

**Statement of the Special Rapporteur on the Situation of Human
Rights in Cambodia**

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Mr President, Excellencies, Ladies and Gentlemen,

I have the honour to address the Council to provide a brief account of the progress made and the challenges remaining in the promotion and protection of human rights in the Kingdom of Cambodia during the 12 months since I addressed the Council last year. It is based primarily on the information that I obtained during my two missions to the country, information received from various independent and credible sources and the communications received from the Government.

At the outset, I wish to note that I was very pleased to receive comments from the Government to my report this year. However, since they were communicated to me too late to be reflected in my report, they have been made available as a G document for your reference.

Since my appointment as the Special Rapporteur on the situation of human rights in Cambodia by the Human Rights Council in March 2009, I have produced four substantive and substantial reports with a thorough analysis of the situation of human rights and a series of constructive recommendations, designed to assist the Government with their reform agenda and the process of democratization. Having focused on judicial, parliamentary and electoral reform and on the human rights impact of economic and other land concessions, I felt the time was ripe to take stock of the progress achieved on the implementation of the recommendations I had made in these reports and identify the remaining challenges. Therefore, rather than taking up a new thematic focus, I focused my last two missions to the country –one conducted in December 2012 and the other in May 2013 – on monitoring the human rights situation in the country and on the follow-up to my previous reports. The spirit in which I undertook this exercise - as I have always done with respect to the implementation of my mandate- was a constructive one, designed to assist the Government in identifying areas of progress as well as the remaining challenges.

Regrettably, my mission to the country in December 2012 was met by a frosty reception during which no senior official was available to meet with me. Earlier, I had also been subjected to some raw remarks descending to the personal level. This was highly regrettable, as it is my firm belief that the focus of the dialogue between the Special Rapporteur and the Government should remain strictly on the substance of the work mandated by the United Nations, and not on me as a person.

For whatever reason, however, there seems to have been a change of mind on the part of the Government and they cooperated with me during my mission to the country in May 2013. I met with a broad range of stakeholders, including senior members of the Government who were forthcoming with information, were prepared to acknowledge deficiencies where they existed, and were willing to work with me in a constructive manner to address the remaining challenges concerning greater protection of human rights, stronger democracy and genuine rule of law in Cambodia. I was satisfied with the level of engagement and dialogue with various government interlocutors; the dialogue was candid, cordial and constructive.

While the private meetings with senior officials were constructive, regrettably, I was subjected to some unpleasant incidents. If the media reports are to be believed, these were staged protests designed to intimidate, harass and distract me from my focus on substantive issues. I was also subjected to baseless allegations of bias against the Government. They were all familiar lines of criticism and were reminiscent of the treatment meted out to my predecessors. While unpleasant, the experience did not distract me from the objectives of my mission and I continued to advocate the reform agenda of the national institutions responsible for promoting and protecting human rights.

In fact, it was in reaction to these incidents that I received tremendous messages of support for my work in Cambodia from people from various walks of life, especially the youth, by which I was greatly encouraged. The manner in which the youth were galvanized into action in my support in the face of the harassment meted out to me seems to have acted as a catalyst for the demand for change in Cambodia stating that 'enough was enough'. The future of Cambodia belongs to the youth and they have demonstrated their resolve to assert their rights and fight for democracy. This I find encouraging and gratifying.

I believe that when one puts oneself forward for any work in the defence of human rights, one is likely to encounter personal attacks and unfair allegations of bias. I knew this when I volunteered for this position. The wise will move with time and accept change. Those who do not heed the call would do so at their own peril since change will be thrust upon them. Leadership is about managing change through reform rather than resisting it. I am of the view that those who are on the wrong side of history will be punished by history.

Mr President,

Since I finalised my report on 23 July, Cambodia has held a general election on 28 July and witnessed some unprecedented developments. The impression I have is that political renaissance is underway in the country and change seems to be coming faster than one would have predicted even a year ago when I addressed the Council. In this statement, I wish to capture some of the historical shift in the political landscape in the country that took place prior to, during and after the elections.

Some of the major steps taken in a positive direction prior to the election were the release of Mr. Mam Sonando, a prominent human rights defender, and the granting of pardon to the leader of the opposition, Mr. Sam Rainsy, paving his return to the country from exile in France to participate in the political process. The election that took place was largely peaceful, and the significance of this cannot be understated.

My note of optimism was however dampened by allegations of massive electoral irregularities and the failure of the Government and the National Election Committee to facilitate prompt, impartial, transparent, credible and thorough investigation of the alleged irregularities. While I welcome the commitment of the authorities to upholding the Constitution and the institutions and mechanisms established under it, I would stress that adhering to the Constitution means more; the part of the Constitution that should be upheld

first and foremost are the values it embodies of respect for human rights, human dignity and democracy. Insistence on conformity with only the formal mechanics of democracy at the expense of fundamental human rights would be a negation of the very purpose of the Constitution. Any insistence that only the existing mechanisms can adjudicate complaints despite their inability to deliver fairness and transparency only highlights the need for reform in my view, not denial. In this connection, I recall my own recommendations for electoral reform contained in my report to the Council in September 2012, most of which had not been adopted before the polls.

Every country that undergoes a transition to democracy faces a moment when the rules must change. Cambodia is facing such a moment now. Ultimately, however imperfect they may be, the officially announced results of the election show that just over half of the population voted for one party and just under half for another. For the National Assembly to be truly representative of the whole of the Cambodian people and for it to be concluded that the right to vote was effectively exercised on 28 July, it is critical for it to be composed of both elected parties.

