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مجلس حقوق الإنسان
الدورة الخامسة
البند ٢ من جدول الأعمال

تنفيذ قرار الجمعية العامة ٢٥١/٦٠ المؤرخ ١٥ آذار/مارس ٢٠٠٦، المعنون "مجلس حقوق الإنسان"

مذكرة شفوية مؤرخة ٨ حزيران/يونيه ٢٠٠٧، موجهة إلى أمانة مجلس حقوق الإنسان
من البعثة الدائمة لمملكة كمبوديا لدى مكتب الأمم المتحدة في جنيف**

تهدي البعثة الدائمة لمملكة كمبوديا لدى مكتب الأمم المتحدة ومنظمة التجارة العالمية والمنظمات الدولية الأخرى في جنيف تحياتها إلى أمانة مجلس حقوق الإنسان وتتشرف بأن ترحو منها تعميم الوثيقة المرفقة بوصفها وثيقة رسمية من وثائق الدورة الخامسة للمجلس.

وتعرب البعثة الدائمة لمملكة كمبوديا عن شكرها لأمانة مجلس حقوق الإنسان وتغتتم هذه الفرصة لتعرب لها مجدداً عن أسمى آيات الاحترام والتقدير.

* أُعيد إصدارها لأسباب فنية.

** الرد مستنسخ في المرفق بالصيغة التي ورد فيها وباللغة الأصلية فقط.

Annex

Response to the report of Mr. Yah Ghai, Special Representative of the Secretary-General for Human Rights in Cambodia (A/HRC/4/36)

I. The necessity to be highlighted in Yash Ghai's report of improvements of democracy and rule of law in Cambodia

The report necessarily has to mention about the efforts and successes which the Royal Government of Cambodia has achieved in developing its country in term of democracy, human rights and rule of law so that these efforts and achievements are not overlooked.

- Cambodia has constitution and vital laws for fostering the regime of multi-party-democracy, respect of human rights and rule of law.
- Based on the stated achievements, many supreme national institutions have been established and operated under their respective mandates. For instance, Sovereign institution, the Senate, the Parliament, Constitutional Councils, Judiciary power, Government, and Local authorities of all levels have implemented their respective roles and responsibilities in conformity with the Constitution and laws in force.

Those tasks include:

- National election is regularly conducted every five years since 1993. Then, local election has been conducted two times under free and democratic atmosphere. National and international community had evaluated that the process of election from one to another has been gradually improved, free and fair. As a matter of fact, the local election of Commune/Sangkat was successfully organized on April 1, 2007;
- Up to date, 60 political parties have been established in Cambodia in which 44 parties have been registered;
- There are approximately 1873 associations and NGOs are operating and conducting their activities freely in Cambodia;
- Hundred of electronic media and press.

II. Freedom of Expression

Cambodia respects human rights, especially freedom and rights of expression of media has been maintained since the first mandate of Royal Government of Cambodia after the national election organized by the United Nations in 1993.

- Under the political strategy and guideline of Royal Government of Cambodia and the implementation of law, freedom and rights to expression of the media have been gradually promoted;
- In political strategy of the third mandate of the Royal Government of Cambodia, the government has encouraged improvement of media freedom and public advocacy, rights to conduct demonstration and strike, and freedom for organizing meetings under the laws and regulations. Moreover, the government has continued to support and highly appreciates critical comments and considers them as helping agents to orient and correct the actions undertaken by the government;
- Realities within Cambodian society:
 - a- Freedom of the Media
- Freedom of media is widely permitted without limitation. Specialized ministries and related authorities have provided supports to all associations, agencies and organizations working on the information and public advocacy, and permit those organizations to safely and freely operate their activities. It can be said that “Cambodia has better and more conducive conditions for the media operation”.

Currently in Cambodia there are:

1. 310 medias in which 274 were registered (96 of which are currently in operation), and 40 foreign medias are registered (8 of which are currently in operation). In addition, those foreign Medias are also permitted to print and publicized in English, French, Chinese and Vietnamese;
2. 21 private radio stations, but three of which belong to foreigners;
3. 06 private television channels
4. 74 registered magazine firms (32 firms currently are in operation)
5. 27 registered newsletters firms (2 firms currently are in operation)
6. 02 private cable television stations with 68 channels.

b- Freedom to Assembly

- 43 political parties were registered and other 17 parties are in the process of registration.
- 12 political parties participated in Commune/Sangkat election on April 01, 2007.
- All parties have participated in their political works according to their respective programs in many locations and forums. The meeting can be either closed door or open. Moreover, gathering can be with big number of participants for conferences and other events under the maintenance of security and public order by authorities of Royal Government of Cambodia.

