



END OF MISSION STATEMENT
United Nations Special Rapporteur
on the situation of human rights in Cambodia
Professor Rhona Smith

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Check against delivery

Just a month ago, I reported to the United Nations Human Rights Council on the situation of human rights, elections and democratic space in Cambodia. I reiterate my concerns and recommendations raised in that report and addendum (A/HRC/39/73 and A/HRC/39/73/Add.1).

I have now completed my sixth visit to the Kingdom of Cambodia in my capacity as United Nations Special Rapporteur on the situation of human rights in Cambodia. I would like to thank the Government for its invitation to visit and the willingness of so many State officials to meet with me and discuss openly human rights and sustainable development in Cambodia. I would also like to record my appreciation of the dedication and hard work of all staff of the Office of the High Commissioner for Human Rights (OHCHR) in Cambodia and in Geneva, who have so ably organised and supported this mission.

During this mission I had the privilege of meeting with a number of senior officials, in particular Samdech Krolahom Sar Kheng, Deputy Prime Minister and Minister of Interior, H.E. Aun Pornmoniroth, Deputy Prime Minister and Minister of Economy and Finance, H.E. Chea Sophara, Deputy Prime Minister and Minister of Land Management, Urban Planning and Construction, H.E. Ang Vong Vathana, Minister of Justice, H.E. Khieu Kanharith, Minister of Information, H.E. Say Sam Al, Minister of Environment, H.E. Veng Sakhon, Minister of Agriculture, Forestry and Fisheries, H.E. Keo Remy, President of the Cambodian Human Rights Committee, H.E. Eat Sophea, Secretary of State at the Ministry of Foreign Affairs and International Cooperation, H.E. Poch Bunnak, Secretary of State at the Ministry of Planning, H.E. Hang Lina, Director General of the National Institute of Statistics, and H.E. Rith Vuthy, Deputy Secretary-General of the Council for the Development of Cambodia. I also met with a wide range of relevant stakeholders, including representatives of civil society and political parties, the diplomatic community and the UN Country Team.

I am grateful to all those who took the time to share insights and information with me. However, I have once again been denied access to persons in detention, and notably, on this occasion, H.E. Kem Sokha in his current home detention under judicial supervision. I remind the Government of previous discussions that as an independent expert appointed by the UN Human Rights Council, I should be permitted private access to all persons in detention.

I take this opportunity to clarify the nature of my mandate as this has given rise to some confusion during this mission. I am an independent expert appointed as Special Rapporteur on

the situation of human rights in Cambodia by the United Nations Human Rights Council in Geneva. This means that I am answerable to the Member States of the UN Human Rights Council. While staff members of OHCHR support my work, I am not a UN employee. Therefore, the terms of the Memorandum of Understanding recently signed between the High Commissioner for Human Rights and the Government do not bind me. I do however warmly welcome the extension of the MOU and the willingness of the Government to work closely with OHCHR in-country in the promotion and protection of human rights.

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For this mission, I chose to focus on the localisation of the UN Sustainable Development Goals (SDGs) and related strategies, in particular SDG 16 on 'Peace, Justice and Strong Institutions'. Why?

Cambodia is now in a distinct phase of development. Following years of strong economic growth and significant progress in poverty reduction, Cambodia has a vision to graduate as a High Income Country by 2050. To help guide it towards realising this vision, the Government has adopted the Rectangular Strategy Phase IV and is finalising the National Strategic Development Plan and the localisation plan for the Sustainable Development Goals. **I encourage the Government to swiftly finalise then publicise this localisation plan.**

The promotion and protection of human rights is a critical element for these strategies and plans and, indeed, for the Vision 2050. For example, the Rectangular Strategy IV places good governance at its core. Good governance requires strong and open institutions that function according to human rights principles, including access to information, transparency, public participation in decision-making, the accountability of office-bearers and civil servants and access to justice, supported by a free press and vibrant, free and innovative civil society. Further, for Cambodia to meet its Vision 2050, studies indicate that economic growth will need to be more inclusive and equal, for the benefits of development to be sustainable. This means that 'no-one is left behind', including women, the poor, the near poor, the underrepresented and those living in marginalised or vulnerable situations.

