



Report, 18 September 2006

On the occasion of the UN Human Rights Council, Second Session, Geneva, Switzerland

**Title: Ongoing deterioration of human rights situation in Cambodia –
Addendum to the Written Statement submitted to the First Session (A/HRC/1/NGO/18)¹.**

The Asian Forum for Human Rights and Development (FORUM-ASIA), together with its member organizations, the Cambodian Human Rights and Development Association (ADHOC) and the Cambodian League for the Promotion and Defense of Human Rights (LICADHO), wish to draw the Human Rights Council's attention to the Cambodian government's severe lack of commitment to and fulfillment of its human rights obligations. The three NGOs make this addendum to the previous statement submitted in June 2006².

Warning Signs of Abuses Prior to Upcoming Elections

It is well-known that risks for human rights defenders and civil society, and political intimidation and violence, significantly increase before, during and after elections in Cambodia. Commune and national elections are to be held in April 2007 and July 2008 respectively. There are clear indications that these elections will be far from being free and fair, with guaranteed equal participation of all citizens.

Since March 2006, the dominant Cambodian People's Party (CPP) has continued to cement its hold on power. Between 1 March and 29 July 2006, there have been roughly 71 expulsions, replacements and resignations of government and parliamentary positions held by FUNCINPEC party, the CPP's coalition government partner. The legality of many of these removals, at the behest of the CPP, has been questioned. Twelve high-level positions have been changed³, the majority of them being replaced with CPP appointees. In addition, more than half of the seats in the National Election Committee (NEC) are occupied by the CPP and NGOs are no longer represented. In June, the CPP won more than 98 percent of the 13,796 positions⁴ in village chief elections throughout Cambodia – elections in which only members of the CPP-dominated commune councils were eligible to vote. This systematic CPP take-over in recent months received no condemnation from international community⁵.

Cambodia's past elections have been marred by intimidation, violence, vote-buying and registration difficulties and other irregularities, and indications of such problems with the forthcoming commune and national elections are already emerging.

¹ Cambodia Human Rights and Development Association (ADHOC) and Cambodian League for the Promotion and Defense of Human Rights (LICADHO) also share the views expressed in this statement.

² A/HRC/1/NGO/18

³ Deputy Prime Minister, the Ministers of Interior, Defense, and Labor, the President of the National Assembly, the Secretaries of State of Ministries of Rural Development and Interior, the Co-Chair of Council for Development, Project Manager Rural Development Ministry, and Undersecretary of State of the Ministry of Rural Development.

⁴ "Rainsy blasts voter registration," Vong Sokheng and Charles McDermid, Phnom Penh Post, Issue 15/16, 11-24 August, 2006.

⁵ "Consolidating Power in Cambodia: Corruption and Abuse Abound," Analysis Paper, Miwa Igawa, FORUM-ASIA, 17 July 2006.



Most recently, Prime Minister Hun Sen of the CPP demanded that Prince Norodom Ranariddh be removed as president of FUNCINPEC party. "I will not work with the Funcinpec president any more...find a new president," Hun Sen reportedly said of Ranariddh in speech broadcast on television and radio. Hun Sen also announced that he would be firing four FUNCINPEC-affiliated government officials, including Senior Minister Serei Kosal. Hun Sen's speech was in reaction to an earlier one by Prince Ranariddh who suggested that executive power should be given to his father, retired King Sihanouk. "I am still holding on to my power, and you came out of nowhere with a suggestion the power be given to the former king," Hun Sen said, angrily accusing Ranariddh of promoting a constitutional coup. "If you dare, I will deal with you. Beware of handcuffs. Let me warn you in advance." Hun Sen also remarked that "the current political situation looks very much like 1997," a reference to the tense political climate prior to his ousting of Ranariddh as First Prime Minister by military force in July 1997⁶.

In early August 2006, two Sam Rainsy Party members were attacked and wounded by five men with an ax, in Srok Kamchay Mear, Prey Veng province. The Cambodian police arrested so far one suspect for this incident⁷.

