



# THREATS TO HUMAN RIGHTS DEFENDERS IN CAMBODIA

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BRIEFING PAPER  
June 2006



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**LICADHO**

CAMBODIAN LEAGUE FOR THE  
PROMOTION AND DEFENSE OF HUMAN RIGHTS

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A LICADHO Briefing paper  
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**LICADHO**

CAMBODIAN LEAGUE FOR THE PROMOTION  
AND DEFENSE OF HUMAN RIGHTS

## **Cambodian League for the Promotion and Defense of Human Rights (LICADHO)**

LICADHO is a national Cambodian human rights organization. Since its establishment in 1992, LICADHO has been at the forefront of efforts to protect the rights in Cambodia and to promote respect for civil and political rights by the Cambodian government and institutions. Building on its past achievements, LICADHO continues to be an advocate for the people and a monitor of the government through wide ranging human rights programs from its main office in Phnom Penh and 12 provincial offices.

LICADHO pursues its activities through its seven program offices:

- The Documentation and Resources Office compiles case files into a central electronic database, so that accurate information can be easily accessed and analyzed.
- The Human Rights Education Office provides training courses to target groups such as government officials, students, monks and provides dissemination sessions to the general public.
- The Monitoring Office investigates human rights violations and assists victims in the legal process. Specially trained staff also monitors 18 prisons to assess prison conditions and ensure that pre-trial detainees have access to legal representation.
- The Medical Office provides medical assistance to prisoners and prison officials in 12 prisons and provides medical care and referrals to hospitals for victims of human rights violations.
- Project Against Torture provides comprehensive rehabilitation services to victims of torture and conducts advocacy against torture.
- The Children's Rights Office educates the public on children's rights, creates child protection networks at the grassroots level, and investigates children's rights violations.
- The Women's Rights Office educates the public about women's rights, investigates women's rights violations and advocates for social and legal changes.

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## Executive Summary

The situation for human rights defenders in Cambodia deteriorated markedly in 2005. Human rights advocates, community activists and trade union leaders have been among those targeted for their work defending basic human rights. The intimidation they faced included physical and verbal assaults, malicious lawsuits and criminal charges, arrests and detentions. These were symptomatic of a year marked by attacks on civil society and increasing intolerance towards criticism of the Government.

While physical violence towards human rights defenders has decreased over recent years, there has been a shift towards other forms of coercion and intimidation with a veneer of legality. The year 2005 followed this trend, with criminal charges, security clampdowns and registration requirements attempting to quash human rights work. These actions send a message to Cambodian citizens that human rights are a privilege extended by the Government, which may be revoked at any time.

The controversial signing of a border treaty with Vietnam late in 2005 showed the limits of free speech in Cambodia, sparking a series of criminal defamation charges against civil society leaders. High-level human rights workers who had not made any defamatory comments were also targeted for arrest. The arrests, which were flawed due to procedural errors and in contravention of international human rights standards, blatantly abused the distinction between executive and judicial power, and created a climate of fear within civil society. Many human rights activists and other civil society leaders fled the country, while others were intimidated from speaking out.

Although the formal complaints were issued by the Government, the Prime Minister's public threats to imprison those who criticized him left no one in doubt as to where the charges and arrest orders originated. After U.S. Government intervention led to the release of jailed activists in 2006, the Prime Minister himself provided the bail guarantees, thereby ensuring that their freedom remained at his personal discretion. The targeting of human rights defenders by the Prime Minister sets a poor example for the rest of the Government.

Human rights defenders have suffered greatly as a consequence of these actions. The international community was strongly critical of the arrests, but the Government has been reluctant to sacrifice its increasingly autocratic power in order to comply with international human rights treaties. It is disappointing that Cambodia's leaders continue to use fear to rule, when the society desperately needs the hope and confidence that human rights and real democracy could bring.

This briefing paper offers an analysis of the threats to human rights defenders in Cambodia during 2005. It includes also the related arrest of Pa Nguon Teang on January 4, 2006, and a summary of relevant developments in early 2006. The paper is based on investigations and other information compiled by the Cambodian League for the Promotion and Defense of Human Rights (LICADHO) with the additional support of the United Nations Cambodia Office of the High Commissioner for Human Rights (UNCOHCHR) and the Cambodian Association for Human Rights and Development (ADHOC).

## I. Introduction

### **Human Rights Defenders - Who Are They?**

Human rights defenders are people who, individually or with others, act to promote or protect fundamental human rights in a non-violent manner. Defenders of human rights may be part of formal national or international rights organizations, or may work within their local communities. They are often NGO staff, trade union leaders, journalists, community leaders, teachers or students, but can be anyone, irrespective of their usual profession. Today, Cambodia has a strong and active community of human rights defenders and human rights organizations that plays a primary role in the promotion and advancement of human rights. This community has developed since 1991 when the first human rights NGOs were established after the signing of the Paris Peace Accords.

Beyond this general description, different organizations have slightly different ways of defining human rights defenders. In determining whether a case constitutes a threat to a human rights defender, LICADHO considers it important to establish whether the victim has undertaken action that genuinely defends or promotes human rights, as set out in the Universal Declaration of Human Rights and guaranteed by international instruments such as the International Covenant on Civil and Political Rights. Such actions should also be undertaken, in whole or part, on behalf of others, rather than in pure self-interest. Through examination of the available evidence, a clear causal link needs to be established between the activities undertaken to defend human rights and the threat, harassment or intimidation that was received.

It should be noted that while politicians can, like anyone else, act as human rights defenders, governing authorities in countries with poor human rights records such as Cambodia persistently try to discredit neutral human rights organizations by associating them with the political opposition. To avoid such accusations of partisanship, and noting the alternative protections available to politicians under international human rights law, threats received by national politicians are not included as cases of threats to human rights defenders in this report.

### **Legal Protection of Human Rights Defenders**

In Cambodia, the 1991 Paris Peace Accords provided a legal framework for protecting human rights defenders, including an acceptance of the rights of freedom of association, assembly and expression. In 1992 the Cambodian government signed and ratified relevant international human rights legislation, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The provisions of these covenants and the Universal Declaration of Human Rights were incorporated into domestic law by the 1993 Constitution of Cambodia.

In 1998, on the occasion of the 50<sup>th</sup> anniversary of the Universal Declaration of Human Rights, the UN General Assembly adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.<sup>1</sup> The Declaration has become known as the 'Declaration on Human Rights Defenders'.

