

Tom Lantos Human Rights Commission
Hearing on Cambodia, September 10, 2009
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I wish to express my gratitude to the Tom Lantos Human Rights Commission for assisting the Cambodian delegation to participate in this important and timely hearing. Cambodia is currently facing a crisis in human rights, which constitutes a backward slide in the country's democratization and efforts to promote good governance. The international community, including the United States, made a significant contribution to bringing peace and the concept of democracy to Cambodia in the early 1990s. Sadly, the hard-won steps which have been made toward pluralistic democracy, and towards economic and social development, are now in danger.

Today I would like to focus on some of the most pressing threats to human rights: specifically, violations of land rights; restrictions on freedom of expression; and Cambodia's fundamentally dysfunctional justice system.

Freedom of expression

- Freedom of expression is at the core of any democracy. Attacks on freedom of expression are not new in Cambodia, but they have intensified this year to the extent that LICADHO believes that the country is facing the gravest threat to its democratic development since the 1997 coup d'état.
- The ruling party has embarked on a campaign to crack down on freedom of expression and suppress the parliamentary opposition, the news media, the legal profession and, to some extent, NGOs. At the center of the campaign is the government's misuse of the courts to file unjustified criminal charges against its critics.
- Since April 2009, the government (or individual officials) has filed criminal complaints of defamation, disinformation or related charges against at least nine persons¹. So far, three of them have been convicted (and one imprisoned)², two others have escaped criminal prosecution only by begging the Prime Minister's forgiveness³, and the remainder still have charges pending against them.
- The situation of the news media - which was already tightly-controlled, especially television and radio - has grown particularly dire. The pro-opposition print media is on the verge of extinction, with the editor of the last remaining major-circulation daily newspaper aligned to the opposition (Hang Chakra, of *Khmer Machas Srok* newspaper) serving a one-year prison sentence.
- *Moneaksekar Khmer*, the other main pro-opposition newspaper, was recently closed by its editor-in-chief, Dam Sith, in return for the government withdrawing multiple lawsuits against him. Previously, shortly before the July 2008 elections in which he was an opposition candidate, Dam Sith had been briefly jailed by the government and one of his

¹ Sam Rainsy Party MPs Mu Sochua, Ho Vann and Sam Rainsy; lawyer Kong Sam Onn (who represented Mu Sochua and Ho Vann); journalists Hang Chakra (of *Khmer Machas Srok* newspaper), Dam Sith (*Moneaksekar Khmer*) and Neou Vannarin (*The Cambodia Daily*); law student and SRP youth activist Soung Sophorn; and Moeung Sonn, President of the Khmer Civilization Foundation, an NGO.

² Mu Sochua, convicted of defamation and sentenced to pay the equivalent of \$4,100 in fines and compensation; Moeung Sonn, convicted in absentia of disinformation and sentenced to two years' imprisonment; Hang Chakra, convicted of disinformation and sentenced to one year in prison, which he is currently serving.

³ Lawyer Kong Sam Onn and newspaper publisher Dam Sith. The latter agreed to permanently shut down his newspaper in return for the government withdrawing multiple lawsuits against him.

journalists, Khim Sambo, was assassinated. (Khim Sambo was the 10th journalist murdered in Cambodia since 1994 – not a single one of their killers has been brought to justice).

- A third journalist, Neou Vannarin, of the well-respected, American-owned *Cambodia Daily* – one of the few truly independent newspapers in the country – is also facing a criminal charge. He is charged with defamation in the same case as opposition MP Ho Vann – for simply including a comment from the MP in an article.
- The situation for freedom of expression, especially for human rights defenders, may well grow even worse. The government is drafting several new laws which we fear will be repressive of civil society. One is a law to regulate national and international NGOs, as well as local associations. Ruling party officials have publicly stated that the law is intended for NGOs who “too freely speaking” and those which “rock the boat” by advocating on issues such as corruption and deforestation. They have also suggested that the law is somehow necessary to fight terrorism.⁴ Also pending is a new law on public demonstrations, which will – according to drafts seen so far – contain very restrictive provisions including a limit on how many people can join together in a peaceful public demonstration.

Recommendations:

Cambodia is a significant recipient of US aid, so there is leverage that can be used, on the issue of freedom of expression as well as other rights issues. We respectfully recommend that the US:

- *Urge the Cambodian government to withdraw government lawsuits against its critics; ensure the reinstatement of parliamentary immunity stripped from opposition MPs; urge the release from prison of newspaper editor Hang Chakra.*
- *Urge the government to suspend its plans to enact the so-called “Association and NGO Law” and the law on public demonstrations. These laws are not justified and there is every indication that they will be repressive and not in accordance with Cambodia’s obligations under UN human rights conventions.*

Cambodia’s justice system

- Cambodia’s justice system fails to uphold the rule of law and on a daily basis deprives justice to countless victims of crimes and rights abuses. Corruption is endemic in the police and judiciary, as well as political interference. Impunity is rampant, and the gravest of crimes – including murder, torture, rape, and trafficking of woman and children – frequently go unpunished if the perpetrators have money or influential connections.
- (As noted previously,) the government uses the courts to attack its critics and political opponents. Rather than honor its repeated promises to strengthen the independence of the judiciary, the government continues its long history of interference in the courts for political purposes.
- The lack of an independent, impartial and honest justice system in Cambodia has a huge impact not only on Cambodian citizens but also on foreign (including American) investors, tourists and expatriates living in Cambodia. In particular, the lack of a credible, dependable judiciary is a major deterrent to reputable foreign investors.

