



END OF MISSION STATEMENT
United Nations Special Rapporteur
on the situation of human rights in Cambodia
Professor Rhona Smith

Phnom Penh, 9 May 2019

Check against delivery

I have now completed my seventh mission in my capacity as United Nations Special Rapporteur on the situation of human rights in Cambodia. I would like to thank the Government for its invitation to visit and the willingness of so many State officials to meet with me and discuss openly human rights and sustainable development in Cambodia. I would also like to record my appreciation of the dedication and hard work of all staff of the Office of the High Commissioner for Human Rights (OHCHR) in Cambodia and in Geneva, who have so ably organised and supported this mission.

During this mission I had the privilege of meeting with a number of senior officials, in particular Samdech Krolahom Sar Kheng, Deputy Prime Minister and Minister of Interior, H.E. Chea Sophara, Deputy Prime Minister and Minister of Land Management, Urban Planning and Construction, H.E. Prak Sokhonn, Deputy Prime Minister and Minister of Foreign Affairs and International Cooperation, H.E. Chhay Than, Senior Minister and Minister of Planning along with H.E. Hang Lina, Director General of the National Institute of Statistics, H.E. Ang Vong Vathana, Minister of Justice, H.E. Mam Bunheng, Minister of Health, H.E. Vong Sauth, Minister of Social Affairs Veterans & Youth Rehabilitation, H.E. Khuong Sreng, Governor of Phnom Penh, H.E. Keo Remy, President of the Cambodian Human Rights Committee, H.E. Kheang Seng, Deputy President of Anti-corruption Unit, and H.E. Meas Vyrith, Secretary-General of National Authority for Combatting Drugs.

I was pleased that many senior Government ministers took the opportunity to share information on progress in response to my previous recommendations as well as updates since my last mission. I also met with a wide range of relevant stakeholders, including representatives of civil society, the diplomatic community and the UN Country Team. In addition I met with a number of people and groups who submitted petitions or requested meetings with me. Most of these petitions concerned land rights; others related to freedom of expression and assembly.

For this mission, I continued my focus on the UN Sustainable Development Goals. An important development since my last mission has been the adoption of the Cambodian Sustainable Development Goals localisation plan. I have carefully reviewed this document and I note the linkages to the Government's Rectangular Strategy Phase IV and the forthcoming National Strategic Development Plan.

Human rights anchor the 2030 Agenda for Sustainable Development and the Sustainable Development Goals and they should similarly anchor the Cambodian Sustainable Development Goals. There are many aspects of the localization plan that reflect a wide range of civil, cultural, economic, political and social rights.

However, some important human rights aspects of the SDGs do not appear in the localization plan. Most significantly, the localization plan radically reduces the targets and indicators related to SDG 16 on ‘peace, justice and strong institutions’. This substantially reduces Cambodia’s ambition to achieve access to justice for all, ending violence, combatting corruption, strengthening the rule of law, ensuring participatory decision-making, ensuring access to information and protecting fundamental freedoms, enforcing non-discriminatory laws and building strong national institutions. Human rights are essential to ensuring peace and development. As I have stated before, peace without justice is unsustainable, development without freedom leaves people behind.

I was encouraged in official meetings by the willingness to open the localization plan and include more human rights-related targets and indicators. **I therefore strongly encourage the inclusion of more and more ambitious targets in the localization plan that relate to SDG 16. I also encourage much deeper engagement of the Ministry of Justice, the Anti-Corruption Unit and the Ministry of Land Management, Urban Planning and Construction to ensure that key policies are captured in the sustainable development goals’ localisation.**

The Government will present its **Voluntary National Review (VNR)** of its implementation of the SDGs to the United Nations this July in New York. I understand that the national VNR report is in the final stages of preparation. The VNR provides an opportunity for the Government to tell on the global stage the story of its remarkable period of rapid development from its tragic past only decades ago. I am encouraged by the inclusion of civil society in the process of preparing the report and I encourage the Government to continue consulting with civil society in the finalization of the VNR report and to reflect their contributions in the final version. This will help to demonstrate that such participation has been meaningful. It can also lead to stronger partnerships in implementing the CSDGs. With the adoption of the report of Cambodia’s third Universal Periodic Review by the Human Rights Council in July, I encourage the Government to approach these reviews as complementary. **I reiterate my recommendation that the Government holds a national conference, with the UN and civil society, to follow-up on these reviews.**

NON-DISCRIMINATION AND EQUALITY – LEAVING NO ONE BEHIND

An overarching principle in the SDGs is to **leave no one behind**. The principle is reflected throughout the SDGs and is particularly relevant to the goals of gender equality (SDG5) and reduced inequalities (SDG10) as well as the promotion and enforcement of non-discriminatory laws and policies (in SDG 16). **The identification of those at risk of being left behind should be comprehensive in scope. Importantly, it includes, but must go beyond, only the poor and the near poor.**