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<sup>1</sup> United Nations, Reference: A/RES/53/144. Released 8 March 1999

The Declaration sets out rights and protections for human rights defenders to be upheld by member States, such as the rights to seek, obtain, receive and hold information relating to human rights or to criticize a government's non-compliance with human rights standards. The Special Representative of the Secretary-General on Human Rights Defenders noted that the Declaration was based on legally-binding principles and rights already enshrined in existing international human rights standards, and that since "the Declaration was adopted by consensus by the General Assembly...[it] therefore represents a very strong commitment by States to its implementation."<sup>2</sup>

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<sup>2</sup> See Annex 2: UN Declaration on Human Rights Defenders, also available at [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.RES.53.144.En?OpenDocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/A.RES.53.144.En?OpenDocument)



## II. The Operating Environment for Human Rights Defenders

### Background

Cambodian society is still coming to terms with the legacy of the Khmer Rouge regime (1975-1979) during which an estimated 1.7 million Cambodians died. Grievous human rights abuses were committed throughout the country, including torture, killings, forced labor, starvation and rape. Most skilled professionals were killed, leaving a vacuum of trained people in society. Although the Khmer Rouge regime ended in 1979, civil war continued until the late 1990s as different political groups vied for power. The establishment of the UN Transitional Authority in Cambodia (UNTAC) in 1992 created space for the re-emergence and reconstruction of civil society.

The political context in Cambodia is influenced by its history of violence. In the past, Cambodia has had a poor record of protecting civil and political rights. Today the country is still undergoing an uncertain transition to democracy and often falls short of its obligations under both the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

Furthermore, Cambodia's economic situation remains weak. Poverty is still a stark reality, with an annual average income of around USD\$320.<sup>3</sup> The immediate result is a low standard of living, poor health conditions, a lack of access to adequate education and an average life expectancy of only 54 years.<sup>4</sup> Ineffective laws regarding land and resources continue to have a devastating impact on the livelihoods of Cambodians in rural areas. Large areas of agricultural and forested land have been transferred to the private sector, and there are frequent illegal land seizures by powerful groups or individuals.

During 2005, sadly, there has been an increasing trend toward autocratic government.<sup>5</sup> The authorities continued to arbitrarily limit public expression, assembly, and association. They targeted opposition politicians, civil society leaders, journalists and peaceful protestors with illegal arrests, abuses of the legal process, threats, violence and other harassment. Meanwhile, unrestrained land-grabbing continues to pose a threats to livelihoods, and is an increasing cause of conflict between local rights activists and State or private entities, usually backed by security forces.

These and other factors created a difficult and dangerous operating environment for human rights defenders in 2005. The problems were further compounded by the tendency of government officials and associates to launch scathing public attacks on human rights defenders, portraying them as criminal sympathizers who are undermining Cambodian society.

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<sup>3</sup> UNICEF estimate 2004, found at [http://www.unicef.org/infobycountry/cambodia\\_statistics.html2](http://www.unicef.org/infobycountry/cambodia_statistics.html2)

<sup>4</sup> World Bank statistics, 2004

<sup>5</sup> United Nations Press Release, Special Representative of the Secretary-General for Human Rights in Cambodia, 'The Removal of Immunity of Sam Rainsy Party members of the National Assembly and the arrest of Cheam Channy', February 7, 2005.

## Denial of Freedom of Expression

Freedom of expression was systematically repressed in 2005, as the Government continued and increased its use of flawed legal processes to imprison its critics and political opponents. Civil society leaders, journalists and trade unionists, as well as opposition members of parliament, were targeted in a series of Government-initiated defamation cases. The prosecutions had a chilling effect on civil society, and were followed by similar arrests of human rights defenders.

In February, parliamentary immunity was stripped from opposition leader Sam Rainsy and fellow MPs Chea Poch and Cheam Channy, leaving them open to prosecution on a variety of dubious legal charges. A failed criminal complaint filed by Rainsy against Prime Minister Hun Sen for complicity in the fatal grenade attack of March 30, 1997, left Rainsy himself facing criminal charges for defaming Hun Sen. Both Rainsy and Poch also faced criminal defamation charges for making allegations of corruption in the formation of the CPP-FUNCINPEC coalition government. They fled the country, while Cheam Channy was illegally arrested by military police and detained in the military prison, accused of forming an illegal army. In August he was sentenced to seven years by a military court, in a trial roundly condemned as politically-motivated and lacking in legitimacy.

In December, Rainsy was convicted in absentia on both sets of defamation charges, and sentenced to 18 months imprisonment. Part of the price to pay for his eventual pardon, return to Cambodia and the release of Cheam Channy was a retraction of his allegations and agreement to drop another complaint against the Prime Minister for the 1997 grenade attack that was pending in the American courts. While politicians fall outside the definition of human rights defenders for the purpose of this report, these attacks on some of the highest profile dissenting voices in the country were also representative of the Government's attitude towards human rights defenders.

Fears that the government crackdown on criticism would be extended to a broader assault on civil society and freedom of expression were realized in October, when Mam Sonando, owner and director of the independent Beehive Radio station, was arrested. Sonando was charged with defamation, disinformation and incitement, with a total possible sentence of nine years. His alleged crime was to broadcast an interview he had conducted with a France-based Cambodian activist concerning a controversial Cambodia-Vietnam border treaty. However, a close look at the transcript shows that at no point did Sonando express personal criticism of the treaty or incite anyone to commit a crime; in fact, on several occasions Sonando challenged the activist on his views. But the arrest of Sonando was more than just the persecution of a journalist. Beehive is one of the few sources of independent news broadcasting in Cambodia and leases airtime to both the U.S.-Government-run Voice of America and to Radio Free Asia, a source of conflict with the Cambodian Government, which has periodically banned the re-broadcast of foreign-sourced news.<sup>6</sup>



Mam Sonando speaking to journalists as he leaves Phnom Penh court

Also in October, Rong Chhun, president of the Cambodian Independent Teachers Association, was arrested while trying to cross into Thailand to seek asylum. He was charged with defamation and incitement in connection with a press statement he signed along with

<sup>6</sup> Committee to Protect Journalists (CPJ), 'Mam Sonando, Beehive Radio (Sombok Khmum), Legal Action, Imprisoned,' [http://www.cpj.org/cases05/asia\\_cases05/cambodia.html](http://www.cpj.org/cases05/asia_cases05/cambodia.html)

three other members of the Cambodia Watchdog Council, relating to the same Cambodia-Vietnam border treaty.<sup>7</sup>

In both cases, the UN Special Representative of the Secretary General for Human Rights in Cambodia criticized the illegality of the arrest procedures and the detention orders, noting also the unsubstantiated nature of the charges of incitement.<sup>8</sup> Meanwhile, numerous other individuals who had also expressed criticism of the treaty were also charged.

