



# **ASIAN HUMAN RIGHTS COMMISSION**

19 Floor, Go-Up Commercial Building, 998 Canton Road  
Kowloon, Hong Kong . Tel: +(852) 2698-6339 . Fax: +(852) 2698-6367  
E-mail: ahrchk@ahrchk.org . Web: www.ahrchk.net

## **CAMBODIA: The Situation of Human Rights in 2006**

2006 is the 15<sup>th</sup> anniversary of the Paris Peace Accords of 1991, which ended a protracted war in Cambodia. This report begins with a brief reference to these accords, as they constituted the basis and framework within which subsequent developments took place in Cambodia, before looking at some specific developments that characterise the situation of human rights in the country in 2006. These specific developments are:

- the emergence of a single dominant party;
- the increasing executive control of the judiciary;
- the rise of rule by decree;
- land grabbing;
- restrictions on the freedom of expression and related human rights;
- and, torture and abuses by security forces.

### **1. Background to Cambodia's Human Rights Obligations**

Cambodia has experienced several important regime changes and wars since 1970, when it was engulfed in the neighbouring Vietnam War. The country fell under communist Khmer Rouge rule during the second half of the 1970s. Under this rule, the Cambodian people suffered from one of the world's worst and most extensive cases of mass human rights violations, resulting in the death of one and half million people. In 1979 the Khmer Rouge were ousted. This change plunged Cambodia into yet another war.

The settlement of the latter war was reached in 1991 at an international conference in Paris, France. The State participants in that conference took serious note of the recent tragic history of Cambodia and “committed themselves to promote and encourage respect for and observance of human rights and fundamental freedoms in Cambodia, as embodied in the relevant international instruments to which they are party.” They also recognised that this “tragic recent history requires special measures to assure protection of human rights, and the non-return to the policies and practices of the past.” Towards this end Cambodia committed itself, among other things, to ensure respect for and observance of human rights and fundamental freedoms and adhere to relevant international human rights instruments.

Under the peace accords Cambodia was placed under the administration of the United Nations, whose main tasks were to maintain peace and organise the election of a new government. Cambodia began in earnest to honour its obligations when, soon after the

signing of the Peace Accords, it acceded to all relevant international human rights instruments, and enshrined the guarantee and protection of these rights in a new constitution in 1993. This constitution turned Cambodia into a liberal democracy governed by the rule of law and respecting human rights, and enshrined the principle of separation of powers and an independent judiciary. The judiciary has the constitutional duty to protect the rights and freedoms of the Cambodian people.

Fifteen years on there has been progress in human rights and democracy, with the emergence of a civil society and political parties, the holding of regular elections, the abandonment of the state monopoly of the media, and the establishment of a market economy. Violence against members of the opposition, journalists and other government critics has decreased. But the mindset and practices of the communist days have not disappeared and adjusted to the change in regime.

At the beginning of 2006, the human rights situation in Cambodia appeared to have changed for the better compared with the previous year. However, some negative developments again clouded the situation, which required more efforts and a better strategy to again bring about change for the better.

## **2. The Emergence of a Single, Dominant Party Rule**

In 1979, Vietnam sent troops to oust the pro-Chinese Khmer Rouge regime from power and replace it with a Vietnamese/Soviet-backed communist regime, with Hun Sen as the latest premier of the latter regime. Under the Paris Peace Accords, this new regime turned into a political party named the Cambodia People's Party or CPP, with Hun Sen as its vice-president and de facto leader. The CPP lost the 1993 UN-organised elections to the royalist FUNCINPEC party, but remained in the new government through its control of all the security and administrative apparatus of the country. Thanks to its control over the latter, as well as the media, the election committee, a coup that broke FUNCINPEC's back in 1997, threats, intimidation and vote buying, the CPP emerged victorious from the 1998 Cambodian-run elections. However, the CPP had to enter into a coalition with FUNCINPEC in order to meet the two-thirds majority required to form a government. In the following elections in 2003, relying on more or less the same strategy, the CPP became victorious again with an increased majority, but yet again, had to enter into a coalition with the much weakened FUNCINPEC to secure the required two-thirds majority. The Sam Rainsy Party (SRP) - named after its founder and leader Sam Rainsy - entered the two latest elections and became the single opposition party.

### **Opposition Cowed**

In 2005, Hun Sen sued Sam Rainsy for defamation. Sam Rainsy went into exile. As had been widely expected, at a flawed trial in August of that year, Sam Rainsy was sentenced in absentia to 18 months in jail. In early 2006, Sam Rainsy made a deal with Hun Sen in which he acknowledged his wrongdoing, promised to restrict his own and his party's

criticism of Hun Sen and the government, and made a proposal to reduce the two-thirds majority to an absolute majority for the parliament's appointment of the government and its other decisions. In exchange, Hun Sen arranged for a royal pardon for Sam Rainsy and his fellow jailed parliamentarian Cheam Channy, and allocated the chairmanship of two parliamentary committees to the SRP.

This deal was widely seen as the SRP's surrender to Hun Sen and the CPP. The parliament lost its opposition and the Cambodian political system has since lost the small checks and balances it had created. It did not take long for the government to amend the constitution to reduce the two-thirds majority issue. The CPP, which had already such a majority, could now form a government by itself and enact any law without requiring any support from other parties.

### **Coalition Partner in Limbo**

Soon after the above, Hun Sen went on to expose in public FUNCINPEC leader Norodom Ranariddh's love affair and the corrupt role of the latter's mistress in the appointment of senior FUNCINPEC officials in the government. This public shame forced Ranariddh to resign from his chairmanship of the National Assembly. Hun Sen then began to sack FUNCINPEC officials from the government and replace them with CPP officials, before turning on other FUNCINPEC officials loyal to Ranariddh, who he replaced with those loyal to FUNCINPEC Secretary General Nhiek Bun Chhay whom Hun Sen now preferred to work with.

In October, Ranariddh was ousted from the leadership of his party and some senior officials loyal to him were expelled from the party and from government jobs. Hun Sen and other CPP leaders immediately recognised the new leadership of FUNCINPEC, while Ranariddh and his followers challenged the legality of the ousting. FUNCINPEC, which had already lost much of its popular support, has become very weak and powerless.

With the SRP cowed and FUNCINPEC in limbo, the CPP has become the single dominant ruling party, with its members occupying virtually all positions of responsibility in the government, the judiciary, the civil service, the army and the security forces from top to bottom across the country. It has an overwhelming majority in both houses of parliament. Furthermore, it has enjoyed the support of all tycoons in Cambodia, some of whom have now sit in the parliament itself.

### **Political Killing and Election Manipulation**

There will be communal elections in 2007 and general elections in 2008. As had happened during the period leading to such elections in the past, there have already been activities to prevent parties other than the CPP from freely carrying out their activities. In October, in Pohnea Krek district in Kompong Cham province, an SRP activist was shot

dead by an assailant who is the brother of the governor of the district. In November, two other SRP members in Prey Veng province were killed, one in Kanh Chriek district and the other in Prey Veng district. It is widely believed that the murders were politically motivated, but the police, as usual, promptly denied these allegations although the culprits were still at large. Later in the same month in O Raing Ov district in the same province, an SRP commune councillor was assaulted by two police officers with their rifle butts, causing open to the head and bruises all over the body. The two assailants have not been brought to justice since the assault.