Human rights principles – participation, equality and non-discrimination, accountability – are embedded in the Sustainable Development Goals. Therefore it will be important for them also to be embedded in the design, implementation, monitoring and evaluation of the Rectangular Strategy IV, the Cambodian Sustainable Development Goals framework and the National Strategic Development Plan. In many ways, SDG 16, with its focus on strong, effective, accountable and inclusive institutions, on transparency and on access to justice provides a vehicle to do so.

Of course, sustainable development goals are not a substitute for human rights protection and promotion. Rather they are complementary systems. On the one hand, human rights can add depth and legal enforceability to many aspects of the SDGs. On the other hand, the SDGs provide a programme to help implement human rights standards.

When analysing the targets and indicators contained in the SDGs against Cambodia's human rights obligations, I am reminded of many recommendations I have previously made concerning land rights, independence of the judiciary and access to justice, the prison system, political rights, access to services and non-discrimination. I have had the opportunity to revisit such issues during this mission.

To better evaluate the SDGs, I have focussed on three crosscutting themes: accountability, participation and leaving no one behind.

PARTICIPATION

The SDGs and human rights standards require **meaningful participation in governance and development**. Participation is required at the formal level in terms of the right to vote and to stand for election but also through other means such as meaningful participation in the development, implementation and monitoring of laws, policies and budgets.

I was encouraged by the participatory process of producing the current **draft of the law on access to information**, and I urge the Government to continue with this through adoption and implementation of the final law. Such a participatory approach to law-making could be replicated across other areas and also in reviewing current laws. I was encouraged to hear the Minister of Interior express his intention of consulting more regularly with civil society on law reform.

I welcome the recent creation of a **Government Working Group** under the leadership of the Ministry of Interior, to consult regularly with civil society. It will be important for the new Working Group to adopt clear and transparent methods of work, to be inclusive with regard to the civil society organisations that it will consult with, to involve them in the setting of meeting agendas, to give them time to prepare for meetings, and to allow them a role in following up on issues raised in the Working Group. I encourage both sides to build a truly collaborative spirit. Civil society organisations will need to be reassured that they can actively and meaningfully collaborate with the Working Group, without fear of reprisal, including at the local level.

Over the last year, I have received numerous reports of civil society activities being stopped and hindered under the Ministry of Interior instruction of October 2017 requiring civil society organisations to give prior notification of their activities. **I therefore warmly welcome the new instruction issued by the Ministry of Interior to sub-national authorities on 31 October 2018**, which the Minister unequivocally told me repeals the October 2017 instruction. The new instruction reminds local authorities that both associations and NGOs registered under the Law on Associations and Non-Governmental Organisations (LANGO), as well as unregistered, local grass-root communities, have full freedoms and rights to conduct their activities in accordance with Cambodian laws. **I urge the Government to take all necessary measures to ensure the proper implementation of this new instruction at all levels.**

At the same time, I am aware that civil society organisations still face considerable burdens complying with requirements under the LANGO, Trade Unions Law, tax regulations and other laws. I am also aware that these requirements are not applied evenly, and that they can be applied particularly strictly and even pedantically in relation to some organisations. I therefore encourage the Government to undertake a **review of the applicable legislative and administrative framework**, in consultation with civil society organisations and the UN, to ensure that regulations meet their aim without being unduly burdensome, and that they are applied transparently and fairly.

At their request, I met with some of the political parties forming the new **Supreme Consultative Council** established by Royal Decree in August. I learnt that the Council has been researching matters of concern and reporting to the Prime Minister. Government representatives informed me that the Council was created to mitigate the absence of an elected opposition in the National Assembly. I nonetheless reiterate the concerns I have previously expressed in my **Addendum** report on the elections presented to the Human Rights Council last September [A/HRC/39/73/Add.1].