Freedom of expression is protected by international law under the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights, and domestically by the Cambodian Constitution.<sup>9</sup> Although criminalized defamation is legal under international law, any restrictions on freedom of speech should be lawful (under domestic legislation), necessary and proportionate.<sup>10</sup> Since the restrictions were not, in LICADHO's opinion, necessary and proportionate to any social benefit gained, they represent violations of the right to freedom of expression and are therefore unconstitutional.<sup>11</sup> Of particular concern is the manner in which the Prime Minister blurred the line between executive and judicial power in order to silence and imprison his critics. In a speech broadcast on October 17, the Prime Minister issued a stark warning: "This is the limit of my patience. In any case, my loss of patience will go as far as the law allows. If I do not abide by the law, the armed forces are in my hands, no one can object," he said. The Prime Minister also made thinly-veiled threats against his critics, saying: "Those supporters in the background who whisper things, regardless of who they are, watch it, I may implicate you."<sup>12</sup> The threatening nature of these comments and their disregard for the supposed separation of power between the Government and the courts were backed up by the Prime Minister's actions in 2005.

Following the arrests of Mam Sonando and Rong Chhun, prominent human rights defenders voiced fears that they might be targeted next. Again, these fears were sadly realized in December when the government launched charges against human rights activists Kem Sokha, Pa Nguon Teang and Yeng Virak; their cases are detailed in Section III (below).

### **Denial of the Right to Peaceful Assembly**

The rights to peaceful demonstration and to peaceful assembly are protected under both international law<sup>13</sup> and the Cambodian Constitution,<sup>14</sup> and these rights are fundamental to a functioning democracy. However, ever since the 'anti-Thai riots' of January 2003, the Government has used its own failure to take effective action on that occasion as a pretext for a wide-ranging crackdown on peaceful gatherings and demonstrations. In recent years NGOs have been refused permission to hold marches and other gatherings related to issues such as World Environment Day, International Women's Day, domestic violence and rape, labor rights and civil liberties. Private groups have also faced restrictions, intimidation and

<sup>7</sup> Charges were laid against the remaining three - who have all sought sanctuary outside the country. LICADHO briefing paper, 'Cambodia: Attacks on Freedom of Expression & Political Rights', January 11, 2006

<sup>8</sup> United Nations Press Release, by Peter Leuprecht, Special Representative of the Secretary-General for Human Rights in Cambodia, October 20, 2005. Both were arrested on a 'writ of *capias*' issued by Phnom Penh Municipal Court. Such writs can only be lawfully issued when an accused fails to appear before the court after having received a properly-communicated summons, which did not occur. Under Cambodian law, a charge of incitement must relate to a specific crime covered by the penal code. Neither man incited any specific crime, nor was charged with doing so.

<sup>9</sup> UDHR Art. 19; ICCPR Art. 19, Constitution of Cambodia Art. 41 protecting freedom of expression and Art. 31, incorporating the ICCPR.

<sup>10</sup> See further the 'Siracusa Principles', United Nations, Economic and Social Council, Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, U.N. Doc. E/CN.4/1985/4, Annex (1985), available at <http://www1.umn.edu/humanrts/instree/siracusaprinciples.html> and the 'Madrid Principles', Written statement submitted by the International Commission of Jurists, The Madrid Principles on the Relationship between the Media and Judicial Independence, 11 February 1994, available at <http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/ba4aa28729b3df7180256775004ec1c4?Opendocument>

<sup>11</sup> ICCPR Art. 19, Constitution of Cambodia, Articles 31 and 41.

<sup>12</sup> Speech of Prime Minister Hun Sen on October 17, 2005, BBC Monitoring of Television Kampuchea, Phnom Penh, Cambodia, 0500 GMT

<sup>13</sup> Art. 21 of the International Covenant of Civil and Political Rights; Art. 20 of the Universal Declaration of Human Rights.

<sup>14</sup> Arts. 37 and 41 of the Cambodian Constitution protect the rights to peaceful demonstration and to peaceful assembly. Art 31 incorporates the International Covenant of Civil and Political Rights and the Universal declaration on Human Rights.

violence when trying to exercise their right to peaceful assembly.<sup>15</sup>

Under international law, restrictions to the right to peaceful assembly must be consistent with domestic law, necessary and proportionate. Government representatives continue, however, to cite public security concerns to justify prevention and interruption of public gatherings. Even peaceful gatherings of relatively small groups of people have been refused permission or dispersed by the authorities, sometimes with violence. LICADHO believes that such measures are neither necessary nor proportionate, and therefore violate the Cambodian Constitution and international law.



Riot police systematically blocks peaceful march and assembly by factory workers

Throughout 2005, police intervened to prevent or disperse more than 40 gatherings, demonstrations, marches, public discussion forums, labor strikes and protests over land disputes. Violence and intimidation were used regularly. On January 7, 2005, policemen beat demonstrators with rifle butts and sticks, and used electric stun batons. On February 11, the authorities prohibited human rights activists, UNCOHCHR and independent reporters from seeing demonstrators arrested earlier that day. Only journalists working for pro-government stations CTN and TV3 were allowed into the district office. On March 28, the police raided the office of the Student

Movement for Democracy to prevent them protesting. Police obstructed journalists and human rights workers attempting to monitor the event. On September 27, five members of the Student Movement for Democracy were arrested outside their office for attempting to stage a peaceful demonstration.<sup>16</sup>

In the face of such intimidation, human rights defenders fear violence and arrest when planning public events to promote human rights issues or when monitoring demonstrations held by others. By refusing permission for such events, on the spurious grounds that they pose a threat to national security and public order, the authorities seriously obstruct activities necessary for democracy and the defense of human rights. Cambodian citizens are entitled to raise awareness about human rights issues and to urge action from both the Government and the community. Coupled with the effects of the defamation prosecutions, such restrictions to freedom of assembly have crippled attempts by civil society to defend human rights.

## Land Disputes

Despite a growing rural population and increasing pressure for land, in recent years the Government has pursued a policy of granting huge economic land concessions to companies, often used as a front for illegal logging. Although the 2001 Land Law stipulates the maximum size of a concession to be 10,000 hectares<sup>17</sup> the largest concessions are 30 times this size. In some cases a single commercial land concession is more than half the size of some provinces.<sup>18</sup> The lack of transparency surrounding ownership and the secretive way in which the concessions have been granted stifles informed debate and provides an environment ripe for corruption.<sup>19</sup> International calls for the immediate disclosure of

<sup>15</sup> LICADHO Briefing Paper: 'Restrictions on the Freedom of Assembly in Cambodia', December 2005; 'Threats to Human Rights Defenders in Cambodia 2004', December 2004; Cambodian Human Rights Action Committee (CHRAC), 'Crackdown on Gatherings and Demonstrations by Phnom Penh Authorities since January 2003', November 2004. All available from <http://www.licadho.org/>

<sup>16</sup> LICADHO Briefing Paper: 'Restrictions on the Freedom of Assembly in Cambodia', December 2005

<sup>17</sup> Land Law of Cambodia, 2001, article 59

<sup>18</sup> Report of the United Nations Special Representative for Human Rights, December 19, 2003

<sup>19</sup> Ibid.

information about land concessions have been consistently ignored by the Cambodian Government.

