

Cambodian's planned visit draws protest

Deputy prime minister plans to appear in New Year Parade in Long Beach.

By Greg Mellen, Staff writer

Article Launched: 12/26/2007 10:11:09 PM PST

LONG BEACH - A planned appearance by Cambodian Deputy Prime Minister Sok An at next year's Cambodian New Year Parade in Long Beach has stirred controversy and is threatening to open old wounds in the Cambodian community. In his home country, Sok An is the right-hand man of Prime Minister Hun Sen and the ruling Cambodian People's Party. Earlier this month, he accepted an invitation to attend next year's New Year celebration from a delegation from Long Beach visiting Phnom Penh. The contingent included representatives of several ethnic and civic groups including Cambodia Town Inc., Long Beach Sister Cities, the Cambodian Coordinating Council and the Cambodia New Year Parade.

News of Sok An's planned attendance has brought emotional response from members of the Cambodian community in Long Beach who oppose the Hun Sen government.

In an effort to stop the visit, a petition has been launched protesting the deputy prime minister's appearance.

Anthony Ly, editor of the Angkor Borei News, which will print copies of the petition in its Dec. 31 editions, says he hopes to meet with Mayor Bob Foster in January to present the signatures.

There was confusion about whether Foster formally invited Sok An to attend the parade.

Evan Braude, an attorney and former Long Beach city councilman who was part of the delegation, said that wasn't the case.

Braude said he had been asked by Foster to extend greetings in general to groups the delegation met. Foster had planned to go on the trip, but had to bow out because of an eye infection.

"There was no specific invitation to a specific person," Braude said. "It was just a general invitation to anyone who wanted to attend. That's the main thrust."

Braude added that formal invitations to visiting heads of state and their representatives are handled by the federal government, and the visit by the Long Beach delegation wasn't even an official city visit.

However, Richer San, a Long Beach delegate, confirmed that an invitation was made, formal or not, and Sok An accepted.

He added that if Sok An decides to join the parade, he will be provided with a car to ride in and banners identifying him.

Braude noted that in past years other political figures have been part of the parade, including Pok Than, a former minister of education in Cambodia with ties to Long Beach.

Opponents say bringing someone of Sok An's stature, however, ups the ante.

Ly, who said he already has 20 to 30 signatures, called Sok An "the most corrupt man in Hun Sen's government."

He added that local residents oppose the deputy prime minister's involvement because of the Cambodian government's long history of human rights violations, corruption and a laundry list of other misdeeds.

As an example, Ly pointed to a recent visit by United Nations human rights envoy Yash Ghai. After Ghai's contentious 10-day fact-finding mission, the BBC reported the envoy said, "Cambodia's government was not committed to human rights, and power had been too centralised (sic) around 'one individual,'" referring to Hun Sen.

The BBC reported that Hun Sen responded by calling Ghai "deranged."

San says Ly was an opponent of the New Year Parade since its inception. While he supported Ly's right to hold a different

opinion, he said Cambodian Americans need to put homeland politics aside.

Although he sought to remain somewhat neutral and removed from the controversy, Cambodian activist Paline Soth said many residents see Sok An as representing an oppressive regime and will see his appearance as extending the reach and influence into Long Beach.

"They believe they fled the country to leave an oppressive government and be independent and be subject to the law and order of Long Beach," Soth said.

About his own feelings, Soth says he believes it is OK for Cambodians to attend the parade as private citizens, but adds, "I would be critical of anyone using the parade for their own agenda."

Braude, who hopes to diffuse any tension, said, "We're not here to play politics, right or wrong."

However, homeland politics and old hurts and alliances still simmer just below the surface in Long Beach's Cambodian community.

This was never more evident than in 2005, when Cambodians divided sharply and bitterly over the inaugural New Year Parade. Initially scheduled for April 17, the date Pol Pot and the Khmer Rouge rose to power and unleashed the Killing Fields reign of terror that left about 1.7 million Cambodians dead, the parade issue gashed the community along old party lines.

Although Hun Sen and his Cambodian People's Party have been democratically elected in recent years, since the coup he led in 1997, the prime minister is still a lightning rod of dissent state-side.

Soth is among those who fear that an appearance by Hun Sen's top aide could be disastrous.

"There's a silent majority out there watching," Soth said, "and at the snap of a finger, this is an issue that could ignite them."



**If there is no nationalism feeling,
Cambodia Town would never see the daylight**

Posted in Khmer at: http://www.pressocm.gov.kh/contents_kh/news/08-12-07.html
Website of the Cambodian government Office of the Council of Ministers
Unofficial translation from Cambodian to English

The words above are those delivered by Samdech Akkak Moha Pothisal Chea Sim, the prestigious representative of the King and the State Leader of the Kingdom of Cambodia, to the US-Cambodian delegation led by Mrs. Sithea San during a welcoming audience held in the afternoon of December 8, 2007, at the villa belonging to Samdech Akkak Moha Pothisal Chea Sim, located in Chamcar Mon.



Mrs. Sithea San who traveled alongside the leaders of the Cambodian Community Congress, based in Long Beach, the Cambodian Chamber of Commerce, and (Mr. Evan Braude,) the attorney and former Long Beach City Councilman – who is also the Ambassador representing the Mayor of Long Beach, provided a report about the activities and strenuous effort put into the opinion fight against the local authorities (of the City of Long Beach) in order to form Cambodia Town in Long Beach. She also thanked the official moral and political support (of the Cambodian government) to form this Cambodian regional area.



Mrs. Sithea San also explained that Cambodia Town is a cultural and economic center, as well as a Public Relation location, not only for Cambodians living in the US, but that it also serves the interest of the Kingdom of Cambodia, and, in particular, the Royal Government of Cambodia, to spread its opinion to all US strata, in order to provide common benefits and pride to Cambodians.

Mrs. Sithea San also indicated that the partnership between Cambodia Town and the Royal Government of Cambodia is a partnership between civil society of overseas Cambodians and institutions of the Royal Government of Cambodia, and it will bring in a new path for the preservation of solidarity between Cambodians living overseas and the Royal Government, and a cooperation to preserve the interests of the Cambodian public.

In this audience, Mrs. Sithea San sketched and stressed the support provided by the Royal Government of Cambodia, and (the Cambodia Town committee's) search for cooperation from all official Cambodian institutions to achieve its mission, such as the preparation for a parade to show the diversified Cambodian culture, and the



cultural solidarity with other nationalities. This parade will be held on Anaheim Street in Long Beach, within Cambodia Town. The building of a cultural gate will also take place in the future.



Mrs. Sithea San told Samdech (Chea Sim) that the upcoming cultural parade in Cambodia Town will display the “Preah Vihear Temple” theme, by displaying sculptures, the identity and the history of this temple to the tens of thousands public spectators watching the parade.

Therefore, the seek for grant in terms of sculptures and temple model to be used in the parade is necessary in order to provide an actual representation of the temple, at the same time a financial grant is also sought. In this open declaration, Mrs. Sithea San issued her call not only to the Royal Government of Cambodia which is already a partner, but also to all private parties and organizations, in order to initiate this cooperation.

On this occasion, Mr. Evan Braude handed an official letter from the Mayor of the City of Long Beach also.



Royal Government presence and participation in the ribbon cutting (inauguration) of Cambodia Town and the yearly Cultural Parade in Long Beach City during the upcoming Cambodian New Year

Posted in Khmer at: <http://www.pressocm.gov.kh/index.html>

Website of the Cambodian government Office of the Council of Ministers

Unofficial translation from Cambodian to English



His Excellency Sok An, Deputy Prime Minister and Minister in charge of the Council of Ministers, accepted the invitation, as the representative of the Royal Government of Cambodia, to participate in the ribbon cutting (inauguration) of Cambodia Town and the yearly Cultural Parade in Long Beach City, California, USA, during the upcoming Cambodian New Year. The declaration of this acceptance to the official invitation was made during an audience held between His Excellency and the Cambodian delegation from Long Beach, USA.

The delegation provided a report about its effort and success in the official registration and formation of Cambodia Town in Long Beach, California, USA. Mrs. Sithea San, the director of Cambodia Town and the leader of the delegation consisting of 15-person group representing 4 associations and organizations, and the representative of the Mayor of Long Beach city, as follows:

- 1- The Cambodian Coordinating Council represented by Mr. Peter Long,
- 2- The Long Beach-Phnom Penh Sister Cities represented by Mr. Richer San,
- 3- The Cambodian American Chamber of Commerce represented by Mr. Edwards Tan,
- 4- Laywer Evan Braude, the representative of the Mayor of the City of Long Beach.



Besides recounting to His Excellency the Deputy Prime Minister about the experience in the formation of the Cambodia Town which was officially registered on 03 July 2007, and the experience acquired by other nationalities to form their towns in the USA, in order to protect and provide cultural, economic, social developments, and to show and protect their respective national culture, the Long Beach delegation expressed their thanks and gratitude to the Royal Government for providing moral and political support in the formation of this unique Cambodia Town in the world. His Excellency Nguon Nhel, Vice-President of the National Assembly of the Kingdom of Cambodia, also

intervened to support the formation of Cambodia Town at the Long Beach City Hall during His Excellency's visit to the western United States.



The delegation also received the assurance for the cooperation between the Royal Government of Cambodia and Cambodia Town in Long Beach, a Cambodian center, not only to serve the interest of Cambodian people living in this US region, but it can also turn into a gate leading to cultural, economic and administration center representing the interests of Cambodians living in the kingdom of Cambodia as well. Cambodia Town which is a center representing Cambodian culture, Cambodian pride, and is also a market for Cambodian agricultural products, as well as a center for information helping in the coordination for financial loans between the USA or other nations that want to loan funds to the Kingdom of Cambodia.



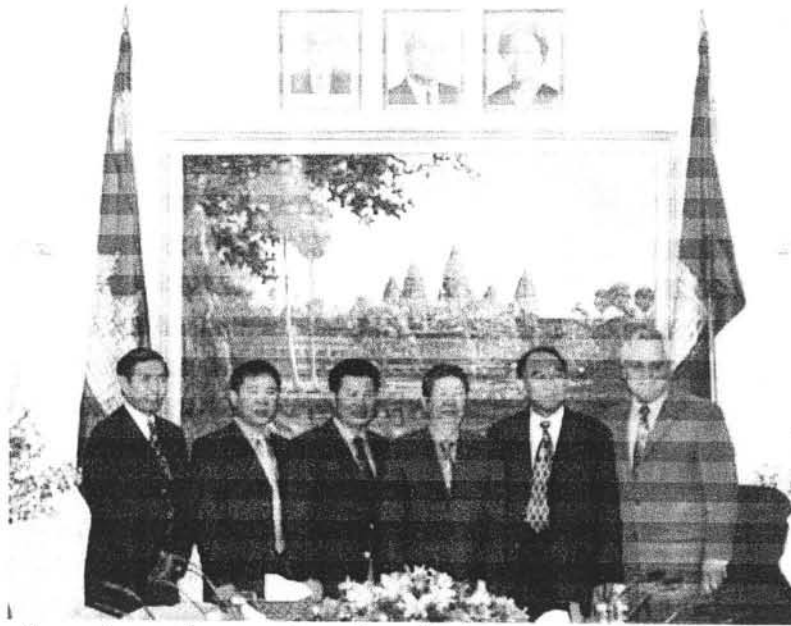
His Excellency Sok An hopes that other overseas Cambodians will follow the path for the formation of Cambodia Towns in their respective countries of residence also, in order to participate in the exchange of political and economic opinions for the Cambodian edification both overseas and inside the country. The Cambodian culture can also be propagated through Cambodia Town using Cultural Parade activities with the participation of other nationalities living in their respective regions. The fourth yearly parade which is participated by tens of thousands people, is a historical event for overseas Cambodians to show their Cambodian identity, Cambodian culture, Cambodian pride, because Cambodia used to an empire during the Angkor Wat historical era.



During this meeting, an memorable and historical exchange of souvenirs took place between the delegation and His Excellency the Deputy Prime Minister, following an interest shown and a detailed explanation on the current policy and economy. What was of interest, were two topics raised by His Excellency the Deputy Prime Minister which also attracted the interest of the delegation: “We are proud of our past, and we are proud of and extremely happy with what we currently have.” Another point was the fact that the Royal Government is proud of the progress made in the political situation led by the Royal Government under the smart leadership of Samdech Akak Moha Senabadey Decho Hun Sen, which, in addition to bringing 2 digits economic growth, received the international concurrence in the formation and the administration of the tribunal in charge of judging the former Khmer Rouge leaders along with the Extraordinary Chambers in the Court of Cambodia (ECCC), and this tribunal has been recognized as:



- 1- Providing a judgment through the tribunal by spending as little as possible, in comparison to other international criminal tribunals. The Cambodian tribunal will spend only \$56 million during its 3-year operation planned.
- 2- The judgment will take a short duration of 3-year period only, in view of the old age of the suspects (i.e., Khmer Rouge leaders).
- 3- Displaying the cooperation goals between the country where the incident took place and other international countries, in order to secure the sovereignty of the Nation which represents the interest of the victims, and the universal international standard (by the co-judges).