The National Election Committee (NEC), the majority of which's members are CCP appointees, proceeded to register voters for the forthcoming elections. Local commune authorities are responsible for this registration across the country, and the CPP controls almost all communes across the country. In August, the NEC distributed voter information leaflets to the public. It has been claimed that only four million out the estimated 6.7 million voters had received the leaflets.

Some eligible people have faced discrimination in this registration process. It has been widely reported that CPP-commune officials had made efforts to get pro-CPP voters to register and neglected all others. In some communes officials have coerced voters to take oaths to vote for the CPP. In certain areas commune officials have created obstacles for people to register on the allegations that they did not have proper identity documentation. The SRP has reported that some 30,000 people in Rokar Keouk commune, Dangkor district in Phnom Penh, in Ampil Pram Doeun, Bovel district in Battambang province, and in Treng Troyoeung commune in Kompong Speu province, had been refused registration. Over 3,600 people that had been evicted from Phnom Penh and resettled on its outskirts have also not been able to register.

However, thanks to external monitoring and pressure, the NEC addressed these complaints and extended the registration period so that those people could register.

### **3. Increasing Executive Control of the Judiciary**

Both the Paris Peace Accords and the Cambodian Constitution have spelt out clearly that the judiciary is an independent branch of government. The judiciary comprises two separate and independent organs: the prosecution and the courts. It is, amongst other things, charged with the task of protecting the rights and freedoms of the Cambodian people. However, 15 years after the Paris Peace Accords, the practices of the communist days have remained very much entrenched. The police have maintained their superiority over the judiciary. The police are under firm government control, the government under party control, and both the government and the ruling party, the CPP, are under Prime Minister Hun Sen's control. In May and June, in public debates on the status of judges and prosecutors on the Khmer Rouge tribunal, government officials and some judges themselves inadvertently confirmed that judges and prosecutors were members of the ruling CPP party. The chief justice of the Supreme Court is a member of both the

standing and central committees of that party; the respective presidents of the Appeal Court and the Military Court are members of the central committee.

In December 1999, Hun Sen ordered the re-arrest of people released by courts, in defiance of the principle of *res judicata*. In March 2004, he introduced an "iron fist" policy allegedly aimed at ridding the judiciary of corruption. Many have welcomed this policy, but it turned out to be nothing more than an initiative designed to please international donors, when the three judges, two deputy prosecutors, and two court clerks who had at first been sentenced for taking bribes from suspected armed robbers were acquitted at their retrial in April for lack of evidence. The "iron fist" policy nevertheless had the effect of consolidating government control over the courts. It has frightened judges and prosecutors, and further eroded their ability to do their jobs impartially, for fear of being accused of corruption.

Some widely publicised cases have illustrated this executive control. In August 2005, the Phnom Penh Court convicted and sentenced Born Samnang and Sok Sam Oeun to 20 years in jail for their alleged murder of labour union leader Chea Vichea. During the trial, evidence was submitted to prove that they had not been near the scene on the day of the murder and the prosecution witnesses were not present for cross-examination.

Born Samnang and Sok Sam Oeun lodged an appeal against their conviction. This appeal case was to be heard in October 2006. But earlier, in August, the sole eyewitness to the crime, Var Sothy, while in asylum in Thailand, confirmed in a notarised testimony what had been strongly believed all along, that is, that the two men were innocent. The police had arrested and the court had sentenced the wrong men. The Appeal Court has shown no hurry to officially get the testimony from that eyewitness, as is prescribed by law, and to fix the date of the appeal hearing.

The case is politically sensitive in several ways. Firstly, Chea Vichea was one of the most prominent government critics. His murder was horrific and was widely condemned. It has since been widely viewed as having been politically motivated. Born Samnang and Sok Sam Oeun are also been widely believed to be being used as scapegoats. Secondly, Hing Thirith, the first judge assigned to conduct investigations into this case, dismissed it for lack of sufficient evidence and irregularities in the police procedures concerning the recording of the statement admitting the crime from the two men. The Supreme Council of the Magistracy punished and moved Hing Thirith to a remote province for his dismissal of the case. Thirdly, the Phnom Penh Police Commissioner, Heng Pov, who had handled the case and who has been dismissed from his job and charged with a number of crimes, has made a statement in exile in which he has expressed doubts over the culpability of the two men. Heng Pov has linked the murder to his superior, Hok Lundy, who is the National Police Commissioner and who is very close to Hun Sen.

There is now overwhelming evidence proving that Born Samnang and Sok Sam Oeun had not committed the murder in question. Any dismissal of their conviction would confirm that the murder was in fact politically motivated, that the SCM was simply an instrument of power politics, and that the political leadership was behind the murder of

Chea Vichea. The Born Samnang and Sok Sam Oeun case would then become a huge miscarriage of justice, which would jolt not only the judicial but also the political system in Cambodia, the outcome of which would likely not be favourable to the current leadership.

Back in August 2005, the military court refused to hear the defence witnesses and relied on flimsy evidence to convict and sentence opposition parliamentarian Cheam Channy to seven years imprisonment for his alleged organisation of an illegal army. In December, the Phnom Penh Court sentenced opposition leader Sam Rainsy in absentia for criminal defamation, after he had criticised Hun Sen. Yet earlier in October the same court, when receiving a criminal defamation complaint from the SRP against three pro-CPP academics who had organised a public campaign calling Sam Rainsy a traitor, dismissed that complaint claiming that there was no case against the academics.

The same court willingly accepted charges of incitement or disinformation, which carry higher sentences than defamation, against government critics so as to have the legal basis to refuse them bail and throw them in jail after their arrests. Such multiple charges were laid against broadcaster Mam Sonando (arrested in October), teachers' union leader Rong Chhun (arrested in October), and human rights activists Kem Sokha (arrested in December) and Pa Nguon Teang (arrested in January 2006), who all were put in jail and refused bail.

In 2006, the laying of charges that carry jail sentences in order to lock up government critics and refuse them bail, became a practice now that defamation no longer carries a jail sentence. In September, Hek Samnang, Thach Ngoock Suern and Try Non, all ethnic Cambodians from Vietnam, were arrested and charged with disinformation and defamation for having disseminated leaflets critical of Hun Sen. Similarly, in August, Teang Narith, a law and politics lecturer at Sihanouk Raj Buddhist University in Phnom Penh, was dismissed and was arrested in September and charged with disinformation, for writing a book critical of government policy. All the accused were refused bail. In September, the municipal court of Phnom Penh convicted Dum Sith, editor-in-chief of Moneaksekar Khmer newspaper, in absentia for disinformation and defamation, following his publication of an article exposing Deputy Prime Minister Sok An's involvement in corruption. The same trial judge convicted Julio Jeldres, the retired King's official biographer and an Australian citizen, for defamation. (All of these cases will be described in detail below in section 5: Restrictions on Freedom of Expression).

The courts themselves have violated the rights of the accused. During their investigations neither the police, nor prosecutors, nor investigating judges informed the accused of their rights. Prosecutors, investigating judges and trial judges do not verify whether the accused have been subjected to torture when they are brought before them or seriously consider any complaint of torture. Furthermore, courts detain the accused beyond the maximum legal limit of six months for pre-trial detention. According to a court monitoring organisation, the court of Phnom Penh and the court of Kandal province held almost half of detainees beyond this period.

