

CAMBODIA

Cambodia largely failed to meet its obligations to promote human rights in 2002. Local elections, held in February, were marred by killings and intimidation of political opposition members and others, and subsequent continuing violence offered a worrying prognosis for national elections in 2003. Opposition newspapers were increasingly subject to threats, closure, and arrests of staff. At this writing, there had been little progress in negotiations to establish a tribunal for former Khmer Rouge leaders. The judicial system remained extremely weak and generally unable to deliver justice to those whose human rights were violated, albeit efforts were made to prosecute security officials accused of torturing detainees. Prison conditions remained poor. Cambodia deported to Vietnam hundreds of asylum seekers fleeing persecution of indigenous minorities there, in violation of its obligations under the 1951 Refugee Convention. The government failed to adequately address trafficking in people. Many Cambodians suffered from poor education and health services and insecurity of land tenure. There was some progress in the field of labor rights, and environmentalists strengthened advocacy efforts on behalf of Cambodia's rural poor.

HUMAN RIGHTS DEVELOPMENTS

Cambodia in February held its first local elections in more than thirty years, to elect leaders for the country's 1,621 communes (administrative units consisting of four to seven villages). The Cambodian People's Party (CPP) consolidated its grip on power by taking control of 99 percent of the commune councils. There were numerous instances of violence, intimidation, vote-buying, and voter coercion, although at a lower level than during the 1998 national elections. Fifteen prospective candidates and activists of the political opposition Sam Rainsy Party (SRP) and the United National Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC), as well as the two-year-old son of a CPP candidate, were killed between January 2001 and polling day. A local election observer was killed two days before the election.

Political violence continued in the aftermath of the commune elections and as the country prepared for national elections, scheduled for July 2003. The mutilated body of Kork Khom, a SRP activist from Takeo, was found in a rice field in July. Some of his fingers and part of his left ear had been cut off, his leg was broken, and numerous bruises marked his body. By November 2002, another six SRP and FUNCINPEC activists had been murdered. In October, just before Senator Kem Sokha resigned from the FUNCINPEC party, he sustained injuries in a car accident that appeared to have been deliberately staged to warn or harm him.

In contrast to 1998, when no one was held accountable for election violence, in 2002 authorities arrested several people suspected of political killings. In ten of twenty-four cases, provincial courts convicted defendants. In a move to appease

donors, the Ministry of Interior pressured court officials to speed up trials in some of these murder cases. As a result, legal observers found that some of the accused were convicted based on insufficient evidence.

The National Election Committee (NEC), commissioned to organize, oversee, and monitor the election process, failed to use its authority to implement any of the penalty provisions in the Election Law in response to acts of bribery, violence, or intimidation. Fair access to the media for parties other than the CPP was also denied during the campaign. Nongovernmental organizations (NGOs) involved in election monitoring called for reform of the NEC, which was criticized as lacking independence. In August the National Assembly passed a law empowering the Ministry of Interior—rather than an independent recruitment committee advocated by NGOs—to nominate NEC members.

Freedom of expression in political debate was dealt a blow in December 2001, when Senators Chhang Song, Siphon Phay and Pou Savath were expelled by the CPP after they expressed opinions differing from the party line during debate. Electronic media remained under the control of persons and companies affiliated with the CPP. The independent press affiliated with the political opposition was subject to threats, closure and lawsuits. In April, the Phnom Penh court convicted the SRP-affiliated newspaper *Samleng Yuvachun Khmer* (Voice of Khmer Youth) of defamation and printing false information, and ordered it to pay 71 million riel (approximately U.S.\$18,000). The paper had published an article accusing two military generals and businessman Mong Reththy, a close ally of Prime Minister Hun Sen, of illegal logging. After the newspaper appealed the decision, Mong Reththy and the generals agreed to drop the complaint.

In July, Sok Sothea, a reporter for the opposition *Moneaksekar Khmer* (Khmer Conscience) newspaper was detained for several hours at the Ministry of Interior after he shared a leaked document from the co-minister of interior with another paper, which published the document. In August, the Ministry of Information ordered the thirty-day suspension of *Moneaksekar Khmer* for publishing an article that allegedly affected "national security." The English-language *Cambodia Daily* newspaper was threatened with suspension when it called January 7—the day that the Khmer Rouge were defeated by Vietnamese troops in 1979—"Vietnamese Liberation Day." The Ministry of Information later dropped the fifteen-day suspension order.