- 4- What is the universal exemplary benefit is the representation by national and international co-judges under the formula where there are 3 Cambodian co-judges and 2 international co-judges, but that all decision must be based on a positive vote by 4 judges, in order for the decision to be accepted. This is exemplified by the actions at the ECCC which took place in the past.
- 5- Transparency and participation of the population in the judgment, this means that, in the questioning and actions that take place in the court chambers, they are available for public viewing on TV and by the public (friends of the court).

The audience ended in a cordial and highly fruitful atmosphere. The same delegation will receive the authorization for an audience meeting with Samdech Akak Moha Dhamm Pothisal Chea Sim, the representative of the King and President of the Senate, in the afternoon of 09 December 2007, as well as with His Excellency Nguon Nhel, the Vice-President of the National Assembly, the delegation will express its greeting, its thanks and its gratefulness to the Parliament institution, and the King who supported and cooperated with Cambodia Town.



Khmer Kampuchea Krom Monks Chased and Assaulted by Police in Phnom Penh



We, representatives of civil society, strongly condemn the excessive use of violence by the authorities against a group of Khmer Kampuchea Krom monks who gathered peacefully in front of the Vietnamese Embassy on the morning of 17 December 2007.

A group of 48 Khmer Kampuchea Krom monks, ethnic Khmer originally from southern Vietnam, had convened peacefully in front of the Vietnamese Embassy to submit a petition calling for the release of Kampuchea Krom Buddhist monk Tim Sakhorn and five other monks imprisoned in Vietnam, the resolution of land issues, and respect for minority rights. The Ministry of Interior responded swiftly by deploying a large contingent of police and anti-riot forces who arrived armed with shields, electric batons and guns.

After the monks request for a meeting with an Embassy representative was officially rejected, they sat down at the site to conduct a traditional Buddhist ceremony.

At the end of an hour-long of standoff, the monks decided to walk towards the gate of the embassy, where they were met with heavy resistance by the anti-riot police, who used their batons and shields to hit and force back the monks. Some of the monks then threw plastic bottles at the police. The anti-riot unit responded instantly, brutally charging against the monks with their shields and electric batons. The monks then scattered and tried to run away to avoid further injury.

The police continued to violently attack the monks even after they dispersed. They chased the monks four blocks down various side-streets in the area around the Vietnamese Embassy, hitting and beating the monks. Surprised passers-by were told by the police "those who we are beating are not real monks." (In khmer: "yung wai mun men dejekhun.")

Two monks were seriously injured after being shocked by electric batons on the backs of their heads; causing one to temporarily lose consciousness. Four other monks suffered minor injuries after being assaulted by the police.

Like all citizens, monks have the right to express their opinions and gather peacefully. We appeal to the authorities to refrain from any further use of violence against monks and to ensure that the monks who gathered today will not face any recriminations from religious or state authorities. Furthermore, we request that the relevant authorities investigate and take action against officials that were responsible for assaulting the monks.

For more information, please contact,

Mr. Suon Sareth, CHRAC Executive Secretary at 092 344 357

Mr. Ou Virak, President of CCHR at 012 404 051

Ms. Naly Pilorge, Director of LICADHO at 012 803 650

CAMBODIAN CORRUPTION ASSESSMENT

Prepared for USAID/Cambodia by

Michael M. Calavan
(Consultant, Casals & Associates)

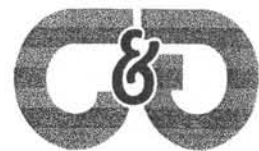
Sergio Diaz Briquets
(Casals & Associates)

Jerald O'Brien
(DCHD/DG, USAID/Washington)

May-June 2004
(Submitted August 19, 2004)



USAID
FROM THE AMERICAN PEOPLE



Casals & Associates

IQC Contract No. DFD-I-00-03-00139-00, Task Order No. 801

ABBREVIATIONS, ACRONYMS AND DEFINITIONS

- ADB – Asian Development Bank
- AusAid – Australian Agency for International Development
- Commune – A unit of local government; part of a district, composed of multiple villages.
- CPP – Cambodian People’s Party
- CSO – Civil society organization (i.e., a politically active NGO)
- Funcinpec – Royalist Party
- ILO – International Labor Organization
- IFI – International Financial Institution
- IMF – International Monetary Fund
- JICA – Japanese International Cooperation Agency
- NAA – National Audit Authority
- NGO – Nongovernmental organization
- Pact – US NGO specialized in strengthening indigenous NGOs
- RGC – Royal Government of Cambodia
- Sangkat – An urban commune
- SIDA – Swedish International Development Agency
- SME – Small or medium enterprise
- SME Cambodia – Cambodian NGO that works with small businesses
- SRP – Sam Rainsy Party
- TAF – The Asia Foundation
- UNTAC – United Nations Transitional Authority in Cambodia
- USAID – United States Agency for International Development
- WTO – World Trade Organization

I. INTRODUCTION

Early in 2004, USAID/Cambodia began planning an assessment of corruption in Cambodia. The Statement of Work noted the unfortunate reality that corruption has become part of everyday life in Cambodia, that in fact it has reached "pandemic" proportions. USAID/Cambodia requested an assessment focused around several topical areas. For example: What are the prevailing forms of corruption? Is the Royal Government of Cambodia (RGC) taking useful steps? Who are the winners and losers? What are the roles of civil society, the media and private business? The Assessment Team was also invited to recommend activities that offer a reasonable chance of success in increasing Royal Cambodian Government (RGC) transparency and accountability, while beginning to reduce systemic corruption. USAID recruited a three-member team to undertake the assessment.

One key for understanding Cambodia's current corruption predicament lies in its recent history. Successive political, economic and social upheavals through the last half of the 20th century led to the deaths or emigration of many competent professionals, and profoundly altered the country's institutional legacy. Military conflicts and political strife isolated Cambodia from global trends that have profoundly reshaped some of its neighbors, and then UNTAC and subsequent events thrust the country abruptly into the modern world. Following the Paris Accord, Cambodia's former Communist leaders embraced a hybrid system of predatory market economics and authoritarian control. This system, with its resultant impunity, along with widespread poverty and a dearth of institutions, has given rise to an all-encompassing corruption environment. "Survival" corruption is a way of life for the poor, and a succession of medium and large-scale corrupt acts are the ticket to wealth for the politically powerful.

As in other ex-socialist states, political and economic "reforms" of the early transition phase gave way to a wholesale process of state capture. One manifestation was spontaneous privatizations, as the dominant political class assumed de facto control of much of the country's patrimony. Through shady deals, state-owned enterprises have been taken over by politicians or their cronies. These practices continue through granting of concessions in forestry and other sectors. Since the 1980s, 20-30 percent of the country's land, the main source of wealth, has passed into the hands of less than one percent of the population.

Complicating matters further are scarce financial resources and the general incompetence of the state. The RGC collects very limited legal revenues, as large sums are lost to smuggling, bribes and other illegal practices. Further losses are experienced once revenues enter the state financial system. Informants estimated annual diversions from government coffers ranging between \$300 and \$500 million. Grand corruption involving illegal grants of logging concessions coexists with the nearly universal practice of small facilitation payments to speed or simply secure service delivery. Police and other officials demand small bribes in numerous guises. Students across the public school system pay unofficial daily fees to supplement salaries of teachers and administrators, and perhaps fill the pockets of high-level ministry officials. The same is true in public health, where access to services is often contingent on supplemental payments to doctors, nurses or other health care personnel.

As national wealth becomes increasingly concentrated, socioeconomic and political recovery sputters. Although the international community is well aware of the situation, it has thus far failed to persuade the RGC to take effective action against corruption. The reasons for donors' comparative mildness in demanding reforms are varied. The early priority was to pacify the country and reconstruct dilapidated infrastructure. Through most of the 1990s, maintaining political stability and reasonable economic growth seemed a substantial achievement in light of the horrors of the Khmer Rouge years and the two decades of civil war that followed. Geopolitics and regional strategic interests also played a role, allowing the ruling elite to divert international donors.

A bad situation is exacerbated by an extremely weak judiciary and the absence of the rule of law. Commercial and criminal codes and associated procedural codes are being developed with international assistance, but the process is extremely slow. Numerous NGO efforts are under way to develop basic legal services for the weak and poor, and defend the public interest against predatory elites. But this work is barely under way. Some progress is being made in training judges and prosecutors, but the number of competent legal professionals continues to be woefully

inadequate. Court proceedings are simultaneously over-complex and dilatory, with most judges responding to political pressure. Low ranking court personnel profit from cumbersome administrative procedures. Despite scheduled salary increases for judges, their legal income will continue to be well below what they can extract from placing court rulings up for sale. Ordinary Cambodians distrust the legal system, including the formal courts. The police and other enforcement bodies are also seen as corrupt.

Impunity is the norm. No one with the patronage of the state is punished, whether for massive pillaging or petty theft. In fact, those most at risk are individuals and organizations that dare to resist corruption. Most Cambodians regard resistance as a futile act. Corruption is structured more or less as a pyramid; with petty exactions meeting the survival needs of policemen, teachers and health workers, but also shared with officials higher in the system. Patronage and mutual obligations are the center of an all-embracing system. Appointment to public office hinges on political connections or payment of surprisingly large sums, and these payments are recouped through a widely accepted "right" to collect bribes.

A major contributor to this state of affairs is the opaqueness with which public business is conducted. Regardless of existing laws or expectations of donors or media, officials regard virtually all documents as privileged. Crucial information is obtained, if at all, through an inside contact or by bribing a gatekeeper. This lack of transparency even extends to information the RGC is obligated to make available under agreements with international organizations. Impediment upon impediment is piled before those seeking access to public documents. Officials develop ever more intricate, and sometimes threatening, bureaucratic requirements to "apply" for release of documents. What information is appropriate to release is often up to the discretion of functionaries. The sensitivity of the information in question is one obvious criteria as is the value assigned and the petitioner's willingness to pay. But even when the potential reward is high, potential purveyors of official documents exercise great care. Were they to betray the trust vested in them by political patrons, they would open themselves to retribution.

The situation would be less dire if the press could freely exercise its oversight function. While outwardly, the press enjoys considerable autonomy, in practice few media outlets are willing to criticize, or even report on, government excesses. A few radio programs operated by NGOs and financed by international donors are a promising exception. Foreign language newspapers published in Phnom Penh report more or less freely. But, with a limited circulation, mainly to expatriates, they reach only a minuscule Cambodian elite. The Khmer print media and most radio stations are either controlled by the governing party or exercise a high level of self-censorship. Television, the most powerful medium, is a virtual CPP monopoly.

Rounding out the corruption picture is the general underdevelopment and inefficiency of the Cambodian state. Institutions are weak, and public officials lack management skills. Even if sufficient political will existed to implement reforms, results would not be forthcoming quickly. At least one more generation of leaders and managers needs to be educated to make up for human capital lost during two decades of atrocities and war. Controlling corruption is made even more difficult by Cambodia's cash economy. Perhaps donor programs aimed at modernizing revenue collection and financial management, and more extensive use of computers, will lessen the opaqueness that cash transactions bring.

Politicians skillful at resisting and diverting the international development community are just as capable of controlling a largely rural population through demagoguery, false promises and intimidation. The raw power of the state, complemented by fear and the distribution of small gifts and favors at critical junctures, will continue to provide a veneer of political legitimacy. Under this cloak of legitimacy, were it to be allowed to persist by the international community, the rapacious exploitation of Cambodia's economy will continue with unforeseen consequences for the country's political and socioeconomic development.

II. A CORRUPTION-RIDDEN STATE APPARATUS

The Team asks readers to envision the Cambodian state as a unified apparatus for: 1) generating revenues, frequently through corrupt and other illegal behavior, 2) redistributing those revenues and other resources within an opaque, impervious system, 3) sanctioning citizens and institutions that threaten, or seem to threaten, the structure, 4) diverting pressures exerted by the international community, and 5) sharing minimal resources with ordinary Cambodians. Inevitably, such a model over-simplifies reality. But the Team believes it will be useful to readers as a kind of litmus test for judging the appropriateness of activities recommended below.

Generating Revenues

A significant portion of revenues received by the RGC are legal under Cambodian law or in accordance with international agreements. Businesses pay taxes, customs duties and fees, buy licenses and share revenues from natural resource concessions. International donors provide concessionary loans and grants, and offer technical assistance, training, infrastructure and commodities. According to available reports, donor resources provide about half of Cambodia's national budget, and as much as one tenth of gross national product. However, it is important to understand that even "legal" payments to Government can be tainted, diverted and manipulated in numerous ways.

Businesses are routinely assisted in reducing their formal tax burdens or customs duties after paying bribes. Thus, legal import of petroleum has not increased over the past 10 years, while the number of vehicles has increased five-fold. Just for this one product, a large smuggling industry must necessarily be in place, providing significant payments into the illicit system. International firms are forced to take local partners, who provide little more than occasional "fixer" services in return for a significant share of profits. Forestry and mining concessions are signed behind closed doors. No one outside the system knows what proportion of earnings go to pay taxes, what proportion go to international businesses as excessive profits, and what proportion are transferred to foreign bank accounts.

