



International Service for Human Rights

The Reports in Short

ISHR's summaries of documents for the UN Commission on Human Rights
62nd Session and Human Rights Council 2nd Session

The Special Representative of the Secretary-General for human rights in Cambodia¹

Mandate holder

Yash Ghai

Mandate

The mandate was created in 1993² to ensure a continued United Nations human rights presence in Cambodia after the expiry of the mandate of the United Nations Transitional Authority in Cambodia, which was established following the signing of the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict in 1991. The Special Representative is mandated to maintain ongoing contact with the Government and people of Cambodia; guide and coordinate the United Nations' human rights presence in Cambodia; assist the Government of Cambodia in the promotion and protection of human rights; and focus particularly on the areas of the justice sector and the rule of law; freedom of association, assembly, and expression; the role of civil organisations in promoting social justice; and the country's Constitution.

Activities

Mission to Cambodia from 28 November to 5 December 2005.

Annual Report³

Scope

The Special Representative visited Cambodia from 28 November to 5 December 2005. He met with King Norodom Sihamoni; senior representatives of the Government; the President of Cambodia's governmental Human Rights Committee; the court authorities; representatives of political parties; non-governmental and community organisations; trade unions; the Resident Coordinator of the UN and the UN Country Team; bilateral and multilateral development cooperation agencies; and the diplomatic community.

Summary and key conclusions

- The Special Rapporteur concluded that fundamental freedoms and democracy are at risk in Cambodia. The country's Constitution incorporates the core international human rights instruments to which it is a party, but it has been massively disregarded and its safeguards have been weakened;
- Cambodia also continues to operate under a transitional code of criminal law and procedure adopted by the UN Transitional Authority in Cambodia that were intended to be temporary. Laws that make up the basic legal framework, such as the Penal Code and the Code of Criminal Procedure, have still not been enacted;
- These deficits have created a protection vacuum and an environment enabling human rights violations;
- There is also a pattern that suggests that the law is abused for political purposes and there is a pervasive practice of impunity for persons who are politically or economically well placed. The independence and integrity of the judiciary is also questionable;

¹ Summaries prepared by Cléa Thouin, Intern, ISHR, supervised and edited by Meghna Abraham, Information Program, ISHR.

² Commission *Resolution* 1993/6.

³ E/CN.4/2006/110, 24 January 2006.

- The management and use of Cambodia's land and natural resources is problematic, especially in relation to the secrecy surrounding the concession of land to private and military companies. These practices have harsh consequences for the livelihoods of the rural poor, including indigenous people as they are displaced from their ancestral lands, and contribute to the alarming rate at which forests are being destroyed;
- The Special Representative found a deteriorating environment for democratic participation and practice for politicians who belong to the opposition, trade unions, journalists, civic society and human rights organisations, mainly due to the frequent use of lawsuits by the Government to counter dissent and opposition. Laws criminalising defamation have not been applied in accordance with the norms of a liberal legal system and instead have been used selectively and unevenly;
- The work of activists has also been restricted by disregard for the right of peaceful assembly and may be severely limited by a draft law on NGOs that emphasises registration and structural requirements for associations and NGOs and raises the possibility of dissolving an NGO by administrative decision.

Key recommendations

Many of the recommendations presented by former Special Representatives are still valid.

- The Government should take urgent steps to **restore an environment which is conducive to public debate**, transparent and accountable administration and the exercise of democratic rights. Freedom of expression, association and peaceful assembly in particular must be respected;
- The Government has the responsibility of enforcing the law and should ensure that provisions which contradict human rights are repealed. In that view it should **enact the Constitution** and stop relying on the UNTAC Law, which was meant to be transitional;
- **Laws criminalising defamation should be repealed** and parliamentary immunity should be reinstated;
- The Government should complete the **drafting of key laws** through a participatory process and these must be consistent with the Constitution and international human rights treaties;
- The Government should strengthen the **independence of the legal and judicial process**;
- There is a need for **broad and constructive dialogue** within Cambodia about the nature and impact of **impunity** and the measures that need to be taken to overcome it. The recommendations of the former Special Representatives and human rights treaty bodies have to be implemented in this regard;
- The Government should provide fair and just procedures to **resolve land disputes** in accordance with domestic and international law;
- The Government should pursue the submission of Cambodia's initial report under the *International Covenant on Economic, Social and Cultural Rights* and its periodic reported to the other treaty bodies;
- The international community must assist the Government to design and implement policies and programs that will benefit the country as a whole and allow the people to exercise their political, civil and economic rights;

Addendum⁴

Summary and key conclusion

Since the Special Representative's report⁵ was finalised, there have been some **encouraging developments**, particularly in relation to creating an **environment conducive to the conduct of legitimate political activity**:

- **Release from pre-trial detention** of persons active in public life whose cases are mentioned in the report;
- Pardoning and restoration of **parliamentary immunity** to members of the Sam Rainsy Party;
- Statement from the Prime Minister in favour of **decriminalising defamation**.

The Special Representative will undertake a **second mission** to Cambodia in March to obtain an updated understanding of the situation.

⁴ E/CN.4/2006/110/Add.1, 8 March 2006.

⁵ E/CN.4/2006/110, 24 January 2006.