

## SITUATION OF HUMAN RIGHTS IN CAMBODIA

Presentation of Report to the 53<sup>rd</sup> Session of the Commission on Human Rights  
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Human Rights in Cambodia

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I have the sad duty to report to you a most tragic event in Cambodia three days ago. Four grenades were thrown into a peaceful group of demonstrators in Phnom Penh Sunday morning. The effect was horrendous. Seven persons were instantly killed in the massacre. Others die on the way to the hospital or soon after arrival. The present count is 16 dead. The figure could rise as there are several seriously wounded among the more than 100 injured.

The demonstration was formally authorised by local and central authorities. It was organised by an opposition party, the Khmer Nation Party. Its leader Mr. Sam Rainsy had just spoken to the about 150 demonstrators about the need to reform the justice system and passed the microphone to another speaker. Soon after came the explosions.

This bloody attack was the worst case of political violence in Cambodia since the elections in 1993. It came when the political parties had begun to prepare for the forthcoming elections. Already before the grenade attack, I and other UN representatives had expressed concerns about the slow movements towards building guarantees that both the commune and the national elections be genuinely free and fair.

One condition is that strong measures are taken to curb political violence. There have been a number of reports from some provinces about intimidation of party offices and activists. The Buddhist Liberal Party leader Son Sann and some of his supporters were targeted in a grenade attack 18 months ago. Another example is the assassination of the political journalist Thun Bun Ly 11 months ago. None of these cases of political terrorism has been clarified, no one has been prosecuted and punished for the crimes. This in itself has threatened the democratic atmosphere.

It seems important now that the Cambodian parties across the political spectrum agree on a common platform to end political violence. This would require measures to impose discipline on all military, police and irregular forces under their control.

Likewise, it is essential that the parties agree on the basic rules for the political campaign. The legal framework for the elections must be agreed upon and adopted by the National Assembly. Still there are no election laws and no law on political parties. The latter has caused a dangerous confusion about the legality or not of Khmer Nation Party, which is a new party. This in turn has been used as a reason for intimidating the party in some provinces.

Agreement is also required on measures to ensure that the election commission be truly independent, that the monitoring will be effectively organised and that the Constitutional Council will be convened in order to resolve election disputes.

Another constructive step would be to ensure a full and impartial investigation into the massacre last Sunday. It is indeed positive that the two Prime Ministers have already agreed on a Commission of Inquiry. The professionalism and impartiality of this investigation are essential. Previous politically-motivated crimes were not seriously investigated. This time the inquiry has to be pursued no matter where the evidence leads.

This brings me to another subject of concern: the functioning of the justice system. There are a number of problems in this area. The courts are ill-equipped in regard to both human and material resources. Bribery is widespread throughout the court system. Political and military authorities do not respect the independence of the judiciary; in fact, it is not uncommon that pressure is exerted against the judges. My impression is that people at large have little trust in the system, this credibility gap in turn has negative repercussions.

There is a need for several decisive steps. One is to convene the Supreme Council of Magistracy. This body is key for the appointment of new judges and in general for the overseeing of the functioning of the justice system. Without the Supreme Council the necessary reforms of the system are blocked. It is most unfortunate that the convening or not of the Supreme Council has been turned into a decisive party political issue. I appeal strongly to the two major forces within the Government to seek, jointly, ways out of this deadlock.

Other crucial measures would be to make the military accept the authority of the justice system, to sever any link between judges and political parties, to take action against the corruption within the justice system, including increasing the salaries, and to change the law which now effectively prevent courts from prosecuting State employees.

On the latter point – which, more specifically, refers to article 51 of the Civil Servants Act – the Minister of Justice has now drafted an amendment which, when adopted, would put an end to the *de facto* impunity for crimes committed by civil servants and military personnel. I hope the amendment will be approved by the Council of Ministers and put to the National Assembly for adoption – soon. There should be no reason for further delay, during talks with the First Prime Minister and the Second Prime Minister already last year I got assurances that they would work for a change of article 51.

In relation to the problem of impunity, it seems important that there be in Cambodia a serious discussion about how to handle the cases of gross violations in the past. I am here, in particular, referring to the terrible crimes during the period of 1975 to the end of 1978. These crimes were ‘crimes against humanity’ and have to be thoroughly investigated. It is of greatest importance that the full truth is exposed and responsibility clarified.

The police is part of the law enforcement system. Impressive steps are taken – with the assistance of non-governmental organisations – to develop human rights training for the police forces. A police academy is now being set up and will, hopefully, improve police education further.

At the same time I have to report that I am concerned about the interrogation techniques used by the police. Beatings and kickings occur frequently during arrest, transport and interrogation. There have been cases of severe torture and I have now agreed to submit documentation on this serious matter to the Royal Government.

Prison conditions are not satisfactory. Resources are of course scarce, but there are other factors which could be remedied. One is that the monthly budget allocations to the prisons from the Ministry of Finance via the Ministry of Interior have been long delayed. This has forced the Prison Directors to borrow money and waste resources on interest payments. The result has been reduced food rations for the prisoners which in turn has led to malnutrition and diseases. I raised this recently with the co-Ministers of Interior and hope for an early solution.

There are, as well, several positive developments to report regarding human rights in Cambodia. The de-mining program continues in spite of formidable difficulties. The Ministry of Defence, Tea Banh, told me last month that he favoured a law to ban all use, production, trade and stockpiling of anti-personnel mines.

Steps have also been initiated to tackle the scourge of child prostitution and trafficking, though much remains to be done in this area. The problem has grown even more sinister with the spreading of HIV/AIDS.

Progress is made on human rights education. Leading Buddhist representatives and monks teach basic ideas of human rights. The non-governmental community is active both in its supportive programmes and through advocacy. Some ministries relate constructively to these groups, for mutual benefit. There is a vivid discussion on human rights matters in the media.

Some important laws have been adopted by the National Assembly. One example is the new Labour Law which confirm the right to form trade unions, to bargain collectively and to go on strike. The parliament itself has through its Commission for Human Rights and Reception of Complaints developed a machinery for investigation into alleged human rights violations which, ideally, could promote justice in individual cases and at the same time give impetus for further legal and other reforms in order to safeguard the rights of individuals in general.

However, the human rights situation in Cambodia appears to be fragile. Though the Government has kept together, tensions between the two major parties have slowed down the pace of reform for the development of laws, structures and broader awareness to protect human rights.

Both Prime Ministers have made statements to me as Special Representative which unfortunately have not been followed up with concrete action. A gap has developed between word and deed. I have here mentioned some examples relating to actions against political violence, a structured preparation of the elections, and measures to protect the effectiveness and independence of the justice system.

At the same time, it has to be remembered that Cambodia's tragic recent history has left deep scars. Though the security situation today is vastly improved, full peace is still not achieved and large areas of the country is traumatised by anti-personnel mines and unexploded ordnances.

Cambodia suffers also from the lack of educated officials and professionals. Changes of attitude for widespread recognition of the meaning of basic democratic principles are slow. Corruption does exist and illegal logging has robbed the country of enormous natural and economic resources.

Already after my three first missions I have come to the conclusion that the UN approach to the support of human rights in Cambodia needs to be systematic and long-range to allow for a sustainable contribution. Such co-operation should be developed in a spirit of mutual recognition and understanding.

Finally, I would like to stress the importance of continued and generous international support to Cambodia, through the United Nations or directly. Ongoing programmes are deeply appreciated. The coming couple of years will be crucial for the Cambodians and their efforts to build a society respecting all human rights for all people in the country.