ACCOUNTABILITY

The SDGs and human rights standards require accountability in the form of promoting transparency and integrity in decision-making, information and budgets, combatting bribery and corruption, promoting responsible leadership and ensuring equal access to justice for all. In this regard, **I strongly encourage the Government to include robust plans, targets and indicators on SDG 16 in its localization plan.**

The availability of legal assistance to those in need is an important step in ensuring access to justice for all. In this regard, the progress in the development of **the legal aid policy**, including the consultative and participatory nature of the drafting process, is encouraging and I look forward to its speedy adoption. The increase in the legal aid budget is also welcome and I encourage its continued increase so that legal aid is available to all who need it in the near future. The Ministry of Justice advised of the planned roll out of regional Appeal Courts and local judicial service centres which I trust will help bring justice closer to people across the whole country.

At the same time, access to justice also requires speedy trials and I am concerned at the time taken to conduct trials and the significant number of people in pre-trial detention. **I repeat my recommendations to use pre-trial detention only when absolutely necessary in accordance with Cambodia criminal procedure code; to carefully document the use of pre-trial detention; and to regularly review the ongoing need in each case.**

I note the royal pardon of several convicted prisoners, including opposition figures, although I am concerned about the convictions with suspended sentence in yet another case against Tep Vanny, as well as in the cases of the staff and former staff members of NGO ADHOC. I remain concerned that Kem Sokha is detained under judicial supervision with his rights and freedoms curtailed more than 14 months after his arrest and following more than a year in prison. **I call for the lifting of the sentences against Tep Vanny and the ADHOC staff and former staff members. I remain concerned about the charges pending against the ex-RFA journalists. I also call for the release of Kem Sokha from restricted detention and for the swift conclusion of the investigation in his case to ensure his right to a trial within a reasonable time based on a clear and transparent evaluation of the evidence, or for the charges to be dropped.**

Transparent and accountable **institutions** are necessary to achieve good governance. I welcome the one-stop service windows at the sub-national level, and in particular the creation of the post of Ombudspersons to receive complaints relating to public services. These are key steps in having more effective and accountable services at the sub-national level. My discussions with the Minister of Economy and Finance related to performance budgeting and the requirement of line-Ministries to submit clear budget plans for their expenditures were encouraging.

However, more efforts are needed. I call on the Ministry of Justice to ensure that all court-related fees are posted in all courts in a place where they are clearly visible to the public and in such a way that they cannot be removed. I also call on the **Ministry of Justice and judicial institutions** to be more transparent in relation to their operations, including in the criteria and methods used to decide on the promotion and transfer of judges and prosecutors, and to take more active steps to combat corruption and strengthen judicial independence and impartiality.

Data and evidence provide the necessary means to help the public hold institutions accountable and ensure that policies and programmes are helping all, including those most likely to be left behind. In this regard, I met with the Ministry of Planning and the National Institute of

Statistics (NIS) and highlighted the importance of disaggregated data. Faced with challenges in relation to its capacity, I encourage the NIS to seek technical assistance from development partners to help with the collection and disaggregation of data needed to measure whether CSDG implementation leaves no one behind.

Accountability is also important at the international level. In January 2019, Cambodia will undergo its third Universal Periodic Review of its human rights performance before the UN Human Rights Council in Geneva. It also has the possibility of submitting a Voluntary National Report of its performance under the SDGs to the UN's High-Level Political Forum that will meet in July 2019. I encourage the Government to approach these two complementary reviews openly to benefit optimally from the evaluation by its peers. **I recommend that the Government holds a national conference, with the UN and civil society, to follow-up on these reviews.**

LEAVING NO ONE BEHIND

The spirit of the SDGs is sometimes summarized in this overarching pledge that no one will be left behind, echoing the human rights norm of non-discrimination. In previous missions, I have focussed on marginalized groups and reported to the UN Human Rights Council on people vulnerable to being left behind: children, migrants, women, prisoners, drug users with dependency issues, ethnic minorities including indigenous peoples, persons with disabilities. I have also highlighted the risk of grounds of discrimination intersecting and magnifying the barriers faced by people.

To secure the sustainable development goals, Cambodia must take steps to **empower marginalized groups and remove all discrimination**. I was struck once again by the lack of women in senior government posts when I held meetings across so many ministries and institutions. On a more positive note, I learnt in my meeting with the Minister of Interior about progress in the implementation of the National Strategic Plan for Identification. SDG 16 has a dedicated target on the provision of legal identity for all, including birth registration, which is a core human right. I was updated on the Government budget priorities, in particular increases for the social sector.