Those at risk should include a broad range of individuals and groups including, but not limited to women, children, indigenous peoples, asylum seekers, refugees, persons in street situations, drug and substance-users with dependency issues, persons in detention, persons with disabilities, people evicted from their homes, the Khmer Islam, ethnic Vietnamese and Khmer Krom communities, LGBTI persons, informal sector workers,

migrant workers and older persons. Those at risk of being left behind might also be present in greater numbers in specific regions and Provinces. The **census** was undertaken in March with the provisional report due for release in June. I trust that this will provide further data that could help identify with greater clarity those at risk of being left behind. **I encourage the Government to identify comprehensively those at risk of being left behind and to develop targeted CSDG programmes to ensure their inclusion in development efforts.**

During this mission, I have focused in particular on the situation of **drug and substance-users with dependency issues**. I have sought to gain a deeper understanding of treatments offered in Cambodia. I visited Meanchey District Referral Hospital and Orkhas Khnom Drug Rehabilitation Centre and I met with H.E. Mam Bunheng, Minister of Health, H.E. Vong Sauth, Minister of Social Affairs Veterans & Youth Rehabilitation and H.E. Meas Vyrith, Secretary General of the National Authority for Combating Drugs. I learned of the methadone treatment service for opiate users, a service available in only three hospitals. I also learned more of the scale of the use of amphetamine-type stimulants.

I welcome the steps that the Government is taking to improve the treatment of drug and substance-users with dependency issues and prioritise community-based treatment, although it is not fully reflected yet in the CSDGs. A year ago, the Ministry of Health adopted the Clinical guidelines on Minimum Packages of Activities for Health Centres. The Ministry is also providing training for community-based counsellors. I welcome the emphasis on reintegrating the person into their community - it is important that affected persons are provided with vocational training opportunities and that there is no discrimination against them when they then seek reintegration, including at work.

However, I am concerned with the ongoing reliance on closed drug rehabilitation centres such as Orkhas Khnom, where persons are usually admitted with the consent of their family and, crucially, are only released if both their own consent and that of their family is secured. Whilst I understand the importance of completing rehabilitation programmes, this raises a concern that people in those centres are there involuntarily which requires appropriate authorisation and oversight. Human rights principles on drug treatment demand voluntary evidence-based treatment in the community rather than compulsory treatment in closed settings.

I also visited the Phnom Penh Social Affairs Transit Centre, also known as Prey Speu. The individuals held in the Centre have not been charged with any criminal activity, raising concerns of arbitrary detention. I call on the authorities to protect against any arbitrary detention in the Centre. In addition, I call on the relevant Municipal and National authorities to implement the agreed recommendations of the 2015 National Conference on the Situation of Persons in Street Situations and to work closely with the United Nations Country Team and relevant civil society organizations in this regard.

During this mission, I undertook a follow up **field trip to Kampong Chhnang**, revisiting people from floating communities whom the Provincial Government has been relocating to land. These villagers are Khmer, Khmer Islam and ethnic Vietnamese. They are poor and also at risk of being left behind. Many are living on temporary, and some on permanent, relocation sites. Any relocation site must have water, sanitation, electricity and transport infrastructure and offer access to an appropriate livelihood to support an adequate standard of living.

I was deeply concerned that the level of solid/plastic waste and non-secured wastewater at temporary relocation sites, especially at Chhnok Trou, will lead to serious pollution when the water rises imminently and have a negative impact on the right to health of the inhabitants. I am also concerned that many of the relocated houses at the temporary sites and even at some permanent relocation sites are currently below the high water line but may no longer be able to float when the water inundates the land.

I am reassured that the Provincial authorities have agreed not to relocate any more communities to permanent relocation sites until the proper infrastructure is in place. I encourage the authorities to ensure that all the temporary and permanent relocation sites affecting all the communities have the necessary infrastructure.

Finally, people with uncertain land title or who have been evicted from their land are at risk of being left behind. I welcome the advances in land titling and in resolving land disputes. However, I call on the Government to ensure that solutions are comprehensive in nature, covering all relevant individuals, and that the process for resolving disputes is transparent. In particular, it is imperative that solutions take into account other claims on land, including of indigenous communities, so that compensation for one dispute does not lead to further disputes.

PARTICIPATION

The SDGs encourage meaningful participation at several levels. SDG 17 highlights the importance of partnership, including with civil society, in SDG implementation. SDG 16 highlights responsive, inclusive, participatory and representative decision-making at all levels.

