



Special Representative of the Secretary-General for Human Rights in Cambodia

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COMMUNE COUNCIL ELECTIONS, 2002

January 18, 2002 – February 1, 2002 The Campaign Period & Post-Election Risks

In his report on the commune elections, dated 11 January 2002, The Special Representative of the Secretary General for Human Rights in Cambodia examined problems that had occurred during the pre-campaign period. Lessons from the campaign period and Election Day itself will be dealt with more thoroughly in a subsequent report, to be issued in March. This interim statement is aimed at avoiding problems in the immediate aftermath of the elections and provides recommendations to the Royal Government of Cambodia and the National Election Committee to this end.

The Campaign Period

Violence and election irregularities have continued to mark the lead up to the February 3 commune council polls. While a relatively calm environment prevailed during the first week, a two-year-old child was killed on January 25 when gunmen opened fire on his father, a CPP candidate in Banteay Meanchey province. Several new deaths came to the attention of the Cambodia Office of the United Nations High Commissioner for human rights during this period, but it is not clear that these were election-related. Broadly, there was an increase in intimidation problems during the second week of campaigning. I shall report more fully on the situation during the campaign period in my next report.

To ensure human rights are protected and upheld in the aftermath of the elections Kampong Cham province deserves particular attention. Although the situation varies from district to district, this province has been more seriously afflicted by election-related crime than any other in Cambodia. Efforts by the authorities to rein in armed gangs operating in Tbong Khmum district have made some recent headway with several arrests being made. These are welcome developments. However, sustained action on impunity and violence is also required for the new commune councils to be viable. Five of the deaths that have occurred during the pre-campaign and campaigning period have been in this province. Funcinpec candidates in Srolop commune have been unable to sleep at home or conduct election activities free from fear. A gang believed responsible for the murders in Srolop commune on November 14, 2001 of Sam Rainsy Party and Funcinpec activists has continued to terrorise local communities. The line between political and non-political criminality has become blurred to the point where, irrespective of motives, incidents — including accidental deaths — are causing alarm among the electorate. That criminality and politics should overlap to this extent is a matter for serious concern. Violence and intimidation must not be allowed to frustrate the functioning of the new commune councils in the months ahead.

The Prime Minister's mid-January statements appealing for election calm, along with recent ministerial initiatives appear to have had good effect. The absence of serious violence during the first days of the campaign may be related to these. Recent arrests have occurred in at least two provinces, although these have not always been carried out in ways that accord with processes stipulated by law. Here the Special Representative makes several recommendations. First, it is important that judicial and criminal processes are conducted in full accordance with laws that are designed to protect the innocent as well as to punish the guilty. As the Prime Minister has pointed out on several occasions, rule of law should not be impeded by influence, affiliation or rank. Second, relevant authorities need to urgently and seriously investigate all allegations of violence and intimidation and bring those responsible to account. Third, all arrests must be made in accordance with the laws in force and be based on substantial incriminating evidence. Fourth, all trials should be held in accordance with internationally accepted fair trial standards. The constitutionally-guaranteed presumption of innocence should be respected in all cases. A central point here is that commune candidates and political activists must be allowed to exercise their elementary political rights, and be afforded complete protection, regardless of their political affiliation.

Accidental Deaths

Thus far the COHCHR has not found evidence linking several fatal road accidents that occurred during the campaign period to political crime. However, and as recommended in my January 11 report, the authorities must investigate such deaths thoroughly and without prejudice, and be seen to be doing so. Better cross-party cooperation would aid this process. More generally, it should be noted that when government officials declare a death to be non-political before it has been fully investigated, their act of doing so creates a bias that instantly politicises it. Tackling impunity requires that investigating authorities be allowed to reach their conclusions free of such interference.

Avoiding Post-Election Problems

During the national election in 1998, fear of retribution prompted a significant number of those candidates who lost to flee their villages and seek protection from party offices at the provincial level and in Phnom Penh. This pool of aggrieved people provided fuel for post-election protests. In light of this history and the violent way in which these protests ended, the Special Representative is very concerned about the potential for violence in some locales after the election. The government is urged to make an immediate and unequivocal statement that retribution against either winners or losers will not be tolerated. All political parties should exercise restraint so that the outcome of the elections is accepted without conflict. It is equally vital that the NEC, which is tasked with resolving complaints, is seen to be tackling these with transparency and fairness. No undue interference should be allowed to influence this process.