The close connections between the concessionaire companies and influential Government figures, and the profitable returns on managing concessions, mean that NGOs or groups demanding reforms or conducting investigations have faced serious risks. Violence and threats are common. In July, the supervisor of an illegal logging operation in Kompong Thom province threatened and shot at two forestry community members. The shooting was in response to the members' attempt to stop illegal loggers cutting protected resin trees near a rubber plantation concession.

NGO workers and community leaders were threatened following protests in June and July by indigenous Phnong people affected by the land concessions to the Wuzhishan Company in Mondulkiri province. Furthermore, local authorities have imposed restrictions on the work of the local and international NGOs working in this province.<sup>20</sup> In Rattanakiri province, a coordinator from ADHOC faces a disinformation lawsuit after giving an interview in September to Radio Free Asia about his intervention in a land conflict between indigenous families and a military officer. At the time of writing the case was still pending.<sup>21</sup>



A community leader in Pursat reacts to an eviction notice

In November, soldiers shot at villagers in Battambang province who were trying to protect a representative in their land dispute from an illegal arrest. The land dispute concerned tens of thousands of hectares and was disputed by more than 1,600 families. Villagers had been prevented from visiting another representative who had been arrested illegally a week earlier. Several villagers were injured, some seriously. One person required the amputation of their fingers.

In December 2005, Prime Minister Hun Sen told government officials, business people and the military to stop grabbing forested land and private property. "I warn that if [you] continue to grab land there will be a farmers revolution... it's time for you to stop before the people lose their patience,"<sup>22</sup> the PM said. It is yet to be seen whether the Prime Minister will follow up on his no tolerance policy towards land grabs and the human rights violations that often accompany them; for the time being, addressing such violations remains amongst the most serious challenges faced by human rights defenders in Cambodia.

### Public Portrayals of Human Rights Defenders

Throughout 2005, human rights defenders were frequently the subject of verbal assaults and serious misrepresentation from government figures, typically during speeches that were broadcast on pro-government national television and radio.

Examples abound. During a lengthy televised speech at a ceremony in Kandal province in January, Prime Minister Hun Sen repeated a claim that human rights groups protect robbers and thieves.<sup>23</sup> On this occasion, as he has done several times, the Prime Minister also specifically alluded to a civil society leader he has nicknamed *A-Kuk Sora*, believed to be an

<sup>20</sup> Information received from the Cambodia Office of the UN High Commissioner for Human Rights and interviews with human rights defenders from ADHOC

<sup>21</sup> Ibid

<sup>22</sup> Sokheng, Vong, 'Stop land theft, warns Hun Sen', Phnom Penh Post issue 14/25, Dec 16-29, 2005

<sup>23</sup> Kampuchea Thmey, January 9-10, 2005, translated in The Mirror, January 9-15, 2005

offensive reference to Cambodian Centre for Human Rights (CCHR) Director Kem Sokha.<sup>24</sup> Later that month, cars carrying participants from a CCHR public forum were stopped and searched by police, who claimed they were looking for weapons.

In June, the Prime Minister warned against unspecified public forums that criticize him.<sup>25</sup> Two months later, several forums organized by CCHR were disrupted, and in one case shut down, by local authorities and pro-government protesters. Speaking in October, the Prime Minister claimed that, "Forums in democracy, human rights and such, it won't make poverty fly away from us. Listening to that stuff is a waste of time."<sup>26</sup>

International human rights workers were also the subject of verbal abuse and unsubstantiated slurs. In February, Om Yentieng, chair of the government's Human Rights Committee and an advisor to Hun Sen, publicly attacked Peter Leuprecht, the then-UN Special Representative of the High Commissioner for Human Rights. Yentieng said that statements made by Leuprecht made him appear to be ignorant of the Cambodian Constitution, claiming that the Special Representative considered himself "even bigger than the court."<sup>27</sup>

Following the visit to Cambodia in August of Miloon Kothari, UN Special Representative on Housing Rights, Hun Sen claimed that "One guy, a UN representative... He came [to Cambodia] just for money. He regarded Cambodians as thieves."<sup>28</sup> It should be noted that UN Special Representatives such as Kothari, who had been critical of land-grabbing and the secretive transfer of state land to private companies in Cambodia, do not receive salaries for their efforts defending human rights. Two weeks later, Hun Sen's advisor Prak Sokhonn claimed that the Prime Minister had attacked the UN Office of the High Commissioner for Human Rights during an ASEAN-UN meeting, reportedly saying: "If they report good human rights, it would make them jobless."<sup>29</sup>

Negative portrayals were not confined to speeches. In October, pro-government station Bayon TV began airing a program entitled *Ang Sith Proyat* ("Overuse Your Rights, Be Careful") that comically depicted violence against a human rights defender. The first episode featured prominent comedian Ou Bunnarath as an activist who educates villagers about their rights. His teachings, however, result in disruption within the community; blamed for the unrest, he is beaten by the villagers. Justifying the program, Bunnarath explained "Our country can't be like other countries. In European countries they can't beat their children, but in Cambodia children must respect their elders."<sup>30</sup>

Like anyone else - including politicians - human rights defenders should not be immune from being challenged, criticized or satirized. However, the overwhelmingly negative and inaccurate portrayal by state actors and their affiliates does little to inspire confidence in the Government's commitment to human rights, or to the protection of human rights advocates in Cambodia.

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<sup>24</sup> The Cambodia Daily, July 29, 2005

<sup>25</sup> The Cambodia Daily, June 20, 2005

<sup>26</sup> The Cambodia Daily, October 3, 2005

<sup>27</sup> The Cambodian Press Review, February 8, 2005

<sup>28</sup> The Cambodia Daily, September 9, 2005

<sup>29</sup> The Cambodia Daily, September 23, 2005

<sup>30</sup> The Cambodia Daily, October 18, 2005

### III. Threats to Human Rights Defenders in 2005

The events of 2005 reveal a consistent pattern of intimidation, threats and harassment against human rights defenders in Cambodia. This raises serious concerns about the safety and sustainability of human rights monitoring and advocacy, which has wider implications for the development of an open democracy and the rule of law. The perpetrators of this intimidation range from private citizens to police officers, military officers, commune chiefs, provincial department officials, municipal department officials, district land department officials, district governors, court officials and some high-ranking government officials.

The types of intimidation include physical violence, threats, legal action, arrests, detention, and travel restrictions. Generally the incidence of direct violence against human rights defenders has decreased (with the exception of those involved in public protests) and perpetrators have focused instead on intimidation, obstruction and legal challenges. The purpose, however, remains the same: to discourage people from defending the human rights of themselves and others.

