



## **PRESS RELEASE**

### **Statement by the United Nations Special Rapporteur on the situation of human rights in Cambodia, Professor Surya P. Subedi**

Phnom Penh, 03 June 2011

I am about to complete my fifth human rights fact-finding mission to Cambodia. The present mission was an extension of my previous mission that took place in February this year. In addition to monitoring the situation of human rights in the country in general, I have focussed the present mission on the continuation of my examination of the role of parliament as part of my attempt to carry out an assessment of State institutions responsible for upholding people's rights. I interacted with a broad range of people from various walks of life, including the President of the National Assembly, leaders of other political parties represented in parliament, a number of members of parliament, various Government officials, representatives of UN and donor agencies, diplomats, representatives of NGOs and trade unions, as well as private citizens. I also visited the Boeung Kok Lake site where a large number of families are facing the threat of eviction, the Khan Sansok site where families have been forcibly removed as recent as last week, and met with an individual jailed on incitement charges.

While the general situation of human rights has progressed in certain areas, it has not improved much in others. Examples of the latter are land rights and evictions, and freedom of speech. Because of the fear of possible charges of defamation, disinformation and incitement against them, many people such as journalists, human rights defenders and political activists seem to be resorting to self-censorship. I am concerned by the use of such charges against land activists and individuals making claims on disputed land. I am dismayed to hear about disproportionate use of force by law enforcement officials during peaceful protests by individuals involved in land disputes. For instance, the violence against the demonstrations by the residents of the Beoung Kok Lake area in April 2011 was regrettable. I am, however, encouraged by the recent dialogue between the remaining communities of Beoung Kok Lake and the municipality of Phnom Penh and look forward to a mutually agreeable settlement.

I was also encouraged by the consultations carried out by the relevant Ministries on the draft laws on NGOs and trade unions with the concerned parties. It was a good practice and I hope that this will be replicated in other areas. However, consultations need to be meaningful and I hope that the final drafts of these laws incorporate the suggestions made during the consultations, so that the laws enacted will enable the concerned associations to strengthen their activities rather than restrict them.

With regard to parliament, I was encouraged by the progress made by the country to develop parliamentary practices within a relatively short period of time. Bearing in mind that the country has enjoyed real political stability only since 2003, the achievements made since then are commendable. However, there remain a number of shortcomings in the workings of Parliament in general and the National Assembly in particular. To begin with, the law-making process on the whole should be more transparent. The notions of pluralism and liberalism enshrined in the Constitution

were designed to ensure a space for all to participate in the process of democratisation and nation-building.

The letter and spirit of the Constitution require any ruling political party regardless of its strength in parliament to respect pluralism, liberalism and human rights. Accordingly, no political party, even when it has two-thirds majority in parliament, should enact laws which narrow down the scope of human rights guaranteed in the Constitution. In spite of this, there have been a number of pieces of legislation adopted in the recent past (and some regulations and sub-decrees) which have tended to narrow down the scope of people's rights. The ability of Parliament in Cambodia to restrain the executive to this effect has been limited. For democracy to work properly, all individual members of parliament should be able to exercise their freedom of speech. Some of the current internal rules of procedures 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.

Democracy is about dialogue and debate on all issues of national importance, and this is especially so in the case of parliament which by definition is a chamber where members of parliament can debate freely any issues of national importance. It is for this reason that they have been accorded parliamentary immunity. However, 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 MPs lifted, even for speaking out on issues of national importance. Further, many of these MPs have not been given an opportunity to make a representation in their defence which goes against the basic principles of natural justice, let alone international human rights standards. A properly functioning democracy requires effective checks on the executive and on the majority.

Parliamentary practices are being developed but it seems to be taking time to accept the need for an effective opposition. A properly functioning parliamentary culture is what the country needs to move forward. What is needed in Cambodia is a political will to accelerate the process of democratisation of the society. The institutions that are needed to implement the democratisation process are already in place but the process of building these institutions as effective, independent and impartial State institutions has been frustratingly slow.

Moving on to the judiciary, there have been a number of instances of rough justice and people who should not be in prison in a properly functioning democracy *are* in prison. There has been an instance in December 2010 where a person was arrested on a Friday on charges of incitement and was tried and convicted during that very weekend when courts are normally closed. The fact that it took about two days from arrest to conviction and on a weekend casted a serious doubt on the ability of the court concerned to meet the standards of a fair trial required by international human rights standards. With regard to the Extraordinary Chambers in the Courts of Cambodia (also known as the Khmer Rouge Tribunal): I continue to maintain my position to refrain from commenting on matters which are currently *sub judice* before the tribunal. However, I would urge all officers of the court to ensure they provide an example of a fair and credible justice process for the Cambodian people.

These are some of the examples of challenges facing the country and my approach has been to work with the Royal Government in a constructive manner and in a spirit of cooperation. It was for this reason that my last report to the UN Human Rights Council focussed on the judiciary and included a series of recommendations designed to enhance the capacity and independence of the judiciary and to decriminalise defamation and disinformation unless it poses a serious threat to national security and public order. The Government interlocutors have assured me that they are studying my recommendations and are speeding up the legislative programme to strengthen the judiciary. I am, for example, encouraged by indications that the long delayed organic laws on the judiciary are finally moving forward.

Finally, I have had a good level of cooperation from the Royal Government, Parliament and other stakeholders in the Cambodian society and look forward to continuing my cooperation with them. I will be submitting my next report to the UN Human Rights Council soon in which I intend to outline my recommendations to strengthen the capacity and independence of Parliament.

I thank the Office of the High Commissioner for Human Rights for the logistical and technical support to my work. I take this opportunity to underline the importance of the presence of the Office in the country for the continued promotion and protection of human rights.

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*Professor Surya P. Subedi was appointed by the UN Human Rights Council as the UN Special Rapporteur for Human Rights in Cambodia in March 2009. He is currently Professor of International Law at the University of Leeds in the United Kingdom.*

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