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**“To build a society ruled by law and respecting human rights”**

*Addresss to the Cambodian National Assembly  
by Ambassador Thomas Hammarberg,  
Special Representative of the UN Secretary-General  
for Human Rights in Cambodia,  
20 October 1999*

Mr. President and all other Distinguished Members of the National Assembly,

I feel honoured to be invited to address you today. As elected representatives of your constituencies, you are the trusted voices of the aspirations of the great Cambodian people. Among these aspirations are of course the hope for a society where everyone can get justice – irrespective of birth and social status, ethnic belonging, gender, age or whether you are poor or wealthy.

As a foreigner I am of course limited in my understanding of both traditions and present trends in the Cambodian society. Therefore, I am humble and do not intend to give a lecture. Instead I hope to be able to share with you, in deep respect, some of my impressions after three and a half years as representative of the Secretary-General on human rights. I will also reflect some experiences in other countries on problems I know that you are wrestling with.

What struck me already on my first visit was the horrific devastation caused by the Khmer Rouge. Wherever I went I could meet people who had lost family members and themselves had suffered severely under the Khmer Rouge. I got to understand that the mass killings also had handicapped later attempts to build strong democratic institutions in society, including an effective system of justice. This, obviously, has contributed to the phenomenon of impunity.

When travelling in the country I have had discussions with judges at the provincial courts. Many of them have clearly defined the problems, as they perceive them, in the justice system. There are gaps in the legal framework; the absence of, for instance, a code of criminal procedures is a serious drawback. New generations of lawyers have been graduated but there is still an educational gap. The Supreme Council of Magistracy has not fully taken its lead role to oversee the judicial system, including through appointments and disciplinary actions. It is not always clear which cases should be brought to military court and which ones to a civilian court.

Judges have also pointed at resource problems. Crucial law texts and case references are not always available in the courts themselves. Facilities for investigations are limited, including forensic equipment and means of transport to crime sites. This has contributed to the serious problem of excessive pre-trial detention; people arrested are kept in prison waiting for trial longer than the maximum six months allowed by the law. Salaries to court staff continue to be low, even after the increase recently, which may in turn encourage bribery. All these factors hinder the important task of elevating the status of judges and improving their ability to discharge their important responsibilities.

Another problem mentioned by some judges is the lack of respect for the independence of the judiciary. It has happened that a court case against a military officer could not be pursued because of armed threat against court personnel. It has also happened that a warrant of arrest could not be enforced by the gendarmerie because the culprits had district-level protection. This is of course a serious undermining of the endeavours to build a society ruled by law.

The more important it is that the Royal Government, in its platform, has pledged to introduce judicial reform. I have been informed about the plans within the Ministry of Justice for a Criminal Procedures Code, a Statute of Magistrates and a Statute on Court Clerks, all of which are essential for the proper functioning of the judiciary. If the Government needs further assistance and advice for this important reform work, I am willing to help explain the situation to the international donors.

In every country, determined actions are needed to establish in practice the fundamental principle of equality of all before the law. Therefore, it was

important that the National Assembly recently amended Article 51 of the Co-Statutes on Civil Servants, and hopefully the change will be understood and lead to new practices. The previous Article 51 had prevented justice in a number of cases and had almost become a symbol of impunity.

Further and sincere efforts are required to investigate and bring to justice those responsible for the serious acts of politically-related violence during recent years. The fact that no one has been arrested and sentenced for the hand grenade attack outside this building on 30 March 1997 or for the murder of Secretary of State Ho Sok in July the same year – to mention two examples – does undermine the respect for the system of justice. The experience from other countries is that it is important that investigations into such cases be thorough, transparent and brought to a conclusion. Failure to do so does severely undermine people's sense of justice.

Many Cambodians have also told me how important it is that those responsible for the most serious crimes during the Khmer Rouge rule are brought to trial. That position - as conveyed by the two Prime Ministers in June 1997 - was endorsed by the General Assembly of the United Nations. The talks between UN legal experts and the Government are ongoing and I do not want to interfere with these exchanges. Let me only reiterate that the international community is prepared to assist in the organising of a trial which would meet the necessary standards of justice, fairness and due process of law.

Such a process would be important for the memory of those killed, for their relatives and also as a signal to future generations. It would be the most effective means of demonstrating that justice in the end always will be done, whoever the perpetrators are. The lesson from other countries with a cruel and tragic recent history - like Germany, South Africa, Chile and Central America - is that the wounds will tend to stay open until the truth is exposed.

That crimes be punished is important also in non-political cases. If culprits can avoid punishment through going into hiding or using high-level contacts, the public might feel that the only way to get justice is to take the law into one's own hands. The recent reports about mob lynchings of suspected criminals, even beatings to death, are a serious warning.

Distinguished Members of the National Assembly,

The sense of justice in every society is also affected by the daily behaviour of the law enforcement personnel. Excessive violence during arrest and ill-treatment or torture during interrogation should never be tolerated. The co-Ministers of Interior have informed me about efforts to professionalise the police forces when these now will be re-organised and trimmed down. Any further contribution we as representatives of the international community can give to such education, we are happy to consider. A major activity of the UN human rights office here is precisely to support such training of the police – and the military.