The NEC has been criticized for its decision that voter cards issued for previous elections will no longer be valid, and there have been allegations of obstacles being created for voters who do not support the CPP. The Ministry of Interior and the NEC promised to deliver a personal Voter Information Notice to 6.7 million people between 1 and 31 August, however, the notice only went to 4 million people so far, 60% of them⁸. Local authorities have allegedly confiscated or refused to issue national identification cards, which are required for voter registration.

Repressive New Laws and Lack of Meaningful Legal and Judicial Reforms

In 2004, the government promised foreign donors that eight critical new laws⁹ would be submitted to the National Assembly for approval by the end of 2005, in order to strengthen legal institutions and procedures. Only one of the draft laws has in fact been submitted. In contrast to its foot-dragging on these eight laws – many of which Cambodian NGOs and foreign donors have been demanding for more than a decade – the government has been actively moving forward on a number of other laws which are notable for their repressive provisions.

It must be emphasized that Cambodia's judiciary and the legislature are both evidently politically-biased, and the judiciary is characterized as a "theater of corruption"¹⁰. The Special

⁶ "Cambodia leader Hun Sen accuses royalist party of plotting to overthrow him," Sopheang Cheang, Associated Press, 17 September 2006. "Hun Sen threatens royal opponents," Deutsche Presse Agency, 17 September 2006. "Hun Sen Calls For Prince's Party Ouster," Pin Sovann and James Welsh, The Cambodia Daily, September 18, 2006.

⁷ Two Opposition Party Activists Attacked in Prey Veng," Reaksmeay Heng, Voice of America, 10 August 2006.

⁸ "Khmer Intelligence News - 02 September 2006," Khmer Intelligence News, 2 September 2006.

⁹ The eight laws include Penal Code; Code of Penal Procedures; Civil Code; Code of Civil Procedures; Organic Law on the Organization and Functioning of Courts; Law on the Amendment of the Supreme Council of Magistrates; Law on the Status of Judges and Prosecutors; and; Law on Anti-Corruption.

¹⁰ "Façade of Stability," 17, Report, LICADHO, May 2006.



Representative of the Secretary-General (SRSG) on Human Rights in Cambodia reported this year that “the law is abused for political purposes” and there is “a pervasive practice of impunity¹¹.” In this context, laws and the judiciary are political tools to suppress human rights and target political opponents and government critics. The government’s prioritization of repressive new laws, while failing to undertake genuine reforms to strengthen rule of law, promote independence of the judiciary and fight corruption, bodes poorly for the future.

Restrictions to Freedom of Expression of Members of Parliament

On 31 August 2006, the National Assembly approved the Law on Stature of Parliamentarians, which makes it illegal for Members of Parliament (MPs) to “abuse an individual's dignity, social customs, public order and national security”. The law also permits the arrest of MPs without their parliamentary immunity first being lifted.¹² The law’s restrictions on MPs’ freedom of speech are directly counter to Cambodia’s Constitution, in particular Article 80 which states that “No [MP] shall be prosecuted, detained or arrested because of opinions expressed during the exercise of his/her duties”.

On past experience, there is every reason to believe the new law is intended to prevent opposition politicians – under threat of imprisonment – from criticizing government officials for misdeeds or poor policies. In 2005, two Sam Rainsy Party MPs, party leader Sam Rainsy and Chea Poch, were charged with defamation; Rainsy was convicted in absentia and sentenced to 18 months in prison (he later received a royal pardon in a political deal with the CPP). Over the past year, defamation or related charges have also been levied against journalists, trade unionists and human rights activists.

Anti-Adultery Law Passed

On 1 September, 2006, a law was passed which provides for prison sentences of up to one year for men and women who engage in extramarital affairs. It is widely believed that the new law is targeted at FUNCINPEC party leader Prince Norodom Ranariddh, who is divorcing his wife and is reportedly in a long-term relationship with another woman. But it is feared the law may also be selectively used against opposition politicians or others who attract the ire of government officials. In addition, there is concern that corrupt police and courts will use the law as a tool to extort money from vulnerable women such as domestic violence victims who, if they try to leave their abusive husbands, may be accused of having affairs.