A list of incidents involving human rights defenders in 2005 is included as an Annex at the end of this report, but below is a summary of these cases.

#### Violence and Killing

There were no killings of human rights defenders reported in 2005, but several violent incidents occurred.

In July, a supervisor of an illegal logging operation shot at two forestry community members in Kompong Thom. In the same month, a policeman was shot dead while apprehending a person suspected of trying to kill a community leader in Rattanakiri, who had received repeated threats. The suspect was also shot and killed. In November, several villagers were shot and injured at a land protest in Battambang trying to protect their representative from illegal arrest.



Riot police are often used in evictions to intimidate affected community

#### Threats, Intimidation and Harassment

Verbal and written threats, including telephone threats, remain a very common form of intimidation. They are regularly experienced by human rights field workers who encounter public officials or police in the course of their work.

In July, investigators from the Pursat province offices of human rights organizations LICADHO, CCHR and ADHOC were prevented from photographing the destruction of private property in Phnom Kravanh district. A family's fence

and yard were being demolished without their permission so a new road could be built across their land. The police and local authorities threatened to confiscate the films and camera of human rights workers, and accused them of defamation. While neither confiscation nor arrest eventuated, the workers were detained for several hours and seriously intimidated.

## Work and Travel Restrictions

On January 29, speakers at a peaceful Cambodian Centre for Human Rights (CCHR) forum had their cars stopped and searched for weapons. On August 10, police shut down another CCHR forum of about a 1,000 people, after a group of about 40 people started shouting pro-government slogans in what appeared to be an organized stunt. On August 26 and 29, authorities disrupted and attempted to prevent two more CCHR meetings.

In February, 2,100 copies of a Global Witness report concerning institutionalized corruption in the logging industry were impounded by customs officials at Phnom Penh International airport without explanation. The report included a 'who's who' of high-ranking military and government figures involved in illegal logging. In July, a foreign staff member was denied entry into Cambodia, five others were placed on a government blacklist and the Prime Minister announced that the NGO was "finished" in the country. Global Witness has frequently been a target of the authorities for its outspoken criticism of government and military involvement in corruption and illegal timber trafficking. As a consequence of repeated threats against staff and obstruction to the fulfillment of its mandate, the NGO closed its office in Cambodia in October 2005.<sup>31</sup>

In 2005, authorities in Mondulkiri imposed restrictions on the work of local and international NGOs in the province, after controversies involving Montagnard asylum seekers and protests against massive land-grabbing. Each NGO was required to submit a memorandum of understanding to the ministry concerned and the provincial governor required all NGOs to meet with him every three months to submit their activity reports. In addition, all community leaders had to request permission from the provincial governor to leave the province and to participate in NGO-related matters.<sup>32</sup> These restrictions were a clear breach of people's Constitutional rights to travel freely, and were designed to intimidate human rights defenders and silence criticism of sensitive issues.

## Criminal Charges, Civil Actions, Illegal Arrests and Detention

Despite the very serious types of harassment described above, those who seek to attack human rights defenders are increasingly choosing methods of intimidation with a greater veneer of legality. This reflects some progress towards consolidating the rule of law and a greater public awareness of human rights. On the other hand it shows that perpetrators are becoming more sophisticated in their methods. Criminal defamation charges, either actual or threatened, are a favorite tool used against human rights defenders, with powerful figures almost guaranteed to win in Cambodia's corrupt and politicized courts. LICADHO supports the resolution of disputes through legal channels, however due to the malleability of the judiciary, observers must look beyond a superficial show of legitimacy to see if human rights are being abused by dubious legal actions.

The arrests of Mam Sonando and Rong Chhun in October (see Section II, above) were followed in December 2005 and January 2006 by arrests of prominent human rights activists, also accused of criticizing the controversial Cambodia-Vietnam border treaty. Their lack of any active involvement in the alleged incidents of defamation and their high profiles suggest an attempt by the Government to sideline key figures in civil society and destroy the rights for which they advocate.

Kem Sokha, president of the Cambodian Center for Human Rights (CCHR) and Yeng Virak,

<sup>31</sup> Cambodia Soir, 'L'ONG Global Witness a fermé son bureau cambodgien', October 13, 2005; Cambodia Daily, July 25, 2005

<sup>32</sup> Information received from the Cambodia Office of the UN High Commissioner for Human Rights, interviews with human rights defenders from ADHOC



president of the Community Legal Education Center (CLEC), were arrested in Phnom Penh on December 31 and charged with defamation.<sup>33</sup> Their arrests were in connection with a banner displayed at a CCHR booth during International Human Rights Day celebrations held in Phnom Penh on December 10. The banner, which had previously been circulated at CCHR public forums nationwide around the time of the 2003 national elections, had hand-written comments on it by Cambodian villagers expressing political opinions. One comment allegedly referred to the Government as a “traitor regime that sells territory to Vietnam”. Kem Sokha was director of the organization that displayed the banner, while Yeng Virak had no connection to the banner other than as chair of the organizing committee of various civil society groups which arranged the International Human Rights Day celebrations.

On January 4, 2006, Pa Ngoun Teang, director of CCHR’s radio division (which disseminates human rights information), was detained without a warrant near the Laotian border, in connection with the same banner. He was subsequently charged with defamation. The arrests heightened long-standing concerns about the Government’s interference in human rights monitoring and manipulation of the judiciary in Cambodia, and amounted to a very serious attack on human rights defenders and freedom of expression in Cambodia.

### Developments in 2006

Faced with significant domestic and international pressure,<sup>34</sup> Yeng Virak was released on bail on January 11, 2006. Six days later, Prime Minister Hun Sen organized the release of Kem Sokha, Pa Nguon Teang, Mam Sonando and Rong Chhun - on bail that he guaranteed himself - as a “present” to the US ambassador on the occasion of opening a new embassy.<sup>35</sup> Although technically legal, the Prime Minister’s role as guarantor of bail combines executive and judicial powers, since the accused men were released only at his intervention and remain vulnerable to re-arrest should he withdraw his guarantee. Demonstrating his intent to silence critics, Prime Minister Hun Sen said the Government would not take action in the case but allow the “statute of limitations” to expire in “three years”<sup>36</sup>, whilst emphasizing that the court could order the re-arrest of any activists acting “arrogantly”.<sup>37</sup> The charges themselves could not be dropped,<sup>38</sup> claimed Hun Sen, notwithstanding the fact that it is the prosecutor who ordinarily retains the discretion to proceed or not if complaints are withdrawn. The offer, seemingly, was freedom from imprisonment in return for three years’ silence.

