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ការិយាល័យនៃឧត្តមស្នងការទទួលបន្ទុកសិទ្ធិមនុស្សប្រចាំកម្ពុជា



**Workshop on Cambodia's implementation of the Optional Protocol
to the Convention against Torture (OPCAT)
Opening Remarks**

*Christophe Peschoux
OHCHR Representative, 22 January 2009*

Excellencies, ladies and gentlemen,

In 2006, the Royal Government reaffirmed its commitment to preventing torture by ratifying the Optional Protocol to the Convention against Torture, known as OPCAT. Cambodia can be proud to be one of the first countries in this region to ratify the Protocol and it is still the only ASEAN country to have done so.

This step was all the more significant because of the terrible suffering that torture has inflicted on the bodies and souls of its victims during the Khmer rouge period. This week, the ECCC has fixed the start date for the trial of Kang Kek Iev, alias Duch, who ran S-21, the CPK security centre where up to 20,000 people were torture and executed between 1975 and 1979.

Torture is not a thing of the past, nor an exclusive prerogative of Cambodia. It is a widespread human practice, and the combat against it, is never achieved. It will continue and should continue. It is a struggle between light and darkness within human beings. Setbacks can follow progresses and undermine them, as we have seen since the early 2000 with the resurgence of the issue of torture in the context of the so-called "war on terror". We remember the images from Abu Graib prison in Iraq or from Guantanamo. I was myself in Iraq at the time (2003) and was in the first team that visited prisoners in Abu Graib detained by US soldiers.

In Cambodia, torture stopped to be a state policy after 1979. Over the years, the practice has diminished, as efforts have been made to curb it. But it has not disappeared: we hear about instances of detainees in police stations being beaten to force them to confess alleged crimes. In the prisons, with some exceptions, it has stopped. **But to what extent does the practice of torture exist today in Cambodia?** To be honest, I think nobody knows for sure. This is because those who do it, do not report it. Those who know about it, in police stations or prisons, are afraid to report it. The victims are usually afraid to complain, out of fear of further punishment; and when brave men complain about it before the courts, they are usually ignored by the judges. Torture is thus a difficult issue to document and combat.

This brings me back to the OPCAT. It is a new human rights treaty. It sets up an innovative framework for ensuring that torture and other forms of ill-treatment cannot occur in a country through the creation of two parallel mechanisms:

- At the international level, it created a committee, called the Sub-Committee on Prevention of Torture (SPT). This committee is mandated to travel to countries that have ratified OPCAT in order to visit places of detention, assess the situation of torture, and advise the Government about steps that can be taken to curb it. It is made up of independent experts elected by States parties and we are honoured to have with us today one member of the SPT – Dr. Hans Draminsky Petersen – to give us a first-hand understanding of the work of the sub-committee.

- But an international committee can only come to visit a country once in a while. Therefore, in order to ensure a regular monitoring of the treatment of detainees, the OPCAT proposes in each country the creation of a national body – referred to as a **National Preventive Mechanism** (NPM). Its function is to undertake regular visits to places of detention (prisons, police stations, and any other place where authorities hold people against their will) in order to ensure that torture and ill-treatment cannot happen. Like the SPT, this national body must be made up of **independent** members who are carrying out their work **competently** and **impartially**.

The purpose of this workshop is to explore how Cambodia can best establish this NMP.

I know that some people doubt that it is possible for Cambodia to create a truly independent institution. They say there is no history of independent institutions in this country, that Cambodia is not ready for such an institution, and that the Government will not allow for such a body to operate independently.

The most important principle guiding the work of a NPM is its **operational independence**. While established by law, and funded on state budget, the NMP is expected to operate independently. This is required by the Paris Principles. What does it mean?

It means that its members, when they visit prisons, and investigate allegations of torture, should do it **honestly**, in order to **find and establish the truth**, and not to protect perpetrators of officials implicated into it. If torture happened, they should document it and report it; if it does not, they should say so.

If the function of the NPM is to **eliminate torture**, it must confront the truth about it, which is the only way to address it. This is the **condition for its credibility** in everybody's eyes: the victims, the perpetrators, the Government and the public.

Its credibility is indispensable to be able to operate. If it is not seen as honest and impartial in its work, victims will not cooperate with it, and perpetrators will ignore it. And if torture occurs, will continue. What will be there is another bureaucratic institution that will protect torture and perpetrators.

I do not think that this is what the Government wants. I do not think that this is what detainees expect. I do not think that this is what Cambodians want.

The establishment of a truly independent NPM is an opportunity to institutionally turn the page of history, and demonstrate to law-enforcement personnel and detaining authorities, to the Cambodian people, but also to the region and the world, that torture is a thing of the past and will no longer be tolerated in this country. I know that this is already the policy of the Kingdom: a NPM would help translate this policy into practice. This would make Cambodia one of the champions in the international struggle to combat torture.

In this endeavour, our Office, the Office of the United Nations High Commissioner for Human Rights, has been assisting the Royal Government, and you can count on our continued constructive support.

We wish this workshop every success.

Thank you.