Draft Law on Military Service

¹¹ “Laws that make up the basic legal framework, which are essential to establishing the rule of law in Cambodia, still have not been enacted. The Special Representative believes that there is also a pattern to the current enforcement of the law in Cambodia which suggests that the law is abused for political purposes. The present report also notes that there is a pervasive practice of impunity for persons who are politically or economically well placed.” “Report of the Special Representative of the Secretary-General for human rights in Cambodia, Yash Ghai,” Commission on Human Rights, Sixty-second session, Item 19 of the provisional agenda, 8 February 2006, E/CN.4/2006/110.

¹² “Gagging MPs likened to Khmer Rouge,” Charles McDermid and Cheang Sokha, Phnom Penh Post, Issue 15 / 18, 8 – 20 September, 2006.



Another draft law expected to soon go before the National Assembly will introduce compulsory national military service, applying to all males aged 18 to 30. Some 3,000-5,000 men will be conscripted next year, according to a government official. The intention to boost the numbers of Cambodian military personnel is in sharp contrast to repeated calls for a down-sizing of the military over the past decade; the government agreed to a military demobilization program, supported by foreign donors, but this collapsed when donors pulled out due to evidence of corruption by government authorities. Critics of the new draft law fear that it will be open to abuse by unscrupulous officials seeking to extort money from those willing to pay to avoid military duty.¹³

Draft Law on Public Assembly for a Peaceful Demonstration

The government's drafting of a new law on public demonstrations has raised fears that it will be used to further restrict freedom of expression and freedom of assembly in Cambodia, which is already severely limited. Since 2003, the government has banned nearly all peaceful protests, rallies and marches, usually under the pretext of protecting public order or security. Countless peaceful gatherings have dispersed by police, sometimes forcefully with injuries to participants.

On August 1, more than 20 police armed with rifles, electric batons, tear gas and riot shields dispersed 80 protesters from gathering peacefully outside a Phnom Penh prison. The protesters were seeking to highlight the plight of Born Samnang and Sok Sam Oeun, two men sentenced to 20 years in prison for the assassination of a trade union leader despite a lack of any credible evidence against them. On August 7, police equipped with rifles shot in the air, fired tear gas and baton-charged hundreds of land protesters in Phnom Penh who were seeking to demonstrate in front of the National Assembly. ADHOC reported that 29 men and women were injured during this incident.¹⁴ On September 4, some 50 police and military police blocked the start of a campaign by a local NGO to solicit comments from the public on corruption, confiscating a truck and loudspeaker used by the NGO to promote the campaign. The city governor said the police action was necessary to prevent traffic jams and preserve "public order".¹⁵

Anti-Corruption Law: Slow Progress

Corruption is endemic in Cambodia, and contributes to human rights violations – particularly of economic, social and cultural rights – in numerous ways. NGOs, foreign donors to Cambodia and members of the public have been demanding an anti-corruption law for more than a decade. It is one of the eight laws which the government promised to donors would be submitted to the National Assembly by the end of 2005, but this has yet to be done. A current draft of the law fails to meet international standards, and is widely considered to be too toothless to make any serious dent in Cambodia's rampant corruption. In the absence of the long-delayed law, the government in August created a new anti-corruption investigation body – under the control of the Council of Ministers – headed by senior CPP-affiliated officials. Critics have ridiculed the new

¹³ "Mandatory Military Duty Heads to Vote", Prak Chan Thul and Erik Wasson, Cambodia Daily, September 8, 2006.

¹⁴ "Police Clash With Hundreds of Land Protesters," Pin Sisovann, The Cambodia Daily, 9 August 2006.

