



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

**តំណាងពិសេសរបស់លោកអគ្គលេខាធិការទទួលបន្ទុកសិទ្ធិមនុស្សប្រចាំកម្ពុជា**



**Second mission of the Special Representative of the Secretary-General for human rights in Cambodia, Mr. Yash Ghai, 19 to 28 March 2006**

*Phnom Penh, 28 March 2006* -- The Special Representative of the Secretary-General for human rights in Cambodia, Mr. Yash Ghai, concluded his second visit as Special Representative of the Secretary-General today. The main purpose of this mission was to discuss his report and recommendations for the United Nations, finalised in early January 2006, and to obtain an updated understanding of the situation.

The Special Representative met with a broad cross-section of Cambodian society, including Ministers of the Royal Government of Cambodia, leaders of the Sam Rainsy and FUNCINPEC parties, members of the Constitutional Council and judiciary, representatives of human rights, legal aid and trade union organisations, the United Nations Country Team, bilateral and multilateral development cooperation agencies and the diplomatic community. He visited Kompong Speu province, where he met with victims of land disputes and evictions; and Battambang where he met with the Provincial Governor, the President and Chief Prosecutor of the Provincial Court and with non-governmental organizations.

The Special Representative welcomed the release of public figures critical of the Government and the return of Sam Rainsy. He noted, however, that most of the long-standing issues identified in his report had still to be addressed, and hoped that a less repressive political climate would present opportunities for real and positive change. The Special Representative underlined that the real test of the Government's commitment to reform will be in the concrete steps taken to translate these proclamations into real and tangible change.

He also welcomed the Prime Minister's support for decriminalizing defamation, but noted that the joint instruction from the Ministry of Justice and the President of the Supreme Court of 14 March 2006 regarding defamation does not change the situation, as it still provides for the application of article 63 of the UNTAC law in cases that may cause instability to public security, social order or confusion, unrest to political stability and national security. He reiterated his recommendation that article 63 and other provisions of the UNTAC law should be repealed without delay, and that no provision for criminal defamation should be retained in the new Penal Code. He was concerned that charges of defamation, disinformation and incitement against those who were recently imprisoned and those who have left Cambodia still stand. He was concerned both for the individuals involved and because of the message this sends to other members of civic society and to the media.

The Special Representative expressed disappointment that the Government had not disclosed information on concessions of Cambodia's natural resources, including mining and military development zones, and that the information provided on economic land concessions fell far short of expectations. He noted that land grabbing continued to deprive the rural poor and indigenous communities of their land and livelihoods. He recommended a complete moratorium on concessions and land sales of indigenous lands, until a clear policy to safeguard the rights of indigenous peoples

and all necessary implementing legislation is in place. Regarding the new National Authority to resolve land disputes, he was concerned that it resembled more a policy making body, rather than an independent institution that would be in a position to examine evidence and provide solutions in an effective and credible way. He was also concerned that the new Authority might undermine the existing system of cadastral commissions, which is in serious need of strengthening. He considered that non-governmental organizations had correctly decided to work with the Authority from the outside, as was appropriate to their role in society.

The Special Representative was particularly concerned that executive interference in the work of the judiciary continued, for example through the “iron fist” policy, and that the Supreme Council of Magistracy was unable to carry out its crucial role of safeguarding the integrity and independence of judiciary. It was essential to strengthen the Council by ensuring its independence and integrity. He noted that impunity for serious human rights violations remained deeply rooted in Cambodia and that it would not be possible to resolve this problem without an independent, competent and impartial judiciary. The Special Representative is of the view that the key condition for safeguarding judicial independence is a genuine will on the part of the executive to refrain from interfering in the work of the courts. Judges also need a sound law governing their status.

The Special Representative expressed concern that in parallel with discussions about a new openness, work is underway to draft and enact legislation that could limit freedom of association and assembly. These laws, if laws are needed, should provide conditions for organizations to carry out their work and for citizens to freely and peacefully assemble and express their views.

The Special Representative concluded that the issues discussed in his report remain valid and pressing. He also underlined the responsibilities and role of Governments and agencies providing development assistance to Cambodia in helping Cambodia to meet its obligations under the international human rights treaties that bind it, and to press for reform in line with the standards and guarantees enshrined in these treaties.

The Special Representative will issue a short update to his report in early May.