



PRESS STATEMENT

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

Phnom Penh, 16 January 2014

I am about to complete my tenth human rights fact-finding mission to the Kingdom of Cambodia, the first since the National Assembly elections took place in July 2013. What I propose to outline are my initial findings and thoughts about the human rights situation in the country since my last mission. My final conclusions and recommendations will be contained in my report that I will present to the United Nations Human Rights Council in September this year.

During this mission, I met with Prime Minister Hun Sen, in the presence of Deputy Prime Ministers Sok An and Hor Namhong, Senior Minister and President of the Cambodian Human Rights Committee Om Yengtieng, Minister of Labour and Vocational Training Ith Sam Heng, Minister of Justice Ang Vong Vathana, Secretary of State of Ministry of Interior Prom Sokha and Governor of Phnom Penh Pa Socheat Vong. As with my previous missions, I also interacted with other stakeholders in Cambodia, including ordinary citizens, groups of youths and students, civil society organisations, leaders of the opposition party, as well as members of the international community including development partners and the United Nations Country Team. I also met with some of the relatives and lawyers of the 23 arrested on 2 and 3 January.

At the outset, I wish to express my appreciation to the Royal Government of Cambodia for the positive and constructive cooperation extended to me during this mission. The dialogue I had with the Prime Minister was frank, cordial and informative. As I have emphasised in the past, in the delivery of my mandate as the Special Rapporteur on the situation of human rights in Cambodia as entrusted to me by the United Nations Human Rights Council, it is crucial that I am able to have a meaningful dialogue with all actors in the Cambodian society, particularly with the Royal Government. By extending full cooperation to me during this visit and engaging in meaningful dialogue, the Prime Minister has sent an important signal to the international community that he is ready and willing to seriously address the human rights issues in the country.

Up until the end of 2013, my assessment of the evolution on the situation of human rights was generally a positive one. During my previous missions and in my earlier reports, I had called on the Government to enable the leader of the opposition, Mr Sam Rainsy, to return to the country from exile and to take an active part in the politics of the country. I was pleased when he was granted a royal pardon in time to lead his party in the elections in July. I noted that the election was conducted in a largely peaceful manner, but was marred by allegations of electoral irregularities. Calling for an independent and credible investigation into these allegations, the Cambodian National Rescue Party refused to take its seats in the National Assembly. However, I have noted with satisfaction that in the aftermath of the election, people were for the most part able to express themselves freely and to enjoy their freedom of assembly through numerous protest marches and demonstrations, both large and small. These were well disciplined and peaceful and were in general not restricted by the authorities. I believed that the ability of people to exercise their rights and freedoms was a sign of a maturing democracy in Cambodia, which I welcomed. However, the violence and excessive force used on 15 and 22 September and 12 November 2013 and most recently on 2, 3 and 4 January 2014 cast doubt on that view. While I also condemn the violence exercised by some demonstrators, the actions by the authorities in suppressing the crowds in the first week of January mark a worrying change from a tolerant to a repressive response of the Government to public protests, which has been internationally condemned.

It was against this background that I undertook my mission.

Excessive use of force on 2-4 January

I am deeply concerned about the conduct of authorities in relation to the events of the first week of January. As an immediate concern, I urge the authorities to seek the release on bail of the 23 individuals detained, particularly those requiring immediate medical treatment. Pending their release, I urge them to be moved to an appropriate pre-trial detention centre in and around Phnom Penh where they will have better access to their families and lawyers. The minor should be immediately transferred to a pre-trial detention centre with facilities for minors. I condemn the incommunicado detention of the 23 for several days and urge the authorities to prevent the recurrence of such violation of individual rights.

With regard to use of force against civilian demonstrations, resulting in at least four confirmed deaths by gunfire and injuries, I call upon the Government to establish the whereabouts of the individuals missing since these events. I reiterate my call for the Government to ensure a thorough, credible and independent investigation. I understand that only alleged protesters and not the security forces are being investigated. I strongly recommend that an investigation be undertaken on who issued and who carried out the order to shoot; if no such order was given, the individuals who fired their weapons must

be brought to justice. In regard to any future demonstrations or protests, the Government should be mindful of its obligation to ensure that any use of force must meet the tests of necessity, legality and proportionality, and that how it meets these tests must be explained.

Ban on demonstrations

I note that the provisional ban on demonstrations has been announced. I recommend that the Government clarify the legal basis and justification for such a ban. The Government is reminded that under Article 4 of the International Covenant on Civil and Political Rights, measures derogating from obligations under the Covenant can only be taken to the extent strictly required by the exigencies of the situation, only in regard to public emergencies which threaten the life of the nation and the existence of which is officially proclaimed. I have not seen an official proclamation of a public emergency of such gravity that threatens the life of the nation. In the absence of a legal basis, the ban on demonstrations should be lifted.