¹⁵ "Police in Capital Block CCHR Complaint Box", Lor Chandara, Cambodia Daily, 5 September 2006



body for its obvious lack of independence, and expectations of any serious investigations by it are low.¹⁶

Forced Evictions

More than two thousand families have been forcibly evicted in four recent incidents, all but one in the capital Phnom Penh¹⁷, and others are under threat of eviction. Many of those affected have sound legal claims to their land under Cambodia’s Land Law.

In addition, about 960 families have faced forced eviction in a number of other provinces in Cambodia¹⁸. Land-grabbing affects the right to sustainable livelihood of thousands of Cambodia’s working population: 75% of Cambodia’s labor force is fully engaged in subsistence farming¹⁹. People in Battambang province have reportedly been suffering from lack of land to plant rice to generate their income²⁰.

In Phnom Penh, many evictees have been forcibly moved to relocation sites which lack basic infrastructure (schools, medical facilities, markets and jobs), sanitation facilities or potable water, and are prone to flooding. The health risks are immense.

The government has failed to respond to recommendations in May and June by the Special Rapporteur on adequate housing and the SRSG on human rights defenders, and the number of evictions – often accompanied by the excessive use of force by authorities – continues to mount.

After the June eviction of more than 1,000 families in Village 14 in the Tonle Bassac area of Phnom Penh, more than 1,000 families living in nearby Dey Kraham have been targeted for eviction²¹. Since 2 August, 90 houses in Phsar Depot 1 commune in Tuol Kok district in Phnom Penh were removed, reportedly for the expansion of the northern side of a banquet center owned by a prominent businessman, Kong Triv, who claimed that the land is a city street²².

On 5 September 2006, seven villagers at eviction sites in Banteay Meanchey and Battambang provinces were arrested and detained in prison. Five villagers in Poipet commune in the latter province were charged with violating the property of others. On 3 August, two land dispute protesters, Tann Heng (45) and Hor Nguon Leng (63), were arrested on charges of obstructing

¹⁶ “Lack of Anti-Corruption Law Begets New Unit”, Erik Wasson & Prak Chan Thul, Cambodia Daily, September 5, 2005.

¹⁷ “Consolidating Power in Cambodia: Corruption and Abuse Abound,” Analysis Paper, Miwa Igawa, FORUM-ASIA, 17 July 2006.

¹⁸ Human Rights Watch noted that the problem is not limited to Phnom Penh. Publicly known cases of communities facing forced evictions in the provinces include: Battambang (271 families); Sihanoukville (271 families); Kandal (200 families); Kompong Speu (134 families); Koh Kong (128 families); Kampong Cham (99 families); Siem Reap (56 families); Kampot (52 families); Kompong Thom (16 families); and Kompong Chhnang (4 families).

Cambodia: Phnom Penh’s Poor Face Forced Evictions,” Press Statement, Human Rights Watch, 1 August 2006.

¹⁹ “Cambodia – Economy,” CIA World Factbook 2006, Central Intelligence Agency, 2006.

²⁰ “Peam Ek commune, Battambang province, is facing poverty,” Mao Sotheany, The Cambodia Daily, 10 August 2006.

²¹ “Dey Kraham people protest against their evictions and relocations,” Sok Serey, Radio Free Asia, 5 August 2006.

²² “Phsar Depot Commune House Removal Continues for 2nd Day,” Pin Sisovann and Jason McBride, The Cambodia Daily, 4 August, 2006.



bulldozers belonging to the Boeng Ket rubber plantation, which were being used to clear 431 hectares of land claimed by 173 families in Stung Trang district in Kompong Cham province. On 7 August, the latter individual was released from prison on the condition that he signed a document relinquishing the two hectares of land he lived on, in front of the provincial court Investigating Judge Thong Ol, who is also a co-investigating judge for the Khmer Rouge tribunal²³.

