

OPEN LETTER TO THE UN SECRETARY-GENERAL



No. 0001.04/224

National Human Rights Commission of Thailand
422 Phyathai Rd., Pathumwan, Bangkok 10330,
THAILAND.

26 July B.E. 2551 (2008)

Dear Mr. Secretary-General,

I am writing to you to express and register the most serious concern and dismay of the National Human Rights Commission of Thailand, an independent organ established under both Thai Constitutions of 1997 and 2007, over the blatant violation of human rights committed by organs of the United Nations in total disregard of the letters and spirit of the UN Charter and the Universal Declaration of Human Rights, namely, the inscription by the World Heritage Committee (established within the United Nations Educational, Scientific and Cultural Organization pursuant to the Convention Concerning the Protection of the World Cultural and Natural Heritage of 16 November 1972) of the Temple of Pra Viharn or Preah Vihear on the World Heritage List, as unilaterally proposed by Cambodia.

Such decision with the reference number 32 COM 8B.102 by the World Heritage Committee at its 32nd Session in Quebec City, Canada, has clearly contravened the noble purpose of the UN Charter in promoting the development of friendly relations among nations, the very concept echoed in the preamble of the Universal Declaration of Human Rights, as well as the provisions of the Universal Declaration of Human Rights itself, especially Article 28, namely, “Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized”.

The events before and after the making of such decision by the World Heritage Committee show that the issue of sovereignty over Pra Viharn Temple itself and its surrounding areas has been highly contentious ever since the decision of 15 June 1962 of the International Court of Justice and the responding letter by the foreign minister of Thailand dated 6 July 1962 to the Acting UN Secretary-General, expressing Thailand’s disagreement with the said decision of the International Court of Justice and reserving whatever rights Thailand has or may have in the future.

Mr. Ban Ki-Moon,
Secretary-General,
United Nations.

Furthermore, the massive popular protests in Thailand over the perceived attempt by the current Government of Thailand to support Cambodia's unilateral nomination of the Temple of Pra Viharn, culminate in the ruling by the Administrative Court granting an interim injunctive relief to suspend all the effects of the Joint Communiqué of 18 June 2008 between Thailand and Cambodia, and the decision by the Constitutional Court that the signing of the said Joint Communiqué was unconstitutional. These events were widely reported by domestic, regional and international media, making it somewhat inconceivable for UNESCO with its long presence and experience in this Southeast Asian region and its World Heritage Committee to profess ignorance of the ongoing dispute and the controversy surrounding the Pra Viharn Temple before the making of Decision 32 COM 8B.102, especially in the face of the protest of the Thai Government at the 32nd Session of the World Heritage Committee against the lack of due process in dealing with the unilateral nomination of the Pra Viharn Temple by Cambodia. Besides, the issue of Pra Viharn Temple has always been a special case stirring strong passion and a sense of injustice in Thailand. There was also the incident of the burning of the Thai embassy in Pnom Penh in January 2003. So the relationships between the 2 countries and peoples have gone through trials and tribulations already and should not be subjected to undue extra stress that will cause greater animosity and bitterness inside and between Thailand and Cambodia.

The above have raised serious doubt and questions about the manner in which the World Heritage Committee made its decision regarding the inscription of Pra Viharn Temple on the World Heritage List, especially from the human rights perspective, a fundamental international instrument of which, namely, the Universal Declaration of Human Rights is supposedly enjoying its 60th anniversary this year. I therefore would like to bring to your attention some, if not all, of the questions and doubt as follows:

1. Who is responsible for the violation of Article 3 of the Universal Declaration of Human Rights? The above decision of the World Heritage Committee has endangered the lives of those who live along the Thai-Cambodian border especially if a violent conflict arises and those people's rights to life, liberty, and security has been seriously jeopardized. On 17 July 2008 there was a violent clash between the protesters from all over the country protective of Thai sovereignty and some villagers living near the Pra Viharn Temple fearful of losing their livelihood and security permanently due to the ongoing conflict. Unfortunately, the seed of a serious discord and threat to life has somehow, intentionally or unintentionally been sown by the World Heritage Committee. The 17 July incident could be merely a glimpse of things to come.