I am encouraged by some of the positive steps that have taken place since my last mission. These include in particular the start of a process to amend the Trade Unions Law and a repeated openness to review the Law on Associations and NGOs, the holding of the second national Partnership Forum with Civil Society Organisations in January, and the clear instruction to provincial authorities to organise similar consultations within their jurisdictions. As noted above, I am aware of consultations with civil society in the preparation of the VNR report.

I acknowledge as well that overall the instructions of October and November last year repealing the three-day advance notification appears to be implemented. However, I regret that not all Associations and NGOs are enjoying the ‘full freedom and rights to operate their activities in the Kingdom of Cambodia without obstruction’ in accordance with applicable laws as promised by the Ministry of Interior instructions. Indeed, I have received many reports of local police coming uninvited to events, trainings or meetings, in order to take pictures, enquire about organisers and agenda or demand names and information on participants. I have received too information of civil society representatives and their families being closely monitored.

I consider such police surveillance is not in line with the spirit of last year’s instructions and statement on promoting genuine partnership with civil society. I encourage organisations facing such challenges to use the mechanism established by the Government and systematically report these incidents for information and corrective action. I have also asked the Minister of Interior to reinforce his message on an enabling environment with the authorities at subnational level.

I have been particularly attentive to the general narrative on human rights and human rights advocacy. In that respect, I regret that working and advocating for the promotion and protection of human rights continues to be equated with being part of, or supporting, the political opposition. Sadly, this applies to my mandate as well as Cambodian human rights organisations. In all countries, human rights issues may be politically sensitive, and political and civil rights are by essence related to the political space. However, the language of human rights should be seen as the language of everyone, both the Government and the people. And while the promotion and protection of human rights is a shared responsibility, it is legitimate that civil society holds Governments, the main duty bearers, to account for their actions and policies.

I therefore hope that in the spirit of a genuine partnership with civil society, in all aspects of development, the future Civil Society Forums will allow for the building of trust, respect and dialogue between Government and all civil society stakeholders, including those active in advocacy.

In the same spirit, I reiterate my encouragement to the Government in particular at sub-national level, to strengthen respect for freedom to peaceful assembly. I acknowledge gatherings pertaining to land cases, in particular of communities coming to Phnom Penh to petition relevant authorities, have been allowed to take place. However, I note that permission for marches on Human Rights Day, International Women's Day and International Labour Day were refused on the grounds of potential disruption to traffic. I recall that the Implementation Guide to the Law on Peaceful Demonstration indicates that disruption to traffic is not normally a ground to refuse a request to march. **All persons have the right to peaceful assembly and association, including celebrating international and nationally observed days. Any restrictions must be absolutely necessary and reflect the guidelines accompanying the Law on Peaceful Demonstrations.**

Moreover, I call on the Government to avoid the excessive use of force in the policing of assemblies. I welcome the reminder by the Minister of Interior that soldiers should not be used to police demonstrations and protests, and I urge the Government to ensure that inappropriate behaviour and practice are adequately investigated, sanctioned and prevented.

Meaningful participation in governance and development also includes the right to take part in the conduct of public affairs, directly or through freely chosen representatives. On that front, I had welcomed last November the royal pardon and release of opposition figures and called for the release of H.E. Kem Sokha from restricted detention and the swift conclusion of the investigation in his case. I note the amendment passed to the Law on Political Parties last December, allowing for individuals previously banned from political activities by the Supreme Court to request the restoration of their right by the King as per a request of the Prime Minister. I further note that nine of the 118 people who had been banned have decided to use such provision in the amended law and been rehabilitated.

However, since my last mission, I see few tangible improvements in the enjoyment of political rights. I remain concerned that pressure on former members of the dissolved Cambodia National Rescue Party appears to continue unabated. At least six convictions have been pronounced by Cambodian courts since my last mission against various former members and supporters of the party. I am also aware of actions taken by the police or the courts against some 80 former members and elected officials of the CNRP at the sub-national

level, including over 25 summons issued in Battambang over the last few days. Such actions in my view are not conducive to strengthening political rights and democratic space as envisaged by the December statement of the Government.

I am conscious of the frequently aggressive rhetoric from both sides and believe there is a need to change the political culture to one that focuses on issues rather than persons. This, together with judicial protection of freedom of expression, would help overcome the challenges of the current political situation for the benefit of all Cambodians. I also call on the Government to review the Law on Political Parties and the various electoral laws to bring them in line with international standards that Cambodia has ratified.

