

Statement
of
The Representative of the Royal Government of Cambodia,
H.E. Mr. MAK Sambath, Secretary of State,
The Second UPR Process
Geneva, January 28, 2014

Today, My delegation and myself, on behalf of the Royal Government of Cambodia (RGC) it is my pleasure to take part in the Second UPR Process and we would like express our deep and sincere thanks to his Excellency the President of the Human Rights Council and members of the Human Rights Council, members of the Troika including the Philippines, Italy, and Morocco and other states parties who have attended this important process and especially I would like to thank the Secretariat of the Office of High Commissioner for Human Rights of the United Nations for its assistance in facilitating this work. In addition to this, I would like to thank the Office of High Commissioner for Human Rights in Cambodia for its assistance and cooperation since the first UPR Process till present time and I also thank CSOs who are the important partners of the RGC who have taken part in the consultations process and provide feedbacks and recommendations for the Government in a constructive manner for the sake of the national development.

On behalf of the RGC I would like to pay my respect and high evaluation for the Human Rights Council and all UPR Working Groups. It is a unique mechanism for monitoring the human rights reports of all members of the United Nations (193 countries) on every four and a half years. More important than this the UPR mechanism is a national process with the assistance of the Human Rights Council that gives opportunity to each state to declare various measures taken up to improve the situations of human rights in their own countries.

Excellency, Ladies and gentlemen!

Taking this valued opportunity I would like to seek your permission to inform you about the UPR Process briefly: the RGC submitted its first UPR report to the United Nations on 27 August 2009 and a delegation was sent to take part in the meeting on December 1-3, 2009. After the meeting was concluded various countries provided 91 recommendations. All the recommendations were already in line with the government's policy. Some of the recommendations were already implemented, some are being implemented and some recommendations will be implemented in the future.

After having received the 91 recommendations the RGC had appointed a Working Group comprised of 21 members; I am the president of this Working Group and with 17 members from related ministries/institutions to work on the UPR Process. This working Group had cooperated with OHCHR to organize 2 workshops with the participation of experts from OHCHR, Indonesia, Malaysia and the Philippines and had organized 05 consultations meetings with relevant ministries/institutions and 02 consultations meetings with CSOs. On 18-19 September 2014 the Working Group on UPR had attended a meeting with the Legal Council and Economic, Social and Cultural Council of the Council of Ministers to discuss and improve the UPR report in line with the legal basis and importantly on 25 October 2013 in the full session of the Council of Ministers under the high auspice of Samdech Prime Minister of the Kingdom of Cambodia adopted the report and it was submitted to the Human Rights Council on 28 October 2013.

Important contents which have been included in the first UPR report of the RGC indicated the positive achievements, challenges and future goals of the RGC. There are 07 major topics such as: 1. the Ratification, 2. Land rights, 3. Rule of Law, 4. Prisons and Against Torture issues, 5. Economic, Social and Cultural Rights, 6. Women's rights, 7. Child's rights. These contents respond to the 91 recommendations made for Cambodia.

Excellency, Ladies and gentlemen!

In order to respond to the 91 recommendations and the advance questions sent to Cambodia on January 20, 2014 from countries like Germany, Liechtenstein, the Netherlands, Sweden, United Kingdom, Czech Republic, Belgium, Slovenia, and the United States of America, the RGC has implemented and has clear goals within the government's policy for the fifth mandate and allow me to inform the meeting in relation to these important topics as below:

1. Ratification and invitations of the Special Procedures

Cambodia has ratified 09 international conventions and the RGC has the obligations to implement those conventions. In relation to two Optional Protocol of ICCPR and the Optional Protocol of ICESCR, Cambodia Human Rights Committee with the assistance from the OHCHR has organized two seminar and we had conducted two consultations meetings with relevant ministries/institutions. At the time being Cambodia Human Rights Committee and the Ministry of Foreign Affairs and International Cooperation of Cambodia will continue to consult with the relevant ministries/institutions and then will be submitted it to the government for approval.

Regarding the invitations to other Special Rapporteurs to visit Cambodia, there is no need to be invited from the RGC. The Special Rapporteurs can visit the country at any time. At present there are many organizations working on human rights issues in Cambodia such as: Human Rights and Complaints Commission of the National Assembly, Human Rights and Complaints Commission of the Senate, Cambodia Human Rights Committee, hundreds of national and international organizations including the Office of the High Commissioner for Human Rights in Cambodia and also the presence of the Special Rapporteur for the situations of human rights as well.

