



Special Representative of the Secretary-General
for Human Rights in Cambodia

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**PRESENTATION OF THE REPORT BY THE SPECIAL REPRESENTATIVE
OF THE SECRETARY-GENERAL ON HUMAN RIGHTS IN CAMBODIA**

Third Committee of the General Assembly
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The phenomenon of impunity continues to be a most serious problem in Cambodia, in particular with regard to unlawful acts by the military and the police. Limited personnel and economic resources have contributed to the deep problems within the court system. I have appealed for more assistance to justice reform in Cambodia. Bilateral cooperation, mainly with Australia and Japan, has been valuable. The UN judicial mentors programme has also been a constructive contribution and can, hopefully, be further developed. However, there is also a need for the Government to give higher priority to this problem. Statements on this point during my recent visit by Second Prime Minister Hun Sen were encouraging.

The Supreme Council of Magistracy was finally convened in December 1997. It is time that this body now will start effective work. Its role, according to the Constitution, is to oversee the functioning of the judicial system and make appointments to the judiciary. It has to take strong action to protect the judiciary from political pressure, intimidation by military officers and corruption. Clearly, decisive measures are still needed to establish a genuine independence of the court system.

The General Assembly and Commission on Human Rights resolutions recommended the repeal of Article 51 of the 1994 Law on Civil Servants. This section of the law provides that, except in cases of *flagrante delicto*, no civil servant may be arrested or prosecuted for any crime unless the concerned Minister gives his consent in advance. The impact of this provision has been clearly negative and judges have told me about their frustration with Article 51. The Minister of Justice has indeed proposed an amendment but no action has been taken to that effect. A proposal ought to be submitted to the new National Assembly as a matter of priority.

Serious crimes with a political connotation, including assassinations, have still not been clarified. The two experts who in April 1998 on behalf of the High Commissioner and myself inquired about the investigations into the hand grenade attack in March 1997 and the killings in July-August 1997 concluded that inquiries, when undertaken, had lacked vigour and determination. They pointed at the necessity of legal and organizational reform, improved professional training within the police and the judiciary but also at the need for clear signals from the highest levels of Government in order to break the culture of impunity.

When the Government had received the expert recommendations as well as further cases of reported killings, it decided in June 1998 to establish a Governmental Human Rights Committee to initiate investigations into the individual cases but also to propose structural responses in order to improve the functioning of the administration of justice. The Committee was also requested to prepare for the establishment of a statutory independent National Commission on Human Rights. It is important that these tasks are tackled with seriousness.

During my recent mission in late October I presented another progress report on politically related violence which again indicated the need for serious investigations and that firm action be taken against those responsible. I responded positively to a request from the Government Human Rights Committee about providing legal and technical expertise in order to take steps against the phenomenon of impunity.

Another dimension of impunity in Cambodia relates to the massive violations committed by the Khmer Rouge in the seventies and which still are not addressed. In fact, no one has been punished for any of the serious crimes and human rights violations which took place during those years.

However, His Majesty King Sihanouk, Government Ministers and leading opposition politicians have all reacted positively to my proposal, supported by the General Assembly last year, about international assistance for the purpose of assisting Cambodia in responding to past serious violations of Cambodian and international laws. This is in response to a letter by the two Prime Ministers on 21 June 1997 which requested support for bringing to justice those persons responsible for the genocide and/or crimes against humanity during the rule of the Khmer Rouge from 1975 to 1979. A Group of Experts was appointed by the Secretary General in August 1998 and will arrive in Cambodia on 14 November in order to assess existing evidence and propose further measures. This is considerable progress and an important development also for the overall combat against impunity.

When in Cambodia recently I got new assurances from His Majesty the King and the Government, including from Second Prime Minister, that they look forward to cooperating with the Group of Experts.

Prison conditions in Cambodia continue to be very poor and there are still food problems in some of the prisons. The co-Ministers of Interior have, however, opened a constructive discussion with me on these problems and I have suggested further international assistance for prison reform. An Australian aid project in this field has been appreciated. Again, this is an urgent issue for the new Government.

Torture and ill treatment of arrested persons is another problem which ought to be put high on the reform agenda. In spite of the efforts by the Ministers of Justice and Interior, I have received new evidence about such serious malpractice. A comprehensive strategy is needed, one aspect of which should be to dismiss and punish policemen who are proven guilty of having used torture. Measures are also required to halt the excessive use among policemen of lethal weapons when trying to capture suspects.