2. At present, the troops of Thailand and Cambodia are facing each other in combat readiness creating tension along the border which could escalate into a larger scale confrontation. The people of the 2 countries who have been living peacefully are now seeing peace being undermined by the decision of the World Heritage Committee. It is clear that the conflict as it is has deprived the peoples of Thailand and Cambodia of a favourable social and peaceful environment to exercise

all their rights under the Universal Declaration of Human Rights because of internal disturbances and the escalation of animosity between the peoples of the 2 countries. Who, then, is responsible for this violation of Article 28 of the Universal Declaration of Human Rights?

3. Why did the World Heritage Committee so hurriedly make the decision on “an exceptional basis” on 7 July 2008 overlooking the criteria of integrity crucial to the sustainability of the World Heritage status especially with full knowledge that the Pra Viharn Temple and its surrounding areas are still a matter of dispute between Thailand and Cambodia. Of course, the World Heritage Committee could claim that its decision does not prejudice the rights of the parties in the dispute by citing the wording of Article 11 (3) of the 1972 convention concerning the protection of the world cultural and natural heritage, namely, “the inclusion of a property situated in a territory, sovereignty or jurisdiction over which is claimed by more than one State shall in no way prejudice the rights of the parties to the dispute”. But such an attitude would reflect its insensitivity to the highly contentious nature of the Pra Viharn Temple issue and the sufferings of the people on the ground. In any case, such a kind of decision does not help to promote friendly relations between nations, nor does it help create the social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights can be fully realized. On the contrary!. The World Heritage Committee should have a more mature judgment and care to consider that the joint management approach as the Pra Viharn Temple and its surrounding areas have still remained contentious, rather than arbitrarily allowing only the unilateral nomination by Cambodia.

4. Why did the World Heritage Committee not ask Cambodia to resubmit the nomination in the light of the change in the map of the property of Pra Viharn Temple as is normally the case? This neglect of the well-established practice concerning the documents submitted in any nomination has raised the suspicion if there is any hidden motive in this hasty decision of the World Heritage Committee in total disregard of the fundamental human rights of the peoples of the 2 countries.

5. Is the decision of the World Heritage Committee based on a sound archeological analysis taking into account the views of all parties concerned? It seems that the views of the Thai side have been consistently overlooked although the buffer and management zone as well as the overall landscaping of the Pra Viharn Temple is in the Thai territory.

6. It is even more puzzling that the World Cultural Heritage Committee has requested Cambodia, in collaboration with UNESCO, to convene an international coordinating committee for the safeguarding and development of the property no later than February 2009, inviting the participation of the Government of Thailand and not more than seven other appropriate international partners. How is the World Heritage Committee empowered to request Cambodia to convene such a committee in the first place and how could such invited countries be empowered to delineate the lines of the buffer and management zones in the areas where sovereignty and territorial integrity has been hotly contested? They are dealing with the matter of sovereignty which is clearly outside the authority of the World Heritage Committee.

All the above questions and doubt underscore a need for UN-related agencies to have transparency, consistency, integrity, and good governance as well as respect of the highest order for human rights. The acts committed by the World Heritage Committee and UNESCO have shown their insensitivity and total disregard to human rights especially of the peoples of Thailand and Cambodia. I wish to request you to set up an inquiry committee consisting of impartial persons of highest moral authority to find the answers to the above questions and to set a strong example that human rights be respected not only by member countries of the UN, but also by the UN itself and its related agencies. This should be a meaningful way to celebrate the 60th anniversary of the Universal Declaration of Human Rights.

Yours sincerely,



(Prof. Saneh Chamarik)

Chairperson

National Human Rights Commission of Thailand

CC:

Mr. Koichiro Matsuura,
Director-General, UNESCO

Mr. Francesco Bandarin,
Director, UNESCO World Heritage Centre

Ms. Louise Arbour,
High Commissioner for Human Rights

Mr. Homayoun Alizadeh,
Regional Representative, OHCHR Regional Office for Southeast Asia

Member countries of ICOMOS including the under-represented ones

Member countries of the World Heritage Committee

All related and interested institutions