The executive control of the judiciary has now been increasingly institutionalised. In March 2006, the Prime Minister decided to place the secretariat of the supreme judicial body, the Supreme Council of the Magistracy (SCM), under the direct control of the Minister of Justice. The SCM is chaired by the King and has eight members. The Minister of Justice, the Chief Justice and the Prosecutor General of the Supreme Court, the President and the Prosecutor of the Appeal Court are ex-officio members. The three other members are magistrates who are elected by their peers. Currently seven of these members are members of the ruling party, the CPP, and three of them are members of its central committee. The eighth member belongs to FUNCINPEC. The SCM is charged with the task of assisting the King in ensuring the independence of the judiciary. It nominates judges and prosecutors for appointment by him and is responsible for their discipline. With seven members from the ruling party and a secretariat run by the Minister of Justice, the SCM is effectively under the CPP and ultimately the government.

Furthermore, it is provided in the new draft code of criminal procedure (article L.211-3), which is now before the parliament for adoption, that the Minister of Justice has the power to inform any prosecutor of any crime that has come to his knowledge and instruct him or her to take action against the offender(s) whom he has knowledge of, although he has no power to stop any prosecution.

It should be added that the executive control of the judiciary starts right from the training stage of judges and prosecutors. The school of the magistracy, called the judicial academy, is placed under the direct control of the government. It is also widely known that executive control has been extended to the legal profession, which is supposed to be independent. This profession ran into a prolonged crisis for two years when the incumbent chair of the Bar Association, Ky Tech, refused to hand over the chairmanship to the newly elected chair in 2004 and took legal action including an allegation of fraud against the latter. The government is widely believed to have a hand in this crisis, as Ky Tech is very close to it and under his chairmanship some senior government officials with dubious qualifications, including Hun Sen, were made lawyers without passing any examinations. In 2006, the Bar organised a new election and Ky Tech was re-elected as chair of the Bar.

The increasing executive control of the judiciary has hindered progress in the legal and judicial reform programme. This progress has continuously fallen short of the benchmarks the government had agreed upon with donors. Beginning some ten years ago, this reform just passed its planning stage in 2006. The government has repeatedly promised the enactment of a set of key laws such as the penal code, the code of criminal procedures, the civil code and the civil procedures code, the judges act, the court organisation act, the anti-corruption law, and the amendment to the law on the Supreme Council of the Magistracy. Up to November 2006, only one of the laws, the civil procedure code, had been enacted. Yet the government and the parliament have had time to enact a host of other laws. In just two months in 2006 the parliament passed the law on members of parliament (31 August), the adultery law (1 September) and the military conscription law (25 October).

Under such control, courts have failed in their constitutional obligations to protect the rights and freedoms of the Cambodian people. People whose rights courts have failed to protect have two other venues: they may have recourse to the King, who is the constitutional guarantor of rights and freedoms, but so far he has not been able to do much to help. They may also have recourse to the Constitutional Council to rule on the constitutionality of the act that has violated their rights. However, the procedure is so complicated that this council is virtually inaccessible. The recourse to the Human Rights Committee of the International Covenant on Civil and Political Rights has not been made available to them yet, as the Covenant's First Optional Protocol, which has been signed by the government, has not yet been submitted to the parliament for ratification. It should be added that the Optional Protocol to the Convention Against Torture has also been signed but has also not yet been ratified.

Some have pinned their hopes on the Khmer Rouge tribunal as a way to bring about positive change concerning the judiciary. This tribunal was officially formed when its judges were appointed in May and were sworn in July. International judges nominated by the UN are in the minority, however. But their participation has generated more international scrutiny of the Cambodian criminal justice system under which the trial will be conducted. This scrutiny has led to the discovery of numerous flaws and shortcomings of this system and generated pressure to have the trial attain international standards, which it could not attain under the existing system. This has led to the speeding up of the enactment of a code of criminal procedures by the end of the year, in time for the opening of the trial to be conducted by this tribunal.

Others are not so optimistic, as Cambodian judges, who are in the majority on both the lower and higher courts of that tribunal, lack independence, competence and impartiality. These shortcomings of Cambodian judges are well known to all observers of the Cambodian justice system, not least to the UN High Commissioner for Human Rights, Louise Arbour, who urged the Cambodian authorities to address this issue in a press conference during her visit to Cambodia in May.

#### **4. Rule By Decree**

Since its emergence from communist rule in 1993, Cambodia has enacted altogether over two hundred laws but, as mentioned earlier, these do not include the laws that are fundamental to the functioning of the judiciary. The government has enacted laws that suit its interests most or that are requested by donors. Again, its own interests or pressure by donors have determined the effectiveness of the enforcement these laws. Otherwise, the enforcement of these laws is very lax, if present at all. For instance, as referred to above, there was a rush to enact the law on members of parliament, the adultery law and the military conscription law, but there have been delays upon delays with regard to the enactment of key laws that had been promised. There was strict enforcement of the communist-era law on public demonstration to ban demonstrations, of the defamation and disinformation law, and, as a result of pressure exerted by donors, of the anti-human trafficking law. In contrast, there was no strict enforcement of the immigration law and



the land law. As will be seen below, in land grabbing cases, the public authorities have not made use of article 36 of the land law in order to suspend evictions when these evictions can cause unrests or have grave social consequences.

In parallel with the executive control of the judiciary and the laxity of law enforcement, the government has continued to rely on decrees to rule the country. When facing mounting pressure to address land disputes that had reached crisis levels nationally, in February 2006 the government created a National Authority for Land Dispute Resolution (NALDR) by a royal decree. The NALDR's membership comprises 12 government ministers, many high-ranking officials and representatives of political parties that have seats in the parliament. The NALDR in effect undermines, and even completely supersedes the National Cadastral Committee and its provincial and district branches, which were created by the 2001 Land Law. It also further undermines the jurisdiction of the courts of law, which have yet to win public confidence.

The NALDR began strongly, when, soon after its creation, it claimed to have seized and returned to the public domain by the end of June over 170,000 out of 200,000 hectares of woodlands that had been illegally cleared for possession by rich and powerful people. This well-publicised success has soothed criticism but has begun to ring hollow as the government has not brought those unlawful possessors to court and when, through quiet and secretive deals, some of those rich and powerful people have now got their land back. However, the NALDR has not met with much success in resolving land disputes between the poor and the rich and powerful. Questions have been raised concerning whether its decisions are legally binding, since its power and conflict resolution procedure have no legal basis. A piece of legislation has been considered to make up for these shortcomings, but instead of having to form an entity that has to start from scratch, that has yet to become an independent and impartial institution and that has yet to set up branches to cope with so many cases across the country, would it not be better to instead strengthen the National Cadastral Committee (NCC) and its branches, whose creation and procedures have a legal basis? Would it also not be better to strengthen the courts of law? Would it not be better to endow the courts and the NCC adequate resources and skilled personnel in order to resolve all of these disputes? Basically, the composition of the NCC and that of the NALDR are more or less the same. It is simply a matter of old wine in a new bottle.

Another regulation that has raised a few eyebrows is the creation in August, 2006 of an Anti-Corruption Unit (ACU) at the Council of Ministers by a prime ministerial sub-decree, while the drafting of anti-corruption law was being finalised separately. This law will create an anti-corruption body. This ACU has been created to supersede the old one created in 1999. Both the old and the new unit are simply government units run by political appointees. The new unit is headed by Om Yien Tieng, a senior advisor to the prime minister. Om Yien Tieng is also the chairman of the government human rights commission.

