



END OF MISSION STATEMENT
United Nations Special Rapporteur
on the situation of human rights in Cambodia
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As the UN Special Rapporteur on the situation of human rights in Cambodia (UN SR Cambodia), Professor Vitit Muntarbhorn, I paid my first official visit to the country from 15 to 26 August 2022 in this role. I was very pleased to meet a variety of stakeholders. These included key persons from the government, including H.E. the Prime Minister and other high-ranking officials. I also met a variety of members of civil society, UN agencies and concerned communities and individuals. I thank all those I met during my trip warmly and I take into account their inputs respectfully. Special thanks are conveyed to OHCHR Phnom Penh and Geneva for the facilitation. The approach of the SR is to ensure a sense of balance between the various positions, bearing in mind international human rights standards, complemented by local wisdom. The country has enjoyed welcome peace since the Paris Peace Accords 1991. A key challenge today is to nurture the connectivity between peace, sustainable development, human rights and democracy substantively, as presaged by those Accords over three decades ago. I welcome Cambodia's Chairmanship of ASEAN this year, as well as forthcoming human rights dialogues with other countries, and I wish the country well in addressing key challenges in the region.

An important consideration during my trip was to visit the field so as to learn directly from life experiences and reflect them in my findings so as to pave the way to practical improvements. At the start of his mission, I visited a peaceful demonstration by the strikers working for the NAGA World complex and was encouraged by the peaceful atmosphere then. The authorities stood nearby, with tolerance, despite regrettable use of force against the strikers on earlier occasions. I also visited Sihanoukville to be informed of the situation of cybercrimes and related online scams – “surreptitious syndication” linked with human trafficking and other forms of exploitation. I also saw firsthand the plight of communities displaced by the competition for land, especially related with privatization and landfills to turn a lake in the Phnom Penh area into commercial land, and the traumas caused by displacement and the added dangers of flooding caused by unbalanced development. In addition, I had access to a number of government-run institutions for persons in vulnerable situations and was eager to be able to learn and suggest adjustments along the way, especially in favour of de-institutionalization and community-based measures.

In essence, Cambodia has achieved much progress which has been recognized internationally. It enjoyed impressive economic growth before the advent of COVID-19. It has dealt admirably on the health-related front by ensuring near-universal access to vaccinations against the pandemic, while its efforts to overcome Malaria have also been recognized. Its social assistance programme, extended several times due to the pandemic, has attenuated significantly the plight of vulnerable groups, particularly those in poverty-related situations, and this opens the door to broader social protection, including in relation to educational access, health care, work opportunities, social security and other supports in the revival - post-COVID. The country is a welcome party to most core human rights treaties, and the Human Rights Committee and the Child Rights Committee under these treaties recently issued recommendations for the country to follow up, preceded by earlier recommendations from the Committee dealing with women's rights (CEDAW). The country has accepted many recommendations from the Universal Periodic Review. My second report as the SR is also due soon, with many recommendations building upon the first report of the SR, inviting effective implementation by Cambodia.

Yet, the country is faced with a pervasive paradox. Since 2017 when the main opposition party was disbanded unjustly by judicial order, the country has been under single-party rule, with all seats of the National Assembly in the hands of that monopoly. This has led to systemic control by the powers-that-be, leading to political and other distortions undermining the call for a pluralistic democracy. While the most recent Commune elections in 2022 saw some seats being shared being various parties, that predominantly singular rule still shapes the spectrum of politics to the advantage of the entrenched elite. The stultification of political and democratic space contravenes the promises made by all parties at the Peace Accords. The latter, together with the various human rights obligations binding on the country, acts as a recurrent reminder of the need for political and social will to overcome that paradox and to redress the balance, especially in view of emerging inter-generational changes.