⁴ Kay Kimsong, “Heng Samrin: NGOs Will be Directed by the Government”, *The Cambodia Daily*, June 16, 2006; Emily Lodish & Neou Vannarin, “Premier’s Call for New Law Alarms NGOs”, *The Cambodia Daily*, September 29, 2008.

- Millions of dollars from bilateral and multilateral donors have been pumped into training and reform programs for the Cambodian police and judiciary over the past 15 years. LICADHO believes that any impartial assessment of the impact of this support will conclude that it has been largely ineffective. This is because, we would argue, it is nearly impossible for these programs to address the biggest problem – the lack of political will on the part of the government to institute rule of law.

Recommendations:

We suggest that members of Congress and US Government officials:

- *Urge the Cambodian government to implement the numerous recommendations made by successive Special Representatives of the UN Secretary-General for human rights in Cambodia with regard to strengthening rule of law and the judiciary.*
- *Support the creation and funding by international donors of an independent commission to monitor the Cambodian judicial system, to develop effective criteria to assess the situation in reality, and to report back regularly to donors on the progress made in reforms.*
- *Link US direct funding to the Cambodian government to tangible improvements in the justice system and set clear benchmarks to be met.*

Abuses of land & housing rights

- Cambodia has endured an epidemic of land grabbing in recent years, as countless people have lost their land to the rich and powerful. In the 13 provinces in which LICADHO works – roughly half the country – more than a quarter of a million people have been affected by land-grabbing and forced evictions since 2003. As of 2008, an estimated further 150,000 Cambodians were facing eviction nationwide.⁵
- One of the most disturbing and dangerous aspects of Cambodia's land-grabbing crisis is the involvement of Royal Cambodian Armed Forces (RCAF) personnel, particularly in rural areas. Soldiers often grab land for their own benefit, or participate in evictions of families from their homes or agricultural land on the orders of the government or on behalf of private companies. This is unlawful – unlike the police and gendarmerie, soldiers have no law enforcement or eviction powers – and the use of armed soldiers against civilians carries a high risk of violence.⁶
- LICADHO believes Cambodia's increasing landlessness is a recipe for future economic and social instability. Land-grabbing carries a huge social and economic cost – taking away families' homes or rice-fields makes them poorer, reduces their ability to access education, health care and other services, and makes them more vulnerable to exploitation such as human trafficking. As such, it directly undercuts the objectives of the US and other donors who give of millions of dollars in aid to the Cambodian government to support programs to reduce poverty reduction, improve healthcare and education, protect women and children, and so on.
- Cambodian authorities routinely ignore and violate Cambodia's Land Law and other laws and regulations, many of which were drafted with the technical support of foreign donors such as USAID. Perversely, the law is often misused to falsely prosecute and imprison the victims of land-grabbing attempts, when they try to defend their land rights, rather than the perpetrators.

⁵ *Rights Razed - Forced Evictions in Cambodia*, Amnesty International, February 2008.

⁶ Examples of violent evictions involving RCAF soldiers include: a December 2007 eviction of more than 300 families by heavily-armed soldiers and police in Preah Vihear province, during which two unarmed civilians were killed - including a mother shot at point-blank range in front of her children - and another six were injured; and an April 2007 eviction of 105 families in Sihanoukville, conducted by RCAF officers, police and other forces, during which 18 villagers were injured by beatings.

- The government has ignored numerous appeals by Cambodian civil society, UN agencies and the international community – most recently in a July 2009 public statement by 11 of Cambodia’s bilateral and multilateral donors including the US – to impose a moratorium on evictions.

Recommendations

What can you and the US Government do about the dire land situation in Cambodia?

- *Link US aid to land security: Make direct financial assistance to the Cambodian government conditional upon the government demonstrating real commitment to addressing the country’s land crisis, including by declaring a moratorium on evictions.*
- *Ensure that the US Embassy and other US Government branches actively speak out, both publicly and in private communications to the Cambodian government, on major cases of land violations. (The current case of Boeung Kak lake in Phnom Penh, where more than 4,000 families face eviction to make way for a commercial development, is a case in point.)*
- *Encourage the international community to create a forum for regular meetings in which NGOs and other civil society members can meet with foreign embassies and donors in Phnom Penh to discuss land issues, in order to improve information-sharing and assist the international community to better engage with the government on these issues.*

With the permission of the commission, I would like to play a short video at the end of my presentation about the land situation in Cambodia, with the intention of giving a voice at this hearing to some victims of land-grabbing.

Beforehand, however, I would like to finish my presentation with some additional, general recommendations on what you and others within Congress and the US Government can do to support human rights in Cambodia:

Recommendations

- *Ensure that members of Congress and senior government officials who visit Cambodia raise concerns about human rights in meetings with Cambodian government officials.*
- *Ensure that the US Embassy in Phnom Penh, and visiting members of Congress and senior US government officials, meet with victims of human rights violations (persecuted journalists, evicted families, etc), to show support and learn first-hand about abuses.*
- *Respond –meetings and letters to the Cambodian government, and other methods - to particularly grave cases of rights violations in Cambodia; in particular, speak out in defense of human rights defenders, journalists, trade unionists and politicians who are persecuted for exercising their lawful rights to freedoms of expression, association and assembly.*
- *Push for improved coordination within the international community, so that it speaks in a unified voice on human rights in Cambodia.*
- *Re-evaluate US foreign and development aid policy toward Cambodia, to ensure that the human rights agenda is fully incorporated into it; be willing to condemn violations of human rights by the Cambodian government which clearly undercut the goals of US-funded aid projects.*
- *Urge the Cambodian government to establish an independent authority to receive and investigate complaints of abuse of power by state officials and institutions.*