Some observers have argued that such payments are "taxes in another form." While there is some truth in this observation, this form of corruption places businesses in a legally and morally ambiguous position, tainted by their own actions, and readily subject to additional, irregular exactions from officials. The costs to citizens-at-large are even greater. Low formal tax payments lead to poor health and education services and second-rate infrastructure. And because potential foreign and indigenous investors refuse to do business in Cambodia, few jobs are created, and additional legal revenues are foregone.

Donor resources, although formally subject to monitoring and auditing, are routinely diverted or misused in numerous ways. Loans from international financial institutions (IFIs) flow into the national budget, and then the diversion process begins as Treasury and other Ministry of Finance officials routinely extract a percentage of budgeted funds before they are released to line ministries. Employees of ministries that are ostensibly undertaking reforms regularly receive salary supplements from donor projects, but in some cases do not perform any work at all. It appears that virtually all RGC procurements using donor funds elicit bribes from vendors, either in advance of the award, or as payments are released. Donor-provided commodities are subject to diversion, e.g., when donated medications are sold at a large profit in a shop owned by a senior Government leader. Through these diversionary processes, taxpayers in developed countries are taken advantage of; donors lose their credibility and ability to exert significant pressure for reform; and ordinary Cambodians do not receive the quality services and genuine reforms they deserve.

Ordinary Cambodians are subject to a daunting variety of small and medium exactions, some paid virtually on a daily basis. Drivers of trucks, cars and motorcycles are routinely stopped and required to pay specious "fines." Children pay small daily bribes to their teachers. Railway tickets are subject to an informal surcharge. A visit to the commune office to register a birth, death or marriage requires a significant bribe. Side payments are required to build a house or start a small business. And a wide range of examinations can be passed only after payment of a

bribe. Citizens who work hard, exercise entrepreneurial skills and take good care of their families are exploited at every turn.

The Team also heard occasional references and speculative comments regarding participation of senior Government leaders and their family members and cronies, in unregistered mining, illegal export of logs, trafficking of women and children, transporting and selling narcotics, and large-scale smuggling. While informants talked less often and less explicitly about such activities, the strong implication is that significant illegal funds flow from them.

Managing Internal Resources

Overall, there appears to be a rough equivalence between the size of a bribe, and the level of the recipient in the hierarchy. Policemen on the beat and village schoolteachers receive small *riel* payments daily for services rendered. Larger dollar payments presumably go to commune chairmen who approve applications for birth certificates and customs officers who “look the other way.” Major payments to secure a forestry concession or a major construction project are no doubt destined for senior leaders (or their cronies), but may well be funneled through lower-level officials. In any case, it seems clear there are established distribution channels within the government/party apparatus.

Payments go up the system, generally becoming larger as they are passed to a few senior leaders. Informants argued that some individuals at this level transfer funds out of the system, presumably to accounts abroad. Modest payments also flow down, e.g., to functionaries who serve the system loyally, but with few opportunities for corruption, and to party loyalists across the country. Judges and parliamentarians, despite the honors normally attached to their positions, appear as minor players in this apparatus. Thus, payments to judges and parliamentarians are likely to be relatively modest, and we can guess that when judicial decisions are purchased, a significant portion of bribes flows up the system.

There is a hierarchy of ministries from the viewpoint of corruption opportunities. Finance, which signs off on transfer of funds to other ministries, and controls customs and the tax office, and Agriculture, which controls forest and agricultural concessions, are at the top of the list. Health and Education are presumably mid-level, with modest opportunities to manipulate construction contracts and procurements of medications and textbooks. Education also controls a number of examinations, and thus is in a position to sell positive results. Even the Ministry of Planning can manipulate contracts with firms that undertake research projects or surveys.

For discussion purposes, resources controlled within the system have been divided into four categories: the official budget, secretive political party budgets, off-budget funds, and funds transferred to the personal control of senior leaders. For the system to work effectively, circulation of funds among these categories must be subject to substantial internal discipline.

Job buying may be a source of illicit payments from outside the structure, for example when a young person makes an outright purchase, or pays to pass a qualifying exam for an appointment as a policeman or junior civil servant. However, even in these cases, the Team heard of instances in which needed resources – ill-gotten cash, inappropriate influence – come from a parent or other relative already inside the system. In any case, job buying has the effect of redistributing wealth and power within the system.

Relentless Application of Power and Patronage: There has been little actual change in the operation of the regime since the formal end of the Khmer Rouge rule. The government, party and many leaders in power in 1987 remain in control in 2004. They show few signs they are prepared to surrender power. The King, often abroad, can do little to moderate regime excesses.

The RGC manifests many characteristics of a traditional Southeast Asian autocracy: Power is centralized; officials do not live off their salaries, but are ceded control over resources they then exploit; most administrators avoid

blame by passing decisions “up the line;” the state monopolizes trade in some sectors, exploits it in others; ordinary people are “subjects,” expected to pay and remain quiet; and institutions are managed through patron/client ties. Some observers view the Government as a single *kh'sae*, a traditional Cambodian patron-client network in which “resources go up, and come down again,” and power is held tightly at the center. Thus, when there is land grabbing in remote areas, the only recourse poor people have is to travel to Phnom Penh and make a direct appeal for redress to Hun Sen.

From outside, the regime appears monolithic, an efficient mechanism for absorbing resources and maintaining power. Inside, there are factional struggles and constant efforts to build and maintain, or undercut and shift, alliances. Hun Sen must balance the interests and concerns of hard liners and moderates. In any case, members of both factions are involved in corruption, and are dedicated to maintaining CPP power. When under serious threat, the system mobilizes innumerable resources to oppose and neutralize opponents, and for all practical purposes, reacts as a monolith.

Corrupt Institutions: Large-scale corruption requires broad and diverse institutional support. The RGC has developed a full array of outside institutions – captive firms, controlled media, party-affiliated NGOs and unions – as well as the police, military, ministries, judiciary and parliament to support a corrupt system. It is alleged that the CPP controls 20 companies that are the “financial pillars of the system,” and that the Prime Minister writes regularly to ministers, ordering that contracts be given to favored firms. Benefits can also accrue to elite leaders’ family members and cronies.

The judiciary, police and customs are all corrupt, but in different ways. Judges buy their jobs and solicit significant bribes by selling judgments when the state is indifferent to a result. However, it is generally accepted that when the regime perceives a threat or opportunity, judicial decisions are dictated by senior regime leaders. The police are well placed for criminal activities, and some informants alleged senior policemen are deeply, and profitably, involved in drug smuggling and distribution. By taxing imports and exports both “formally” and “informally,” the Customs Department perhaps has more direct impact on the Cambodian business environment than any other institution.

Individuals in corrupt institutions build power and wealth through longevity and ruthlessness. An opposition party leader complained that CPP-affiliated officials have been allowed to stay in key positions too long. Such individuals build complex networks for corruption, and amass enormous personal wealth. However, such wealth must, to a degree, be shared with those above and those below.

Dominance of Local Areas: The Ministry of Interior appoints provincial governors, district governors, commune clerks and even village headmen, thus achieving effective control of localities across the country. This power is used to support CPP-appointed governors, and to neutralize and frustrate their Funcinpec counterparts. Funcinpec-appointed governors need support of CPP subordinates to undertake any significant action. In effect, deputy governors and department heads are often more powerful than the Funcinpec governors. Furthermore, it is alleged that Ministry of Finance officials tell governors “which contractor to deal with” and “how much to give them.”

Communes and *sangkats* are seen by most foreign observers, including this Team, as promising venues for democratization. But Commune Councils can be manipulated and frustrated easily by government and CPP officials. Thus, one *sangkat* visited by the Team has 16 “unpaid” workers who “stay on the list” of employees, presumably because they are government party members, and because they have opportunities to solicit bribes or other illicit income. Probably to satisfy donor enthusiasm for “citizen participation,” communes have Commune Planning Committees with citizen representatives. However, membership is dominated by CPP-appointed village leaders and deputies, who hold a majority of positions. Phnom Penh’s administration is both loose and tight. Looseness is manifested in the absence of a formal law for city administration; only a *prakas*, an executive order, lays out a few principles and rules. And institutions that should be integral to democratic governance, such as the city’s “inspection” unit, do not function at all. On the other hand, the city is tightly controlled by a CPP-appointed governor and lower level officials.

Weak Laws and Institutions: Instead of playing balance-of-power roles, the judiciary and parliament are firmly under Government and party control. The miniscule size of the legal system is one factor facilitating Government control. There are only 100 judges, 100 prosecutors and 250 private attorneys. The Constitution provides for a Supreme Council of Magistrates, headed by the King, that should, by law, autonomously and impartially select senior judges. In reality, the Council has little power to appoint or terminate; judges are self-selected for all practical purposes, having bought their positions. The Council accedes to appointments decided internally, by CPP leaders.

Parliamentarians, even CPP members, have little legitimate power. They receive a relatively generous salary (\$2,000 per month), but have little scope to criticize or change Government legislation. The national budget is "debated" each year, but MPs don't "interfere" by questioning specific items or demanding changes. The fact that CPP members of the National Assembly serve at the pleasure of the party, and not the citizens who vote for them, is emphasized, as each candidate is required to sign an undated resignation letter before being added to the party list. Parliament has little control over the military or police. As a result, the military remains under direct CPP control, an important facet of systemic corruption, and invaluable resource in maintaining power.

Co-opt and Neutralize: The Government/party apparatus routinely co-opts, then uses or ignores, institutions and individuals that may threaten its power. Funcinpec appointees as ministers and governors find they have little actual power, and are tempted to accept "opportunities" the system presents. At a lower level, there are young people first entering ministry employment that "want to be good." But salaries, even for positions with the greatest scope for misbehavior, are extremely low.

Media firms may be owned by CPP-affiliated companies, "bought" by placement of significant advertising or controlled by subjecting managers and editors to varied threats. A "retail" alternative for media control is through direct payment to journalists. Individuals are paid for covering public events or conveying Government propaganda, or for not writing certain stories. A few journalists are found at the Poipet border crossing every day, collecting sums for not reporting on activities of customs officers, police or importers.

Divert and Distribute: In addition to a bewildering range of illegal payments extracted from individuals and businesses, the system uses a remarkable array of techniques to divert funds deposited legally in government coffers. The IMF estimates diversions of financial resources at 5-7 per cent of Cambodia's GDP. Funds are routinely diverted while being transferred from the Treasury to ministries or provinces. Treasury employees collect a "fee" (ranging from 1-5 per cent) simply for transferring funds, as they are required to do. Ministry of Finance officials who authorize transfers also take a percentage.

Beyond this, some budgeted funds are never transferred. One province had an official 2003 budget of \$300,000 for small infrastructure projects. But, according to the governor: "Actually, we got \$100,000, and 40 per cent of that was 'deducted'." While under-payments might reflect overall budgetary shortfalls, this phenomenon is mentioned so frequently, it appears more likely funds simply disappear during transfer. Other legitimate revenues may be diverted "at source." For example, Phnom Penh revenues are collected mainly in cash, and CPP tax collectors can easily under-report receipts and pocket the cash.

Non-competitive procurement, regularly practiced in the Ministries of Defense, Interior and Health, not only enables officials to solicit bribes from competing firms, but also allows for diversion of funds as contractors are paid, and sometimes for appropriation of procured commodities. For example, there is no competition in procurement of pharmaceuticals, and once drugs are delivered to clinics, they get diverted to private practices or sold in private pharmacies.

Resources under state control, ostensibly managed on behalf of citizens, are routinely appropriated by leaders. Wildlife poaching in the Cardamom Mountains is spearheaded by the military. Prime state land is given to crony companies, sometimes with no payment at all. Housing vacated by Vietnamese administrators in 1989 was

promptly appropriated by CPP leaders. Having accepted a logging ban to placate international critics, the Government is now shifting from forestry concessions to agricultural concessions, enabling foreign firms to proceed with clear cutting “to establish plantations.” Other forms of diversion include significant-in-the-aggregate exactions, such as ministry employees who collect per diem for official travel, but then must pay a portion back to their supervisors.

Inefficiency is its Own Reward: System leaders seem well aware of a basic principle of corrupt governance: “Inefficient, opaque procedures create confusion and impatience, and encourage firms and individuals to pay ‘speed money’ and bribes.” Thus a businessman noted that procedural mistakes are common in the Customs Department, creating clear invitations to bribe. Despite a 2001 law requiring environmental and social impact studies before forest and agricultural concessions are approved, “inefficiency” in the Ministry of Agriculture has essentially waived this requirement.

Inefficiency also helps to limit information resources, maintain Government control and justify shoddy administrative procedures. Inefficient procedures in the judiciary ensure reports of investigating judges and trial court judgments are difficult to access, or are not accessible at all. Inefficiency in passing internal regulations for parliamentary operations hamstrings opposition parties. Inefficiency of the Ministry of Finance in carrying out its duty of reviewing major government contracts means sloppy procedures and over-priced contracts go unquestioned. Inefficiency so extreme that veterans’ pensions aren’t paid for three years enables unscrupulous ministry employees to “buy” pension rights from their rightful owners.