In September, the editor and a reporter from *Chakraval* (Universe) newspaper were arrested, allegedly without warrants, and detained overnight after a complaint by the director-general of the National Police. The pro-government paper had reported about the confiscation by customs officials of a car purchased by the complainant, as well as subsequent telephone threats made against the officials. The two men were released, reportedly after an order from the prime minister. In October, the Ministry of Information ordered the independent radio station Sambok Knum (Beehive) to stop broadcasting reports from the Voice of America and Radio Free Asia.

Two Cambodian writers, Vann Nath and Moeun Chhean Nariddh, received Hellman/Hammett awards from Human Rights Watch in 2002 in recognition of the courage with which they have written about human rights.

The Cambodian government created a military anti-terrorism unit, reportedly

to provide protection during November meetings in Phnom Penh of leaders of the Association of Southeast Asian Nations (ASEAN). The soldiers belonged to Battalion 911, which, according to the U.N., was implicated in killings, illegal detention, and torture of FUNCINPEC soldiers after the 1997 coup by Hun Sen, then second prime minister. In October, thirty high-ranking police officers completed a three-month training on fighting terrorism, conducted in Vietnam.

In February, United Nations (U.N.) Secretary-General Kofi Annan announced the withdrawal of the U.N. from further discussions with the Cambodian government over the establishment of a tribunal to bring to justice former leaders of Democratic Kampuchea (Khmer Rouge). According to the U.N., the Cambodian law establishing the tribunal was unable to guarantee the necessary independence, impartiality, and objectivity. The U.N. had insisted that the tribunal be governed by a memorandum between the U.N. and Cambodia, rather than the Cambodian law adopted in August 2001.

Cambodian and international human rights groups supported the U.N. decision, but stressed the need for accountability for grave human rights violations committed by the Khmer Rouge from 1975 to 1979. In July, Hun Sen expressed willingness to make amendments to the law. In August, Annan announced that he needed a clear mandate from either the U.N. General Assembly or the Security Council to resume negotiations, and that the Cambodian government was to seek the support of the member states to initiate action either within the Security Council or the General Assembly. In November, the General Assembly's Third Committee passed a resolution initiated by Japan, calling for the secretary-general to resume negotiations with Cambodia on the "mixed tribunal" formulation, which Cambodian and international human rights groups have criticized for falling far short of internationally recognized standards.

Meanwhile, three former Khmer Rouge leaders—Ieng Sary, Khieu Samphan and Nuon Chea—continued to live freely in Cambodia. The Phnom Penh military court extended the pre-trial detention of Khmer Rouge military leader Chhit Choeun (Ta Mok), and former S-21 (Tuol Sleng) prison director Kaing Guek Iev (Duch), by adding charges of crimes against humanity. Both were initially arrested in 1999.

Cambodia ratified the International Criminal Court treaty, thereby accepting the court's jurisdiction beginning July 1.

The trials during the year of around fifty persons accused of involvement with the Cambodian Freedom Fighters (CFF), a group that claimed responsibility for violent attacks in Phnom Penh in November 2000, demonstrated serious shortcomings. Defendants were arrested without warrants, and denied a prompt trial. One lawyer represented eighteen suspects, who gave testimonies incriminating each other, making a proper defense for each of them impossible. The judge denied requests by some of the defendants' lawyers to summon witnesses, and ignored claims by the accused of physical or mental pressure during interrogation. A high-ranking military intelligence official, summoned by the court after one of the defendants claimed the official had hired him to infiltrate the CFF, failed to appear. Most of the accused were convicted and sentenced to terms varying from suspended sentences to life imprisonment.

Plans for legal and judicial reform stalled. Less than 1 percent of the national

budget was allocated to the justice sector, undermining the judicial system's effectiveness. A long overdue Statute for Judges, which includes a code of conduct, had still not been adopted as of November. The Supreme Council of Magistracy, a body commissioned to oversee the functioning of the judiciary and guarantee its independence, itself lacked independence.

Lacking faith in the judicial system, villagers often resorted to summary justice by beating and killing people suspected of committing crimes. Local human rights groups and the U.N. recorded sixty-eight incidents of mob violence from mid-1999 to August 2002. While police intervention saved some lives, they frequently refused to act or were complicit in the violence. Only two persons served prison terms for their involvement in a mob killing, after convictions by the Phnom Penh court in a September trial.

Torture by security officials of detainees continued to be a problem. The criminal procedure code was amended in November 2001 to extend the maximum period in police detention—the time when torture commonly is used by police to extract confessions—from forty-eight to seventy-two hours. Five guards accused of torturing prisoners were acquitted in August by a Kompong Cham provincial court despite witnesses, one of them a prison guard, and medical records corroborating the torture. Without clarifying his decision, the judge found the five prison guards not guilty of torture, but ordered administrative action, acknowledging that the guards had been at fault. A more positive ruling came in April, when a Svay Rieng provincial court sentenced three policemen to suspended prison terms for torture. In many of Cambodia's prisons overcrowding, unhygienic conditions, inadequate food, and excessive pre-trial detention continued to be reported. In three prisons, shackles were used to restrain prisoners.