The use of weapons by police forces – and by military personnel, sometimes even off-duty – is a matter of concern to many, I have learnt. The frequency of fatal shootings during arrests is very high. The ambition of the Prime Minister and the co-Ministers of Interior and Defence to control weapons and prevent their illegal use was certainly welcomed.

Human security also relates to the possibilities of daily survival: the rights to earn one's bread, to get care when sick and to be able to send one's children to school. The United Nations definition of human rights includes economic and social rights.

Improvements have been made in the area of right to health. The infant mortality rate has gone down considerably, but is still as high as almost 90 per one thousand live births. About half of all children are reported malnourished and there is widespread stunting and wasting. The maternal mortality rate is high and each year two thousand women die as a result of pregnancy and child birth. There is high prevalence of HIV/AIDS the consequences of which might be even more serious within a short time. I have, however, been impressed by the energetic plans of the health ministry.

More than one fifth of children aged 6-11 remain outside the school. Drop-out and repetition rates are high. Children with disabilities face particular risks of exclusion from the school system. In the remote provinces the enrolment rate is less than 50 per cent. The whole education system suffers from being under-resourced and the present trend towards privatisation may create further gaps to the disadvantage of poor children. I am arguing with other Governments about the importance of further international co-operation to support education reform in Cambodia. Again, the education ministry has important plans.

I have touched on some rights of the child. Let me also add something about the rights of women. There is, as we all know, a worldwide trend of recognition that urgent reforms are needed to prevent the abuse of women and to promote their status and influence in society. That is a struggle for all of us, not only for the female activists. I have been encouraged by the awareness here in Cambodia of the problem of domestic violence. No doubt, there is a need for further actions against the cowardly acts of wife and child beating – a problem sadly spread all over the world. I have been impressed by the plans outlined by the Minister of Women's and Veteran's Affairs – herself already a veteran in the combat for female rights.

Minorities are almost always a human rights concern. I have visited villages among the Highland Peoples in Ratanakiri and learnt about their problems and the attempts to resolve them. One of their problems relates, as you know, to the issue of land use and entitlement. This will be one aspect to discuss when this Assembly will discuss the new draft land law. On other minority issues, I have pleaded for a clarification of the status of people with Vietnamese origin who have lived long in this country, maybe are even born here, and count Cambodia as their home. I have regretted outbursts of xenophobic, anti-Vietnamese agitation and congratulated politicians who have taken a principled position against such behaviour.

Human rights relate to everyone. Even those deprived of their liberty, because of a criminal act, do have rights. I have visited a number of prisons in Cambodia, several of them with huge problems relating to food, health care and other conditions but also with buildings which make it difficult to prevent escapes. The Deputy Prime Minister and co-Minister of Interior has informed me about plans to review every prison in the country. This initiative might be further enhanced if members of this assembly paid visits to the prison in your respective constituency.

Distinguished Members of the National Assembly,  
 These were examples of issues I have discussed with Governments officials, court personnel and representatives of the political parties and non-governmental organisations as well as with friends and supporters of Cambodia abroad. Certainly, I do not want to belittle the problems, many of them are enormous and require both strong political commitment and considerable other resources. Though the Office of the UN High Commissioner for Human Rights, with the agreement of the Government, will continue its programmes for at least another two years, the contribution

from outside can only be marginal. Your decisions - and those of the Government you have endorsed – will determine the steps towards a society ruled by law and respect for human rights.

The number one asset you have, I believe, when meeting this challenge is the widespread awareness among ordinary people about the importance of rights – perhaps partly resulting from the dark recent history. This awareness, in turn, has been the basis for the development of an extraordinarily mature and dedicated non-governmental community for human rights and development. Your voluntary organisations are a model for other countries.

They will be important for future building of a society respecting human rights – as will free and responsible media voices. The human rights commissions of both the National Assembly and the Senate will add a human rights dimension to your work of adopting laws. They can also invite reports from the Government on human rights matters – one possibility is to discuss the observations and recommendations of international treaty committees after they have looked into reports from Cambodia.

On the Governmental side, there are efforts to coordinate the human rights initiatives between the ministries, including with the office of the Prime Minister. I have also been informed about plans to extend this coordination to provincial and local level.

Experiences from other countries tell us that, beside these structures, it might be useful to establish an independent office to monitor human rights issues on the basis of complaints but also on comprehensive studies of how the overall system works. Such national commissions or ombudsmen exist in several countries nowadays. One lesson from them is that it is wise to prepare the creation of such an office carefully, to base it on a piece of legislation and to ensure its genuine independence also by the manner it is staffed and financed.

Distinguished Members of the National Assembly,  
The work for human rights is sometimes controversial. This is no surprise. After all, human rights relate to the very essentials of life – your personal freedom, protection of your integrity and the fulfilment of your basic needs. Human rights also set limits for those in power, for their methods of governing.

It does happen that the anger against reports on human rights problems becomes directed against those who carry the message rather than against the problems themselves. This may be understandable but does not help. However, I feel the Cambodian society has advanced further. There is a will among many to listen to critical facts – in order to remedy the problems. A free discussion of such nature creates a wide respect, at home and outside.

Thank you for listening.