the Constitution, and not a repressive law. Our Office will continue to work with the Government, civil society and other interested stakeholders to foster this enabling environment.

Promotion of the rights of people living with disabilities is another area where progress has been registered, with the support of the highest authorities. A law in this regard has been adopted this year, and social concessions attributed to war and land-mine invalids.

Education: Statistics show that girls and women are seriously disadvantaged in the school system resulting in higher illiteracy rates for women than men. The Ministry of Education in the past ten years has successfully managed to ensure school parity at primary level, which is an important achievement. Efforts are ongoing to reach the same results in secondary school and it will likely take another ten years to achieve. But these are positive efforts to reduce the discrimination between men and women: starting with boys and girls.

In this regard, together with UNESCO and UNICEF, our office is supporting the Government's effort to develop human rights education, which means civic education in schools to educate the young generation of human beings and citizens about the simple, but important, concepts of living together peacefully: respect for life and liberty; respect of differences and diversity; respect of ourselves and others; and respect for the earth which feeds and supports our life...

We have also observed some worrying trends in recent years:

In **Rattanakiri**, minority peoples have been living for centuries on their land, but in recent years, as land has become a new source of wealth, they are being dispossessed of their lands. The land law should protect their right to their land but in most cases it is not implemented, and day after day villagers are robbed of their lands by powerful economic interests, often with the support of the authorities. Why is this happening? Because they are not Khmer, they are considered as uncivilized, they are poor, do not speak the Khmer language, have a different mode of living, and are weak and vulnerable.

Many poor communities in Phnom Penh are labeled “illegal settlers”, “squatters”, “anarchic elements” whereas many of them have legitimate property rights to the land they live on under the land law. Declaring them “illegal” amounts to ignoring their rights under the law. This is a discriminatory treatment which leads to conflicts and evictions. If the land law was fairly applied, many of the land disputes would not arise and would be resolved. Of course there are opportunists who are taking advantage of land disputes to get undue compensation, but they do not represent a majority. Only the fair application of the law can distinguish who has legitimate rights to their land and who has not. But for this, the law has to be applied, equally.

In the case of Mu Sochua, the court decided to dismiss her complaint for defamation and to accept that of the Prime Minister. Is this a fair treatment or a discriminatory decision?

Freedom of expression is guaranteed in the Constitution and its exercise is free within certain limits: provided it is not used to criticize publicly Government policies, practices or individuals on certain subjects - - especially if these criticisms are perceived as coming from political opposition. In recent months we have observed a criminalization of certain opinions: individuals have expressed their views about the corruption of senior officials, the lighting of Angkor Watt, or the survival of Mekong Dolphins. These are opinions, they are not crimes - - even if in some cases they came from opposition voices. The Constitution establishes political pluralism. In a tolerant political environment, differences of opinion should not be dealt with through threats, intimidation or criminal action, but through public debate. The best way to counter lies, or ill-informed opinions, or false information, is to confront them with information, facts, and the truth, through discussion. Differences of opinion in the media can be resolved with a right to response: a response is published in the press responding to the allegations with facts and arguments. Truth is the best weapon against lies and falsifications. Throwing someone in prison because he expressed his views peacefully, even if these views were expressed for political reasons, is an expression of political intolerance: it goes against the principle of the rule of the law; and violates the spirit of the Constitution. The rule of the law is not just the rule of the law because the law can be unjust and repressive. The rule of the law is based on the principle of equality before the law and justice. Without these principles, the rule of the law can become hollow and a mere lip-service.

To conclude, I would add that the **combating intolerance is a responsibility for all of us**, all the time: as individuals in our daily lives, based on our awareness of the need to accept and value differences as sources of wealth and not threats; as parents vis-à-vis our children; as teachers through the educational system, through human right or civic education; as civil society actors; as artists and cultural actors; and last but not least as politicians and leaders, to show the example to society, not only in words but also in deeds.

These were the few reflections that I wanted to share with you today to feed the discussion on a difficult but important subject.

Thank you.