A proper mechanism for minimum wage determination

I view with concern the inability of the existing mechanism for setting a minimum wage to respond to the demands of workers. The authorities should consider strengthening the mechanism to set the minimum wage – or establish a new mechanism – that is mandated to take into consideration the research necessary for evidence-based decision-making and regular revision, in particular properly reflecting changes in the cost of living. The wage level ultimately agreed upon requires data, analysis and participation, not repression. I urge the Government to negotiate with workers and their representatives in the garment sector in good faith and to seek international assistance, such as from the International Labour Organization, toward the establishment of a proper minimum wage determination mechanism.

As a State party to the International Covenant on Economic, Social and Cultural Rights, the Government of Cambodia must work to ensure that the national minimum wage is set at a level sufficient to provide all workers and their families with a decent standard of living, and to that effect, that such national minimum wage is periodically reviewed.

In my interaction with various stakeholders on labour issues, I was also concerned to hear that some workers and trade union leaders have faced threats and acts of intimidations as a result of their involvement in industrial action. In this regard, I wish to call upon the Government and other stakeholders to take all necessary measures to ensure that the trade-union rights of all workers in Cambodia are fully respected and that trade unionists are able to exercise their activities in a climate free of intimidation and risk to their personal security or their lives.

Judicial, electoral and Parliamentary reforms

I am encouraged by the assurances repeated by the Prime Minister that the three fundamental laws on the judiciary will be tabled before Parliament in the near future. I await further details about the larger judicial reform process that is said to have commenced and am encouraged by the announcement made to me that the reform will be more ambitious than is reflected in my recommendations.

I am similarly encouraged by the Government's announcement to me that comprehensive electoral reform will begin in earnest with the convening of a seminar on this matter next month. The Government pledged to speed up reform in both sectors in conformity with my recommendations.

While taking note of the calls of the Government for the opposition party to take up its seats in the National Assembly, I am of the view that speedy parliamentary reform is essential to enable the opposition to play a meaningful role as an opposition in Parliament. I was encouraged by the openness of the Prime Minister on this point and look forward to seeing a concrete reform plan agreed upon by the two parties made public as soon as possible.

Land rights

While generally welcoming the land titling programme undertaken by the Government under Directive 001 of May 2012, I continue to be concerned by issues of transparency, accountability and the absence of an effective dispute settlement mechanism associated with Directive 001. Other chronic land disputes including Boeng Kak Lake, Borei Keila, and other communities should be resolved immediately, and new land concessions should only be granted when the rights of the people affected by them are provided for.

An independent national human rights institution

I welcome the receptiveness of the Government to resume work on its long-standing commitment to establish an independent national human rights institution. I understand that a draft has been under preparation for some time and that work on it will resume shortly. I stress that it will only bring added value to the human rights infrastructure today if its independence is guaranteed, in full conformity with the Paris Principles.

Political situation

The impact of the ongoing political impasse is of serious concern to me because of the direct impact it has on the enjoyment of human rights by all in Cambodia. To this end, I expressed my view in my various meetings that political reconciliation was the only way forward for the country and urged the Government to exercise flexibility in working out a solution to end the impasse. Equally, in my interaction with the leaders of the Cambodian National Rescue

Party, I highlighted the need to demonstrate flexibility in their dealings with the Government in reaching a political compromise. Having listened to both sides, I believe it is imperative for the leaders to overcome the mistrust and immediately return to the negotiating table without further delay, possibly in the presence of a third party either to witness or mediate if deemed helpful.

In my meeting with the leaders of the CNRP, I also highlighted that tolerance and racial harmony were crucial for the future of democracy in the country. I am alarmed by the anti-Vietnamese language allegedly used in public by the opposition. It has also been brought to my attention that on 3 January on the scene of violent clashes earlier in the day near Veng Sreng road, several ethnic Vietnamese-owned establishments were reportedly attacked and looted. Dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin are all acts that have no place in a democratic society.

I assured both sides that the international community was ready to assist them in reaching a political settlement.

Conclusion

Cambodia stands at a crucial crossroads. I sense the optimism and desire for change in the country, which is possible if underpinned by serious and comprehensive reforms of State institutions as spelt out in detail in four of my reports to the Human Rights Council. Change is inevitable to meet the aspirations of the population in a dynamic world. I have received positive assurances of such reform during my present mission and will wait anxiously to see these assurances translated into concrete actions. Change is coming to Cambodia faster than many had anticipated. The challenge for the current political leadership within both of the main political parties is to embrace change and to find a way to manage it in the best interests of the country.

Last but not least, I would like to thank the Cambodia and Geneva offices of the UN High Commissioner for Human Rights for the assistance rendered to me during my mission.

ENDS

Professor Surya P. Subedi was appointed by the UN Human Rights Council as the UN Special Rapporteur for Human Rights in Cambodia in March 2009. As Special Rapporteur, he is independent from any government or organisation and serves in his individual capacity. He is currently Professor of International Law at the University of Leeds in the United Kingdom and a practising Barrister of the Middle Temple in London. He is the Vice President of the Asian Society of

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(*) Check the Special Rapporteur's latest report to the Human Rights Council (A/HRC/24/36):

<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session24/Pages/ListReports.aspx>

UN Human Rights, country page – Cambodia:

<http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/KHIndex.aspx>

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