In January, Cambodia, Vietnam, and the U.N. High Commissioner for Refugees (UNHCR) signed a tripartite agreement on the voluntary, U.N.-monitored repatriation of approximately one thousand asylum seekers from the Central Highlands of Vietnam (Montagnards) who were sheltered at two UNHCR sites in Mondolkiri and Ratanakiri provinces. The agreement crumbled in March after Vietnamese officials barred UNHCR monitoring teams from the Central Highlands. On March 21, refugees and UNHCR staff were threatened and attacked when a delegation of more than four hundred people, including as many as one hundred Vietnamese government agents, overran Mondolkiri camp and conducted house-to-house searches of the refugees' huts.

At the end of March, in violation of the 1951 Refugee Convention, the Cambodian government announced that any new Montagnard asylum seekers would be considered illegal migrants and summarily deported without being given an opportunity to claim asylum. More than four hundred Montagnards were deported to Vietnam during April and May. In mid-April, UNHCR's two provincial refugee camps were closed, and their nine hundred residents transported to Phnom Penh, where they were processed for resettlement to the United States. The first group of Montagnard refugees left for the U.S. in June.

On July 25, Thich Tri Luc, a Vietnamese monk belonging to the banned Unified Buddhist Church, disappeared in Phnom Penh after being granted refugee status by UNHCR. As of November, Cambodian authorities had not responded to requests by human rights groups for information on his whereabouts. In August, Cambo-

dian authorities arrested and deported Guojun Li and his wife, Zhang Xinji, two Falun Gong members under the protection of UNHCR, to China.

SRP member Sok Yoeun remained in detention in Thailand since his arrest in December 1999 for illegal immigration, while hearings continued into the Cambodian government's request for his extradition as a suspect in a 1998 rocket attack on a motorcade carrying Hun Sen. This was despite an apparent lack of evidence linking Sok Yoeun to the attack, and also despite his having been under the protection of UNHCR since shortly after his escape to Thailand in 1999.

Trafficking of human beings to, within, and from Cambodia, for purposes of forced labor including prostitution, begging, and adoption remained a major problem. In some cases, suspected traffickers were arrested. However, in several instances trafficking victims were arrested and subsequently deported to Vietnam on charges of illegal immigration. In August, the Phnom Penh court convicted ten Vietnamese girls, most of them minors, who allegedly had been trafficked into prostitution in a Phnom Penh brothel. The girls were sentenced to two to three months in prison for illegal immigration.

In January, Cambodia ratified the optional protocol to the Convention on the Rights of the Child (CRC) on the sale of children, child prostitution, and child pornography. It also ratified the optional protocol to the CRC on the involvement of children in armed conflict.

Labor conditions improved in some workplaces, due to the strengthened capacity of labor unions, improved relations with factory management, and intensive monitoring in many of Cambodia's garment factories by the International Labour Organization. Problems remained with pay, forced overtime, and discrimination of workers who joined labor unions. In September, the Phnom Penh Appeals Court overturned a ruling by the Kompong Speu court ordering the reinstatement of seven workers who had been fired after organizing union activity. Khim Sam On and Sok Bona, leaders of the Cambodian Federation of Independent Trade Unions, who were arrested on July 15 allegedly for inciting violence at a Phnom Penh factory in 2001, remained in detention as of November 2002, despite being cleared of charges by the Ministry of Labor.

Implementation of the second phase of Cambodia's "Demobilization and Reintegration Project" was delayed after concerns about the project's first phase prompted the World Bank to call for a thorough evaluation. The U.S.\$42 million pilot project, largely funded by the World Bank and Japan, was aimed at downsizing and disarming the military and cutting the military's budget. The project was hampered by divergent estimates of the size of the armed forces, with credible reports that thousands of "ghost soldiers" were collecting compensation packages.

The government allocated more money for education and health in 2002, but delays in disbursement of education funds meant that teachers were not paid and students had to pay unofficial fees to their teachers. Slow disbursement of funds to the health sector coupled with low wages for health personnel meant that many Cambodians lacked access to adequate health care. In June, the National Assembly passed a law on the prevention and control of the spread of HIV/AIDS, criminalizing discrimination against people living with the disease.