With the forthcoming National elections in 2023, the country is challenged to open up that space and there are possible stepping stones which should be well concretized. While waiting for reform of the National Election Committee to be more pluralistic, there should be broader recruitment of election-related personnel at all levels to distance the staff from political parties and to ensure their impartiality. Local authorities should not be present near polling stations; only key personnel related to the elections should be near the polling booth. The public should be allowed to monitor the vote counting process nearby, rather than the current rule that obliges them to be separated at least 15 metres from the polling station. It is necessary to ensure that the form (1102) stipulating the voting results should be filled in fully and correctly and posted publicly. The software which is used to computerize and allocate seats should be accessible to the public for cross-checking. There is a need for a law to expose campaign finance. Most importantly, there should be an atmosphere that shuns intimidation and harassment of opposition parties and commentators. Regrettably, various negative incidents were evident in the process leading up to the Commune elections and these included the delisting of several candidates under questionable circumstances. There is also the anomaly of various prosecutions (now taking place) of those who question the election results. Independent observers are needed to monitor the next elections, while observers close to political parties should only have limited access. This must be complemented by more

breathing space – “political aeration” - to enjoy freedom of expression, freedom of peaceful assembly and other rights in keeping with international standards in the pre-vote, vote, and post-vote phases.

Concurrently with that paradox, there is the presence of mass trials of members of the political opposition taking place, even during the visit of the SR. Key leaders of the opposition, who had been charged and convicted on multiple occasions, were/are still subject to further prosecutions for alleged offences of a political nature which are seen as spurious internationally.

The issue of online scams duping people from many countries into a situation of human trafficking, forced labour and other forms of exploitation was highly publicized during the trip of the SR. A typical situation is that, intermixed with online gambling (illegal in the country) and other online enticements, people are lured to become cyber-scammers to scam or prey on other people. There is thus a duplicitous chain and enchained situation whereby a scammed person might be forced to scam and swindle other persons. If the scammer fails to deliver the goods or refuses to comply with the orders, the person might be tortured or locked in various compounds surrounded by barbed wire and iron fencing to prevent escape of those who are held on the premises. There might be an eerie quiet surrounding the compounds where the people are held against their will, because those precincts are like a maze, hidden behind the surrounding walls, where people are quietly and insidiously tapping on line - to bait other victims. If the scammer fails to meet the target of further scamming, the person might be sold into other abusive situations. There have been reports of tragic situations of victims fleeing by jumping from their walled buildings to try to escape. Rescue is difficult and depends much upon whether the victims are able to relay the message somehow to the outside for help. This is all the more complicated since, in the compounds, their mobile phones might be confiscated by the organized crime or syndicates which preside over the criminality. Their living hell is thus detention *incommunicado*.

Countries are now waking up to the phenomenon and Cambodia needs to activate its counter-measures more strongly, while welcoming international cooperation and support. There are various elements of note. First, by contrast with a decade ago when Cambodia was a source rather than a destination country of these abuses, the country is now faced with the challenge of being a major destination country. Second, the group of victims is now different from before. While it was the poor and vulnerable who were often duped in the past, today’s victims often come from persons skilled and computer-savvy and are from the more middle level of society. Third, precisely because this cyber-phenomenon is cross-border, countries have to explore more cooperation of an innovative kind that requires not only law enforcement cooperation but techno-digital know-how. Countries of origin can explore links with the destination country through mutual legal assistance arrangements, extradition treaties and MOUs and Protocols which help to expose the situation and the perpetrators. One country is now warning its nationals at the airport to beware of online scams if they are hoping to reap benefits from working online in the destination for suspicious employers.

Fourth, there is a need for specific law enforcement units that have the wherewithal and the drive to act effectively, particularly to inspect opaque compounds and investigate their operations. Fifth, cooperation may need to be sought from the platform industry to help monitor against scams, bearing in mind the need to respect freedom of expression under international human rights law.