- As a matter of fact, the Royal Government of Cambodia had provided opportunity to all political parties for participating equally, freely and fairly in second mandate of commune/Sangkat election without violence, political intimidations and threats leading the international community to recognize that it can be a model for others.
- Cambodia has 20 local human rights organizations (4 of which are human rights associations)
- There are other 03 international human rights organizations operate in Cambodia as follow:
 - The Office of the UN High Commissioner for Human Rights in Cambodia
 - Human Rights Watch
 - Asia Human Rights

c- Freedom of expression, demonstration and strike:

- Many public forums were organized in the forms of meeting. Those public forums were directly broadcasted through radio nationwide. The people are able to speak whatever and whenever and freely criticize the strength and weaknesses of the Royal Government of Cambodia. Moreover, they could openly criticize any government Ministries, institutions and local authorities without fear or feel threatened and intimidation.
- Many demonstrations and strikes have been conducted to protest against various unsatisfied issues. Even though some of the demonstrations and strike were illegally conducted, but the security and public order have always been ensured by national police and military police.
- There were 89 demonstrations and strike in 2006 and the security and public orders of those cases were successfully maintained.
- Intervention of police and security forces are needed for certain demonstrations and strikes as they sometimes transformed from non violence to violence-destroying private or public properties and intimidating investors. Actually, those kinds of violence actions are against the human rights and article 37 of the national Constitution of Cambodia. This article says that “under the law, all kinds of demonstration and strikes must be conducted within the framework of law”.
- Furthermore, Ministry of Interior is in the process of drafting a new law on peaceful demonstration. The draft law has been widely debated, consulted and participated by NGOs and civil society.
- Administrative reform has been continuously implemented. The national Assembly is currently debating on law on criminal procedure.
- Because of these efforts and achievements, Cambodia has realized the following outcomes:
 - Better political stability
 - Social security and public order have been ensured nationwide.

- Local and foreign investment have been promoted and increased.
- Annual economic growth rate had increased from 8% to 10 % commencing from year 1998. Moreover, Cambodia economic growth rate for year 2005 was approaching 14%.
- Income per capita was about 500USD for year 2006. The poverty rate has dropped to under 35%.

III. Land and live-hoods

1. Land disputes

- Land issue in Cambodia is of special characteristics and is different from other countries around the world. This discrepancy was caused by the genocide regime, the transition from a planned economic and free market regime, and the integration of people from all zones after the end of civil war and conflict;
- Cambodia had passed its land law in 1992;
- Mechanisms for the implementation of law are currently established and being implemented;
- Through the above law and mechanism, the Royal Government of Cambodia has mobilized the efforts to protect and solve many cases of land disputes each year.
- In March 2006 the Royal Government set up a national authority for solving land disputes. Otherwise, land dispute can be settled through the courts.

2. Resolution on illegal squatters

- Royal Government of Cambodia places itself in compromising position when dealing with illegal squatters and to protect their interests by providing appropriate relocation and ensuring development activities at the new resettlement.
- Government also tries to solve the problem of the illegal squatters based on peaceful solution of providing land to landless people. Moreover, another effort is also made to prevent land grabs of both public and private lands and these groups sometimes are protected;
- However, government has tried all the efforts to solve the issues of illegal squatters by relying on the principles to respect human rights and law, and the maintenance of public order.

IV. The Cases of Political Assassination

All forms of elections, including parliament, the Senate and commune/Sangkat councils, reflected the existence and sustainability of democratic regime in Cambodia. In order to maintain tangible security for elections, government has various strategies, including legal

measures, administration and security for ensuring the efficiency, transparency, freedom, fairness, non-threat, non-violence for election process from the beginning to the end.

Regarding to incidents impacting the election preparation process, it principally has to seek out the causes, sources and offenders before one can make final conclusion to arrest and send perpetrators to the court of law.

In the 2003 national election for the third mandate of parliament there were 35 murder cases impacted on political activists as follow:

- CPP's members 21 cases
- FUNCINPEC's members 08 cases
- SAM RAINGSY's members 06 cases

The above 18 murder cases have been investigated and arrested 20 offenders and brought before the court, 14 are at large (with arrest orders) and investigation of 09 cases is ongoing.

On the other hand, in the second-mandate commune council election of 2007, there were 9 murder cases:

- o - CPP's members 04 cases
- o - SAM RAINGSY's members 03 cases
- o - FUNCINPEC's members 01 case
- o - Norodom Ranariddh Party's member 01 case

Seven of these murder cases have been investigated (other 02 cases, the offenders escaped), and arrested 14 offenders and brought before court. 4 suspects remain at large.

It's noted that in accordance with the investigation and interrogation of the offenders, the crimes committed were because of their own vengeance, robbery and domestic violence, drug abuse; and there were no cases of political motivation involved.