With respect to the ongoing detention of Kem Sokha, I note the Ministry of Justice's technical legal analysis that he is under judicial supervision with the judge applying measures to ensure his safety. According to international law, he remains under detention given the restrictions on his movement, surveillance of his family and friends when they visit and restrictions on who can visit. I was denied access to meet with him once again and I regret that the investigating judge was not available to meet with me. I am also concerned about his right to health and encourage the authorities to allow him to seek medical interventions. **I reiterate my call for the release of Kem Sokha from detention and the swift conclusion of the investigation or for the charges to be dropped.**

ACCOUNTABILITY

The SDGs and human rights standards require accountability in the form of promoting transparency and integrity in Government decision-making, providing information, budgeting, combatting bribery and corruption, and ensuring equal access to justice for all.

SDG 16 is the strongest reference to accountability, but **accountability is a principle that should apply across implementation of all SDGs.**

First of all, SDG accountability requires strong institutions that operate in a transparent manner and are open to public scrutiny in the way they deliver on the SDGs. In this regard, significant attention is needed to focus on combatting corruption. I was pleased to learn from the **Ministry of Justice** that all courts now prominently display the permissible fees for services. I encourage the Ministry to keep these displays updated and in prominent view. I am also pleased that the **One Stop Service Windows**, which the Minister of Interior explained to me last year, include publicly displayed notices of all fees which can be charged for services at the sub national level.

However, much more attention is needed to combatting **corruption** in Cambodia, as has been recognized by the Government's Rectangular Strategy Phase IV. Judicial institutions are particularly relevant in this regard, given that they themselves are key to ensuring accountability. I encourage the Ministry of Justice to examine in detail the issues of judicial integrity and corruption in the judicial sector.

Effective accountability also requires effective access to justice. Once again, I call for the speedy adoption of **the legal aid policy**. In addition to legal aid provided through the Ministry of Justice, the Ministry informed me of an additional fund to provide legal assistance to women. I encourage a coordinated implementation of various legal assistance funds that ensures legal support to those who need it most. The Ministry of Justice also updated me on plans for expansion of judicial service centres and the construction of regional

appeal courts. I expect these initiatives will help ensure justice is more accessible to all Cambodians.

I remain concerned at the prevalence of **pre trial detention** in Cambodia. While I welcome the indication of the Ministry of Justice to explore alternatives to custodial sentences, I urge the Ministry to encourage judges to use pre-trial detention only when absolutely necessary, in accordance with Cambodian Law. With over half of the prison population detained on drug related charges and convictions, and the Cambodian prisons severely overcrowded, it is more than ever essential to ensure that detention is the last resort.

Finally, effective accountability also requires a strong and free press. On **World Press Freedom Day**, I reflected on the significant engagement of Cambodians with social media and the importance of guaranteeing freedom of expression online and offline. The same freedoms and the same restrictions apply to both. The Government has highlighted the expansion of media in Cambodia but I have also observed the decline in sectors of media, and the general reluctance amongst many people I have met to speak out in public for fear of arrest or surveillance. **I take this opportunity to call on the Government to increase the space for a free press, including space for independent journalists to operate, and I repeat my call to lift the charges against the two former RFA journalists.**

To conclude, a clearer articulation of human rights in the Government's strategic development framework and practical actions will help support the country's rapid development, for it to be inclusive, peaceful and just, leaving no one behind. This would help all Cambodians, including those at risk of being left behind, and support the country's aspiration to be an "Oasis of Peace", based on democratic principles, human rights, focused on progress, development and prosperity.

Such an inclusive development is both a process and an outcome. A new political culture, focusing on issues, openness to different opinions, and free expression of ideas, would go a long way in ensuring a shared future that benefits all Cambodians. As Special Rapporteur, I remain committed to listen to all stakeholders in an impartial manner and support inclusive dialogue, as I continue to monitor and advocate for the enjoyment of human rights by all in Cambodia.

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.

Annex –

The Cambodia Sustainable Development Goals

The Cambodia Sustainable Development Goals (CSDGs) comprise the 17 global SDGs, with the addition of a local 18th goal on Mine and ERW action. National targets are still under development as part of the localisation plan.



UN Sustainable Development Goal 16 - Peace, justice and strong institutions

SDG16 Goal - Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

SDG16 Targets (global targets)

- 16.1 - Significantly reduce all forms of violence and related death rates everywhere
- 16.2 - End abuse, exploitation, trafficking and all forms of violence against and torture of children
- 16.3 - Promote the rule of law at the national and international levels and ensure equal access to justice for all
- 16.4 - By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime
- 16.5 - Substantially reduce corruption and bribery in all their forms
- 16.6 - Develop effective, accountable and transparent institutions at all levels
- 16.7 - Ensure responsive, inclusive, participatory and representative decision-making at all levels
- 16.8 - Broaden and strengthen the participation of developing countries in the institutions of global governance
- 16.9 - By 2030, provide legal identity for all, including birth registration
- 16.10 - Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements

SDG 16 Means of implementation

- 16.a - Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime
- 16.b - Promote and enforce non-discriminatory laws and policies for sustainable development