



UPR Submission

Cambodia

April 2009

I. Summary

As a party to the 1991 Paris Peace Agreements and numerous international human rights treaties, Cambodia has committed itself to respect and protect the rights of all persons in Cambodia. While Cambodia has experienced strong economic growth since United Nations-brokered elections in 1993, the government has treated respect for human rights as an obstacle, rather than an aid, to development.

Cambodia's judiciary continues to lack independence, with authorities using the criminal justice system to silence critics. Freedom of expression and association are compromised as human rights defenders, journalists, trade unionists, and opposition party members face threats, intimidation and occasionally violence and imprisonment. Impunity is almost complete for human rights violations, whether on a large scale, such as the killing of hundreds of opposition party members in the run-up to the 1993 elections, the government's extrajudicial killing campaign after Prime Minister Hun Sen's 1997 coup, or in individual cases, such as the killing of journalists and labor activists. Many of those implicated in such abuses have been promoted to the highest ranks of the military and police. As a result, government critics continue to operate in a climate of fear.

Violence against women goes unpunished. Trafficking of women and girls for sexual exploitation is rampant. Thousands of urban poor are being forcibly evicted from their homes without proper redress, while farmers throughout the countryside are losing their land and their livelihoods to illegal logging and land concessions.

This submission focuses on core areas on which Human Rights Watch has conducted extensive research.

II. Human Rights Issues

A. Civil and Political Rights

The ruling Cambodian People's Party (CPP) of Prime Minister Hun Sen continues to maintain its grip on power through control and politicization of the army, police, military police, bodyguard units, civil service, the courts, election machinery, and electronic media.

Freedom of Expression, Association, and Assembly

The Cambodian government controls all television and most radio stations and regularly suspends, threatens, or takes legal action against journalists or news outlets that criticize the government. Freedom of speech is hampered by provisions in Cambodian law that allow individuals to be criminally prosecuted for peaceful expression of their views. Reporters risk dismissal, physical attack, and even death for covering controversial issues; for example the murder in July 2008 of opposition journalist Khim Sambo. The government confiscates, bans, or suspends controversial publications, such as reports by the international organization Global Witness that alleged complicity of top government officials in illegal logging.

Human rights defenders as well as community activists involved in forest protection and opposing forced evictions regularly come under attack. In 2008 Prime Minister Hun Sen announced that the

government would enact a law to regulate non-governmental organizations (NGOs). There are concerns the law will be used to restrict legitimate activities of NGOs and other civil society organizations.

A 2007 law on demonstrations requires organizers to give local authorities five days' notice and holds organizers responsible for any misconduct that occurs. Authorities reject requests for, or forcibly disperse, many demonstrations. Workers who organize or strike for better wages and working conditions are subject to harassment, physical attacks, and unfair dismissal.

B. Administration of Justice

Impunity

A UN-backed Cambodian court created to bring justice to victims of the Khmer Rouge (the Extraordinary Chambers in the Courts of Cambodia) has been plagued by credible reports of political interference in the court from the Cambodian government, corruption among Cambodian personnel, lack of sufficient victim and witness protection, and the limited number of cases brought to address the deaths of as many as 2 million people from 1975-1979.

While the Khmer Rouge period is the most serious example of impunity in Cambodian history, impunity has been the norm both before the Khmer Rouge period and after. In addition to the cases mentioned in section 1 above, more recent examples include:

- Three trade union leaders (Chea Vichea, Ros Sovannareth, and Hy Vuthy) have been murdered in recent years. None of their killers has been brought to justice.
- In 2008, Mean Sokchea, an army officer in Hun Sen's personal bodyguard unit, Brigade 70, in a drunken stupor apparently mistakenly shot and killed a waitress. He was detained by police overnight but then released, allegedly after intervention by Brigade 70 commander Hing Bun Heang. The waitress's family, who were told by police that their daughter was shot while authorities were chasing robbers, received US\$2,700 from Mean Sokchea.
- In 1999, Tat Marina, age 16, was severely disfigured in an acid attack allegedly committed by Khun Sophal, the wife of a senior government official, Svay Sitha, because she was angry her husband was having a relationship with Tat Marina. Neither Khun Sophal nor her suspected accomplices have been prosecuted.