The provincial and municipal authorities, the police and the military, have all paid little attention to the law when addressing issues in which the interests of the rich and the

powerful are at stake. In 2006, the Municipality of Phnom Penh issued eviction orders and sent armed policemen to enforce them, altogether bypassing any necessity to secure eviction judgments from court.

## **5. Land Grabbing**

In recent years, land grabbing and land disputes have been on the rise and have become more violent across the country. Invariably, the rich and the powerful have connived to forcibly evict the poor from their land. According to Human Rights Watch, as of August 2006, in Phnom Penh 1000 families had been forcibly evicted during the year and 1600 more were facing the same forced evictions and resettlement. In ten provinces alone, based on publicly known cases, another 1231 families were known to be also facing forced evictions. As mentioned earlier, invariably there were no eviction judgments from courts, or if there were, these judgments had been secured through the political pressure and/or financial influence on the courts. The authorities simply issued eviction orders and sent armed police forces to execute them.

### **Forced Evictions in Phnom Penh**

The forced evictions in question contained numerous incidents of inhuman treatment. In early May 2006, the Cambodian government began to evict over 1000 families from a village on a bank of the Bassac River, near the compound of the Russian Embassy in Phnom Penh. Workers hired from outside demolished houses in the area, beginning with rented houses. A strong police force with riot shields and electric batons protected this demolition work and subdued resistance from the residents.

This eviction immediately made many poor tenants homeless. These homeless people had to sleep in the open during the night. Local officials pressurized them to leave and denied humanitarian agencies access to distribute tents. They even smashed cooking pots and pans. Most of the evictees were poor people.

This village was cleared to hand the land over to Sour Srun Enterprises Co. Ltd., reportedly for the construction of a shopping mall. The company offered land and houses with a school, a health centre and public utilities, in a relocation package to the villagers. The owners of rented houses were the first to accept the relocation offer, as they were not living in the village anyway. However, residents found that the relocation site was actually 25 km away and had none of the promised amenities. Therefore they refused to move.

When the entire village had been demolished, the site became a desolate place where hundreds of families of poor tenants were camping for days and nights in the open with little shelter from the hot sun and the monsoon rains. The Cambodian authorities prevented these poor tenants from building any form of shelter. They blocked off humanitarian groups' access to the site, when they tried to provide tents or any others

assistance. They also cut off running water and electricity for evictees and also banned the sale of water within the site. Furthermore, they put up a wall to block off the "unattractive" sight to the public.

This denial of basic necessities took a toll on the tenants, especially the children and the elderly. This cruel treatment was meant to make life so unbearable for these tenants that they would be forced to move out of the village on their own or to accept meagre compensation to move elsewhere.

At the end of the month, over 700 armed police officers moved in to flush out all squatters from the village. They cordoned off the whole village and barred entry to all reporters and human rights workers. Furthermore, a security guard physically assaulted a pregnant woman and the authorities pulled down a home, at which point the timber fell onto a 12-year-old girl knocking her unconscious. These excessively forceful acts sparked off a riot against the authorities. Hundreds of poor tenants armed with metal bars and farm tools attacked and chased away the security guard who had beaten the pregnant woman. The rioters also torched several buildings, including an administrative office, and tore down the corrugated metal fence. The police later overcame the protest and arrested six of the tenants.

In June, over 200 officers armed with assault guns, tear gas and electric shock batons were sent to forcibly evict 168 families from an area near the Monivong Hospital, in Phnom Penh, and moved them to a resettlement area some 30 km from the city. Three women were injured during this forced eviction. The area together with the hospital compound, which is a prime real estate, was transferred to the Royal Group. This group is financed by major international companies such as ANZ Bank and Millicom International Cellular S.A. It should be added that the Royal Group was instrumental in arranging a State-visit to Australia in October for Prime Minister Hun Sen, the first ever official visit he had made to a western democracy.

After the two evictions, 146 families in Group 78 in the Bassac Commune, next to Village 14, also faced eviction. The Municipality of Phnom Penh ignored the official title to the land that the families own. The police became active in the area in order to put pressure on these families to accept compensation at well below the market price of their land.

### **Forced Evictions in Provinces**

In the provinces, evictions were no less brutal. Below are only a few of the many cases of such evictions.

In June, Mr. Som Taing, vice-director of Kirirom National Park in Kompong Speu province and Mrs. Seng Vouch Leang, a business woman living in Phnom Penh, employed Royal Air Force personnel equipped with assault rifles and more than ten gangsters, also equipped with knives and sticks, to expel 18 families living in Ampil

Choam Klaing village in Treng Trayeung commune, Phnom Srouch district, Kompong, from their land - about ten hectares, including plantation fields of mango and jackfruits. The armed men came into the village and intimidated the families using physical force, in order to force them to leave from the land. When the villagers refused to leave their land, the Royal Air Force members and gangsters started to burn the villagers' houses down one after another. A total of eight homes were destroyed. The armed men also used tractors and bulldozed the families' mango and jackfruit plantations, estimated to be worth US\$ 10,000.

The perpetrators beat up the villagers and injured a local journalist who went to the site to report on the expulsion. All 18 families have now been expelled from their land.

In the same month Colonel Neou Ol, the Deputy Director of the Development Centre of the Royal Cambodian Armed Forces located in Kompong Speu province, sent some 40 fully-armed soldiers to evict over 40 families from their land in Tuk Chenh village, Treng Tro-Yoeung commune, Phnom Srouch district in Kompong Speu province. The soldiers pointed their rifles at the villagers, threatening to shoot at them, and forced them to leave their lands. They doused the houses with petrol and set fire to them. They also used hacking knives and axes to destroy them. In defiance, the villagers succeeded in restraining the soldiers before they could complete the destruction. Nevertheless, four houses were burnt down and four others were destroyed by knives and axes, but none of the villagers were injured.

In the same month, the Municipality of Sihanoukville, Cambodia's seaport town and seaside resort, sent a mixed police force of 100 men armed with rifles and electric batons, 80 workers, three bulldozers and 10 trucks to evict 32 families from the beach of O Cheuteal in Commune no. 4 in Sihanoukville. The police officers and workers tore down 70 wooden food stalls and homes belonging to the families and transported their belongings to another location. The victims resisted against the demolition of their stalls and homes in vain. In the afternoon a warehouse caught fire. The police succeeded in completing the demolition of the stalls and huts in this section of the beach. They were also ordered to demolish similar stalls and huts located in the next section of the beach, but were met with stiff resistance from groups of youths who barricaded themselves in. They burned car tyres and threw rocks, petrol bombs and acid bottles at the police, forcing them to retreat and withdraw from the area.

The first beach area was cleared so that it could be leased out to Sokimex, a giant petroleum company and supporter of the ruling party, which was to invest between US\$70 and US\$80 million in the construction of a 500-room hotel, with a 1000-person conference room, a nine-hole golf course, diving facilities and a parking lot.

On September 12, families in village 6, commune 4, Mitapheap district, Sihanouk Ville, were illegally evicted from their 16 hectares of land by 60 men and 2 military policemen hired by a tycoon senator named Mr. Sy Kong Trive. During the forced eviction, at least one villager was reportedly shot twice in the legs. The two military policemen were Mr. Taing Kimheng, a national military policeman in Phnom Penh, and Mr. Keo Tha, a

military policeman in Sihanouk Ville. They were equipped with pistols and assault rifles during the eviction.