2. Land Reforms

In this fifth mandate, the RGC continue to register all types of land aiming to strengthen the safety of land ownership, ensuring the confidence and effectiveness of land use. The historic campaign which implement "Old Policy, New Actions" on land issues project have measured and issued residential land titles deeds and rice field titles deeds for the people in general and the actual land owners as farmers. Up to date the RGC has registered 2,845,282 land titles deeds for 500,000 families. In regard to the land eviction which was raised by some people; this opinion is not properly informed and looked into the situation from all sides of the coins. According to the UN documents on rights to houses and land eviction, there is no denial of land eviction at the final stage which considered being necessary and unavoidable. The RGC which is voted in by the majority of the people must take into consideration the interest of the people and safety and social orders and it can not leave the interest of the entire society (the majority) to become the hostage of the less majority.

The RGC recognizes the illegal land ownership on a provisional basis of the people waiting until they can find a legal location to reside. The RGC has set up the community of the poor people with representatives to protect their interests and develop the communities in a participatory and transparent approach. There is a notification on the issue of location shift or development of a location at least one year in advance. There is a land dispute resolution for at least 3 years based on the principle of "opinions and interests of the less majority respect the interests of the super majority" with the mixed Working Group cooperating with NGOs implementing and seeking solutions.

Regarding to the land of the indigenous people, the RGC has policy, regulations, laws and formalities to protect and recognize the land rights of the indigenous community. The sub-decree has been drafted based on the pilot projects of land registration for 03 indigenous communities and comprehensive consultations were made with national law experts, international laws experts, relevant ministries/institutions, development partners, and the CSOs and especially the indigenous people

themselves got involved. The contents of the Sub-decree related with the process of land registration for the indigenous communities which is a participatory and transparent approach required all relevant parties taking part in identifying the determined location and community land identification process, they themselves are the ones who identify the land for themselves.

3. Legal and Judiciary Reforms

The RGC continue to carry out the deep reforms on the legal and judiciary issues. Up to date we have adopted 416 laws aiming to enhance the legal framework for stability and continue to receive confidence and strengthen the capacity, independence, and impartiality of judiciary institutions which are crucial importance to improve the rule of law, separation of power, the respect for individual rights, and the guarantee of justice for the population in general. In this fifth mandate the RGC will continue to work harder to reform the laws by encouraging the draft of new laws which are important and necessary for the state and in line with the establishment of the ASEAN Community in 2015, laws enforcement should be further strengthened as effective as possible, increase laws awareness programs and conduct trainings for the laws enforcement officials at all levels and the citizens. For the Judiciary Reforms the RGC has pushed to enact the laws related with the judiciary system such as Law on Judiciary Systems, Law on the Statutory of Judges and Prosecutors and Law on the organization and functioning of the Supreme Council of Magistracy within the first semester of 2014.

4. Electoral Reforms

The election of the national assembly for the fifth mandate was conducted on 28 July 2013; all political parties have comprehensive rights to use the media systems. In the electoral process the National Election Committee (NEC) facilitates the individuals to use the freedom of expression and the freedom of the public assembly. On the other hand NEC keeps disseminating and encouraging organizations, national and international associations to get involved in the dissemination of information process through the state media and private media ensuring that all people receive sufficient information related with election process. Election campaign, voting, and vote counting have been conducting smoothly. There are many observers from the associations, national and international NGOs, and Embassies. Almost all of the national and international observers have made positive evaluation over the electoral process. Those statements made encouraged all political parties to solve their disputes peacefully.

After receiving some recommendations from various sources, especially the Special Rapporteur of the United Nations for human rights in Cambodia, the CSOs, the EU and the joint proclamation between the Cambodian People's Party and the Cambodia National Rescue Party dated September 16, 2013 the RGC has issued an official announcement number 14 dated 22 October 2013 which gives the task to the Ministry of Interior to organize the national workshop planned for the first semester of 2014 with the participation of the representatives from the legislative branch, executive branch, representatives of the registered political parties, representatives of NEC, representatives of CSOs and international organizations, development partners and other relevant stakeholders to collect opinions, comments and recommendations in effort to draft the electoral reforms in accordance with the principles of Democracy, pluralism, and rule of law as comprehensive as possible to avoid any crisis in future mandates.

5. Law on Organizations and Associations

The RGC has made it clear that the CSOs have an important role as an effective partner of the Royal Government for the national development. In this view the RGC encourages the associations and NGOs who are working to serve the people across the country and welcomes the participation of the associations and NGOs to restore and develop the socio-economy and promote democracy and human rights. In this spirit the RGC needs to establish and implement the law on Associations and NGOs.

This draft law aims to determine the standards and conditions of the registration, MoU, in order to allow all levels of authorities to facilitate the activities of the associations and local and international NGOs in the Kingdom of Cambodia. The aim of providing the right to the people of Cambodia in establishing the

associations or NGOs is an encouragement to cooperate between the Royal Government with the associations and NGOs.

According to this aim and important point above the RGC has drafted a law on associations and NGOs and it was placed for public consultations in the national workshop and it was also placed under consultations from the associations, national and international CSOs, representatives of the Embassies and representatives of the EU many times and it was also properly consulted in line with legal basis and finally it was submitted properly to the full session of the Council of Ministers. It was approved unanimously. This law has 11 chapters and 58 articles.