Such transparent attempts to intimidate and silence civil society in Cambodia have attracted condemnation from the UN, foreign governments, the World Bank, and international and Cambodian NGOs. The arrests and detentions created a climate of fear for the bailed activists and other members of civil society, and the Government’s actions throughout 2005 showed contempt for the most basic rights necessary for a free and democratic society.<sup>39</sup>

<sup>33</sup> On the basis of legally inappropriate writs. LICADHO briefing paper, Cambodia: Attacks on Freedom of Expression & Political Rights, January 11 2006, relating to the arrest of Pa Ngoun Teang on January 4.

<sup>34</sup> Cambodia Daily, January 5, 10, 11, 12

<sup>35</sup> Cambodia Daily, January 18

<sup>36</sup> Speech at Build Bright University, January 30, 2006. The PM appeared confused about the meaning of “statute of limitations”, which refers to the maximum time in which criminal proceedings can be initiated after the alleged commission of an offence. As criminal proceedings had already been initiated in these cases, and arrests made, under Cambodian law the time limit within which a trial must take place (irrespective of whether the accused are in detention) is actually six months after the date of arrest (Art. 21 of the UNTAC Law).

<sup>37</sup> Cambodia Daily, January 31, 2006

<sup>38</sup> Cambodia Daily, February 3, 2006

<sup>39</sup> World Bank, World Bank Statement on Cambodia, January 9, 2006; Amnesty International, ‘Cambodia: Further information on Prisoners of conscience/human rights defenders at risk’, January 13 and 18, 2006; Open letter on the occasion of International Human Rights Day 2005 raising concern about the state of freedom of expression in the Kingdom of Cambodia, January 10, 2006; Human Rights Watch, ‘Cambodia: Hun Sen Systematically Silences Critics’, January 4; ‘Cambodia: Courts Used to Muzzle Political Opponents’, December 20, 2005; ‘Cambodia: Prime Minister Moves to Crush Dissent’, October 18, 2005

## IV. Impacts of Threats to Human Rights Work

### Impact on Human Rights Activists

The threats detailed in section IV are designed to punish, intimidate and obstruct human rights workers. In response to threats, human rights defenders may be deterred from entering specific geographic areas. They may be reluctant to take on particular cases or be discouraged from following-up on certain investigations. Sometimes these threats go unreported, leading to a silent deterioration of human rights protection. Members of civil society have fled abroad to avoid arrests that contravene Cambodia's human rights obligations, preventing the free political discussion and human rights discourse which underpins genuine democracy.

More broadly, threats to human rights defenders, when tolerated, condoned or committed by government authorities, particularly some high-profile figures, create mistrust between rights advocates and government officials. This reduces the potential for them to work together to achieve common goals. Although there is room for improvement, Cambodian NGOs have negotiated collaborative relationships with various local authorities, which in part explains the successes that NGOs have had in areas such as monitoring prisons and conducting training seminars for the police. Threats to human rights defenders, however, jeopardize these productive relationships.

### Impact on Society

When citizens see human rights defenders being arrested, threatened and abused, they are deterred from pursuing their own rights. Victims become afraid to seek help from human rights groups or to request police intervention and judicial recourse against perpetrators. Community members may also be deterred from being seen working with human rights organizations, or coming forward with information on human rights abuses. The notorious corruption and lack of impartiality of the judiciary increases this fear. The climate of intimidation and impunity frightens victims, witnesses and members of the community, who don't dare to file complaints against powerful figures or act as witnesses in cases for fear of reprisal. Consequently, people are "self-censoring their own rights."<sup>40</sup>



Kbal Spean community members detained

The intimidation also contributes to the general public's continued reluctance to publicly express political opinions or take part in peaceful political dissent. Threats to human rights defenders severely reduce people's faith in human rights and the desire to demand those rights. This in turn robs citizens of the right to participate freely and without fear in the democratic process.

Most attacks on human rights defenders are motivated by the perpetrators' desire to cover up their crimes or prevent investigation. Without human rights defenders, victims of human rights abuses are far more likely to be coerced or intimidated into withdrawing their complaints. For this reason, protecting the work of human rights defenders in Cambodia is an essential component of any effort designed to tackle impunity and improve access to justice.

<sup>40</sup> Ny Chakrya of Cambodian human rights organization ADHOC, quoted in The Cambodia Daily, 'Defamation Lawsuits Creating fear, Say NGOs', November 4, 2005

## V. Recommendations

LICADHO is increasingly concerned about threats, intimidation and violence against human rights defenders. The Government must recognize the importance of human rights defenders and civil society in the development of Cambodia, and allow human rights activities to prosper. The current punitive and obstructive practices are entirely unacceptable. In light of the continuing pattern of abuse and the new threats faced, LICADHO urges the following actions:

### **The Cambodian Government**

- The Government should take immediate steps to investigate and prosecute alleged perpetrators of violence and intimidation towards human rights defenders.
- The Government should comply with all its domestic and international legal commitments, in particular those which protect freedom of expression, freedom of peaceful assembly, freedom from arbitrary detention and the right to receive and impart information, which are of utmost relevance to human rights defenders.
- The Government should observe the provisions of the 1998 UN Declaration on Human Rights Defenders in particular, articles 9 and 12 that provide for the right of individuals and organizations to criticize and protest government activity, and require the State to provide protection to individuals and organizations under threat.
- The Government is urged to settle political disputes with civil society through responsible political dialogue and to respect the Paris Peace Accords, the Cambodian Constitution, and the various international covenants to which Cambodia is a party.
- The Government should repeal the criminal defamation provisions in Cambodian law.

### **Foreign Governments, Embassies and Donors**

- Foreign governments, embassies and donors should demand that the Cambodian Government complies with the responsibilities set out in the UN Declaration on Human Rights Defenders.
- Foreign governments, embassies and donors should respond to human rights crises as they arise and work together with civil society to promote solutions which bring about Cambodia's compliance with its international human rights obligations.
- In the case of legal action designed to intimidate human rights defenders, foreign governments, embassies and donors should inform the Cambodian Government that they are aware of unfounded lawsuits and abusive criminal charges that contravene Cambodia's international legal obligations. Foreign governments, embassies and donors should make clear to the Cambodian Government that they consider the lawsuits are being used to threaten human rights workers.
- Supporting measures could include lobbying the Cambodian Government, demanding the removal of legal obstacles to human rights work and participating in the process of modifying Cambodian criminal law to bring it into compliance with Cambodia's obligations under international human rights law.

## **Cambodian and International Human Rights NGOs**

- International and Cambodian human rights organizations should establish both short- and long-term protection mechanisms for human rights defenders. These could include advocacy, the establishment of emergency trust funds to assist threatened human rights defenders, and the establishment of a national and regional 'urgent action response network'.
- The creation of a regional 'urgent action response network' is a priority. Such a network would take immediate steps - if appropriate - to publicize a threat, advocate for proper action by Cambodian authorities against alleged perpetrators and offer a plan to protect the human rights defenders if necessary.
- A concerted and coordinated advocacy campaign should focus on putting the evolving situation of human rights defenders in Cambodia on the international agenda, particularly of decision makers in the Southeast Asian region, ASEAN, other regional institutions and foreign governments.
- A system of documenting all threats to the personal and professional security of human rights defenders should be encouraged, in particular of those working in provincial areas and in grass-roots organizations. Increased cooperation between organizations is vital. Smaller organizations and those with limited resources should consider joint reporting mechanisms.