During the same month, Ly Yong Phat, a tycoon senator, forcibly evicted 250 families with the support of the police from their 5000 hectares of land in Chi Khor Leu commune, Sre Ambel district, Koh Kong province. Six agents from the military police and three from the national police, who were all equipped with assault rifles, were present while Mr. Ly's men were destroying crops and property using tractors and bulldozer. Despite the villagers' desperate pleadings to halt the clearance, the police officers ignored the pleas and launched an attack on the villagers in order to disperse them. They fired live ammunition in the air and towards the ground to threaten the villagers, and physically assaulted them with sticks and rifle butts. During this time, one of the toes of a woman named Pet Nim was cut off and Mr. Em Chourng was shot in the right arm. Five other villagers were also reportedly injured during the police assault. The police then attempted to arrest the five villagers, but they all escaped. This clearance was conducted without an evicting order from the court and the families were forced from their land without compensation. Thanks to pressure, in November, Ly Yong Phat agreed to return the land to the villagers.

Also during the same month, in Battambang province, three villagers - Chea Ny, Mol Sab and Hem Lak - who had asked the local authorities and the prime minister to divide 20,000 hectares of land located in Boeung Pram village, Bavel district, whose ownership had yet to be clarified, among 3,170 poor families, were arrested and put in jail after they had led these families to live there. A campaign has been mounted to free the three men and to call for a thorough investigation into these events.

In November, 20 army officers led by a commander of ACO headquarters' protection unit named Thourk Mao, clashed with villagers in a land dispute in Onlung Thleung village, Mahasang commune, Phnom Srouch district in Kompong Speu province. In this clash three villagers were beaten and seriously injured, including: a 53-year-old woman named Nhem Phorn, who was beaten by a wooden stick on her right arm; a 28-year-old man named Chey Chom Reourn, who was beaten on his right eyebrow and suffered a dark bruise; as well as 26-year-old Un Ly, who was nine months pregnant and was pushed to the ground. Un Ly was unable to move immediately after she was assaulted due to the pain she felt and had to be brought to the emergency ward at the Kompong Speu provincial hospital. Several days later she had an abortion.

There has been persistent criticism of the Cambodian government's land concession policy, notably concerning its lack of transparency and the development and beautification of Phnom Penh at the expenses of the livelihood of people. There has also been criticism of its violation of the right to housing and shelter of the victims of land grabbing, and of the use of force during evictions, as well as the government's refusal to give adequate compensation to the victims in question. The dumping of Phnom Penh evictees in resettlement areas that are far away from their work and which lack social infrastructure, such as schools, health centres and public utilities, have also been harshly criticised. To many people, all the forced evictions of Phnom Penh people cited above are

reminiscent of the forced evacuation of Phnom Pen in April 1975, when the Khmer Rouge forced all townsfolk at gun point to leave the city and to live in hovels in the countryside.

## **6. Restrictions on Freedom of Expression and other Rights**

Restrictions on freedom of expression have remained a long-standing policy of the Cambodian government ever since the creation of a new government at the end of the UN administration of the country in 1993. These restrictions reached a new height in 2005, starting off with the lifting of the immunity of three parliamentarians from the opposition Sam Rainsy Party: Cheam Channy (for organising an illegal army), Sam Rainsy (for defamation) and Chea Poch (for defamation). Cheam Channy was arrested in February and tried in August 2005. Sam Rainsy and Chea Poch fled the country. Sam Rainsy was tried in absentia in December 2005.

The silencing of critics intensified in October 2005, with the arrest of Mam Sonando, broadcaster and owner of Beehive radio station, and Rong Chhun, the leader of the Independent Teacher's Association. The restrictions reached a climax at the end of the year with the successive arrests for defamation of: Kem Sokha, the director of the Cambodian Centre for Human Rights (CCHR); Yeng Virak, the director of the Community legal Education Centre (CLEC); and Pa Nguon Tieng, a broadcaster and deputy director of CCHR. During this wave of arrests, a number of other government critics were also facing arrests for defamation, but they succeeded in escaping them by going into exile abroad.

### **Silencing of Critics**

This repression appeared to ease off a couple of weeks after the latest arrest when, under mounting pressure from public opinion and from donor countries, Prime Minister Hun Sen, whom critics had targeted the most, dropped his defamation lawsuits against the afore-mentioned human rights activists. This was done just before donors were set to meet to decide on new aid pledges, and after the Prime Minister had secured the recognition of their wrongdoings and a pledge to stop criticising him from the human rights activists. They were released on bail. In February, after securing the same pledges from Cheam Channy and Sam Rainsy, Hun Sen proceeded to grant pardons to both of them and let them return to their parliamentary seats. Chea Poch, who had been accused of defaming Norodom Ranariddh, the then-president of the National Assembly, also secured the dropping of the lawsuit against him and returned to his seat in the National Assembly. Those in exile returned one after another undisturbed. Under pressure from inside and outside the country to decriminalise defamation, Hun Sen agreed to remove the jail sentence from this law, but still maintained the criminal nature of this offence.

There has, however, been no let up concerning the restrictions on freedom of expression since that time. The court proceedings against the human rights activists in question were

left pending, which had the effect of muzzling them until the expiry of the statute of limitations for defamation. While yielding to pressure, Hun Sen still continued to lash out at critics of the arrests of these politicians and human rights activists with vitriolic verbal attacks, calling them “animals”. He insisted that the arrests were legal and accused the critics of not knowing the law of the country.

In March 2006, he attacked Prof. Yash Ghai, Special Representative of the UN Secretary-General for Human Rights in Cambodia, after the UN official presented a report that was critical of the human rights situation in Cambodia. At a press conference at the end of his second mission to Cambodia in late March, Yash Ghai said that he did not see “any great improvement”. He was “struck by the enormous centralization of power, not only in the government but in one individual. I have talked to judges, politicians and all sorts of people and everyone is so scared. Everything depends on one individual and that is not really a precondition under which human rights can flourish.”

Hun Sen did not wait long to react to Yash Ghai, by making disparaging remarks referring to Yash Ghai's poor homeland (Kenya). Hun Sen accused him of knowing nothing about Cambodia. Hun Sen then urged UN Secretary-General Kofi Annan to sack Yash Ghai. He also threatened to shut the office of the High Commissioner for Human Rights in Cambodia (OHCHR-Cambodia), created under the Paris Peace Accords of 1991, and accused the staff of this office of being “long-term tourists”.

Both Kofi Annan and Louise Arbour, UN High Commissioner for Human Rights, urged Hun Sen to continue his cooperation with both Yash Ghai and the OHCHR-Cambodia. Hun Sen calmed down, but his vitriolic attacks and his actions intended to silence critics continued. In May, he lashed out at critics of the appointment of judges to serve on the Khmer Rouge tribunal that were widely known as being affiliated with the ruling party. He branded these critics as being “perverted sex-crazed animals.” In early August, he again lashed out at the director of the Economic Institute of Cambodia, Sok Hach, calling him “ignorant scholar” after the institute had issued a report concerning a survey of 1200 businessmen showing corruption in tax collection. Because of this corruption, the report said, the government could only collect 25 per cent of the taxes and lost about US\$400 million in revenue in 2005.

