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## Human Rights Council

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Technical assistance and capacity-building

### **Written statement\* submitted by Amnesty International, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 August 2010]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Cambodia: Ongoing serious human rights violations must be addressed**

### **Introduction**

“The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women’s and children’s rights.”(Article 31 of the 1993 Constitution of the Kingdom of Cambodia)

The systemic lack of protection of human rights in Cambodia arises from long-standing impunity for human rights violations, very serious shortcomings in the rule of law and slow legal and judicial reform. The legal system remains biased against the poor and marginalized. Forced evictions continue to affect thousands of families across the country in urban and rural areas, predominantly people living in poverty. Actions in the courts against housing rights defenders, journalists and other critical voices stifle freedom of expression.

### **Forced evictions**

At least 26 forced evictions displaced around 27,000 people during 2009. Those with political or economic power can arbitrarily expropriate land with impunity. They often do so by colluding with local authorities in issuing dubious land titles and eviction orders and misuse the court system to prevent victims from defending their rights. Affected communities have often had inadequate or no prior consultation on alternative remedies before eviction, and many have been left homeless. Others have been relocated to inadequate resettlement sites with poor infrastructure, lacking basic amenities such as sanitation, clean water and electricity, and with limited access to work opportunities and health care.

The extent to which people are affected by land disputes and evictions was demonstrated in June 2010, when around 350 representatives from communities nationwide gathered in Phnom Penh to deliver petitions signed by 60,000 people. The petitions called on the Prime Minister to intervene and solve land disputes putting their homes, farms and livelihoods at risk. Military police and police prevented the peaceful protesters from approaching the Prime Minister’s residence, and they met instead with the Special Rapporteur on the situation of human rights in Cambodia, who was on mission at the time.

After civil society criticism, the World Bank attempted to strengthen safeguards in a multi-donor supported land titling exercise (the Land Management and Administration Project, LMAP) to protect security of tenure for people in urban slums and other vulnerable areas. In early September 2009, the government responded by terminating its LMAP contract with the Bank.

In connection with the LMAP project, the World Bank Inspection Panel is currently investigating a complaint that up to 20,000 people living around Boeung Kak Lake in Phnom Penh have been excluded from consideration under the project, and as a consequence are now facing forced eviction. The lake is currently being filled in by a company granted a 99 year lease by the municipality of Phnom Penh to develop 133 hectares of land.

In one important case in July 2009, security forces forcibly evicted Group 78, a community group in Phnom Penh, after a deeply flawed legal process. The last 60 families had no

choice but to dismantle their houses and accept inadequate compensation. Most of the families were relocated to a place outside the city offering few work prospects. Those subsequently interviewed by Amnesty International reported that their access to basic amenities had deteriorated and that they were facing more difficulties in making a living. Many of the original 150 or so families belonging to Group 78 had been living on the land since the early 1980s, which under Cambodian law should have given them legal entitlement.

## **Human rights defenders**

Rich and powerful persons continue to abuse the criminal justice system to silence people protesting against evictions and land grabs. During 2009, police arrested at least 149 activists, for their peaceful defence of the right to housing. An increasing number of informal community representatives defending the right to housing in both urban and rural areas face prosecution and imprisonment.

In one incident on 22 March 2009, security forces shot at unarmed villagers in Siem Reap province, injuring at least four people. The villagers, from Chikreng district, were protesting against the loss of farmland in a long-running dispute. No authority has investigated the shooting, but at least 12 villagers arrested in connection with the dispute have been the subject of protracted court proceedings on-going some 18 months later. Two of them were convicted of robbery for attempting to harvest their rice on the disputed land, and sentenced to one years' imprisonment in October 2009 and ordered to pay compensation of USD 750. Others remain in detention. .

## **Continuing impunity**

Those responsible for the homicide of several civil society figures have still not been identified and brought to justice. Those killed include trade unionist Chea Vichea shot dead in January 2004; trade unionist Hy Vuthy killed in February 2007; and Khim Sambor, a journalist for the opposition affiliated newspaper Moneaksekar Khmer (Khmer Conscience), and his son murdered during the 2008 election campaign. Since 1994, nine journalists working for opposition media have been killed, with no perpetrators brought to justice in any of the cases.