In Andoung Thma village in Banteay Meanchey, 29 families who have lived on 78 hectares of land since 1988 face eviction by senior military officials who claim the land is ‘military development land’²⁴. In addition, protesters from eight villages in Punsaing commune in Kandal province recently complained that local authorities took 239 hectares of land farmed by villagers since the early 1980s, saying that the land belongs to a private company²⁵. Fourteen families in Koh Tonsay in Kampot province face eviction to clear the way for construction of a casino and golf course²⁶.

Judicial System: Lack of Transparency, Independence and Competence

A key example of the lack of judicial independence and competence in Cambodia is the case of Born Samnang and Sok Sam Oeun. These two men were arrested in late January 2004 for the assassination of prominent trade union leader Chea Vichea a week earlier. On August 1, 2005, the two men were convicted of the murder and sentenced to 20 years imprisonment, despite an overwhelming lack of credible evidence against them, in a grossly unfair trial. The initial police investigation and subsequent trial have been strongly criticized by local and international NGOs, UN representatives, the ILO and others. Chea Vichea’s family has publicly stated they do not believe the two men are guilty of his murder, and former King Norodom Sihanouk has also declared their innocence. It is widely believed the two men were framed for the murder, in order to protect the real killers.

Most recently, former Phnom Penh Police Commissioner Heng Peo – who was directly responsible for the arrest of Born Samnang and Sok Sam Oeun – has reportedly stated that since early on in the investigation he understood that the two suspects “had nothing to do with the murder”.²⁷ Heng Peo, who has fled Cambodia to seek asylum after he was targeted for arrest for alleged crimes, has claimed he was ordered by higher level officials to implicate the two suspects.

During the course of this case, Phnom Penh Municipal Court judge Heng Thirith was appointed as investigating judge to examine the case of the two accused. On March 19, 2004, Heng Thirith decided to dismiss the case for lack of evidence. The judge’s decision was immediately appealed to the Court of Appeal by the prosecutor, and within days Heng Thirith was removed by the

²³ “2 Protesters Released After Land Is Forfeited,” Prak Chan Thul, *The Cambodia Daily*, 8 August 2006.

²⁴ “Seven Villagers Detained Over Land Disputes,” Pin Sisovann, *The Cambodia Daily*, 6 September 2006.

²⁵ “Police Clash With Hundreds of Land Protesters,” Pin Sisovann, *The Cambodia Daily*, 9 August 2006.

²⁶ “Koh Tonsay Families Say Relocation Will Ruin Them,” Kuch Naren, *The Cambodia Daily*, 2 August 2006.

²⁷ Interview with Heng Peo by Sylvaine Pasquier, published in *L’Express* magazine, August 17, 2006, available online at <http://www.lexpress.fr/info/quotidien/actu.asp?id=5263>



Supreme Council of Magistracy from his position at the Phnom Penh court, and subsequently reassigned to remote Stung Treng province. The charges against Born and Sok were then reinstated, and both men were subsequently convicted of murder and sentenced to 20 years in jail in a much-criticized trial.

Recommendations

In addition to the recommendations previously submitted to the Human Rights Council, we call upon the Council to fulfill its mandate to promote and protect human rights, as well as to prevent human rights violations in Cambodia by taking the following actions:

- To urge the Council members who are official donors and loan providers to Cambodia²⁸ to condemn the violations of human rights in the country ;
- To maintain the position and strengthen the mandate of the Special Representative of Secretary-General for human rights in Cambodia;

We also call upon the inaugural members of the Council to urge the Government:

- To immediately stop the violation of human rights, in particular in the areas of issue explained above;
- To immediately begin to commit to and fulfill its domestic and international human rights obligations under democratic principle;
- To immediately halt executive interference in the judiciary and legislature, and ensure independence in these state institutions and others such as the Supreme Council of Magistracy;
- To immediately implement the recommendations made by the High Commissioner, and by the Special Procedure's mandate-holders, in particular the recent ones made by the SRSGs on adequate housing and human rights defenders.

²⁸ The Council members who are major donors to Cambodia include China, Japan, South Korea, Canada, France, Finland, Germany, Netherlands, Switzerland and the UK.