Control Communication and Hoard Information: The two most popular TV stations, most radio stations and the largest-circulation Khmer newspapers are owned or controlled by the CPP. Because they reach a small audience, newspapers are relatively free to choose topics and publish stories and editorials. But Khmer language print media seldom directly criticize and challenge the Government. And editors of the English language papers, who regularly print stories about corruption and human rights abuses, nevertheless admit they practice considerable self-censorship

The Council of Ministers has two official spokesmen, and most ministries have an information officer. There is also a system of monthly, quarterly and semiannual reports to the Prime Minister and King. However, some observers believe these efforts are part of a system to manage and limit information, rather than a good faith effort to share it. Reporters, researchers and civil society activists uniformly report that the RGC is unresponsive, sometimes even threatening, in responding to information requests. Remarkably, the Government’s Official Gazette is not being printed “due to lack of budget allocation.”

A Petrified System?: Several informants argued Cambodian corruption has become more widespread and institutionalized over the past decade, one noting that “Nobody is putting on the brakes.” In one ministry, a senior official noted his subordinates work only one or two hours a day. Cambodia is facing real crises, such as the imminent departure of the garment industry and declining foreign direct investment. But most responses are inadequate. While there is concern in the Ministry of Commerce about loss of garment jobs, recalcitrant elements in the Ministries of Commerce and Labor, and in Customs, continue to solicit bribes that make Cambodian factories non-competitive. In the notoriously corrupt Customs Department, misbehaving agents are “suspended” on the job, and required to sit and write out the professional code of ethics hundreds of times.

Managing Outside Forces

Given the pervasive nature of corruption in Cambodia, it is obvious that the challenge of addressing it is daunting. However, the RGC does receive criticism from international and indigenous sources, and does occasionally experience direct opposition. Examples include:

Efforts by Civil Society: The NGO community in Cambodia is large and active, and funded by a range of bilateral, multilateral, and foundation donors. A few dozen activist CSOs play a key role in calling for governance reforms,

often by playing a dual role, directly advocating for improved transparency and accountability, while providing civic education to large numbers of citizens. Indigenous groups that choose to directly challenge the RGC know they are at risk, but persist. They expose corruption and human rights abuses, undertake research and analysis, advocate reforms, and support reforms after they have been initiated. For example, an NGO coalition is in the early stages of advocating for a Freedom of Information Law.

International NGOs support indigenous groups with funding, expertise, external contacts and a degree of protection against regime violence. They have a range of technical skills that cannot easily be duplicated by indigenous groups. Thus the U.S. party institutes take on the specialized task of strengthening and democratizing political parties, the German party foundations and SIDA's partners support a variety of CSOs, the Solidarity Center works with Cambodia's inexperienced labor unions, and the Asia Foundation mobilizes institutional resources from the U.S. and Asia and supports cutting edge programs of indigenous groups. The presence of numerous international NGOs is potentially a source of pressure on the RGC to address reforms across all sectors. However, that potential is not easily realized. International groups that engage in advocacy, rather than delivering services, are not warmly received.

Private Sector Efforts: The role of the private sector in pressuring for reforms in Cambodia has been limited. Foreign direct investment remains very small. The major business sector, the garment industry, faces looming difficulties in the next year as the Multi-fiber Agreement with the U.S. expires. The Garment Manufacturers Association (GMAC) has engaged positively with counterparts in the Ministry of Commerce, and has enjoyed some success in pursuing a limited agenda of procedural improvements. The International Business Club has also lobbied on behalf of its members, but its successes seem to focus on the specific interests of individual companies, rather than on major systemic reforms. SME Cambodia supports business associations for rice millers, brick makers, electrical enterprises, and fisheries traders and processors that occasionally engage government officials on issues that concern their members.

Media Efforts: Phnom Penh's English language newspapers regularly report on corruption issues, though their stories avoid direct accusations against senior RGC leaders. Various journalist associations make some efforts to protect members from harassment and violence at the hands of the regime.

Political Party Efforts: The Cambodian People's Party (CPP) does not seem to acknowledge the need for anti-corruption reforms at all, and the Team is unaware of efforts that have been taken in this direction. Funcinpec offers the Governance Action Plans I and II as their strategy to address governance and corruption problems, and the Team was assured that, if implemented, these plans would solve the problems facing the country. But, when Funcinpec leaders were probed for more concrete plans, for examples and explanations of how specific departments or programs might be reformed step-by-step, no concrete responses were forthcoming. Sam Rainsy Party leaders (SRP) struck the Team as far more analytical in diagnosing problems, and more concrete in prescribing solutions. Their booklet, 100 Measures to be Implemented by a Sam Rainsy Party Government, offers a far more comprehensive analysis of Cambodia's problems, and more concrete solutions, than are available from the other parties.

External Pressures: There are several external factors, which can be seen as nudging Cambodia toward a reform agenda. If Cambodia does accede to the WTO, this will create obligations to reform in such areas as procurement, commercial law and government transparency. Whether sufficient administrative capacity or political will to implement needed reforms exist is unclear, but the Team anticipates that initially the regime will try to hold off WTO-related reform pressures with attempts at window dressing. Certainly the multinational business community has made clear its intention to stay away from Cambodia for a range of reasons, many linked to corruption. The regime, already under international pressure on such issues as trafficking in women and children and human rights, may be subjected to more explicit political and legal sanctions in the future.

The RGC is unwilling to simply receive criticism and make appropriately democratic responses. Senior leaders and low-level bureaucrats resort to a wide range of tactics to blunt or actively oppose legitimate actions of civil society, media, and opposition parties:

Bureaucratic Obstacles: RGC bureaucrats are masters at placing obstacles in front of perceived opponents. Thus, NGOs and unions that applied for permits for May 1 parades this year were turned down or subjected to strict limitations on numbers of marchers. A local NGO applied for permission to organize a World Anti-Corruption Day rally, but was turned down three or four times. The Government limits licensed radio stations to 10 kilowatts, sufficient to cover only a fraction of the country.

Dirty Tricks: The CPP sponsors civil society “fronts” – NGOs and unions – to compete with their independent counterparts and capture resources. Parties are not allowed to sit together in the National Assembly. Instead, MPs sit by age, effectively limiting informal tactical planning on the floor of the assembly. After a Funcinpec-affiliated radio station agreed to sell airtime to a human rights organization, an ownership dispute was fomented. When the owner went to court to protect his rights, and the judge found in his favor, the judge was summarily removed from his position. On voter registration day, officials deliberately misspell the names of those who support other parties.

Political Discrimination: Discrimination based on party affiliation extends down to the level of village and neighborhood. During natural disasters, observers accuse the Cambodian Red Cross of only helping CPP-affiliated families, not those that support the opposition. People in an opposition-led *sangkat* encounter “problems” when applying for a water or electrical hookup, and end up paying bribes. Residents of CPP-led *sangkats* avoid such problems. CPP parliamentarians regularly receive support in providing constituent services. But CPP-affiliated bureaucrats do not respond to special requests from MPs in other parties.

Threats, Fear and Violence: Control efforts are modulated. They do not invariably involve full-scale violence, and can begin with more-or-less subtle threats. Thus, one day after negotiating an agreement for airtime with a human rights organization, the owner of an independent radio station was arrested, and kept in jail for 10 days, on a charge that he had spread false rumors and incited violence against the Thai embassy. Well-to-do business people in suburban Phnom Penh do not support an opposition-affiliated *sangkat* chief because they fear “this will be seen by the CPP.” In general, employees of NGOs advocating reforms face threats. They are jailed or threatened with death. There is a “culture of fear” throughout the society. The head of an NGO that works on corruption issues is thought to be “very vulnerable.” The head of another NGO avoids “aggressivity” and “sticks with Cambodian culture,” but admits she sometimes fears for her life. A politician noted “I cannot move one meter without protection.”

Impunity: In contrast to the climate of fear affecting most Cambodians, those who live inside or close to the system behave with impunity. A Phnom Penh reporter attended a New Year’s celebration at which a 14-year-old boy stabbed another boy, but was not punished because his uncle is Commune Chief. The nephew of Hun Sen was in a car that ran into flower vendor’s stalls, and his guards shot and killed some vendors when they protested. There was a light sentence of 18 months punishment, and after a few months the young man was moved to comfortable quarters, ostensibly because he needs special medical treatment. Some observers fear the upcoming Khmer Rouge trial will be another exercise in impunity.

Diversion of Donor Programs

Donor efforts to shift the RGC toward greater transparency and accountability, and away from corruption, have been well intentioned and relatively frequent, reflected in formal program conditionality and numerous activities aimed at strengthening officials’ skills and improving administrative procedures. Where Government interests are not unduly affected, or where international pressure has been relatively strong, donors and other international organizations have achieved some modest successes in eliciting reforms. Under the Industrial Arbitration Council, established under ILO sponsorship with USAID funding, arbitrators are independent, and sound decisions are

being reached. Likewise, ILO-sponsored inspections of garment factories work fairly well, encouraging exporters to meet standards for treatment of workers that enhance the "salability" of their garments.

But, given that donors account for half of the annual budget of the RGC, most reform efforts have had limited impact on a persistent, less-than-scrupulous opponent. Small- and large-scale corruption continues virtually unabated. Likewise, troubling reports of human rights abuses and regime-inspired violence continue to flow in. There are several reasons: Donor coordination is always difficult, since each organization operates on a different timetable, with different political pressures from their home countries or boards of directors. Institutional incentives that shape the behavior of professional staff seldom encourage spending significant time on coordination. Holding the Government accountable through conditionality also implies the willingness to withhold or delay funding, often a difficult decision.

There seems to be an emerging conviction among donors that their separate efforts to exert pressure and exact commitments have not worked well. Outside observers have begun to criticize donors for their weak stances and ineffectiveness. Half a dozen informants emphasized that donors have a great opportunity, and corresponding responsibility, to pressure the RGC for much-needed reforms. In some ways, the times are propitious. Cambodia's imminent entry into the WTO will require a range of substantive reforms, some bringing greater transparency and accountability.

But, the Team assumes the RGC will continue to use a broad array of tactics to divert reform-minded donors: Senior officials are masters of "spin." Individuals the Team interviewed invariably spoke with well-informed conviction about their commitment to reform. They candidly acknowledged the significant challenges posed by corruption, then emphasized resource limitations they face in addressing it. Cabinet member talk steadily about presumed democratic reforms, while ignoring a quasi-coup in 1993 and a real one in 1997. They readily admit to corruption in ministries and courts during discussions with donors, but never admit personal involvement, and dwell on petty abuses, never on grand scale corruption or on vast personal fortunes that are being built. Despite apparent government "frankness" when speaking English with donors, Cambodian observers note that senior officials do not admit any culpability when speaking in Khmer to the Cambodian people.

Like most recipient governments, the RGC prefers to deal with donors one at a time, or in isolated sectoral working groups. In an apparent effort to convince donors that activity is more important than commitment, the RGC has participated in preparing innumerable plans and has established numerous councils. The plans reflect state-of-the-art thinking in the international donor community, and are rich in rhetoric on such themes as good governance, transparency, accountability and participation. There is an Anti-Corruption Council, a Council for Judicial and Legal Reform, a Council on Social Development and additional councils on land reform and reform of the military.

However, it is the opinion of the Team that, in almost every case, the plans and councils are little more than a studied attempt to tell donors what they want to hear. Unfortunately, the Team found few of the reform efforts we examined to be credible. Even cursory examination of the reality behind the rhetoric reveals neither substance nor political will. For example, solicitation and acceptance of large bribes by customs officials remains a standard feature of doing business in Cambodia. School children continue to make daily payments to their teachers, and clinic patients continue to be pressured to pay illegal fees. However, there are a small number of mid-level officials who do appear committed to reform, and whose efforts might bear fruit over time.

The draft anti-corruption law may yet be enacted. However, as written, it is already out of date, with a number of provisions that are not consistent with the state-of-the-art. If, as Team members anticipate, the law, and new institutions proposed to enforce it, do not yield the results they promise, Cambodians may have additional reasons for cynicism and resignation. Cambodia has not yet signed the UN Anti-Corruption Convention, but an NGO activist noted the Government has "no problem" signing international conventions, suggesting that when there is no commitment, signing is a matter of indifference.

The RGC readily agrees to accept donor projects, particularly when they include such benefits as study trips, equipment, infrastructure and perhaps funds that can be diverted. But, in most cases the jury is still out on whether projects have brought useful reforms. Some projects stretch out over a remarkably long time without observable results. The government has succeeded in persuading donors to pay salary supplements to its employees with remarkable regularity, despite regulations in virtually every donor organization against doing so.

