CCHR WELCOMES REPORT BY SPECIAL RAPPORTEUR AND CALLS FOR GOVERNMENT TO LEAD JUDICIAL REFORM

The Cambodian Center for Human Rights ("CCHR") welcomes the latest report from the United Nations Special Rapporteur on the situation of human rights in Cambodia, Surya Subedi (the "Special Rapporteur"). The Report, dated 16 September 2010, examines the effectiveness of the Cambodian judiciary in promoting and protecting human rights and will be presented to the Human Rights Council in Geneva on 28 September. CCHR calls on the Royal Government of Cambodia ("RGC") to review the content and recommendations of the Report closely and avail itself of opportunities to work with the many willing partners who are available to help the RGC strengthen the judiciary and its capacity to protect the rights of the citizens of Cambodia.

CCHR notes with concern the dismissive comments of numerous government officials reported by media in response to the release of the Report of the Special Rapporteur. It is no secret that Cambodia’s judiciary faces challenges, many of which are complex and difficult to address. The RGC is clearly aware of this fact, having created the Council for Legal and Judicial Reform, which produced a Legal and Judicial Reform Strategy in 2003 setting out the RGC’s reform priorities. It should come as no surprise that Cambodian and international NGOs, opposition parties, donors, and United Nations treaty bodies and special mandates have repeatedly expressed similar recommendations in regard to strengthening the judiciary. CCHR encourages the RGC to view these groups as genuine partners in the challenging goal of legal and judicial reform and capacity building rather than dismissing their findings and recommendations as biased, uninformed and irrelevant.

Christoph Peschoux, country representative for the Office of the High Commissioner for Human Rights ("OHCHR"), has reportedly offered the assistance of his office to the RGC to help implement the recommendations in the report of the Special Rapporteur. Cambodian NGOs such as CCHR operate trial monitoring projects that collect data to support the RGC’s legal and judicial reform efforts. Donors have offered their support and technical expertise to a model court project, and, as CCHR has repeatedly stressed, there are ongoing opportunities for the RGC to take advantage of the expertise and experience of judicial officers employed at the Khmer Rouge Tribunal. These examples provide evidence that, if the RGC is willing to genuinely engage with those who offer constructive criticism and present good faith recommendations for reform, there is no shortage of available support.

However, when considering legal and judicial reform, a distinction must be drawn between areas in which partners can provide support – such as collecting data through trial monitoring, providing technical expertise, and providing funding – and those in which the RGC must take the lead. The creation of key laws by the RGC such as the Law on the Status of Judges and Prosecutors and the Law on the Organization and Functioning of the Courts, as well as the reform of the Supreme Council of Magistracy, would necessarily result in greater independence for judges and prosecutors.
Similarly, by removing the crimes of defamation and disinformation and ending politically motivated criminal cases against members of opposition parties and those in the media, the RGC would clearly indicate that it has no interest in using the courts as a political tool to silence critics. There are multiple partners willing to support legal and judicial capacity building in Cambodia and the RGC has made some progress in this area. However, fundamental and transformative legal and judicial reform that allows the Cambodian judiciary to protect Cambodia’s liberal democracy and the rights of all citizens requires a willingness from the RGC to limit its own power.

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