30 June 2011

Open letter to Ban Ki-moon from the Cambodian Center for Human Rights congratulating the Secretary General on his re-election and calling on him to review the nature of the UN’s relationship with Cambodia

Dear Secretary-General,

I write to you as a Cambodian civil society leader to congratulate you on your re-election to serve a second five-year term as the Secretary-General of the United Nations (the "UN"). I hope that such an overwhelming endorsement of your leadership of the UN will provide you with the platform to review and reshape the seemingly compliant relationship that the UN and its affiliated agencies based in Cambodia have with the Royal Government of Cambodia (the "RGC").

The UN has a unique connection with Cambodia going back to the United Nations Transitional Authority in Cambodia ("UNTAC") in 1992–93, during which time the UN was given an unprecedented level of authority in an independent state when it was asked to take over administration of the country in the run up to the election in 1993. This period was of fundamental importance in forging the new Kingdom of Cambodia from the ashes of the years of civil war that had preceded it.

The legacy of these years is, in many respects, still evident in the Kingdom. At the conclusion of a recent visit in February 2011, Professor Surya P. Subedi, the United Nations Special Rapporteur for Human Rights in Cambodia, noted that Cambodia has ratified more human rights treaties than many other states – many of which were ratified during the UNTAC period. As noted by Subedi, Cambodia accepted all recommendations made by the Human Rights Council following its Universal Periodic Review ("UPR") of Cambodia’s rights record. He went on to argue that Cambodia could aspire to be a model for human rights in the region – a forward-looking country with a democratic constitution.

The picture painted by the Special Rapporteur however only tells one side of the story insofar as Cambodia and its relationship with the UN is concerned. In truth Cambodia has, in recent years, abandoned many of the principles espoused by the UN and has lashed out, much like a petulant child, at some of the requests and suggestions made by its former surrogate. Since accepting the recommendations of the UPR, the RGC has continued pursuing a concerted legislative agenda to limit the rights to freedom of association and expression of all Cambodian citizens. This strategy is evidenced by pending laws that will regulate and restrict civil society – primarily trade unions and non-governmental organizations. Both laws have been roundly condemned by civil society and criticized by the international community. This approach should be seen as another stage in the RGC’s push towards an undemocratic Cambodia void of political pluralism – in gross violation of Cambodia’s constitution which the UN was so instrumental in creating.

This comes at a time when the RGC is trying to use its association with the UN to legitimize its rule. Reports have circulated in the press that Lebanese President Michel Sleiman received a
letter from Cambodian Prime Minister Hun Sen seeking his support for Cambodia’s candidacy for non-permanent membership of the UN Security Council for the period 2013-2014. The RGC has also turned to the UN in its battle with Thailand over the Preah Vihear temple, applying to UNESCO asking for the temple to be declared a protected Heritage site under its administration and asking the International Court of Justice for a ruling on ownership of disputed territory adjoining the temple. However legitimate Cambodia’s claims relating to Preah Vihear are it is interesting that the RGC has turned to the UN when its interest require whereas in other instances it has treated UN representatives with flagrant disregard.

During your trip to Cambodia last October, it was reported in the media that Prime Minister Hun Sen demanded that you remove Christophe Peschoux, the outspoken former head of the local UN Office of the High Commissioner for Human Rights who departed last month. This demand followed a threat a year earlier by Foreign Minister Hor Namhong to expel UN Resident Coordinator Douglas Broderick after comments he made concerning the passage of Cambodia’s anti-corruption law.

During your meeting with Prime Minister Hun Sen last year it was also reported that the Prime Minister demanded that the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) be closed with the conclusion of Case 002. As a victim of the Khmer Rouge – my father having been murdered at the hands of the brutal regime – I am flabbergasted by recent developments at the ECCC – namely the failure of the Office of the Co-Investigating Judges to investigate additional cases – which leave little room for one but to conclude that the UN has conceded to the demands of the RGC with regards the closure of the ECCC and is actively working to that end. The UN, it seems, has gone so far as to question civil society’s role as a court watchdog. A statement on the 14 June 2011 attributed to a spokesperson for the Secretary-General, correctly pointed out that the investigating judges and prosecutors at the ECCC must be allowed to function free from external interference from various parties – including civil society. A distinction must be drawn however between civil society’s role as a watchdog, reviewing developments at the ECCC against the standards set down in the ECCC’s Internal Rules and the Constitution – which is permitted – and interference in the ECCC's execution of its judicial functions – which is not. Bearing in mind that one of the motivations behind the creation of the ECCC was guilt within the international community for its failure to act to prevent the crimes committed by the Khmer Rouge, the UN’s acceptance of the RGC’s position and its apparent efforts to silence civil society are all the more difficult to comprehend.

Upon your re-election, the spokesman of Cambodia’s Ministry of Foreign Affairs and International Cooperation, Koy Kuong, said that the RGC extended its full support and congratulations to you stating that “Cambodia and the UN have had good co-operation and even better after [your] recent visit to Cambodia”. While cooperation between the UN and the RGC is welcome, it is not the position of the RGC to solely determine the conditions of that cooperation – seeking the assistance and backing of the UN when it is in need and lambasting the UN and UN staff when it is not. I hope that the imprimatur that the international community has recently given your leadership allows you to review the UN’s role with the RGC and to renew the UN’s commitment to the Cambodian people.

Yours Sincerely,

[Signature]

President of the Cambodian Center for Human Rights