The conditions for workers in the garment and other industry are still of concern. The Labour Code is not respected in a number of factories in Phnom Penh and the authorities delay registration of new trade unions.

I am also concerned about the lack of progress in the field of women's rights. The rate of girls dropping out from school is high, especially at secondary level. Women are victimised through domestic violence and their access to public health facilities is insufficient. There is no genuine encouragement of women participation in political and public life. After the 1998 election, still less than ten per cent of the members of parliament are female.

Major efforts are needed for the rights of the child in order to remedy problems in the field of education, to reform the system of juvenile justice, to put an end to the practice of recruiting minors to the armed forces and to combat other hazardous child labour, including child prostitution.

There have been police actions against persons organising prostitution, including child prostitution, but further measures are needed to protect young people from being exploited and to rehabilitate children who have gone through such an ordeal. I am particularly concerned about the frequency of HIV infection among prostitutes, including young ones, and the lack of preventive and social action to address this acute problem.

The rights of minorities is another field which needs to be addressed. Improved legal protection is needed as was illustrated during the election campaign and its aftermath. I have publicly reacted against xenophobic anti-Vietnamese statements and pointed out that these might incite violence.

The protection of the rights of the indigenous peoples also requires strong measures against unwanted logging. The UN Committee on the Elimination of Racial Discrimination gave the Cambodian Government a number of recommendations which ought to be acted upon in a systematic fashion. In this, the international community should be prepared to offer advisory services and other assistance, if requested.

Cambodia has ratified all six major international human rights conventions. It has now submitted reports on the implementation of three of these: the Convention on the Elimination of All Forms of Discrimination, the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. The reports on the other conventions are delayed and should be given priority by the new Government: the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of Discrimination Against Women and the International Covenant on Economic, Social and Cultural Rights. Though regretting the delays, I have expressed my

support to the approach taken that the reporting process itself is used for a thorough discussion on ways of improving the respect for the international standards.

Last week there was a major conference, with many international visitors, in Cambodia to highlight the continuous problem of landmines. This is a daily trauma for the Cambodians. Even with new techniques it will take 30 years before the de-mining task is completed. In the meanwhile innocent children, women and men are going to be maimed by these planted killers. Cambodia needs continued assistance for de-mining and I am happy to report that the Government now is submitting a draft law to the new National Assembly banning all production, trade, stockpiling and use of anti-personnel mines.

My mandate as once formulated by the Commission on Human Rights includes three tasks. The first is to maintain contact with the Government and people of Cambodia. During my five visits so far this year I have met Government representatives and officials on national, provincial and local level as well as representatives of political parties and non-governmental organisations. I have met His Majesty King Sihanouk, who continues to give most valuable support for the promotion and protection of human rights in the spirit of the Constitution. The discussions with Government representatives have for the most part been constructive.

In order to fulfil my second task, to guide and coordinate the United Nations human rights presence in Cambodia, I have stayed in constant touch with the Cambodia office of the United Nations High Commissioner for Human Rights. The office assists me during my visits in Cambodia as well as during their preparation and follow up. I have met with the Personal Representative of the Secretary-General in Cambodia, Lakhon Mehtrotra, and other key representatives of the United Nations system. During the election campaign period I related to other international representatives in order to clarify the importance of the human rights aspects in the elections themselves.

My third task to assist the promotion and protection of human rights in Cambodia is partly fulfilled through my reports, like the one I present here. I have continuously raised concrete problems directly with the authorities at central and provincial level. Furthermore, I have argued for international assistance for the promotion of human rights in Cambodia for reforms of the court and prison system, education and training of law enforcement personnel, reform of the school system, support to non-governmental organisations, etc.

It is in the nature of reports such as the one I present here that there will be a focus on critical and negative aspects. The intention, however, is constructive. Clarification of the nature of the problems is a basis for improvements. I have encountered good will among many Cambodians inside or outside the Government structures and the justice system, which gives a promise of determined future action.

The non-governmental organisations in Cambodia are important which they again demonstrated during the election period through impressive voter education and polling observation.

We, in the international community, should remember that Cambodia still suffers from the misery caused by war and mass scale repression and killing. The more important that we support constructive efforts to build a society ruled by law and protecting human rights.