Insecurity of land tenure contributed to landgrabbing, often by soldiers or com-

panies with connections to local officials. Legal Aid of Cambodia represented more than eight thousand families, or about forty-three thousand people, in land cases, most of which involved military and local officials. In a significant case that was first brought to court in March 2001, indigenous villagers in Ratanakiri province launched a legal appeal against a military general who fraudulently obtained title to their ancestral lands, putting some nine hundred villagers at risk of landlessness. In March 2002, Hun Sen instructed the Ministry of Land Management to purchase the land from the general and return it to the villagers, in exchange for the villagers dropping their lawsuit.

While some steps were taken during the year to protect Cambodia's natural resources, environmental degradation remained a serious concern. Activists welcomed a logging moratorium put into effect in January, and the government's cancellation of two Malaysian-owned concessions for illegal logging in June. Despite these measures, extensive small- and medium-scale logging continued throughout the year, and law enforcement in the forestry sector remained poor. There were numerous reports of intimidation by concessionaires to stop local villagers from accessing forests. In June, security guards of the Tomring rubber plantation company in Kompong Thom province fired shots to intimidate local villagers attempting to prevent the company from further clearing trees they used to collect resin. Environmental groups expressed concerns about a Forestry Law passed by the National Assembly in July, which lacked guarantees for local communities to continue using non-timber forest products such as resin and rattan to sustain their livelihoods.

DEFENDING HUMAN RIGHTS

Dozens of Cambodian human rights groups operated in the country, conducting advocacy, training, and monitoring activities, counseling victims, and providing legal services to Cambodia's poor. There was ongoing violence, threats and intimidation against human rights defenders in 2002.

In several cases, criminal proceedings that appeared to be without foundation were initiated against human rights groups in an apparent attempt to intimidate them. In February, the Phnom Penh court dropped criminal charges filed against the deputy director of the League for the Promotion and Defense of Human Rights (Licadho). These charges had been sought by the adoptive parents of a seven-year-old girl, angered by Licadho's request to local authorities to act to stop abuse of the child; after police intervention, Licadho had been granted temporary legal custody of the child. The adoptive parents appealed the court decision. In April the Phnom Penh municipal court ordered Licadho to pay damages of five million riel (U.S.\$1,250) to a Phnom Penh orphanage, without specifying the basis for the fine. Licadho had earlier filed a complaint against the orphanage for trafficking in babies.

In August, the Cambodian military filed charges of defamation against members of the Cambodian Human Rights Action Committee (CHRAC) in Kompong Cham province. The complaint concerned a CHRAC report sent to different gov-

ernment institutions in March, requesting the resolution of eighteen human rights abuses by soldiers between 1997 and 2001.

In April, several unidentified men physically attacked the director of Global Witness, an independent forestry monitor, after the group uncovered evidence of illegal logging. The government quickly denounced the act, but had not apprehended any suspects as of November.

Police and local officials in Ratanakiri and Mondolkiri provinces bordering Vietnam threatened villagers with arrest if they assisted Montagnard refugees. Authorities forced villagers in both provinces to thumbprint statements pledging not to help the refugees. On May 16, police arrested a fisherman in Mondolkiri province because of his alleged assistance to Montagnards seeking refuge. After three months in prison, charges of human trafficking were dropped and he was released on August 12. On July 5, police arrested another man in Mondolkiri and detained him in prison on charges of hiding illegal immigrants. He was released on July 27, after charges were dropped.

THE ROLE OF THE INTERNATIONAL COMMUNITY

United Nations

The Cambodia Office of the U.N. High Commissioner for Human Rights (COHCHR) and UNHCR maintained field presences in Cambodia throughout the year. After protracted negotiations, in February the Cambodian government and COHCHR signed a memorandum of understanding, formalizing their cooperation into early 2004. The special representative of the U.N. secretary-general for human rights in Cambodia conducted four missions to the country, in which he focused on political violence, judicial reform, and the right to education. In public statements he condemned the forced deportations of Montagnard refugees to Vietnam, torture of detainees in custody, and mob violence. The then U.N. high commissioner for human rights, Mary Robinson, visited Cambodia in August, highlighting the problem of human trafficking and expressing concerns about the deportation or disappearance of Vietnamese and Chinese refugees who had been under the protection of UNHCR.

In March UNHCR publicly denounced intimidation and attacks on UNHCR staff and refugees at the Mondolkiri refugee camp by Cambodian and Vietnamese officials, and in April called for Cambodia to honor its international obligation to provide asylum. In August UNHCR raised concerns with the Cambodian government over the deportation of two Falun Gong members to China and the disappearance of Vietnamese monk Thich Tri Luc.