When donors persist in pressing for reform, the government simply stalls. For example, Hun Sen pledged to donors that the Anti-Corruption Law would be passed in June 2003, but this failed due to the absence of a quorum of MPs, set at the extraordinarily high level of seven-eighths of the Assembly's membership. Since then, passing legislation has been impossible, due to ongoing negotiations about forming a new government. The Ministries of Interior and Finance are tasked with defining revenue authorities of Commune Councils. But, two years after Councils were elected, officials have not finished their work. Some CSOs have argued for elected village leaders, but the RGC resists, arguing this would "destabilize" rural areas. Fending off this proposed change allows the CPP to continue appointing the village leaders, thus retaining effective control of rural areas.

Expending Resources

The RGC apparatus expends sufficient resources, many from donors, to keep ordinary citizens reasonably content. Donor funds have flowed into education and health, and some of these are passed on to ordinary citizens. But, there can be little doubt a significant portion of funds earmarked for schools, teachers and textbooks, and for clinics, health workers, and medications are diverted. For the time being, though, it appears services are at a sufficiently high level to meet the modest demands of ordinary Cambodians. At least two factors work in the government's favor: 1) Citizens older than 30 years can remember a period when these services were not offered at all, and furthermore have seen significant service improvements in the past 15 years. 2) Leaders have succeeded in claiming credit for facilities and services financed or provided by donors.

The RGC apparatus also expends resources to gain support directly from citizens, by buying votes during campaign periods, and by enticing them to become party members at other times. During elections, support for CPP candidates is routinely bought with gifts of rice and sarongs. In addition, supporters of opposition parties may be given similar inducements by CPP activists to stay home from the polls. The large number of CPP party offices spread across the country, and recent electoral successes, suggest the CPP has found a successful formula for recruiting and retaining party cadres. Gifts of rice are offered on a regular basis, and another plausible "reward" is allowing loyal cadres and their families to avoid exactions they would otherwise be forced to meet.

The Costs of Corruption

Many analysts have attempted to assess the costs of corruption, in Cambodia and around the world. Generally, the focus is on financial transactions -- those that take place, those that do not, those that shift resources from legal to illicit sectors of the financial system. Team members are convinced such costs—for illicit payments by business and ordinary citizens; for legal tax and customs revenues foregone; for funds diverted from social programs; for "facilitation fees" on government procurements; for earnings from criminal activities; for funds deposited in overseas banks; for investments not made by foreign and indigenous firms -- are extremely high in Cambodia. We would not be surprised to learn that losses from each of these sources run to tens or even hundreds of millions of dollars annually.

But, the aspect of Cambodian corruption that concerns us most is not its absolute magnitude, but rather its comprehensiveness and direct impacts on citizens and institutions across the country. The "costs" in misdirected human resources and crippled sociopolitical institutions are more difficult to quantify than financial transactions, but are equally bad for Cambodia. They include:

- Children as young as six or seven who are exposed to corruption daily as they make small payments to their teachers, observe policemen extracting illegal payments from motorists, and listen to adult discussions about coping with or profiting from the system.
- University graduates who are corrupted and made cynical within a few years of entering their professions. If they enter the RGC, corruption is direct. If they work in business, or for NGOs or donors, they witness payments being made and special arrangements being negotiated.
- Unqualified individuals who enter, and highly qualified candidates who are barred from, key professions such as medicine, engineering, accounting and the judiciary because entry exam results are for sale.
- Local entrepreneurs who are energetic and creative, but deliberately keep their businesses small and “under the radar” of comprehensive corruption.
- Schools and health clinics that are made second-rate due to diversion of budgeted funds.
- Roads, bridges and water systems that are under-built and poorly maintained.
- Key institutions, such as the National Assembly, judiciary, police, and audit units that are blocked from essential roles in ensuring justice and pursuing economic growth and political reform.

III. RECOMMENDATIONS FOR THE DONOR COMMUNITY – COOPERATION TO PROMOTE TRANSPARENCY AND ACCOUNTABILITY

The environment for enhanced donor coordination in Cambodia is improving. For example, at a recent meeting, the World Bank called for the donor community to speak with one voice. There is frustration about the very limited results achieved in government reform over the last several years. Particularly disconcerting is the lack of progress in judicial reform. Several other donors share the World Bank’s perspective. Some suggest that if progress in specific reforms is not forthcoming, they may consider withholding direct support to the RGC. Some believe more exacting conditionality is required. For some donors who feel they must work directly with the RGC, and object to confrontation, the key may be to minimize confrontation by integrating corruption controls within service delivery sectors, and linking grass root reforms to objectives shared by donors and the government. Regardless of donors’ varied perspectives and operational approaches, it is apparent to all that the RGC must be pressured to move the reform agenda forward. Mere rhetoric, and enactment of laws that are not enforced, will no longer suffice.

Coordinated donor approaches have been pursued with some success in other countries that were similarly resistant to reform, and may be applicable in Cambodia. Particularly relevant was the experience in Central America in 1999 following the destruction caused by Hurricane Mitch. Donors agreed to impose several conditions on beneficiary countries in exchange for reconstruction assistance. This strategy was premised on the notion that a unified donor community could exert far greater leverage than the countries and agencies could achieve on their own.

Civil society was invited to sit at the table where donors and the Honduran and Nicaraguan governments met to agree on overall objectives and plan reconstruction efforts. Early in the process, responsibilities for monitoring project implementation were assigned. Through frequent consultations, donors and civil society tracked progress, identified bottlenecks and reasons why they occurred, found solutions, and assigned responsibilities. This process brought numerous improvements in project implementation. An added benefit was that civil society became embedded in governance processes. The development community, in turn, benefited from inputs provided by civil society during joint assessments of government accountability and program effectiveness. Synergies produced by donor-civil society collaboration contributed directly to emergence of an incipient transparency and accountability culture.

While it is clear to the Team that current conditions in Cambodia are not the same as those in Central America after Hurricane Mitch, the most important point is that there is a similar level of urgency. The Cambodian people, already victims of atrocities under the Khmer Rouge, of continuing warfare and insurgency up to 1998, and of day-to-day violence and corruption, deserve better. Furthermore, donor resources are being wasted and diverted, and

opportunities for sustained economic and political development are being forfeited daily. A dramatic change of direction is needed, and the donor community is in the best position to ensure it is achieved.

A Tripartite Consultative Group for Project Implementation Monitoring

The consultative process in Central America, launched by Canada, Germany, Spain, Sweden and the United States, eventually embraced ten other countries and the World Bank and Inter-American Development Bank. Coordination took place at both ambassadorial and technical levels. Similar to current practice in Cambodia, technical coordination was pursued through sector working groups. In contrast to Cambodia, civil society representatives were active partners in all coordination efforts. A unique feature of the coordinating mechanism was a "transparency" working group that focused on public management and accountability. One major innovation in the consultative process was integrating corruption into the Honduran National Poverty Reduction Strategy as a major cross cutting issue.

Participants in sector working groups negotiated general and specific objectives, identified implementation targets and indicators, agreed to implementation timetables and assigned responsibilities for component achievement. At monthly meetings, group participants briefed other members, noting achievements and problems, agreed on potential solutions, and, as necessary, revised project implementation guidelines and timetables. Transparency was assured through oversight provided by the "many eyes" of civil society, and by the controls and ability to report of international donors. Project documentation was transparently shared and openly discussed.

The process was not always tension free. Government officials, accustomed to operate in a secretive environment, often resisted calls for greater transparency and accountability. Conflicts arose when civil society representatives or government officials adopted confrontational postures, or when there were widely varying perspectives on appropriate program approaches. However, overall the process was constructive; the various constituencies interacted closely, came to better appreciate project implementation constraints and, in many instances, managed to bridge deeply ingrained mistrust.

Implementing a similar process in Cambodia will depend on the ability of multiple stakeholders to make a firm commitment to see the process through. At least indirectly, some potential partners have indicated they may be willing to enter into such an initiative. In the view of many thoughtful observers the Team met with, as long as the international development community refrains from exerting unified, sustained pressure on the RGC, the reform process will remain stalled, and corruption will continue to flourish.

CSOs can be expected to react in various ways when presented with an opportunity to participate, some groups rejecting the option out of hand, others concluding something can be gained. With more than 1,500 NGOs officially registered in Cambodia, the issue of representation may also present hurdles to be overcome. However, with patient support, and frequent assurances from the international development community, it should be possible to bring civil society to the table. To the extent possible, CSOs should be encouraged to rein in their confrontational postures. By exercising patience, they may be able to assuage the concerns of some donors who assume any confrontational approach is counterproductive. To encourage development of a constructive environment, and minimize unbalanced power relations between the government and civil society, USAID might usefully provide TA and training to strengthen the capacity of CSOs in advocacy, bargaining and negotiating skills. Pact Cambodia has already undertaken activities along these lines with some degree of success.

Efforts to limit confrontation do not imply that progress should not be demanded from the RGC. It should be negotiated firmly, and measured with realistic yardsticks consistent with each task's complexity. CSOs should conserve the energy they often expend on confrontation, and demand, in concert with donor partners, achievable but significant short-term reforms from the RGC. By involving both service-oriented and advocacy NGOs in the negotiating and monitoring process, the donors will be planting the seeds for a grand alliance designed to root out corruption at national, regional, and commune levels.

The Government is almost certain to resist participating in unified monitoring processes at the outset, by claiming, for instance, that planned oversight would amount to a foreign intrusion into Cambodia's sovereignty. The combined pressure of the international development community may or may not be sufficient to overcome such resistance. But several stakeholders interviewed by the Team were of the view that if unified pressure is applied, the RGC will acquiesce.

An Institutional Mechanism

USAID could consider supporting the consultative process by funding establishment of a small, independent Transparency Secretariat. This unit, headed by an expatriate and staffed by several Cambodians, could perform a variety of tasks, including:

- Coordinating activities of sector working groups;
- Convening and managing sector working group meetings;
- Providing follow-up support;
- Serving as a public repository for documents relating to donor funded initiatives;
- Acting as a clearinghouse for distributing documents to interested parties, including the media; and
- Producing and distributing, at regular intervals, newsletters and other documents summarizing successes and difficulties in implementing reforms.

A transparency initiative along this line could be a useful development in addressing donors' and Cambodians' concerns. Despite government commitments to respect civil society, RGC officials continue to routinely and arbitrarily interfere with CSO attempts to gain access to "public" documents. Through its clearinghouse function, the Secretariat would ensure a minimum level of transparency by facilitating access to all documents related to donor projects. A website managed by the Secretariat would encourage even greater transparency by making electronic access to documents possible.

The Secretariat would be guided by an international advisory committee, and its activities would be coordinated with other public dissemination efforts conducted under donor auspices. For example, by linking the Secretariat's electronic database with the Community Information Centers established by Asia Foundation partners in 22 provinces, the information reach would be national in scope. The impact of the Secretariat's work can be further enhanced if results of its transparency promotion activities are widely publicized through multimedia campaigns that inform citizens and enlist them in monitoring activities.

Soon after establishment of the Transparency Secretariat, that unit could propose and support an International Transparency Review Panel to visit Cambodia for two or three weeks annually. The Panel's primary purpose would be to probe whether the RGC has sufficient political will to push through on the substance of reforms, or is indulging in its traditional diversionary tactics. The Panel should have four or five prestigious international members, each from a different country. Senior academics, former ambassadors and retired politicians would be excellent candidates. Panel members would conduct interviews, commission small surveys and focus group discussions, preside over public hearings, and issue an annual public report with specific recommendations to donors on whether or not to proceed with planned funding tranches and ongoing programs.

An Internationally-Financed Projects Inspectorate

Many Cambodians, including politicians, business leaders and civil society representatives, feel transparency and accountability will remain unattainable goals until the RGC conducts professional, independent audits of public funds, and makes their results public. The political and administrative difficulties inherent in this process are obvious, as audits will be a direct challenge to the power of the ruling elite. To conduct modern public audits – assuming political will exists -- it will be necessary to first surmount the administrative shortcomings of

Cambodia's civil administration. Ultimately, success will also depend on developing a cohesive legal framework, adequate administrative procedures, effective record keeping and training of a capable public service.

These initiatives, however, will take many years to bear fruit; even basic documentation is woefully inadequate. The national budget was described to the assessment team as non-existent or in even more derisive terms. In line ministries and at lower administrative levels, the situation is no better. The most comprehensive administrative records are undoubtedly kept by the donors themselves, and to some degree by government agencies implementing donor-funded projects. In some cases, donors have instituted mechanisms to minimize corruption in their projects. The World Bank, for example, has established procedures to audit 17 projects. But, under the current regime, questions about the effectiveness of such measures are warranted. Pursuing a more aggressive, unified strategy may pay dividends, but this will depend on the international development community's willingness to work together to implement independent audit procedures, free from RGC interference.

The donor community would be well advised to condition continued assistance on independent audits of all projects. Again, there is a useful model in Central America. USAID, DFID, Swiss Aid, SIDA, CIDA, the World Bank and Inter-American Development Bank jointly funded a specialized, independent Project Inspectorate. Initially established to conduct concurrent audits of post-Hurricane Mitch reconstruction projects, the scope of audits was later revised to focus on compliance with contracting procedures. The executing entity, Price Waterhouse, was chosen through an international bidding process conducted under donor supervision. The firm is accountable for auditing the integrity of procurement processes, using expatriate and local staff. The contract calls for audit reports to be provided to an oversight committee of donors, civil society and government. The committee chooses some reports for close scrutiny, can request clarifications and sometimes demands follow-up to specific audit findings.