Most immediately for Cambodia, three “Cyber-Windows of Opportunities” are recommended for application, based on the adage “*Prevention is better than Cure*”:

- Implement effectively the Plan put forward by the National Committee for Countering Trafficking in cooperation with its partners and Establish accessible mechanisms and processes to identify victims and separate victims from other categories; even if they entered the country illegally, if they were tricked by scams, they should be recognized and treated as victims rather than as illegal immigrants;
- Organise “public inquiries” as hearings to assess the situation, with access to non-traditional sources, such as to interview cleaners, cooks, food deliverers, security guards and other personnel who work in the compounds suspected of being involved in criminality, and use that participatory process to mobilize governmental and related action premised on human rights;
- Implement effective measures to investigate cases, inspect the various precincts consistently, apply various Telecom-related laws in a victim-friendly manner to identify scams, and create easy-to-reach contacts to rescue victims, such as Facebook links and online reporting coupled with shelters for cross-referral, supported by resourceful inter-ministerial teams.

Another key area of concern encountered during my visit was the issue of land and related displacements/evictions, especially in urban settings, while not forgetting rural land and the link with indigenous peoples. This is compounded by the competition for land, commercialization, and privatization, linked with vested interests, all of which have impact on communities occupying the land. The situation is more complex because several of those communities do not possess title, even though occupying the land physically for a long time. The international principle of “free, prior and informed consent” on the part of such communities should shape the negotiations with the public and business sector and the advocacy especially in the COVID era is to prevent forced evictions. A compromise might be reached by using an existing land law constructively. The governmental Circular 003 on Resolution on the Temporary Settlements on Land which has been illegally occupied in the Capital, Municipal and Urban Areas, is an instrument which can bridge between the various actors from the 2010 period. For those on State land, the authorities are called upon to abide by the following conditions: data collection on actual numbers of temporary settlements; identification, mapping and classification of the sites of temporary settlements; households and population census in temporary settlements; solution finding; coordinated discussion in order to identify solution policies; basic infrastructures and services to support livelihood; and participation of stakeholders in development.

Instead of relocation, the preferred solution of these settlements is often to be part of on-site upgrading so that they can stay on and adapt to the existing land. Community mapping prepared by the communities is an important consideration to be borne in mind. Where relocation is to take place, there are further issues of consultation and compensation and whether the relocation facilities are adequate. It should not be forgotten that the location of the settlements is important to access work, and relocation may cause difficulties in this regard. An all-embracing concern is to ensure substantive people’s participation in relation to all the stages provided for by Circular

No.003. The business sector should also undertake human rights due diligence under the UN Guiding Principles on Business and Human Rights in relation to investments.

I was particularly interested to witness the situation concerning closed or semi-closed institutions, including prisons, centre for youth rehabilitation, drop in centre for homeless people and centre for mental health in various localities. The lessons learned include the need to ensure that all those who are kept in these locations must have full access to their families before and during their institutionalization. There should be as much access as possible to breathe the air outside the constraining buildings where they are kept and to be involved in “green activities” which can help to nurture their spirit. One institution housing primarily homeless people regrettably locked up most of the inhabitants most of the day, even though they had not committed any crimes, with the presumption that they needed counselling. All these institutions should be well monitored and need operational procedures based on human rights standards. In reality, many of those kept in these institutions should not be there at all. The country should thus not only move towards non-custodial measures and more community based rehabilitation but also expose and address fairly the variety of cases concerning wrongful imprisonment of vulnerable figures.

I was also pleased to meet a variety of different stakeholders during the visit. These included women human rights defenders, environmental defenders, members of non-governmental organisations, trade unions, media groups, farmers’ groups and youth/child groups. The country has an array of active organizations and individuals promoting and protecting human rights who deserve to be lauded for their courage and commitment. However, many human rights and environmental defenders, media and related organisations voiced concern about the shrinking or shrunken civic and political space. Many complained of intimidation and harassment by the authorities. Several had been prosecuted and imprisoned for their work, and criminal charges were still hanging over them like the sword of Damocles. In particular, the Law concerning non-governmental organisations inhibits the work of non-governmental organizations by imposing too many conditions and it needs to be reformed. Pending that, it should be interpreted liberally to enable more flexible registration of these organisations. There were also complaints against the debt caused by micro-finance programmes.