In June, the U.N. Development Program started a four-year U.S.\$1.5 million project to continue building the capacity of the National Assembly and the Senate, partly in the field of human rights.

Major Donors

International donors pledged U.S.\$635 million in loans and grants to the Cambodian government during the annual Consultative Group meeting of donors, held in Phnom Penh in June. While commending progress in the areas of financial control, investment, and land reform, donors expressed strong concerns at the slow pace of legal and judicial reform, and that no anti-corruption law had been adopted.

The World Bank approved a \$24 million credit for a land management and administration project, which included a mass land titling program. It delayed the disbursement of a \$15 million Structural Adjustment Credit, apparently because of the lack of transparency in forestry reform. In September, the bank delayed the implementation of the second phase of the demobilization program after irregularities in the first phase were uncovered.

Japan remained the largest bilateral donor to Cambodia, and together with the European Union (E.U.) and Australia, funded the commune elections. While Japan and the E.U. generally commended the National Election Committee for the organization of the elections, they expressed concerns about reports of violence and intimidation. In July, the European Parliament issued a resolution calling on the Cambodian government to uphold the right to first asylum for Montagnard refugees. During a September visit to Cambodia, a delegation of European parliamentarians announced that the Cambodian government had to ensure that the 2003 national election would be free and fair, if it was to receive further development assistance from the E.U.

China continued to play an increasingly influential role in Cambodia. In August, citing Cambodia's support for the "one China" policy, the Cambodia government announced that the Dalai Lama would not be allowed to attend an international Buddhist conference, scheduled to take place in Phnom Penh in December. In August, China pledged 20 million yuan (U.S.\$2.4 million) in assistance to Cambodia for military training and military hospitals.

Several donors, including Australia, Japan, France, and the U.S., urged the U.N. secretary-general to resume negotiations with Cambodia in regard to the Khmer Rouge tribunal. In April, India offered assistance to the Cambodian government if it decided to try Khmer Rouge leaders by itself. China continued to oppose any Khmer Rouge tribunal.

The U.S. resumed funding for HIV/AIDS, education, and anti-trafficking projects in Cambodia after a five-year moratorium on financing government projects as a result of the 1997 coup. In a report on human trafficking released in June, the U.S. ranked Cambodia in the lowest category for not complying with minimum standards to combat the practice. The report stated that if the situation did not improve, the U.S. might cut non-humanitarian and non-trade-related assistance. In October, the U.S. condemned the increase in political violence in advance of national elections. The U.S. resettled about eight hundred Montagnard refugees during the year.

RELEVANT HUMAN RIGHTS WATCH REPORTS:

Cambodia's Commune Elections: Setting the Stage for the 2003 National Elections, 5/02

Repression Of Montagnards: Conflicts Over Land and Religion In Vietnam's Central Highlands, 4/02

CHINA AND TIBET

Preparations for the 16th Chinese Communist Party Congress and the accompanying change in China's top leadership colored human rights practices in China in 2002. Concerned with maintaining economic and social stability as the transition unfolded, leaders in Beijing appeared to calculate carefully when to tread lightly and when to crack down hard. They responded to major, well-coordinated, and sustained worker protests in China's northeast with only minimum force; moderated the response to disclosures of their failure to tackle the HIV/AIDS crisis effectively; and, when accused of abusing psychiatric science by incarcerating political offenders in mental hospitals, expressed some willingness to cooperate with the World Psychiatric Association. Chinese authorities continued to reform the legal system and professionalize judicial personnel, and agreed to include human rights training for law enforcement officials as part of a technical cooperation program with the U.N.

The leadership moved unequivocally, however, to limit free expression and build a firewall around the Internet, to destroy Falungong even beyond China's borders, and to eliminate dissident challenges. In Tibet, the government welcomed representatives of the exiled Dalai Lama for the first time since 1993, even as it continued to repress religious belief and expression. In Xinjiang, however, the regime tightened all restrictions, citing alleged Uighur collaboration with al-Qaeda.

HUMAN RIGHTS DEVELOPMENTS

As Chinese media outlets continued to proliferate and increasingly to challenge government guidelines, propaganda authorities responded by obstructing the free flow of information. They blocked major Internet search engines, closed publications, harassed foreign and domestic journalists, tightened controls on satellite transmission, and hampered the work of academics and activists. For two weeks in September, officials blocked access to Google, a major search engine, and diverted traffic to sites providing officially approved content. When access was restored, users reported selective blocking. Chinese authorities appeared to be using packet sniffers—devices that scan Internet transactions, including e-mail, to block text with sensitive word combinations.