Judicial Independence and Rule of Law

Cambodia's courts remain highly politicized and under government control. All key judges are CPP members, including the Chief Justice of the Supreme Court. The Supreme Council of Magistracy, established to ensure judicial independence, remains politicized and ineffectual, as does the Constitutional Council, which is mandated to safeguard the constitutionality of legislation. The government has yet to pass a new criminal law, anti-corruption law, or other legislation critical to the protection of human rights.

Prisons and Arbitrary Detention

Prisons are overcrowded, with inadequate food, water, health care, and sanitation. Police routinely use torture to force confessions from criminal suspects. Police arbitrarily round up sex workers, homeless children and families, beggars, and people who use drugs and detain them in government-run "rehabilitation" centers, where they are subject to physical mistreatment and lack of food and medical care.

A government crackdown on prostitution after passage of an anti-trafficking law in 2008 that criminalizes prostitution focuses on closing brothels and arbitrarily detaining sex workers, rather than prosecuting traffickers. Many sex workers are sexually or physically abused during roundups and detention. People held in government-run drug treatment centers are subject to arbitrary detention; lack of access to health care, including drug dependency treatment; abusive measures imposed ostensibly for treatment; and physical abuse by guards.

C. Forced Evictions and Land Confiscation

Cambodia's rural and urban poor are increasingly losing their land to illegal concessions awarded to foreign firms, government officials, and those with connections to government officials. In Phnom Penh, at least 85,000 people have been unlawfully forcibly evicted during the last ten years, with another 70,000 currently facing eviction proceedings. Authorities often provide insufficient notice of impending evictions and inadequate housing and compensation to displaced people afterwards. For example, three years after 1,000 families were forcibly evicted from Sambok Chap village in Phnom Penh, the government has yet to provide adequate health care, water, sanitation, schools, and other basic services to the evictees, relocated to a remote site far from the city. On numerous occasions police and soldiers have used unnecessary or excessive force in evictions, such as in 2007, when soldiers and police shot dead two unarmed villagers during a forced eviction of 317 families in Preah Vihear.

D. Refugees and Asylum Seekers

Cambodia continues to violate its obligations under the 1951 Refugee Convention, to which it is a state party, by forcibly returning Vietnamese Montagnards before they are able to apply for refugee status with the Office of the UN High Commissioner for Refugees (UNHCR). Cambodians who help Montagnards exercise their right to seek asylum are subject to arrest.

In 2008, UNHCR announced that Cambodian immigration police at the Ministry of Interior, and not UNHCR, would begin screening all asylum seekers in Cambodia other than Montagnards. This is a matter of concern because Cambodia has not, to date, provided sufficient protection for registered asylum seekers and recognized refugees, especially from Vietnam and China.

- In June 2007, Cambodian authorities defrocked and deported to Vietnam Tim Sakhorn, a Khmer Krom (ethnic Khmer originally from southern Vietnam) Buddhist abbot in Cambodia. Tim Sakhorn had immigrated to Cambodia from Vietnam in 1978 and was a naturalized Cambodian citizen. Upon his deportation to Vietnam, he was sentenced to prison on charges of "undermining national unity."
- In May 2007, Le Tri Tue, a labor union activist from Vietnam, went missing after registering at the UNHCR office in Phnom Penh. He has not been heard from since.
- In August 2002, Cambodian police arrested two Chinese asylum seekers who were members of the banned Falun Gong movement. It is thought they were deported to China.

E. Cooperation with Human Rights Mechanisms

Cambodia has failed to institutionalize human rights protections. Despite an enormous amount of aid, technical assistance and goodwill, it has failed to reform the criminal justice system; allow the judiciary to act independently; create accountable and transparent administrative structures, such as in the police or gendarmerie; and establish an independent national human rights institution to promote and protect human rights. Ongoing threats and attacks on human rights defenders and community activists, the resulting climate of fear, and continued impunity make clear the need for continued UN engagement. Key to such an engagement is authoritative and independent assessments of the human rights situation to the international community and the Cambodian people by the special rapporteur through the UN Human Rights Council, as well as the rapporteur's support for Cambodian human rights defenders and cooperation with and technical assistance to the Cambodian government.