Design and implementation took considerable time to negotiate, including defining the scope of work and selecting the contractor. In the two years since it has been in operation, the Inspectorate has completed nearly 1,000 project audits. Delays have been reported in review of audit recommendations, and more particularly, in following up audit findings by the national audit institutions. Despite these difficulties, the Project Inspectorate approach has met its objectives; hundreds of donor-funded projects are being audited for compliance with procurement procedures embodied in a national Procurement Law (itself, an objective of the initiative). The cost for an initiative of this nature is relatively high, USAID contributed \$3.2 million toward the multi-year \$12 million project. But, on a cost-benefit basis, inspectorate expenses are easily justified. Potentially large leakages have been avoided, and the implementation has become far more transparent.

Cambodia's first supreme audit institution, the National Audit Authority, was created just two years ago. Even if it were to conduct its functions independent of political pressure – a widely questioned assumption – it lacks the capacity to adequately audit how donor funds are used. Whether the RGC will agree to an independent, multi-donor inspection mechanism remains to be seen. But from the perspective of transparent use of donor funds, independent audits of government management of donor resources is a reasonable objective, one donors can readily agree on, then pursue vigorously.

Introducing a Project Inspectorate in Cambodia cannot, of course, fully resolve the country's many corruption problems. It will require many additional efforts to overcome the structural, political, economic, social, and administrative determinants of institutionalized malfeasance. Nor will it be able to address fully the fungible nature of donor-provided and state-generated public revenues. What it can do, however, is establish an "accountability floor" and a mechanism whereby civil society can be engaged in public oversight. An inspectorate project could be expanded, with relative ease, to create citizen oversight mechanisms between provincial, district, and commune levels and Phnom Penh, as decentralization initiatives, already heavily funded by multiple donors, gain momentum.



NEWS AND EVENTS

News and Reports

Amnesty Film Festival

Annual General Meeting

Regional Conferences

Leadership Summit

Local Events

Nationwide Events

Home > News and Events > News and Reports

Table of Contents

- [1. Introduction 2](#)
- [2. Historical background 4](#)
- [3. The current context 6](#)
- [3.1 Institutions and structures 9](#)
- [Land dispute resolution 9](#)
- [3.2 Government policy -- key documents 10](#)
- [4. International human rights law 11](#)
- [4.1 Prohibition on forced eviction 14](#)
- [4.2 Protection against forced evictions 15](#)
- [4.3 Rights to participation and consultation 18](#)
- [4.4 The right to an effective remedy 20](#)
- [4.5 Prohibition of unnecessary and excessive use of force 21](#)
- [The Human Rights of Indigenous Peoples 22](#)
- [4.6 Adapting the B... 23](#)
- [5. Cases of forced eviction 26](#)
- [5.1 Sambok Chab: "They dumped us right here" 26](#)
- [5.2 Khle Srean: Dispute turned to deadly violence 32](#)
- [5.3 Mith Chheav 4: Making poor people homeless 36](#)
- [6. Protection for Human rights defenders 41](#)
- [6.1 Arrests and attacks 41](#)
- [6.2 Coercion of Indigenous Peoples 42](#)
- [6.3 Threats and Intimidation 44](#)
- [7. Conclusions 45](#)
- [8. Recommendations 49](#)
- [To the Cambodian authorities: 49](#)
- [To Cambodia's international donors: 51](#)
- [Attachment 1 53](#)

[Text of Basic Prin...](#)

**Rights Razed
Forced evictions in Cambodia**

1. Introduction

"Now we have to pin our hope to NGOs. People are no longer capable of depending on themselves. We are short of money and rice. Before, we did some farming, and now we no longer have fields to plant rice. Before (...) I was able to feed my seven children. Now there is nothing."

Vireak, Mith Chheav 4 village

Vireak's home where he lived with his seven children was set ablaze as law enforcement agents and military cleared their village on 20 April 2007. Without consultations, due process of law, legal or other protection, and with no consideration of adequate alternatives, his and over 100 other families were forcibly evicted.

Like many thousands of other Cambodians who have been forcibly evicted, Sopha also lost access to natural resources which they relied on to earn a living -- in his case, land used for subsistence rice farming.

The "pro-poor" policies of the Cambodian government, supported by its international donors, stand in sharp contrast to the realities experienced by Vireak, his children and others who have lost homes, belongings and means of earning a living in unlawful forced evictions.

A forced eviction is 'the permanent or temporary removal against the will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection'. Forced evictions have been recognized by the UN Commission on Human Rights as a gross violation of human

rights, and are also -- as in the cases presented here -- associated with other human rights violations.

As a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), and other international human rights treaties which prohibit forced eviction and related human rights violations, Cambodia has an obligation to stop forced evictions and to protect the population from forced evictions.

This report shows how, contrary to Cambodia's obligations under international human rights law, those affected by evictions have had no opportunity for genuine participation and consultation beforehand. Information on planned evictions and on resettlement packages has been incomplete and inaccurate, undermining the rights of those affected to information, and to participate in decisions which affect the exercise of their human rights, in particular the right to adequate housing. The lack of legal protection from forced eviction, and lack of regulation of existing standards has left an accountability gap which increases the vulnerability of marginalized people, particularly those living in poverty, to human rights abuses including forced evictions.

In instances where there has been some level of consultation with affected communities, decisions on relocation appear in reality to have been taken by the authorities beforehand, frustrating the right of affected people to propose alternatives and for those to be duly considered by the authorities. The cases presented in this report show how, again contrary to international human rights law, the authorities have opted for eviction long before all other alternatives have been explored.

Endemic problems in Cambodia, including a lack of transparency and outright secrecy also contribute to delays in communicating eviction orders to affected communities. Lack of proper notice and consultation further deprives the affected of their opportunities to seek legal redress and to realize their own human rights, including the right to an adequate standard of living.

Although there have been some positive recent signs, including repeated calls by Prime Minister Hun Sen for an end to land-grabbing and sporadic action against people involved in land theft, the Cambodian government has not demonstrated political will to ensure an end to forced evictions or the factors leading to them. Instead government representatives are seen to be involved in or standing by as the law is applied arbitrarily or by-passed altogether, in ways that grant impunity to those in political or economic power for arbitrarily expropriating land from marginalized people living in poverty.

As long as this pattern is allowed to go on, hundreds of thousands of Cambodians live under threat of being forcibly evicted -- in Phnom Penh, Sihanoukville and urban centres, but increasingly also in rural areas.

Amnesty International urges the Cambodian government to end all forced evictions and to introduce a moratorium for all mass evictions until legislative and policy measures are in place to ensure that any evictions as are necessary are conducted only in full compliance with international human rights laws and standards. The organisation believes that such steps would send an unambiguous signal that the Cambodian government is intent on tackling land-grabbing, the spread of landlessness and increase in land disputes, while upholding its obligation to protect the right to adequate housing as a foundation for the achievement of its pro-poor agenda as spelt out in the Rectangular Strategy and the National Poverty Reduction Strategy.

This report is based on field visits in March 2006 and June 2007, as well as additional background research of media articles, reports and communications on issues relating to land, housing, natural resources, law and legislation. The March 2006 field visits covered four areas where disputes over land and/or natural resources were ongoing. In 2007 Amnesty International also conducted interviews with evictees in Phnom Penh and Sihanoukville. Names of individual victims of human rights violations have been changed for their protection.

2. Historical background

Mass forced eviction and forced displacement is not a new phenomenon in Cambodia, and the context in which mass relocation historically has taken place provides partial explanation as to why forced evictions are fast becoming one of the most widespread and systematic human rights violations affecting Cambodians.

During the protracted civil war both urban and rural populations were uprooted against their will: between 1970 and 1975, Phnom Penh's population swelled as rural dwellers took refuge in the city when their homelands turned into frontlines or came under US bombardment as the Viet Nam war spilled over the border into Cambodia.

Under Khmer Rouge rule (April 1975 - January 1979) urban populations were forced out to

the countryside as cities were emptied and abandoned, giving way to radical and brutal collectivization. Up to two million Cambodians died or were killed, among them most of the skilled workforce; infrastructure and administration were destroyed, including records of land registration and maps.

Towards the end of this period and during the first years of war that ensued between the ousted Khmer Rouge and the new Viet Nam installed government under the People's Republic of Kampuchea (PRK), hundreds of thousands of Cambodians fled to Thailand. Others sought protection inside the country away from fighting, famine and the humanitarian crisis that the Khmer Rouge left behind.³

Throughout the 1980's, Phnom Penh was slowly rehabilitated and re-populated, mostly by rural Cambodians; many of the original city dwellers had not survived the Khmer Rouge years.⁴ Pressures on land and housing were limited, and people took over houses and land on an *ad hoc* and unregulated basis, though better, less dilapidated houses tended to be granted by the authorities to soldiers and public officials.⁵ Although private ownership rights were not recognized, informal occupation rights gained increasing foothold and became *de facto* transferable, if not legally so.

In 1989 the government reinstated private property rights by decree,⁶ granting farmers possession rights to plots of up to five hectares after five years of continuous cultivation, and households the right to obtain ownership titles to residential plots up to 2,000 square meters.⁷ Private property rights were subsequently given constitutional protection in the April 1989 Constitution of the State of Cambodia,⁸ Article 15 of which set out that citizens had "*full right to own and use land and have the right to inherit land granted by the state for the purpose of living on it and exploiting it.*"

This marked an ideological shift, which initiated economic and political reform, involved the withdrawal of Vietnamese troops -- and paved the way for the emergence in the 1990's of competition over land and natural resources. Cambodia was edging towards peace amidst the 1991 Paris Peace Agreements, as well as towards market economy; the UN was setting up a massive operation, with over 20,000 troops and officials entering the country. Local populations remained unsettled, including returning refugees from the border camps, while population growth sped up, all of which brought change to the housing market. Land, particularly in Phnom Penh, became increasingly valuable and an object of speculation;⁹ as the cost of land in the city became prohibitive, particularly for the accelerating influx of rural migrants, informal settlements mushroomed across Phnom Penh. Over a dozen forced evictions in Phnom Penh, particularly from slum areas, are reported to have taken place at this time, but comprehensive details about them are not available.

Between 1993 and 1999, the government granted concessions for around one third of the country's most productive lands for commercial development by private companies.¹⁰ These companies were involved in logging, agriculture, mining, tourism and fisheries, activities which affected the populations who resided on or earned their livelihoods from the concerned areas or resources. However, data on forced evictions resulting from these concessions is limited.

3. The current context

There is growing information about both urban and rural forced evictions of more recent date. Human rights groups, donors and UN agencies have increasingly raised alarm about various factors that lead to forced evictions and displacement, including economic land concessions, land grabbing, land disputes and a lack of rule of law.

The UN Special Representative of the Secretary General for Human Rights in Cambodia has issued two reports about economic land concessions, showing the serious consequences for the local populations of activities of concessionaires, including dispossession and impoverishment.¹¹ According to the most recent report, from June 2007, "*[e]ncroachment on agricultural and grazing land, and resulting loss of livelihoods, continues to be the most commonly-voiced issue of concern for communities, and arises in relation to almost all active concessions.*"¹²

Development and so-called "beautification" projects, including slum clearance and construction of roads and other infrastructure, have also resulted in displacement, particularly in urban and peri-urban areas. According to the World Bank, between 1998 and 2003 the Phnom Penh municipality forcibly evicted 11,000 families, mostly urban poor living in informal settlements in or near the city centre.¹³ Since then forced evictions have reportedly displaced well over 30,000 people in Phnom Penh alone.¹⁴ Some 150,000 Cambodians across the country are known to live at risk of being forcibly evicted.¹⁵

Urban forced evictions are at times widely reported in the media and monitored by human rights groups, including networks of non-governmental organisations (NGOs) such as the Housing Rights Task Force and the Resettlement Action Network.

Although forced evictions in Cambodia are often depicted as an urban phenomenon, a growing share of cases take place in rural areas as competition over land, aquatic and forest products and other commonly held resources is on the increase.¹⁵ In rural areas, however, the scope of forced evictions and the number of persons affected are unclear: limited infrastructure makes it hard for isolated communities to voice their grievances beyond their locality. They often have more limited knowledge of their legal rights, including knowledge of the right to participation in decisions that affect their lives, and their localities are less accessible to NGOs that may be able to investigate incidents or raise awareness. Indigenous Peoples, who mainly live on traditional land in the north-eastern provinces of Mondulkiri and Ratanakiri, are particularly marginalized and often unable to assert their rights in this regard.

