



PRESS RELEASE

Statement by the United Nations Special Rapporteur on the situation of Human Rights in Cambodia, Professor Surya P. Subedi

Phnom Penh, 17 June 2010

“The judiciary in Cambodia is facing tremendous challenges in delivering justice for the people of the country, especially the poor and marginalised,” said Professor Surya Subedi, the UN Special Rapporteur on the situation Human Rights in Cambodia, speaking in Phnom Penh today. He welcomed the adoption of a series of new laws in recent years, including a new penal code, an anti-corruption law, and a criminal procedure code, which are designed to strengthen the system of justice. “However, a combination of a lack of adequate resources, organisational and institutional shortcomings, a lack of full awareness of the relevant human rights standards, and external interference, financial or otherwise, in the work of the judiciary, has resulted in an institution that does not command the confidence of people from many walks of life,” the Special Rapporteur added.

Wrapping up his ten-day fact-finding mission on the functioning of the judiciary in Cambodia on Thursday, Professor Subedi concluded that “there are an alarmingly high number of people in detention due to various shortcomings in the criminal justice system, and the instances of miscarriage of justice are far too numerous. The constraints on the judiciary’s ability to act according to its mandated role in the constitutional order of Cambodia are manifold; while some are related to gaps in their capacity to deliver justice (including funding, infrastructure and training), other constraints are linked to gaps in their knowledge of human rights law, hindering their ability to interpret the laws in accordance with international human rights standards. Many judges may have the necessary commitment to deliver justice according to the law, but for many this commitment is compromised by external interference, and for others the commitment is just not there.”

While considering the overall state of the judicial system in Cambodia, Professor Subedi also looked at the performance of the judiciary in particular areas of law. He raised specific concerns relating to the judiciary’s role in protecting freedom of expression, and in cases involving land-related rights.

“I am troubled by the impact of land disputes, land concessions and resettlements on the lives of ordinary people, both in rural and urban areas; miscarriages of justice; and the narrowing of political space for critical debate in society, due to the disproportionate use of defamation, disinformation and incitement lawsuits against journalists, human rights activists and political opponents,” he observed. “I call on the Royal Government of Cambodia to introduce appropriate measures to enhance the independence and capacity of the judiciary to enable it to function as an institution capable of providing justice to all in Cambodia. If you are poor, weak and dispossessed of your land, you seem to have limited chance to obtain redress either through existing administrative land management systems, or through the courts.”

Professor Subedi noted the commendable achievements made by Cambodia in a number of areas, and encouraged the Government to push ahead with its programme of action to enhance and strengthen the judiciary and to improve the situation of human rights. He further commended Cambodia for being one of very few countries which have accepted all 91 recommendations of the United Nations Human Rights Council earlier this year, as part

of the four-yearly Universal Periodic Review. He added that now the time had come for the Government to come up with a strict time-table to implement these recommendations in a meaningful manner, and offered his assistance to the Government in this regard. He encouraged the Government to work with other major stakeholders, including civil society organisations, in following up these recommendations.

During his mission Professor Subedi had an audience with His Majesty King Sihamoni, who chairs the Supreme Council of Magistracy, a body entrusted, among other things, with the task of recommending the appointment of judges and taking disciplinary action against incompetent and corrupt judges. He also met with His Excellency Deputy Prime Minister and Foreign Minister Mr Hor Namhong; the President of the Cambodian Human Rights Committee, H.E. Mr Om Yentieng; the President of the Supreme Court, His Excellency Dith Munthy; and other judges, prosecutors and government officials, as well as civil society representatives and victims of human rights violations. He highly appreciated the willingness on the part of his interlocutors, both in the Government and the judiciary, to acknowledge shortcomings and engage in a meaningful and constructive dialogue with him about change and reform.

Professor Subedi will be submitting a report containing his detailed recommendations on judicial reform and other measures to be taken in Cambodia to the United Nations Human Rights Council, at its next session in Geneva in September this year.

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Professor Surya P. Subedi is a Professor of International Law at the University of Leeds, a Barrister in England, and an Advocate in Nepal. The Special Rapporteur is an independent expert appointed by the United Nations Human Rights Council to follow and report on the human rights situation in Cambodia.

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