However, I note that the opening of the National Assembly yesterday took place in the presence of only one party. Dissatisfaction with the dealing of complaints of electoral irregularities led the opposition to boycott the opening session. I deeply regret the failure of the two parties to reach an agreement before yesterday, and more so regret that the opening proceeded nonetheless.

One party has floated the idea of reallocating seats that were legitimately won by the opposition through a vote to another political party. I submit that this would have no basis in either national or international law.

The authorities can seize the opportunity to demonstrate that they have understood the will of at least the half of the population that has voted for change by leading that reform effort, embracing the difficult changes necessary for the country to modernize, or it can decide that it needs to quell discontent, with all the consequences that that would bring. The opposition has likewise harnessed and focused the popular will for change in a way that has never before been seen in Cambodia's modern history. The true impact of its success, however, remains to be seen. While the irregularities must be dealt with, the opposition must also come forth and demonstrate that it has a concrete plan for achieving all it has promised. For the current impasse to be resolved without further delay, I urge dialogue to continue, at an appropriate decision-making level.

As the people of Cambodia grappled with a period of uncertainty in the aftermath of the elections, the fervent hope of many Cambodians had been that the situation would remain peaceful. Thus it came as a shock that, just over a week ago, as ordinary people in Phnom Penh took to the streets again to voice their discontent, security forces clashed with the protestors, leading to one tragic death of a bystander and injuries to dozen more. While I note the general restraint exercised by the authorities in the use of force in the past weeks, I am gravely concerned by what appears to have been indiscriminate and excessive use of force

against protestors in this instance. I am particularly concerned by the reports that the security force personnel had fired live ammunition and in some instances into the crowd, and that several individuals, including teenagers, were beaten severely with truncheons. I am also concerned by the forcible removal by hundreds of military police of a peaceful gathering around a hunger strike began by Prince Sisowath Thomico at Wat Phnom last Friday. I am moreover alarmed by reports that on the night of 22 September, another peaceful gathering of activists protesting forced evictions at the Boeng Kek Lake area was forcefully dispersed by a group of persons in plain clothes, in visibly close coordination with the police present. About a dozen persons were said to have been beaten, struck with marbles fired from slingshots, and hit with stun guns and electric batons.

In urging the authorities, in the strongest possible terms, to refrain from further use of violence, I underscore that peaceful assembly is a human right, subject only to restrictions which are strictly necessary in a democratic society. While the law enforcement has a duty to ensure safety and public order, they must be mindful that any use of force must be subject to the universal principles of legality, necessity and proportionality. I also call upon the authorities to allow any planned demonstrations and, indeed, daily life to proceed without further restrictions. In this regard, I regret to say that it seems yet to be understood in Cambodia that an inherent part of the democratisation process is for all persons to be able to express their views freely and that the role of the State in peaceful demonstrations is to facilitate, not hinder, them.

Having said this, I continue to believe that the leaders of Cambodia can still, even at this late stage, make this election a milestone in the journey to making Cambodia a just, equitable, and free society. It is my sincere hope that in the process, the situation will be resolved without further injuries or loss of life, and that the will of the people will be reflected in the new governance structure that will lead the country on its path to a true democracy.

It is what I have witnessed during this extraordinary election period that leads me to be hopeful. I would not have predicted three months ago that the leader of the opposition would have received a royal pardon and thus be allowed to return to Cambodia, that the safety packages of ballots would have been ordered to be opened, or that such massive demonstrations would have been allowed to take place almost unimpeded, until recent events.

With such encouraging developments on the whole, I am hopeful that human rights, justice and transparency in Cambodia will indeed be strengthened in meaningful ways. To do so, what are needed are not discretionary gestures but fair rules, implemented fairly. A joint statement of commitment by both the political parties to achieving concrete reforms in priority areas would go a long way in reassuring the international community and the Cambodian people that the nation is truly, finally, on the road to democratization. My reports on judicial, parliamentary and electoral reform can serve as guidelines to parliamentarians from both political parties.

I regret that time does not allow me to comment on other equally pressing human rights issues in Cambodia, particularly on land and housing rights, labour rights, impunity, freedom

of information, and many others affecting daily life. I shall simply here refer the Council to my reports.

Mr President,

To conclude, it is my assessment that Cambodia has come a long way since the conclusion of the Paris Peace Agreements in 1991 and adoption of the new Constitution founded on liberal democratic values in 1993. However, Cambodia still has some way to go in promoting and protecting human rights, strengthening good governance, enhancing the independence and capacity of State institutions responsible for upholding people's rights. I am encouraged by the frank acknowledgement of this by government interlocutors during my mission in May 2013.

The international community has invested heavily in Cambodia since the conclusion of the Paris Peace Agreements and the first democratic elections held under the auspices of the United Nations Transitional Authority in Cambodia in 1993. The wish of the State parties to the Paris Peace Agreements and the national stakeholders that participated in the Paris Conference on Cambodia was to see the development of a liberal democracy. Having seen the authorities, who exercised considerable restraint for weeks, again resorting to old tactics that violate basic civil rights in the past few days, I believe it is clear that Cambodia today stands at a crossroads. Here I see an important role for the international community, including that of my mandate, to continue in assisting the people and the Government of Cambodia take the road towards a fuller liberal democracy underpinned by sustainable peace and equitable economic development.

Thank you for your attention.

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