Landlessness, an unaddressed cause of which is forced evictions, is increasingly widespread among rural Cambodians. The number of landless rural households grew from 12.6 percent in 1997 to nearly one in five in 2004.¹⁷

Linked to the problem of landlessness is the lack of security of tenure, particularly among people living in poverty. The likelihood of obtaining a secure land title increases with income: in 2004, among the poorest fifth of the population,¹⁸ only 40 percent had documentation to prove ownership, whereas around 60 percent of the richest fifth held such documentation.¹⁹ Although the perception of traditional possession rights remains strong and may provide a degree of tenure security despite the lack of documentation, it is specifically among the vulnerable, poorer households living on land contested by the state, that lack of legal title leads to insecure tenure.²⁰

Oxfam Great Britain has collated nationwide data of over 1,800 large-scale land disputes in which ordinary Cambodians have turned to some dispute resolution mechanism for assistance after having lost land.²¹ In terms of documentation to prove ownership of disputed land, the majority of complainants, two thirds of whom were farmers, had no documents or ownership titles "because they thought that the land they occupied belonged to them."²² Only four percent had applied for formal title registration and around one in five had a receipt of purchase to support ownership claim.²³ At the same time, 56 percent had occupied the land for five years or more at the time of the survey (2004), which would give them strong claims to ownership of the land under the 2001 Land Law (Article 31). The Oxfam study also reported that the largest groups of defendants, i.e. those accused by claimants of having grabbed land, were civil government authorities (41 percent); the military (23 percent), and business (11 percent).²⁴

3.1 Institutions and structures

The Ministry of Land Management, Urban Development and Construction (hereinafter Ministry of Land) has primary responsibility for land management and administration; it develops land policy together with the inter-ministerial Council for Land Policy and has co-drafted a housing policy, yet to be adopted. The ministry is also in charge of registration, distribution and titling of land and for management of state-owned land.²⁵

Several other government entities have roles related to various aspects of land and housing policy. The Ministry of Agriculture, Forestry and Fisheries is responsible for agriculture and economic land concessions, although monitoring economic land concessions also falls within the remit of the Ministry of the Interior. Other entities involved include the Ministry of Defence, which is responsible for Military development zones, the creation of which has been associated with forced evictions; the Ministry of Rural Development, as well as sectoral Technical Working Groups, which include representatives of donors and from the government. Courts, the Cadastral Commission and the National Authority for the Resolution of Land Disputes are all involved in resolution of land disputes. Most entities also have a multi-tier administration: at the national, provincial, district and commune levels, mandated to implement certain parts of plans and policies, at times overlapping, often lacking clarity.

Land dispute resolution

The Cadastral Commission, under the Ministry of Land, was established in 2002 under the Land Law. One of its central duties is to investigate and resolve land disputes over unregistered land.²⁶ Resolution of disputes over registered land is the domain of courts.

However, in view of the massive increase in land disputes in the past five years and apparent inability of the Cadastral Commission and courts to solve them, the government launched by royal decree the National Authority for the Resolution of Land Disputes (NARLD) in February 2006. It is mandated to take up cases or complaints that are "beyond the jurisdiction of the National Cadastral Commission",²⁷ but given the division of jurisdiction between the Cadastral Commission and court, NARLD's mandate appears to overlap with existing structures. The process of establishment and its membership also represents a further concentration of executive authority in Cambodia.

3.2 Government policy -- key documents

Launched by Hun Sen in July 2004, the "Rectangular Strategy for growth, employment, equity and efficiency in Cambodia" (2004-2008) is the government's central economic policy

document, and it is described as a tool to implement its policy agenda, including the more elaborate National Poverty Reduction Strategy (NPRS). The NPRS (2006-2010), in turn, is Cambodia's poverty-reduction strategy which is a requirement of the International Monetary Fund and the World Bank, in order to qualify for debt relief.²⁸

At the heart of the Rectangular Strategy is "good governance", which according to the document, requires wide participation, enhanced sharing of information, accountability, transparency, equality, inclusiveness and the rule of law. Broadly speaking, the government undertakes to *"promote sustainable and equitable development, and strengthen Cambodia's social fabric to ensure that the Cambodian people are well-educated, culturally advanced, engaged in dignified livelihood and living in harmony in family and society."*²⁹

The strategy document does not establish roles and responsibilities to eradicate forced evictions, and includes ambiguous and concerning pledges to achieve the *"eradication of illegal settlements"*. It does however identify the urgent need to continue land reform and pledges to tackle *"land tenure security and ...land grabbing, and control of land ownership concentration for speculative purposes."*³⁰ Amnesty International is concerned that these goals should be pursued only as consistent with international human rights law. In this respect the *"eradication of illegal settlements"* should be understood as a commitment to take steps, together with those living in informal settlements and with their active participation, to realise their human rights, including their right to adequate housing. It should under no circumstances be understood as a license to undertake forced evictions.

A Land Policy was adopted in 2001 and updated through the Interim Paper on Strategy of Land Policy Framework (2002) by inter-ministerial Council for Land Policy. The policy papers do not expressly commit to eradicating forced eviction, but the Interim Paper appears to set a direction: *"The policy consensus which is emerging is that forced evictions should be avoided as much as possible, and that if compulsory relocation is required, then both adequate preparation time, and adequate relocation sites must be provided."* It also says that the guidelines in the so-called Habitat Agenda will form *"a basis for consolidating policy in this area"*.³¹

A report of the Ministry of Land from 2004 took stock of the "involuntary resettlement" policy of Phnom Penh between the late 1990s and 2002, and concluded that *"new sites were on the peripheral lands and not adequately equipped with basic infrastructure and services and lacks economic opportunities. The policies further impoverished the poor. Having seen such an impact (...) the Government in turn attempts to include the poor in its land development programs so as to achieve the goals of poverty reduction and equitable economic development and identifying areas for low-income people, while tends to provide them with land tenure to protect them from severe land markets."*³²

This discussion paper followed the announcement in May 2003 by Hun Sen of an urban housing policy that would entail upgrading annually 100 inner-city poor communities for five years.³³ Since then, the Ministry of Land with the assistance of the UN agencies, has prepared a draft housing policy, explicitly described as part of its poverty reduction efforts.³⁴ The draft presented a range of initiatives, including the provision of short-term tenure security in Phnom Penh for all informal settlements. This would also entail determining suitability of upgrading, a process that was estimated to take nine months, during which there would be a moratorium on evictions and relocation.³⁵

Surveys were scheduled to determine which settlements on state land are suitable for medium to long-term tenure security and upgrading. For areas deemed unsuitable for upgrading initiatives, *"relocation should be avoided if at all possible."* An independent complaints mechanism was proposed for affected communities, and any relocation should be *"to a site as close as possible and with reasonable access to livelihood opportunities and services. Adequate compensation and preparation time will also need to be provided"* as well as some security of tenure. Amnesty International is concerned that neither the Interim Paper nor the draft housing policy clarify the roles of the affected populations in determining whether or not an informal settlement is suitable for upgrading. The documents also lack assurances of participation of and consultation with affected communities that are slated for resettlement. The housing policy has not been formally adopted.

Finally, the Cambodian government retains a policy of granting companies leases for up to 99 years for commercial developments in exchange for a fee and investments. The 2001 Land Law defines them as *"land concessions for economic purposes"*, including plantations and agro-industry,³⁶ with an aim to increase investment, job opportunities and rural livelihoods and to generate state revenue.³⁷ By the end of 2006, 14.5 percent of Cambodia's arable land was leased out to concessionaires.³⁸

4. International human rights law and standards, domestic legislation

As a State Party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) the Cambodian government is legally obligated to respect, protect and fulfil the right to adequate housing as provided by Article 11(1):

"The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent."

The right to adequate housing is also recognized under other international binding treaties to which Cambodia is a state party, including the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)³⁹, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)⁴⁰ and Convention on the Rights of the Child (CRC)⁴¹.

The Universal Declaration on Human Rights as well as international human rights treaties that Cambodia has ratified have been given the force of law within Cambodia through article 31 of the Constitution of the Kingdom of Cambodia:⁴²

*"The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women's and children's rights."*⁴³

This chapter summarizes international law and standards relevant to forced evictions in Cambodia, with references to domestic legislation.

4.1 Prohibition on forced eviction

State parties to the ICESCR and several other international treaties have a duty not to subject their population to forced eviction under the right to adequate housing, with very limited exceptions. The Committee on Economic, Social and Cultural Rights (CESCR), the UN body of experts charged with monitoring the implementation of this Covenant, has stated in a General Comment⁴⁴ that it "considers that instances of forced eviction are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law."⁴⁵ While many duties on states under the ICESCR require progressive fulfilment, the duty to halt forced evictions is immediate, as is the duty to not interfere with individuals who enjoy the right to housing.

The Human Rights Committee⁴⁶ has expressed concern that forced evictions constitute violations of the ICCPR, in particular of Article 17, which provides, among other things, that "[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence" and that "[e]veryone has the right to the protection of the law against such interference or attacks."⁴⁷

The prohibition on forced evictions does not apply to evictions carried out in accordance with the law and in conformity with international human rights law.⁴⁸

Cambodian law does not specifically prohibit forced evictions, but Article 44 of the Constitution, which protects the right of all Cambodian citizens, individually or collectively, to own land, contains a broad limitation to the effect that "the right to confiscate possessions from any person shall be exercised only in the public interest as provided for under law and shall require fair and just compensation in advance."

4.2 Protection against forced evictions

As a State party to a wide range of human rights conventions Cambodia also has an obligation to refrain from and protect against forced evictions.⁴⁹ One of the principal aspects of this obligation is the duty not to allow forced evictions. Another is the duty to protect everyone within its jurisdiction from forced evictions carried out by third parties. Central to such protection is the adoption and implementation of legislation which complies with human rights standards to prevent forced eviction.

In its General Comment on forced evictions (General Comment 7), the CESCR has clarified that evictions can only be carried out when certain procedural protections are applied, including:

- "an opportunity for genuine consultation with those affected;
- adequate and reasonable notice for affected persons prior to the eviction;
- information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;
- ...government officials or their representatives to be present during an eviction;
- all persons carrying out the eviction to be properly identified;
- evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise;
- provision of legal remedies; and

- provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts."⁵⁰

Furthermore, according to General Comment 7, evictions may be carried out only as a last resort, once all other feasible alternatives to eviction have been explored. They must be planned and implemented in consultation with affected persons or groups, in an effort to avoid or minimise use of force.⁵¹

States parties to the ICESCR must ensure that adequate alternative housing and compensation for all losses is made available to those affected prior to eviction, regardless of whether they rent, own, occupy or lease the land or housing in question. Further, evictions must not "render individuals homeless or vulnerable to the violation of other human rights."⁵²

As a party to the ICESCR Cambodia has an immediate obligation to adopt effective measures aimed at ensuring, at the very least, a degree of security of tenure sufficient to protect the entire population from forced eviction, harassment and other threats. As the CESCR has clarified:

"Tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups;"⁵³

To provide guidance to governments on measures and procedures to be adopted in order to ensure that development-based evictions are not undertaken in contravention of existing international human rights standards and do not thus constitute "forced evictions", the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (hereinafter the Special Rapporteur on Adequate Housing) has developed Basic Principles and Guidelines on Development-Based Evictions and Displacement (referred to as the Basic Principles).⁵⁴ These guidelines, which reflect and develop existing standards and jurisprudence on this issue, were considered by the Human Rights Council in 2007 and are appended to this report. They include detailed provisions on steps which states should take prior to, during and following evictions in order to ensure compliance with relevant principles of international human rights law.

Amnesty International believes that the Basic Principles represent an excellent guide for the development of national eviction guidelines.

Legal protection against forced evictions is generally weak in Cambodian law. The Land Law, drafted with a view to secure implementation of the property rights guaranteed under the Constitution, consists of general principles that require sub-decrees⁵⁵ and implementing regulations to be effectively applied. Since enactment in 2001 the legal framework has developed incrementally, but remains incomplete.

Article 35 sets out procedures for the eviction of occupants with no or insufficient title. Such evictions can only be made by a court order upon the request of the person who claims the property, and it falls on the courts to verify and validate such claims. The law also provides that although courts cannot refuse to order an eviction in favour of a person who presents a valid and complete cadastral title, that is, legal ownership, a temporary suspension may be requested by the competent authorities if the eviction "is likely to give rise to instability or to have serious social repercussions" (article 36).

In terms of security of tenure, the Land Law transformed earlier possession rights into ownership rights and limited the principle from previous legislation that possession leads to ownership to land occupied prior to 2001. According to article 31 (Chapter 4) of the Land Law, a person who can demonstrate lawful uncontested possession for a period of five years before the law was enacted (2001) can become the owner of the land. Previously, five years of uncontested possession without any cut-off date could lead to legal ownership.

"Social land concessions" is a systematic land distribution mechanism established under the law, whereby state private land⁵⁶ may be distributed for residential or farming purposes to the poor and homeless families.⁵⁷ Combined, these provisions protect security of tenure and are seen as a replacement of the old principle of ownership through possession.

Security of tenure is also extended to Indigenous Peoples' lands, providing for collective ownership of those communities. These provisions protect Indigenous Peoples against displacement.⁵⁸

The Sub-Decree on Economic Land Concessions, signed on 27 December 2005, sets out

general conditions that must be met for a concession to be granted, which provide communities with protection against eviction. Chapter 2, Article 4 provides that "the Contracting Authority shall ensure that there will not be involuntary resettlement by lawful land holders and that access to private land shall be respected."