Hun Sen has continued to silence political opponents with death threats and arrests. In September, he publicly told an emerging politician, Prince Sisowath Thomico, to “prepare his coffin” for calling for the return of power to retired King Norodom Sihanouk. Thomico had actually elaborated on an idea of then-FUNCINPEC party leader Prince Norodom Ranariddh, and urged the minority parties to combine and seek a majority in parliament with which to return power to Sihanouk. Thomico's new party, the Sangkum Jatiyium Front or SJF (Community for the Nation Front), was then denied any permission to hold public meetings, and also ran into difficulties in its registration as a legal political party. In November, Hun Sen, in what was widely believed to be further efforts to target Thomico, said publicly that he “could send tanks to arrest” those who “had suggested a change of government,” which he called “divisive” and “unpardonable”.

A number of critics became the victims of such arrests. In August, Teang Narith, a law and politics lecturer at Sihanouk Raj Buddhist University in Phnom Penh, was dismissed and in September was arrested and charged with disinformation for writing a book critical of government policy. He faces a possible three-year jail term and a fine of up to ten million Riel. In September, Hek Samnang, Thach Ngock Suern, and Try Non - all ethnic Cambodians from Vietnam - were arrested and charged with disinformation and defamation for having disseminated leaflets critical of Hun Sen, accusing him of involvement in corruption and land-grabbing. These leaflets were scattered in rural areas and in Phnom Penh. One held him responsible for the July 2006 death of Ta Mok, one of the two senior Khmer Rouge leaders who had been detained while awaiting trial on charges of genocide.

Hun Sen's branding of his critics as "animals" is very much reminiscent of the branding of some races as "sub-humans" in Nazi Germany and the branding of dissidents as being "mentally ill" and needing to be condemned to "lunatic asylums" in the Soviet Union.

### **Ban on Public Demonstrations**

In 2006, the government continued to impose the 2003 ban on public demonstrations and use excessive police force to enforce it for the fourth consecutive years. In March 2006, the Kampuchea Krom community was denied permission to demonstrate against the arrival of Vietnamese Prime Minister Phan Van Khai in Cambodia. The community is an association of indigenous people of South Vietnam now living in Cambodia.

In June, Touch Naruth, the police commissioner of Phnom Penh, and Kuoch Chamroeun, the governor of Meanchey district, led a mixed police force of 200 men armed with riot shields, truncheons and electric batons, some of whom were armed with AK-47 rifles, to break up a march of up to 1500 workers. The workers, from two garment factories in Meanchey district on the outskirts of Phnom Penh, were about two kilometres away from the factories and were marching towards the National Assembly in the city centre when they were intercepted. They were marching to request that the government oblige the company that owns the factories to comply with an order from the Labour Arbitration Council to reinstate a sacked trade union official, Heang Ren. The police beat the workers with truncheons and stunned them with electric batons, reportedly causing serious injuries four persons. Another 15 sustained minor injuries. The police also banned journalists from the operation area and attempted in vain to confiscate a camera from one journalist who succeeded in getting through and taking pictures.

In August, around 100 riot police officers armed with assault rifles, electric batons, tear gas and riot shields blocked the entry into Phnom Penh of seven trucks transporting altogether more than 200 villagers from Ang Snuol district, Kandal province. The villagers were attempting to travel to the National Assembly and then to the provincial court of Kandal to demand the release of one of their fellow villagers, who had been arrested in a land dispute. At the police road block the villagers got off the trucks and attempted to get past the police officers. The police repelled them by shooting in the air



above their heads, firing tear gas, and kicking and beating them with batons and rifle butts. The violence was instigated by the police, who used disproportionate force on the villagers. The villagers fought back with pieces of wood from a nearby construction site and by throwing stones. The police forcibly herded them back to their trucks and led them back to their villages.

In September, a large number of police officers equipped with assault rifles and electric batons blocked and banned a procession organised by the Cambodian Centre for Human Rights (CCHR). The CCHR was attempting to make a public announcement concerning the installation of anti-corruption black boxes at different localities throughout Phnom Penh, in which people could post complaints or reports on cases of corruption they had encountered or had knowledge of. Early in the morning, police officers were dispatched to surround the CCHR offices in Toul Kork district in Phnom Penh. They also put up road blocks to cordon off the offices. They then stopped and confiscated a truck containing streamers, a 1m x 1m black box and a set of audio equipment, as it left the CCHR office. The truck was meant to travel along various streets in the capital to make the public announcement. The police also detained the driver of the truck, Peng Sam Ang.

In October, a week-long strike by workers at the Bright Sky garment factory in the Dangkor district of Phnom Penh, led to an open confrontation with the factory's management. When the strikers went to request that over ten of their peers be allowed to leave the factory, hundreds of heavily-armed police suddenly arrived on the scene. Around 50 policemen descended from trucks in the middle of the factory compound and immediately began shooting, beating with rifle butts and electrocuting the workers with electric batons. Three workers were hit by bullets, one in the lower back and abdomen. Around ten workers were wounded in total; some 40 others lost consciousness during the melee. Three were arrested and released days later without charge.

In November, in Battambang province, 40 police officers blocked 200 human rights workers and villagers from staging a demonstration in front of the provincial prison where three villagers, Chea Ny, Mol Sab and Hem Lak, were being held in connection with a land dispute in Bavel district in the same province (see section 5. Land Grabbing). Provincial governor Prach Chan cited “security reasons” for blocking the demonstration.

### **No Justification of the Ban**

To be able to organise public demonstrations, organisers must apply for permission from the local authorities, which invariably refer these to the Ministry of Interior. Applications are consistently rejected on the grounds that such demonstrations would disrupt public order and the traffic or, as in the case in Battambang above, for security reasons. However, over the last fifteen years no public demonstration has ever significantly disrupted public order and the traffic, and it is very rare for demonstrations to turn violent and for demonstrators to damage property. The International Labour Day demonstration in 2006 in Phnom Penh, which was organised by three labour unions, has proven that the

reasons cited by the authorities to support their ban on public demonstrations are completely unjustified.

In April, the Cambodian Independent Teachers' Association (CITA), the Free Trade Union Workers (FTU) and the Cambodia Confederation of Apparel Worker Democratic Unions (CCAWDU) applied for permission to organise a peaceful demonstration to celebrate International Labour Day and voice their demands for higher wages and lower petrol price. The Municipality of Phnom Penh and the Ministry of Interior refused them permission to stage the demonstration. The three unions defied this ban and went ahead with the demonstration on 1 May. The government deployed a massive police force armed with assault rifles and electric shock batons to block off all entrances to Phnom Penh and to cordon off the National Assembly Square, where the workers were to assemble for the rally. Thousands of workers managed to evade police blockades and assemble, forcing the authorities to lift the ban and withdraw the police force. As it turned out, the demonstration was very peaceful and orderly, causing minimal disruption to traffic. There were no complaints by members of the public against the demonstration. The claim by the authorities that the demonstration would lead to clashes and disturbances to stability, security and public order were shown to be utterly baseless.

### **Control of Media and Self-Censorship**

The Cambodian government has allowed some degree of press freedom, but this is more a show-case without much substance. There are many newspapers and magazines in Cambodia, but their circulation is very limited and is mostly confined to urban centres, where the illiteracy rate is high, and literate people either do not habitually read or cannot afford to buy them as their income is too low. Furthermore, almost all the printed media are either supportive of the government and its policies or exercise self-censorship. Only two newspapers, *Moneaksekar Khmer* (Khmer Conscience) and *Srolanh Khmer* (Love Khmers) are known to be supportive of the opposition and critical of the government and its policies.