During this mission, I undertook a **field trip** to Kampong Chhnang province to investigate the provincial authority's plans for relocating almost ten thousand people living in floating villages onto permanent land sites. This engages diverse human rights issues, several SDGs, and is inevitably complex. There is undoubtedly a need to improve SDG 6 (water and sanitation) and to sustainably protect and use the water and natural resources of Tonle Sap Lake and rivers (SDG 14 – life below water). The provincial authorities also recognize the need to ensure that the relocation plan will not leave people worse off, which would go against Government efforts in poverty reduction (SDG 1 – end poverty). Some of the affected people are amongst the poorest in the region. A large proportion of them do not have identification documents that grant them appropriate access to basic services and rights (SDG 16).

While I have visited many **relocation sites** in Cambodia, often connected with economic land concessions, this is the first time I have visited a site on reclaimed land where the community is moving onto land from the water. I visited one site with good progress towards providing appropriate infrastructure for those people moving to land – roads, a permanent market site, availability of alternative employment, electricity, clean water. The provincial authorities are working in partnership with a private company on this. Other relocation areas I visited, for example in Chhnok Tru and Dambok Kokoh, are considerably less developed and the water is still receding from the resettlement sites. However, the Provincial authorities continue working

with the communities to ensure that appropriate land is located and equipped with infrastructure, for them to live on and secure their livelihoods.

Concerns expressed by people from floating communities during my field trip echoed those heard during past missions as well as those contained in several petitions I received over the past ten days concerning **land rights**. SDG 1 on poverty reduction refers to equal rights to economic resources, and access to land and natural resources. **I urge the government to improve the ways in which it addresses the complex issues of land rights, through more transparency, fairness and by ensuring a holistic approach to settling land disputes and when considering relocation.** Only through this, would no one be left behind.

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This mission comes at an important juncture, with the Rectangular Strategy Phase IV recently adopted, and the Cambodia SDGs framework and the National Strategic Development Plan being developed. If Cambodia is to continue on its path of sustainable economic growth, it needs government that reflects the will of the people, institutions that respond to people's rights, and people with the necessary skills, voice and access to services to participate actively in development and society. This means keeping human rights at the heart of national strategies for sustainable development and durable peace. The Constitution, human rights standards and SDGs provide the means to do so.

END

Professor Rhona Smith (United Kingdom) was appointed as [Special Rapporteur on the situation of human rights in Cambodia](#) by the UN Human Rights Council in March 2015. As Special Rapporteur, she is part of what is known as the [Special Procedures](#) of the Human Rights Council. Special Procedures, the largest body of independent experts in the UN Human Rights system, is the general name of the Council's independent fact-finding and monitoring mechanisms. Special Procedures mandate-holders are independent human rights experts appointed by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world. They are not UN staff and are independent from any government or organization. They serve in their individual capacity and do not receive a salary for their work.

The Cambodia Sustainable Development Goals

The Cambodia Sustainable Development Goals (CSDGs) comprise the 17 global SDGs, with the addition of a local 18th goal on Mine and ERW action. National targets are still under development as part of the localisation plan.



UN Sustainable Development Goal 16 - Peace, justice and strong institutions

SDG16 Goal - Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

SDG16 Targets (global targets)

- 16.1 - Significantly reduce all forms of violence and related death rates everywhere
- 16.2 - End abuse, exploitation, trafficking and all forms of violence against and torture of children
- 16.3 - Promote the rule of law at the national and international levels and ensure equal access to justice for all
- 16.4 - By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime
- 16.5 - Substantially reduce corruption and bribery in all their forms
- 16.6 - Develop effective, accountable and transparent institutions at all levels
- 16.7 - Ensure responsive, inclusive, participatory and representative decision-making at all levels
- 16.8 - Broaden and strengthen the participation of developing countries in the institutions of global governance
- 16.9 - By 2030, provide legal identity for all, including birth registration
- 16.10 - Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements

SDG 16 Means of implementation

- 16.a - Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime
- 16.b - Promote and enforce non-discriminatory laws and policies for sustainable development