## Annex 1: Table of incidents involving human rights defenders in Cambodia 2005

Incidents involving human rights defender In Cambodia 2005	
Jan 20 2005	<p><b>Illegal arrest and detention of two union workers<sup>41</sup></b></p> <ul style="list-style-type: none"> <li>On January 20, Chea Mony, president of the Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC) and Heng Sophoan, the FTUWKC representative in Su Tong Fag Factory, were arrested by police in front of the union's office after a demonstration by garment workers was dispersed by police.</li> </ul>
Jan 29 2005	<p><b>Human rights forum participants searched by police<sup>42</sup></b></p> <ul style="list-style-type: none"> <li>After a peaceful Cambodian Center for Human Rights (CCHR) forum, speakers at the forum had their cars stopped and searched at several locations on National Road 4.</li> <li>The police told the speakers that they had information that opposition party leader Sam Rainsy had weapons hidden in the cars. The police found no such weapons.</li> </ul>
Feb 7 2005	<p><b>Kratie forestry activists ordered to stop protests by district governor<sup>43</sup></b></p> <ul style="list-style-type: none"> <li>The governor of Kratie province's Snuol District ordered villagers to stop lobbying against land clearing, advising them that they were not officially registered as a forestry activist group.</li> <li>The villagers' repeated efforts to register formally with the authorities were rejected.</li> </ul>
Feb 20 2005	<p><b>Seizure of NGO reports a denial of freedom of expression<sup>44</sup></b></p> <ul style="list-style-type: none"> <li>Approximately 2,100 copies of a Global Witness report on systemic institutional corruption regarding illegal wood trafficking were impounded by customs officials at Phnom Penh International airport without explanation. The report contained a list of senior government and army officials allegedly involved in illegal logging and corruption.</li> </ul>
June 28 2005	<p><b>Illegal arrest of two opposition activists in Kompong Chhnang</b></p> <ul style="list-style-type: none"> <li>Two Sam Rainsy Party activists were arrested without warrant on June 28 and placed in detention after helping villagers protest the confiscation of their land by a private company.</li> <li>They were charged with property destruction but released on August 5.</li> </ul>

<sup>41</sup> Unpublished LICADHO monitoring report, January 20, 2005, 'Arrest of Chea Mony and Heng Sophon'; Unpublished CCHR report, January 7, 2005, 'Compilation of the freedom of association cases'.

<sup>42</sup> Unpublished CCHR report, 'Compilation of the freedom of Association cases', January 29, 2005

<sup>43</sup> The Cambodia Daily, 'Forestry activist groups ordered to stop protests', February 7, 2005

<sup>44</sup> The Cambodia Daily, 'Barrage of NGO Staff Stirs Ire of Int'l Groups,' July 25, 2005

- June-  
July 2005** **Threats against NGO workers and community leaders in Mondulkiri**<sup>45</sup>
- NGO workers and community leaders were threatened, following protests on June 16 and July 7 by indigenous Phnong people affected by the land concessions to the Wuzhishan company in Mondulkiri.
  - The local authorities imposed restrictions on the work of the local and international NGOs working in the province. Each NGO was required to submit a memorandum of understanding to the ministry concerned. The provincial governor requires all NGOs to meet with him every three months to submit their activity reports. All community leaders have to request permission from the provincial governor to leave the province and to participate in NGO-related matters.<sup>46</sup>
- July 5  
2005** **Threats and harassment to human rights activists in Pursat**<sup>47</sup>
- Three investigators from LICADHO, CCHR, and ADHOC - all based in Pursat - were prevented from taking photographs, and threatened with the confiscation of their camera and film by a deputy police inspector at Phnom Kravanh.
  - They were monitoring the destruction of fences and plants belonging to two families, carried out by local authorities which had planned the construction of a road without the agreement of the families.
  - They were detained by the authorities for three hours.
- July 10  
2005** **Attempted killing of forestry community (FC) members in Kompong Thom**<sup>48</sup>
- In Tumring, Sandan district in Kompong Thom province, two community forestry (CF) activists were shot at. Neither was hit by the bullets in the two separate shootings.
  - One CF member was first shot at and then hit with the gun inside the Forestry Administration office.
  - Another CF member was shot at while at home later the same day.
  - The violence related to the CF members' attempt to stop illegal loggers from cutting resin trees earlier that same day. The illegal loggers had attempted to bribe the CF members before the first shots were fired.
- July 17  
2005** **Threat to the life of president of community association**<sup>49</sup>
- Dam Chanthy, president of the Highlanders Association, which works to educate ethnic minority members on land rights, was the victim of repeated threats related to her work.<sup>50</sup>
  - A policeman was shot and killed in Rattanakiri while attempting to apprehend an individual suspected of trying to kill Dam Chanthy.
  - The suspect was shot and killed by police in gunfight before they could ascertain who he worked for.<sup>51</sup>

<sup>45</sup> Ibid

<sup>46</sup> Information received from the Cambodia Office of the UN High Commissioner for Human Rights, interviews with human rights defenders from ADHOC

<sup>47</sup> Cambodia Daily, July 7; Unpublished LICADHO monitoring report

<sup>48</sup> Information received from UN Cambodia Office of United Nations High Commissioner for Human Rights

