CRIMINAL JUSTICE SYSTEM AS AN OBSTACLE TO DEMOCRATIC DEVELOPMENT IN CAMBODIA

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A THESIS SUBMITTED IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR
THE DEGREE OF MASTER OF ARTS (HUMAN RIGHTS)
FACULTY OF GRADUATE STUDIES
MAHIDOL UNIVERSITY
2006

ISBN 974–04–7686-4
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ABSTRACT

Before reaching the non-amendable policy of liberal democracy and pluralism firmly guaranteed by the 1993 constitution, Cambodia experienced civil wars for more than two decades and massacres committed by Khmer Rouge for more than three years. Nonetheless, the process of democratic restoration in Cambodia since 1993, when the UN spent thousands of billion US dollars, has been observed to be remarkably slow.

This study explores the problems of consolidating democracy in Cambodia. The main problem is the non- effectiveness of the criminal justice system (CJS). Cambodia ratified the International Covenant on Civil and Political Rights (ICCPR) in 1992, and guarantees to respect all the rights enshrined in the Covenant by article 31 of its constitution. The constitution also guarantees the independence of the judiciary (article 128, constitution) and empowers the judiciary to protect those rights of Cambodian citizens. However, to meet the objective of protecting those rights, there is need for an effective criminal justice system. From this viewpoint, the functions of prosecutors and judges are considered the most important.

This thesis argues that the judiciary is not independent or impartial as required by the constitution, and that the department of public prosecution does not independently or impartially perform its duties provided by the law. For these reasons, the rights of Cambodian people are not only violated by law enforcers, but also by justice holders. Thus the lack of the rule of law is an obstacle to democratic development in Cambodia.

Finally, this study recommends that the primary task to promote and sustain the process of democratic development in Cambodia is to achieve the objective of the independent and impartial performance of legal duties by the prosecutors and judges, and put an end to the outstanding culture of impunity. Unless this objective is reached, the violation of Cambodian people's rights will continue and democratic development will be impeded.

KEY WORDS: CRIMINAL JUSTICE SYSTEM / IMPUNITY / DEMOCRATIC DEVELOPMENT / CAMBODIA

157 P. ISBN 974-04-7686-4