The press that has been critical of the government or members of the ruling elites in the past has now effectively been muzzled. In July, You Saravuth, editor of *Srolanh Khmer* newspaper, received a death threat by fax, was sued, and had to seek asylum abroad after exposing land grabbing by Hun To, a nephew of Prime Minister Hun Sen. In September, the municipal court of Phnom Penh convicted Dum Sith in absentia for disinformation and defamation following his publication of an article exposing Deputy Prime Minister Sok An's involvement in corruption. The court fined Dum Sith eight million Riel (USD 2000) and ordered him to pay ten million Riel (USD 2500) in damages to the government or go to jail.

The government continues its tight control over the electronic media. As with the print media, all TV channels and radios stations, except one small radio station named Beehive, are either supportive of the government and its policies or have to exercise self-censorship. They have all been more subdued after the arrest in 2005 of Beehive radio

owner, Mam Sonando, following his criticism of the government. Despite support for the government and self-censorship, journalists still continue to face threats and intimidation. In September 2006, Soy Sopheap, a news analyst for CTN TV, still received a death threat, apparently from an army general that had been the subject of negative press reports, which Soy Sopheap analyzed and discussed on television.

### **Legalisation of the Restrictions on Freedom of Expression and other Rights**

A development that is of serious concern is the government's efforts to legalise its restrictions on these rights. In 2006, it started to draft a law on public demonstrations. According to the draft, all demonstrations are subject to prior approval. A notification is required concerning demonstrations comprising 50-200 participants, which may be held in designated 'freedom parks' for four hours at most, while bigger demonstrations require a permit. Article 13 of the draft law requires such a notification to be made to competent authorities four hours before the demonstration is to be held on any working day or 24 hours before on any holiday.

Under the draft law, the provincial or municipal authorities are required to designate "at least one" freedom park within their territorial jurisdiction. These parks are to be within visible or hearing distances of the public. Considering current restrictions on public demonstrations as well as the scarcity of open spaces in urban centres, particularly following the indiscriminate sale of public lands, it is likely for only one such park to be designated within any territorial jurisdiction. It is just as likely that this park will be located far away from the majority of residents. All of these factors will inevitably discourage people from exercising their rights to freedom of assembly and expression. Furthermore, groups of less than 50 persons will be deprived of their right to demonstrate.

In its meeting with NGOs on April 6, 2006 to discuss the draft law on demonstrations, the Ministry of Interior announced a ban on any demonstration protesting against the prime minister. Citing political instability, the ministry's Secretary of State, Nuth Sa An, said that any demonstration calling for the prime minister's resignation would be banned.

The government also set out to restrict the political activities of NGOs and associations. The government has with vigour revived the idea of a law governing local associations and non-governmental organisations (NGO law) that it had shelved for 10 years, and has planned to enact this law by the end of the year. The motive behind this rush is simply to rein in NGOs, restrict their constitutional rights and control their activities. In June, Heng Samrin, the President of the National Assembly and Honorary President of the ruling party, the Cambodian People's Party (CPP), said: "Today, so many NGOs are speaking too freely and do things without a framework. When we have a law, we will direct them." Sar Kheng, Deputy-Prime Minister and Minister of the Interior, said the bill would be ready for enactment by the parliament by the end of the year.

The statements of these two top leaders reflect the law's objective of restricting the

activities of NGOs as summed up by Seng Limnov, Secretary of State at the Council of Ministers, who said: “NGOs practice outside their duties, such as NGOs getting involved in politics by leading demonstrations.” This restriction is already stipulated in the draft law, which forbids NGOs to “conduct activities for any political interests” or “provide non-material, material, financial, means and human resources in support of any political party, or act against their statute.”

Already in 2005, the Ministry of the Interior issued guidelines to all commune authorities to instruct them, among other things, that all activities of non-governmental organisations, associations and civil society organisations, “must have cooperation from provincial or municipal governors” and “all invitations to provincial, district and commune officials to attend any seminar or training sessions must have the approval” of these governors as well. These guidelines in effect restrict the activities of NGOs, members of which have to travel potentially long distances to the offices of provincial or municipal governors and get through lengthy bureaucracies to get such approvals. Furthermore, certain provincial and commune officials have already forced ordinary citizens to seek their approval before being allowed to attend meetings outside the jurisdiction of those officials. In July, Por Le, a member of an ethnic minority and a forest protection community in Mondulkiri province, was summoned for questioning to the commune police station for having attended a seminar in Phnom Penh. The police dragged her and her two colleagues out of their taxi, in order to check on which organisation had invited them. Nori, the director of a local NGO in the same province, also said that it was difficult for people to participate in her NGO's activities because of police control.

In November, commune officials in Takeo province stopped a meeting in a private house organised by the Cambodian Centre for Human Rights on the grounds that this NGO had not received permission to hold the meeting. During the same month, the Ponhea Leu district authorities banned a public forum on democracy and Buddhist moral values organised by a development NGO, and scared off villagers from attending the forum with threats and intimidation. District governor Tep Sothy cited possible clashes between villagers with different partisan views and “fears of ensuing riots” as reasons for this ban.

The legislation of the restrictions on freedom of expression has already started with the speedy enactment in August of a Law on Members of Parliament. This law has the effect of abolishing immunity from prosecution, arrest or detention for opinions expressed in the exercise of parliamentary duties, contrary to article 80 of the Constitution of Cambodia. It restricts the freedom of expression of members of parliament. Article 5 of the new law says that, “Members of the Parliament may not abuse this parliamentary immunity to harm the dignity of others, the good customs of the society, law and order, and national security.” The effect of this provision is to make parliamentarians no different from ordinary citizens. It is not hard to imagine that under almost any circumstances one could be accused of harming undefined “good customs” or “national security”. Under the law, an MP could well be accused of abusing parliamentary immunity and, when taking the floor in the National Assembly, be prevented from expressing opinions, if the speaker or other parliamentarians deem that anything that is

said contravenes this section. The member of parliament could also be arrested if the police draw such conclusions concerning opinions expressed outside the parliament. In other words, arrest now depends upon the subjective judgments of law enforcement officers, the speaker and one's political opponents.

Many have claimed that at least the provision of article 5 of the law is unconstitutional, but the ruling party-dominated Constitutional Council ruled in November that the law “is not unconstitutional,” a ruling which was not surprising.

## **7. Police Torture and Abuses by Security Forces**

### **Police Torture**

The brutality of the security forces has been evident not only against demonstrators, protesters or evictees but also against suspected criminals and prisoners. In court, some suspects have complained that they had been forced to make confessions under torture. However, their claims have not been investigated and evidence of such torture on their bodies has frequently disappeared by the time they are tried. Interviews with pre-trial detainees and convicts in a large number of prisons in the first half of 2006 by human rights NGO, LICADHO, revealed 96 cases of torture. The following testimonies made respectively by a former pre-trial detainee and a lawyer detail some aspects of the torture that is used by the police on suspects.

Pa Nguon Teang, a broadcaster and Deputy-Director of the Cambodian Centre for Human Rights, was arrested in January 2006 and detained for 12 days at Prey Sar Prison, located over 20 km from Phnom Penh, before being released on bail. He said that 10 inmates were detained in a room measuring 5.00 x 3.50 meters. Some of these persons were in pre-trial detention, while others were serving sentences, which is a violation of the right of pre-trial detainees to be segregated from convicts.