## **Freedom of expression and assembly**

Prosecutions of people who criticize government policies have a stifling effect on freedom of expression in Cambodia. For example, courts sentenced newspaper editor Hang Chakra, and Moeung Sonn, director of the NGO Khmer Civilisation Foundation, both affiliated to the opposition Sam Rainsy Party (SRP), to one and two years in prison respectively for "disinformation" in 2009 for peacefully expressing views. Hang Chakra was granted a Royal Pardon and released in April 2010. Sonn is in exile. In August 2009 the Phnom Penh Court convicted member-of-parliament Mu Sochua, Secretary-General of the SRP, of defamation for filing a complaint – also for defamation – against the Prime Minister. She had no legal counsel because her lawyer had withdrawn from the case after receiving threats of legal action for speaking about the case at a press conference. Mu Sochua received a non-custodial sentence. Her appeal against conviction was rejected by the appeal court in July 2010.

Requests for permission to hold demonstrations are routinely denied by the authorities. On numerous occasions, police and security forces have used force to break up peaceful

protests. A new Law on non-violent demonstrations passed in late 2009 has been criticized by opposition parliamentarians and civil society for substantially curtailing freedom of expression and association.

### **Violence against women and girls**

Amid a culture of impunity and widespread corruption, victims of sexual violence in Cambodia are often denied justice. Poor law enforcement, corruption in the courts and widespread use of out-of-court financial settlements are contributory factors in the small number of prosecutions of rapists. Settlements are typically arranged by law enforcement officials and stipulate that the victim withdraw any criminal complaint. The acute lack of adequate services and assistance for survivors of rape further compounds the suffering and distress of victims. Reports indicated that rapes of women and girls, including sex workers, continued to increase, with the age of victims falling. In June 2010, Cambodian human rights NGO Adhoc reported that in 70 percent of the 194 rape cases they had recorded during the first five months of 2010 the victims were under 18.

### **The judicial system and international justice**

Legal and judicial reform has been slow. The entry into force of the new Penal Code in late 2010 will be a welcome development after over a decade of consideration. However, in practice the legal system fails to deliver justice in many cases. Trials often demonstrate lack of independence of prosecutors and judges, corruption and serious failures to apply and enforce the law. There are reports of failure to uphold the presumption of innocence and widespread unquestioning acceptance of coerced confessions by the courts. Lack of integrity, independence and equal treatment within the court system are serious difficulties which deprive ordinary Cambodians of the protections the reformed legal system is set out to guarantee.

Amnesty International welcomes the first conviction in the Extraordinary Chambers in the Courts of Cambodia (ECCC) on 26 July 2010, as a first step towards justice for the deaths of up to two million people during the Khmer Rouge period. The organization is however concerned that this conviction and the current caseload of just a handful of suspects is not sufficient to fulfil the mandate of the ECCC, and render accountability and justice for victims and their families. Political interference from Cambodian officials openly opposing more prosecutions risks undermining further progress and the legacy which the ECCC should leave to the Cambodian national justice system.

Amnesty international urges the Human Rights Council:

- to extend the mandate of the Special Rapporteur for at least three years or until a subsequent explicit decision of the Council to terminate it;
- to call on the government:
  - to guarantee and safeguard the independence and impartiality of the court system, court personnel and judges in accordance with international standards;
  - to end all forced evictions and introduce a moratorium for all mass evictions until legislation and policy is put into place that requires any further evictions to be conducted in full compliance with international human rights laws and standards;

- to respect and protect the right of human rights defenders, including those protecting the right to adequate housing and other rights associated with forced evictions and land disputes, to conduct their work without hindrance, intimidation or harassment;
- to ensure that the rights to freedom of expression, association and assembly provided for in the Constitution and relevant international human rights instruments are fully guaranteed in practice;
- to ensure prompt, impartial and effective investigation of all reports of sexual violence against women, that those responsible are brought to justice in fair trials, and that victims are granted reparations and provided necessary assistance.

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