Meanwhile, a variety of laws constrain the work of the media. In addition to many criminal law provisions, there are also Telecom-related laws and the Single Internet Gateway decree which need abrogation. The latter opens the door to much surveillance which encroaches upon not only freedom of expression but privacy and a sense of security among media and other personnel. There were also comments on the non-independence of the judiciary and the deficient quality of law enforcers. Trade unionists critiqued further the threats and intimidation against their advocacy of labour rights, as well as uncertainties concerning the minimum wage. Members of local and indigenous communities complained of threats and intimidation against their work in protecting forests and urged that the law on protected areas should recognize their role in protection of such areas, complemented by their rites and rituals. Farmers’ groups raised the issue of land grabbing and some were victims of violence emanating from the authorities, in the advocacy of their rights. Prosecution in courts was used as a judicial instrument against them to constrain their rights to

express, assemble and participate peacefully. A member of the farmers' groups added this resonant message: "No Land, No Life".

The child and youth groups were especially vocal about issues of violence affecting children. These range from violence at home to the school upwards to State violence. There needs to be a law against corporal punishment at home and elsewhere. This needs to be paralleled by education and capacity building to nurture positive discipline which favours non-violent means to be employed where a child/youth has erred and this should shun violence which may beget more violence. The issue of gender and related discrimination was raised strongly by these groups, not only in relation to women's limited access to top executive positions but also in relation to the call for gender diversity. LGBTI groups advocated more attention for the country's commitments under the UPR, including the call to adopt a law to recognize gender identity.

The continuing presence of the OHCHR in the country is essential to help protect human rights, especially when and where official protection of these rights remains weak on many fronts. The spread of groups, institutions and activities witnessed by the SR during his first visit to the country provided him with deeper understanding as to the preferred Do's and Don'ts in the country. I am thus most grateful for the lessons learned and urge the Government to adopt a ten-point forward looking "Cambodian Human Rights Action Agenda" (CHR-AA) to be applied expeditiously and responsively as follows:

- Implement effectively the recommendations from the reports of the UNSR, the Human Rights Treaty Bodies and Universal Periodic Review through practical policies and related practices;
- Open up civic and political space, including by suspending and reforming laws of a draconian kind, as identified by the reports of the various international human rights mechanisms mentioned;
- Adjust the stepping stones towards the 2023 National elections, as recommended above, including to ensure that election-related personnel are chosen pluralistically and are separated from political parties;
- End prosecution of the political opposition and human rights defenders and related personnel. Release them and Drop the charges against them;
- Address land related issues via a more participatory approach and Enable settlements to find satisfactory solutions as voiced by the governmental circular above;
- Respond to the vulnerabilities of the various groups by adhering to non-violence and non-discrimination, guided by the recommendations of the various international human rights mechanisms;
- Improve the quality of law enforcers, including the police and the judiciary, by means of careful selection and incentivization, importantly to distance them from the power base and to ensure their independence and impartiality, and Reform the Criminal Justice system so as to enable more non-custodial measures to be used and with due respect for child sensitivity;
- Support post-COVID measures to ensure broader coverage of social protection to help needy groups, such as through access to the poor and family supports; Overcome the

injustices linked with debt and microfinance institutions by introducing more accessible debt relief programmes and consumer protection against exploitation; and Target special efforts to overcome the online gap and the educational retrogression due to the pandemic;

- Underline gender-responsiveness with effective measures against violence and discrimination, with due regard for more women's participation at the top of the power spectrum and respect for gender diversity, enhanced by child-friendly facilities;
- Move beyond the historical accent on peace to Promote the synergy between peace, sustainable development, human rights and democracy, with intergenerational bridges anchored on respect for international standards, complemented by local wisdom, and balance based on pluralization of shared power.

ENDS

Professor Vitit Muntarbhorn was appointed as the Special Rapporteur on the situation of human rights in Cambodia in March 2021. Professor Vitit is a Thai law Professor with longstanding experience working pro bono for the UN on human rights. He has helped the UN in a variety of positions, including as former UN Special Rapporteur on the Sale of Children, former UN Special Rapporteur on the Democratic People Republic of Korea, former UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, former Chairperson of the UN appointed Commission of Inquiry on the Ivory Coast, and former member of the UN appointed Commission of Inquiry on the Syrian Arab Republic.

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