The RGC believes that the draft law on associations and NGOs consisted of contents and interests to guarantee the protection of rights to create the associations and NGOs of the Cambodian people to develop Cambodia.

6. Freedom of Expression

Freedom of expression is the foundation of democracy that the Kingdom of Cambodia has followed. Article 41 of the Constitution states that "Cambodian people are free to express their opinions, freedom of the press, freedom of publication, and freedom of assembly, any individual can not take advantage using this right to violate others dignity, good tradition of the society, social order and national security". Any individual can follow their opinions without interference and have rights to freedom of expression. This right includes freedom of research; disseminate the information verbally or in writing and other means at their choice.

The RGC had encouraged the public forums to collect the views of the people from all walks of life and political tendencies throughout the Kingdom of Cambodia. Cambodia does not have the Law on associations and NGOs yet but the RGC permits the CSOs to open the public forums that give opportunity to the people to take the floor and express their opinions freely. As a matter of fact there are some NGOs such as the Cambodian Human Rights Center, ADHOC, LICADHO, and especially NDI and IRI who are working to educate, disseminate, train the human rights aspects at the province-municipality levels throughout the country.

There are 721 publishing media such as newspaper, news magazines, newsletters, 139 radio stations, 108 TV stations and 127 cable TVs and over-counted of social media networks which are performing activities and disseminate information without censorship on their contents in advance. The different opinions are disseminated freely. The critics had accused the government that it is a dictatorship, not a democratic minded government, no freedom of expression, those people are being the witnesses themselves that Cambodia has democracy and respect for human rights in return.

As for the dissemination through the new and modern way, INTERNET, ONLINE, WEBSITE, and SOCIAL MEDIA NETWORKS the citizens have rights to create their own website freely that disseminate their opinions this way freely throughout Cambodia.

Freedom of expression as mentioned above clearly indicated in the campaign for communal/sangkat election in 2012 and national assembly election in 2013.

7. The Establishment of the National Human Rights Institution and National Preventive Mechanism

On this issue of the establishment of this institution, in 1997 the RGC has issued a sub-decree to appoint a committee that is tasked to draft this draft law but this committee dose not work. Until 26 September 2006 the RGC headed by Samdech Prime Minister attended the opening of the national seminar on the establishment of the National Human Rights Institution of Cambodia in Siem Reap with the experts on regional human rights mechanism from the Philippines, Indonesia, Malaysia, and Thailand shared their experience in the seminar. During that occasion Samdech tasked CSOs to make the draft law that

includes Mr. Kem Sokha as the chairman to draft the law which is based on the Paris Principles on the establishment of the National Human Rights Institution. After that in 2007 Mr. Kem Sokha as the chairman resigned and started to create a political party and Madame Pong Chiv Ngec, the head of LICADHO replaced him as the chairperson for this working group. The mixed working group of the government which is headed by his Excellency Om Yenteng had established the plan of actions for drafting this law. After having meeting and discussions for 5 times and after the joint delegation had visited the Philippines. This draft law was finished on 06 February 2010 in Sihanoukville city. Recently in the meeting with Professor Subedi, Samdech Prime Minister had encouraged more discussions with the CSOs on this issue. After this the national workshop will be established to collect inputs and recommendations from laws experts, lawyers, and other relevant stakeholders to make this draft law better and then this draft law will be submitted to the Council of Minister for further legal actions.

In relation to the issue of Against Torture Cambodia signed to be the state party in New York on December 14, 2005 and was promulgated by the Royal Kram number 0107-002 dated 19 January 2007. In order to be in line with this Optional Protocol the RGC issued a sub-decree number 122 dated 07 August 2009 on the establishment of the national mechanism. For the purpose of this mechanism to be working as effectively as possible the Ministry of Interior issued a Proclamation (Prakas) number 1177 dated 06 July 2010 on the establishment of the Secretariat of this National Mechanism to prevent torture, which is an office to serve this mechanism.

On 01-11 December 2009 the Sub Committee (SPT) visited Cambodia for the first time and the Committee visited at some prisons and police stations at a number of provinces in line with the guidelines of the Sub Committee. From 12-17 December 2013 the Sub Committee made the second visit and looked at some prisons and police stations and also had conducted a seminar on the establishment of the independent national preventive mechanism as well. Up until now the draft law process is taking hold by having the Ministry of Interior and OHCHR discuss the process to be in the scope of the OPCAT.

Again on behalf of the Royal Government of Cambodia I would like deeply thank his Excellency the President of the Human Rights Council and members of the meeting who have allowed Cambodia to submit its second UPR report during this occasion.

I would like to wish you the President, Ladies and Gentlemen with good health during this New Year.

Thank you for your attention!