V. The Extraordinary Chambers in the Courts of Cambodia (ECCC-Khmer Rouge Trial)

The Cambodian and International officials in the Extraordinary Chambers in the Courts of Cambodia (ECCC) have attended the meeting to finalize the internal rule of the ECCC in which they hope that the meeting will adopt the internal rule in next week. Thus, the first stage of the process of ECCC could be started at soon.

VI. Impunity

The Royal Government of Cambodia's policy has been clearly written to express the willingness to maintain fairness and democracy enhancement, freedom and rights protection and assurance of the interests of the people, justice, welfare and social stability assurance, strengthening of law enforcement, in particular, striving to promote laws promulgated by the

constitution, disseminating the laws, and is committed to ensuring that no offender enjoys impunity.

To these ends, the government is doing its best to eliminate assassination, setting a priority of investigation in order to catch the criminals to serve their crimes.

Law enforcement activities in 2006 shows that 3,699 cases were investigated equal to 87.7% of all cases (4,456), in which 2,817 cases were referred to court and 4,045 offenders (1,100 felony cases with 1,591 offenders; and 1,717 misdemeanour cases with 2,454 offenders).

It is noted that among 1,451 offences occurred, the authority investigated and suppressed 1,231 cases equal to 84.83% compared to offences occurred (in which 458 cases of murder occurred, the authority investigated 280 cases equal to 61.13% and arrested 310 offenders and sent to the court). Obviously, 02 cases are of great interest were successfully investigated involving assassinations:

+ The murder of Chea Vichea

In the case, the law enforcement identified 2 suspects, Born Samnang and Sok Sam Oeurn. These 02 suspects have been sentenced by Phnom Penh Court for murder and illegal use of weapons. The case was appealed to the Appeal Court, however, the judgement of Phnom Penh Court is maintained.

In regards to the case of Born Samnang and Sok Sam Oeurn, Mr. Yah Ghai could not interfere into the competent of the Cambodian courts.

+ The murder of Ros Sovannreth

In the case, the authority identified 01 suspect, Thach Sareth. The suspect was brought before Phnom Penh Court and sentenced for committing murder.

Even if the law enforcement in Cambodia have not been able to successfully investigated all the assassination cases but the above results and figures reflect that most of the crimes have been suppressed and the offenders have been arrested and sent before the court. The investigation of remaining cases are ongoing.

The truth acknowledged however, no country in the world is able to prevent and eliminate all crimes. We do not allow, of course, any offenders to enjoy impunity and at the same time we need to be conscious of the importance to maintain fairness and respect of human rights. Therefore, all investigations on offenses occurred require time for preparation.

At the time of enhancing rule of law and democracy, human rights, as well as condemnation of impunity, Cambodia has signed and become a member to UN Convention against torture. Ministry of Interior pays its attention on capacity strengthening of police officers, criminal law, forensics sciences and enhancement of investigation quality aiming to gather evidences and proofs as a foundation to accuse the offenders by court. As a signatory country of the UN

Convention against torture, on March 02, 2007, Ministry of Interior met to work with Center of Research and Rehabilitation for Tortured Victims, a Danish NGO, aiming to improve the implementation of above Convention.

VII. Implementation of Convention 1951 on Status of Refugees and Protocol 1967 of the Convention

As the signatory party to the Convention 1951 on Status of Refugees, the Royal Government of Cambodia has paid great attention to help and collaborate with UNHCR in Phnom Penh.

In solving the cases of the Vietnamese tribal highlanders, the Royal Governments of Cambodia, Vietnam and UNHCR jointly signed, on 25 January 2005, and implemented the Memorandum of Understanding on issues concerning to Vietnam tribal highlanders in Cambodia.

CONCLUSION

The Report of Mr. Yash Ghai, Special Representative of the UN Secretary-General for Human Rights in Cambodia, *only focuses on the negative aspects of human rights situation in Cambodia.*

It is even worse; he considered the situation of human rights violation in Cambodia as intentional and systematic committed by the Royal Government of Cambodia in order to maintain the power. The report is likely to stress on the intent of Royal Government of Cambodia inappropriately influencing on supreme national institutions including Sovereign institution, the Senate, the Parliament, Constitutional Councils and Judiciary power...etc. This negative evaluation and assumption overlook the efforts made by the supreme institutions and a legitimate government of an UN member state which has sovereignty and independence to foster democracy, respect human rights, State regulations, freedom of expression, freedom of media, freedom of Assembly, and implementing of international Protocols, and Treaties on human rights.

Cambodia reaffirmed the unacceptable accusation that does not reflect reality and especially the following statement appears in the report such as "the human rights violation in Cambodia is the act of intentional and systematic.

On behalf of the Royal Government of Cambodia, we would like to request Mr. Yash Ghai, Representative of the UN Secretary-General, to produce the report that reflects the reality of human rights situation in Cambodia, maintains balance, and recognizes the progress made by the Royal Government of Cambodia.

Cambodia demands correction of the report.

GENEVA, 08 June 2007.