<sup>49</sup> Cambodia Daily, July 19, 2005

<sup>50</sup> Cambodia Daily, July 26, 2005, p19

<sup>51</sup> Cambodia Daily, August 6-7, 2005

<p><b>July 18 2005</b></p>	<p><b>Denial of entry to Global Witness staff member and revocation of visa<sup>52</sup></b></p> <ul style="list-style-type: none"> <li>▪ July 18, a foreign Global Witness staff member was denied entry into Cambodia at Phnom Penh International airport on his return from Bangkok, and his visa was cancelled without explanation.</li> <li>▪ At the end of July, the ministry of foreign affairs announced that Global Witness was no longer welcome in Cambodia and that five employees were “black-listed”.</li> <li>▪ As a consequence of the repeated threats and obstruction the NGO closed its office in Cambodia in October.<sup>53</sup></li> </ul>
<p><b>Aug 10 2005</b></p>	<p><b>CCHR forum closed down by police in Kompong Som<sup>54</sup></b></p> <ul style="list-style-type: none"> <li>▪ A Cambodian Center for Human Rights (CCHR) public forum attended by approximately 1,000 people was closed down after a group of about 40 people shouted pro-government slogans and gestured aggressively at the panel of speakers.</li> <li>▪ Police closed down the forum because of the “chaos”.</li> </ul>
<p><b>Aug 26 &amp; 29, 2005</b></p>	<p><b>Disruption of human rights meetings in Kompong Som<sup>55</sup></b></p> <ul style="list-style-type: none"> <li>▪ Police attempted to close down a meeting of the Cambodian Center for Human Rights (CCHR) on August 26.</li> <li>▪ On August 29, local authorities were implicated in disrupting a private CCHR meeting by blasting out loud music.</li> </ul>
<p><b>Sept 26 DATE 2005</b></p>	<p><b>Disinformation lawsuit against ADHOC coordinator in Rattanakiri<sup>56</sup></b></p> <ul style="list-style-type: none"> <li>▪ In Rattanakiri province, a coordinator from ADHOC faces a disinformation lawsuit after giving an interview to Radio Free Asia about his intervention in the land conflict between 110 indigenous families and a military officer in Ekpheap commune, O-Chum district.</li> <li>▪ The families had been pressured to sell their land at a low price to the military officer and the ADHOC coordinator had intervened with the authorities to stop bulldozing activity on the disputed land.</li> <li>▪ At the time of publication, the case is still pending at the court.</li> </ul>
<p><b>Nov 25 2005</b></p>	<p><b>Soldiers shoot villagers protesting land dispute in Battambang<sup>57</sup></b></p> <ul style="list-style-type: none"> <li>▪ Eight soldiers from RCAF Brigade 53 shot at protestors during a land dispute. Several protestors were injured, one requiring the amputation of fingers.</li> <li>▪ The RCAF had blocked the road to land, tens of thousands of hectares in size, disputed by 1,656 families.</li> <li>▪ Soldiers blocked villagers attempting to visit their representative who had been illegally arrested a week before.</li> <li>▪ Violence began when soldiers tried to illegally arrest another representative, but their path was blocked by protesting villagers.</li> </ul>

<sup>52</sup> Cambodia Daily, July 25, 2005

<sup>53</sup> Cambodia Soir, ‘L’ONG Global Witness a fermé son bureau cambodgien’, October 13, 2005

<sup>54</sup> LICADHO Briefing Paper: ‘Restrictions on the Freedom of Assembly in Cambodia’, December 2005

<sup>55</sup> LICADHO Briefing Paper: ‘Restrictions on the Freedom of Assembly in Cambodia’, December 2005

<sup>56</sup> Ibid

<sup>57</sup> LICADHO Briefing Paper: ‘Restrictions on the Freedom of Assembly in Cambodia’, December 2005

**Dec 31  
2005**

**Arrest and detention of Kem Sokha and Yeng Virak<sup>58</sup>**

- Kem Sokha, president of the Cambodian Center for Human Rights (CCHR), and Yeng Virak, president of the Community Legal Education Center (CLEC), were arrested December 31. Their arrest was in connection with a banner displayed at a CCHR booth during International Human Rights Day celebrations held in Phnom Penh on December 10. Yeng Virak was chairman of the organizing committee of various civil society groups which arranged the International Human Rights Day celebrations.
- The banner, which had previously been circulated at nationwide CCHR public forums around the time of the 2003 national elections, contained hand-written comments by Cambodian villagers expressing political opinions. One such comment allegedly referred to the Government as a “traitor regime that sells territory to Vietnam”.
- Both were charged with defamation based on complaints made by the Government.
- Both were arrested illegally, on the basis of legally inappropriate arrest warrants.<sup>59</sup>

**Jan 4  
2006**

**Arrest and detention of Pa Ngoun Teang, director of CCHR’s radio division<sup>60</sup>**

- Pa Ngoun Teang was arrested in Stung Treng province, near the Laos border, in connection with the banner displayed on International Human Rights Day.
- The legality of the arrest and detention has been questioned since no arrest warrant was produced and he was reportedly arrested on the orders of the Ministry of the Interior.
- He was charged in court with defamation on January 5.

**Jan 17-31  
2006**

**Intimidation of bailed activists<sup>61</sup>**

- Prime Minister Hun Sen attempted to silence activists by using his influence in a number of ways which severely undermined the division between executive and judicial power.
- Hun Sen acted as guarantor for the bail of activists Khem Sokha and Pa Nguon Teang, as well as Mam Sonando and Rong Chhun. Although enabling their release, this also ensured he could withdraw his guarantee at any time so that they will be re-arrested.
- The Prime Minister suggested to the court that the progress of these cases should be slowed down, and said that the Government can keep the case “quiet”. However, he added, any activists who behave “arrogantly” will be arrested.

<sup>58</sup> LICADHO briefing paper, ‘Cambodia: Attacks on Freedom of Expression & Political Rights’, January 11, 2006

<sup>59</sup> LICADHO briefing paper, ‘Cambodia: Attacks on Freedom of Expression & Political Rights’, January 11, 2006

<sup>60</sup> LICADHO briefing paper, ‘Cambodia: Attacks on Freedom of Expression & Political Rights’, January 11, 2006

<sup>61</sup> Cambodia Daily, “PM to Activists: Keep Quiet or Hope for Pardon”, January 18, 31, 2006 and February 1, 2006



## **ANNEX 2 - Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 1998**

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world, Reaffirming also the importance of the Universal Declaration of Human Rights<sup>2</sup> and the International Covenants on Human Rights Resolution 2200 A (XXI), annex. As basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

Stressing that all members of the international community shall fulfill, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfill this obligation according to the Charter,

Acknowledging the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

Stressing that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

Recognizing the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

Declares:

Article 1

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 2

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

Article 3

Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

Article 4

Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights, 2 the 23 International Covenants on Human Rights<sup>3</sup> and other international instruments and commitments applicable in this field.

Article 5

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non- governmental or intergovernmental organizations.

Article 6

Everyone has the right, individually and in association with others:

- (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- (b) As provided for in human rights and other applicable international instruments, freely to

publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;

(c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

#### Article 7

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

#### Article 8

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.

2. This includes, *inter alia*, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

#### Article 9

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, *inter alia*:

(a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

(b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;

(c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights

and fundamental freedoms has occurred in any territory under its jurisdiction.

#### Article 10

No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

#### Article 11

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

Article 12. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

#### Article 13

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

#### Article 14

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, *inter alia*:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

#### Article 15

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

#### Article 16

Individuals, non- governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, *inter alia*, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

#### Article 17

In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

#### Article 18

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.
2. Individuals, groups, institutions and non- governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.
3. Individuals, groups, institutions and non- governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

#### Article 19

Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.

#### Article 20

Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non- governmental organizations contrary to the provisions of the Charter of the United Nations.