While in detention with those inmates, Pa Nguon Teang learned that new-comers were beaten up and bullied in different ways by long-term inmates. He also learned that inmates were also beaten up on the eve of their release. New-comers or inmates about to be released would not meet with such treatment if they had given bribes to the prison police to get long-term inmates to behave and welcome new-comers peacefully, or to withhold news about their release.

A young inmate named Huy, an undergraduate student whose parents were running a clothes shop in a Phnom Penh market, told Pa Nguon Teang of his torture by the police during interrogation, while in custody. Huy said the police had used a black plastic bag to cover his head down to his neck and tightened its end to suffocate him, and they had also beaten him. He was suffocated until he made the confessions they wanted. Huy said that in the “torture” room there were two slogans on the wall. One was “No answer, beat up to get answers out “. The other was “One answer out, beat up to get out five more”. Pa

Nguon Teang saw another inmate whose chest had caved-in on the left hand side. The inmate said that the police had broken his ribs.

In the first half of 2006, a lawyer in Kompong Cham province came across a victim of torture among his clients. In one case, a man named Pok Mao, living at Chambak village, Thmar Pich commune, Thbaung Khmum district, Kompong Cham province, was arrested for murder in December 2005. The police beat and kicked him, breaking his jaw on the right-hand side in the process. Pok Mao told his lawyer he would not lodge any complaint against the police out of fear that his safety would be in jeopardy. He feared that he would be beaten up when he was taken to the provincial prison. His broken jaw still showed when he was brought to trial.

The police have denied they condone torture and have urged those who have claimed having been subjected to torture to come forth with evidence. As the above case shows, it is rare that victims or their relatives have lodged complaints of torture against the police. In 2004, a poor man named Thon Tho filed a lawsuit against a police officer in Kompong province for having tortured him during his arrest in 2001. In mid-2006, Thon Tho was still awaiting the trial of the police officer in question. However, a complaint against a number of police officers for the death of a woman suspect named Duong Sopheap while in their custody at the Phnom Penh Municipal Police's Minor Crimes Office in June 2005 was successful. In July 2006, the Phnom Penh court sentenced six police officers to 12 years in prison for her death. This sentencing and its support by National Police Commissioner Hok Lundy were very encouraging, though one swallow may not make a spring yet. To this positive development was added, in November 2006, the National Assembly's approval for ratification by the king of the Optional Protocol to the Convention Against Torture.

### **Abuses by Security Forces**

It should be added that early in the year, members of various Cambodian security forces have abused their power and have used violence against ordinary people, especially against women, and that they have invariably managed to get away with their crimes. The following are several such cases that illustrate this.

In February, a 24-year-old woman named Krem Sinal, living at Da Lech village, Memot commune, Memot district, Kompong Cham province, was kicked twice by Oum Sam Ath, the chief of the Treak commune police, located in the same district. Oum Sam Ath then snatched her gold necklace and bracelet. Oum Sam Ath then used a glass to hit her on the head causing her to immediately lose consciousness. She lodged a complaint against her attacker.

In April, a beer promotion girl named Kruey May was shot and injured by members of the B-70 Unit of the Royal Cambodian Armed Forces at Ruk Kha II Beer Garden in Phnom Penh, for being slow to bring ice for their drinks. Kruey May, who was injured in the foot, was taken to hospital. The military police arrested two army officers, Major Phat Skphal

and Captain Sim Ry, but both were released two hours later. The two were reportedly demoted and had their heads shaved as punishment; however, no criminal charges have been filed against them.

In the same month a karaoke singer, Sovann Thida, was shot in the hand at the X2 Club in Phnom Penh. According to Phnom Penh Municipal Police Commissioner Touch Naruth, an armed forces officer was spinning a handgun on his finger and it accidentally fired when a police officer that was with him attempted to stop him from playing with it. The victim was given USD 3500, but no criminal charges have been filed against the army officer or the police officer. Meanwhile, Sovann Thida was said to have disappeared. The owner and staff of the club, as well as other karaoke singers and members of the local police have all refused to cooperate with inquiries. There are rumours that the shooting was not an accident, but that Sovann Thida might have turned down sexual advances, and that she might have been shot in her genitals as a result.

These shootings follow two earlier similar incidents in February in the same city. In one, an army colonel at a bar shot a young woman in the thigh and wrist. He was arrested but released later. He claimed that he had dropped his handgun, causing it to go off. The victim also has not been found since. In the other incident, a soldier shot his handgun into the ground and the bullet ricocheted before hitting a beer promotion girl. Again, no criminal charges have been filed in either case.

Arbitrary violence and impunity are also part of life in the provinces. In April, in Kompong Cham province, a member of a militia unit at Chamcar Andaung Rubber Plantation shot a villager dead as he rode past on the back of a motorcycle. The victim, Chlich Sinol, was carrying five kilograms of rubber which he wanted to sell to another merchant at almost four times the price offered by the plantation, which has a monopoly on purchases of all rubber produced in the area. Apparently one of the tasks of the militia is to prevent the sale of rubber to other merchants. Between 200 and 300 fellow villagers retaliated by burning down the militia post, together with the houses of the monopolising merchant and furniture in the houses of militia personnel. The police have confiscated weapons and ammunition from the militia and have prepared a file to send to the court of the province, but the murderer is still at large.

In March in the same province, a car transporting four customs officers hit a motorcycle being used to smuggle five jerry cans of diesel. The motorcyclist, Phy Phong, was killed after being pulled some 60 metres underneath the vehicle. The chief of the customs post acknowledged the killing and offered Phy Phong's father USD 1000 in exchange for dropping legal proceedings. This offer was turned down, but when the amount was increased to USD 3000 he accepted and withdrew the complaint.

## **8. Conclusion**

This report is not exhaustive. It has nevertheless shown that Cambodia's performance regarding human rights in 2006 was not any nearer the international norms and standards

it had adhered to as its obligation under the Paris Peace Accords of 1991, 15 years after these accords were reached. Cambodia's rule of law institutions, especially the judiciary, remained underdeveloped and under executive control. This control became stronger when the ruling party, the CPP, to which almost all judges and prosecutors belong, became the overwhelming dominant party in the country in 2006. The country has lost all checks and balances. These institutions remain instruments of repression in the hands of the government and its powerful prime minister, instead of striving to become protectors of the rights and freedoms of the Cambodian people, as provided for in the country's constitution. The judiciary failed to gain any public trust and people continued to look elsewhere for justice, including through protests, although they have to brave brutal crackdowns by the police force in such cases.

The abuses that are highlighted in this report derived mainly from malfunctions within these institutions. The main task required in order to ensure the observance of and respect for human rights therefore remains the establishment of an independent, competent and impartial judiciary, as provided for in the Paris Peace Accords, the international human rights instruments Cambodia has adhered to, and the country's constitution. This task lies with Cambodia on the one hand, and State-signatories to those accords, UN agencies and international aid agencies on the other. In this regard, the ratification of the First Optional Protocol to the ICCPR and the Optional Protocol to CAT that the Cambodian government has already signed, could be a catalyst to speed up this process. Victims of violations could then resort to the respective committees of these international legal instruments in order to seek redress, thereby opening up much-needed channels for these committees to bring about changes in these institutions.

December 21, 2006