Four special representatives have worked on the human rights situation in Cambodia since 1993, submitting thorough and accurate reports. The Cambodian government and, in particular, Prime Minister Hun Sen, have responded with personal attacks on all four; publicly insulting them, at times refusing to meet them, and calling for their dismissal. The last representative, Yash Ghai, resigned in 2008, noting that Cambodia still faces serious human rights challenges and "deep-

seated systematic deficiencies in the judiciary and other key institutions charged with upholding the rule of law and protecting the rights of individuals.” In 2008 the UN Human Rights Commission replaced the special representative post with that of special rapporteur, though the functions are essentially the same.

Most importantly, the Cambodian government has systematically ignored the hundreds of thoughtful, constructive, and detailed recommendations offered by each special representative. They have provided a roadmap for reform – to protect the vulnerable, to end impunity, to ensure equality for women, to create a professional and independent judiciary – yet their recommendations have been almost completely disregarded.

III. Recommendations to the Cambodian Government:

Regarding Freedom of Expression, Assembly, and Association:

- Cease the harassment, arbitrary arrests, and physical attacks on human rights defenders, civil society activists, and opposition party members; and investigate and prosecute the perpetrators of such attacks.
- Ensure that the rights of individuals and organizations to defend and promote human rights are protected, including the right to peacefully criticize and protest government policies, in accordance with the International Covenant on Civil and Political Rights and the 1998 UN General Assembly Declaration on Human Rights Defenders.
- Liberalize electronic media ownership rules, including allowing transmitters of private, critical media to be as strong as those of pro-government private stations.

Regarding Forced Evictions:

- Immediately enact a moratorium on forced evictions until the government has properly adopted and implemented a strict legislative framework on evictions and resettlement as well on land and housing rights.
- Immediately issue an order expressly prohibiting the involvement of any military personnel in all land disputes, including acting as guards for private companies.
- Develop alternate strategies to assist those being evicted and ensure them adequate housing and access to basic services, health care and employment.

Regarding Refugees and Asylum Seekers:

- Implement the 1951 Refugee Convention, to which Cambodia is a party, through national asylum legislation and asylum procedures that are fair and transparent and that provide refugees with all of the rights in the Refugee Convention, including, most fundamentally, the right of nonrefoulement, not to be returned to a country where their lives or freedom would be threatened.
- Provide durable solutions for refugees in Cambodia; in cases where durable solutions cannot be assured in Cambodia, facilitate third-country resettlement.
- Clearly establish whether the Law on Nationality affords Khmer Krom the status and protection of Cambodian citizens. Provide Khmer Krom who have fled from Vietnam and who are not granted Cambodian citizenship the right to seek asylum. Do not deport to Vietnam Khmer Krom with a well-founded fear of persecution in that country.

Regarding Impunity:

- Investigate and prosecute longstanding cases of impunity and other human rights violations such as the deadly 1997 grenade attack on an opposition rally and summary executions committed after the 1997 coup; as well as more recent rights violations, such as excessive use of force by soldiers and police in forced evictions and the assassinations of labor leaders and journalists.
- Reformulate the Supreme Council of Magistracy as an impartial body, independent of the Ministry of Justice and political parties, so that it can implement its constitutional mandate

to ensure judicial independence.

- Investigate and act upon credible reports of kickbacks and corruption at the Extraordinary Chambers in the Courts of Cambodia and publish the findings.

Regarding Prisons and Arbitrary Detention:

- Ensure that Cambodian prison conditions meet the UN Standard Minimum Rules for the Treatment of Prisoners.
- Investigate and prosecute traffickers, rather than focusing on street sweeps of sex workers and brothel closures in which sex workers -- not traffickers -- are treated as perpetrators.
- Close drug treatment centers that are extra-judicially detaining alleged drug users and expand access to evidence-based, voluntary, affordable, community-based outpatient drug dependency treatment.
- Provide due process protections to alleged drug users and sex workers detained in government-run centers and ensure that proper regulations and monitoring are in place to prevent the mistreatment of detainees.

Regarding Human Rights Mechanisms:

- Continue the mandate of the UN special rapporteur for human rights in Cambodia.
- Continue to cooperate with the Cambodia Office of the UN High Commissioner for Human Rights.