4.3 Rights to participation and consultation

The right of everyone to participate in decisions which affect the exercise of their human rights is strongly grounded in international human rights law and standards.

Both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights guarantee the right to take part in government or in the conduct of public affairs. According to the Human Rights Committee, interpreting Article 25 of the ICCPR, this includes a right to participate in the formulation and implementation of policy from local to the national and international levels.

"The conduct of public affairs, referred to in paragraph (a), is a broad concept which relates to the exercise of political power, in particular the exercise of legislative, executive and administrative powers. It covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels."⁵⁹

Specifically in respect of the prohibition of forced evictions, CESCR General Comment 7 states:

"[s]tates parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force."⁶⁰

Essential procedural protections to avoid forced evictions include "an opportunity for genuine consultation with those affected; ... information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; ... provision of legal remedies; and provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts."⁶¹

In the Basic Principles developed by the Special Rapporteur on Adequate Housing, the principles to be applied are further developed, based on existing human rights law and standards. They include:

"All potentially affected groups and persons, including women, indigenous peoples and persons with disabilities, as well as others working on behalf of the affected, have the right to relevant information, full consultation and participation throughout the entire process, and to propose alternatives that authorities should duly consider. In the event that agreement cannot be reached on a proposed alternative among concerned parties, an independent body having constitutional authority, such as a court of law, tribunal or ombudsperson should mediate, arbitrate or adjudicate as appropriate." (para. 38)

"During planning processes, opportunities for dialogue and consultation must be extended effectively to the full spectrum of affected persons, including women and vulnerable and marginalized groups, and, when necessary, through the adoption of special measures or procedures." (para. 39)⁶²

Article 35 of the Constitution protects the right of the population to participate actively in political, economic, social and cultural life, while article 41 provides in broad terms for freedom of expression, press, publication and assembly. With the exception of the Press Law, legislation to make these constitutional rights applicable in practice is not in place, including laws regulating access to information. The Ministry for National Assembly Senate Relations and Inspections is in the process of outlining a policy paper to form the basis for such a law.⁶³

In the specific context of Economic Land Concessions, the Sub-Decree on Economic Land Concessions sets out requirements for public consultation and participation.

4.4 The right to an effective remedy

States parties to the ICCPR and the ICESCR⁶⁴ have an obligation to ensure that effective remedy is provided to any person whose rights have been violated. When it is granted, such a remedy must be enforced by a competent authority.⁶⁵ The Human Rights Committee has stated, in General Comment No. 31, that the ICCPR,

... requires that States Parties make reparation to individuals whose Covenant rights have been violated. Without reparation to individuals whose Covenant rights have been violated, the obligation to provide an effective remedy... is not discharged... The Committee notes that, where appropriate, reparation can involve restitution, rehabilitation and measures of satisfaction, such as public apologies, public

*memorials, guarantees of non-repetition and changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations.*⁶⁵

In the specific case of the duty to prohibit and prevent forced evictions, the CESCR has identified a number of areas, including "(a) legal appeals aimed at preventing planned evictions or demolitions through the issuance of court-ordered injunctions; (b) legal procedures seeking compensation following an illegal eviction; (c) complaints against illegal actions carried out or supported by landlords (whether public or private) in relation to rent levels, dwelling maintenance, and racial or other forms of discrimination; ..." ⁶⁷ The CESCR also clarifies that the competent authorities must ensure that concerned individuals have a right to adequate compensation for any property that is affected, both personal possessions and immovable property. ⁶⁸ As the Committee has stated, States parties must "see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected."⁶⁹

The Basic Principles assert that the right to an effective remedy for forced eviction should include access to justice, compensation, restitution and return, resettlement and rehabilitation. The principles to be applied in each case are developed in some detail (see Attachment 1).

The Special Representative of the Secretary-General has pointed out failings in the system of judicial remedies in Cambodia,

*"The lack of independence and integrity of the judiciary, the prosecutorial authorities, and the legal profession pose a fundamental threat to human rights... innocent people become, at the instigation of the Government, the victims of the legal system. Thus, far from protecting human rights, the legal system becomes a principal agency of oppression."*⁷⁰

According to Article 39 of the Constitution: "Khmer citizens shall have the right to denounce, make complaints or file claims against any breach of the law by state and social organs or by members of such organs committed during the course of their duties. The settlement of complaints and claims shall be the competence of the courts."

Both the Cambodian Constitution and the Land Law have provisions for fair and just compensation in the context of confiscation or deprivation of ownership.⁷¹ Such compensation must be awarded in advance of expropriation. Article 5 of the Land Law provides that "An ownership deprivation shall be carried out in accordance with the forms and procedures provided by law and regulations and only after the payment of just and equitable compensation." The "law and regulations" providing for procedures have yet to be adopted.

4.5 Prohibition of unnecessary and excessive use of force

The provisions for the right to life and to security of person in the ICCPR,⁷² oblige the Cambodian authorities to use force only when unavoidable and absolutely necessary, and then only minimally and with utmost caution. Under international standards law enforcement officials are required to:

- "as far as possible, apply non-violent means before resorting to the use of force and firearms. Officials may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result."⁷³
- use firearms only "when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender."⁷⁴

If the use of force and firearms is unavoidable, Principle 5 of the UN Basic Principles states, among other things, that law enforcement officials must:

- (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
- (b) Minimize damage and injury, and respect and preserve human life;
- (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment."

The Human Rights of Indigenous Peoples

The rights of Indigenous Peoples to lands, territories and resources are recognised and protected in international human rights laws and standards.

The UN Declaration on the Rights of Indigenous Peoples affirms a range of human rights in respect to "the lands, territories and resources which [Indigenous Peoples] have traditionally owned, occupied or otherwise used or acquired." The Declaration states that they shall not be forcibly removed from these lands or territories,⁷⁵ nor shall any relocation take place without their free, prior and informed consent. The Declaration also specifies that relocation should only take place after agreement on just and fair compensation and, where possible,

with the option of return.⁷⁵ The Declaration provides that Indigenous Peoples have the right to participate in decision-making in matters which affect their rights, through representatives chosen by them, according to their own procedures, as well as the right to maintain and develop their own decision-making institutions.⁷⁷ States should consult and cooperate in good faith with Indigenous Peoples through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing measures.⁷⁶ The Declaration further outlines States duties to recognise and protect Indigenous Peoples' rights to lands, territories and resources, and outlines the rights to effective remedies where these rights are abused.⁷⁹

Cambodia is also a party to the International Convention on the Elimination of Racial Discrimination (ICERD).⁸⁰ The Committee on the Elimination of Racial Discrimination (CERD) has clarified that discrimination against Indigenous Peoples falls under the scope of the ICERD, and that all appropriate means must be taken to combat and eliminate such discrimination,⁸¹ including protection of the right to free prior informed consent in respect of decisions which affect the exercise of the human rights of Indigenous Peoples. As CERD has stated,

"The Committee specially calls upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, when they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories. Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair and prompt compensation. Such compensation should as far as possible take the form of lands and territories."⁸²

In domestic law, the 2001 Land Law provides wide-reaching legal protection for Indigenous Peoples' land rights. Indigenous communities are entitled to gain collective ownership over residential land, agricultural land or land kept fallow as part of a traditional rotational agricultural system, mirroring the communal way in which many Indigenous groups in Cambodia manage land.⁸³ Article 28 of the law establishes that 'No authority external to the community may require any rights related to any immovable properties belonging to an Indigenous community.'

Some of these provisions are not enforceable pending the issuance of a Sub-decree on the registration of Indigenous collective land, which has been under drafting for several years. The process is very slow and there is mounting concern that there will be little Indigenous land left to title by the time the decree has been adopted and the titling process begins.⁸⁴ Until it is adopted, articles 18 and 23 of the Land Law provide for temporary land tenure security and prevent transfer of Indigenous communities' traditional lands; it is illegal for an individual member of the community to sell Indigenous Peoples' land. Also due is legislation regulating the process through which Indigenous communities may become legal entities, a step that forms part of the collective titling process and which has also become very protracted.

The 2002 Forestry Law and the Sub-decree on Community Forestry Management (2003) provide some security in terms of management and use of forest areas by Indigenous Peoples, which are central to their livelihoods. However, there is a lack of clarity as to the inclusion of forest areas of cultural and religious utility, such as spirit forests and burial forests, in respect to land encompassed by Indigenous communities' collective titles.

4.6 Adapting the Basic Principles and Guidelines on Development-Based Evictions and Displacement to the Cambodian context

Prior to the consideration by the Human Rights Council of the Basic Principles, a network of Cambodian and international non-governmental organizations, the Office of the High Commissioner for Human Rights in Cambodia and the Phnom Penh municipality agreed to the need for a similar document of principles and outlined the "Declaration of principles for best practices in housing and pro-poor development in Cambodia: Promoting a rights-based approach to urban development". The Declaration was launched on World Habitat Day (4 October) in 2004 and submitted for approval to the Ministry of the Interior.⁸⁵ By signing the declaration, the Municipality of Phnom Penh in effect pledged to use involuntary eviction as a last resort to cease land disputes and to pay fair and just compensation. Amnesty International is not aware that the Ministry of Interior has approved these or that the principles are in any way informing policies and practice within the land and housing sectors of the Municipality of Phnom Penh or at the national level.

At the time of writing this report, a sub-decree on "involuntary resettlement in the context of development projects"⁸⁶ is being drafted, with the support of the Asian Development Bank (ADB), with protective policies generally reflecting those of the ADB. These would go some way to improving the legal protection against evictions taking place as a consequence of development projects, protection which is now virtually absent. However, there are widespread concerns among Cambodian civil society that the current draft in effect legalizes

forced evictions under certain circumstances, while handing virtual unchecked power to the executive to decide what proposed development projects should be considered of public interest. Local NGOs have also raised other issues in the draft with Amnesty International, including the absence of any complaints mechanism for affected persons until after eviction. It does not appear that the UN Special Rapporteur's Basic Principles were used as a basis for drafting the sub-decree.

5. Cases of forced eviction

5.1 Sambok Chab: "They dumped us right here"

In May and June 2006, over 1,500 poor families were forcibly evicted from Sambok Chap, an informal settlement that had been in place since the early 1990s on the Bassac river bank. During the course of the eviction, hundreds of poor people were made homeless,⁸⁷ in particular those who rented housing in the settlement.

Prior to the eviction, residents in Sambok Chap had not been informed about the details of the resettlement plan, and repeated requests from NGOs to the municipality for consultation and discussion about the eviction and relocation had been denied, as had efforts by NGOs to assess the true numbers of those who would be affected.⁸⁸ Human rights organisations monitoring the lead-up to the eviction told Amnesty International that no evidence of competing title nor any eviction order was communicated to the residents, many of whom had lived on the land for years, and they were not informed of any basis for challenging any eviction order.⁸⁹

The resettlement of Sambok Chap, also called Village 14, was to make way for a private real estate company, which was reportedly granted legal title to the land in the 1990s. Since allegedly acquiring title to the land, the company had not utilised it and had permitted the informal settlement to gradually expand. The company's land redevelopment plans were not disclosed publicly or to community representatives prior to the eviction, but the municipal governor of Phnom Penh, Kep Chuktema, indicated that the shelters of the community "pollute our city's beauty".⁹⁰ The development plans remain unknown.

Initial consultations about resettlement between the municipality, authorities and some residents were patchy and withered after a number of representatives of the community requested basic services to be in place before relocation, while others rejected the proposed site which they felt was too far from the city to ensure the sustenance of their livelihoods. There were no meaningful renewed efforts to resume consultations with representatives of all residents.

However, the company, the Municipality of Phnom Penh and some groups of house owners reached an agreement on replacement land, provided by the company, for a number of the house owners in Trapeang Krasang, some 20 kilometres from Phnom Penh. The authorities had failed to ensure basic infrastructure and services such as drinking water, sanitation and electricity on the resettlement site.

The municipality openly rejected any responsibility over the situation of the thousands of tenants, with whom there had been no consultation at all. Instead, tenants were left to their own devices for weeks. Responding to a question from ABC Radio Australia about where the tenants were to go following eviction, Phnom Penh's governor Kep Chuktema explained: "We don't know, because they rent."⁹¹

The first stage of evictions started on 3 May 2006 when police, demolition workers, local officials and house owners began dismantling houses, the latter following threats and intimidation. Some residents refused to move on account of the new replacement land lacking electricity and water. Tenants, who were to be made homeless, also resisted dismantling their homes.

A number of evictees told Amnesty International that the security forces gradually became forceful during the course of the month-long eviction; intimidation and harassment were widespread, while personal possessions were also demolished.

The homeless former tenants stayed under tarpaulins and temporary shelters on the site throughout the month-long eviction process which took place at the onset of the annual rainy season. NGOs faced barriers to providing humanitarian assistance to those affected as their living conditions deteriorated. Authorities regulated access to the area which had been fenced in and was kept under guard. On 31 May riots erupted following the alleged injuring of a child and a pregnant woman by security guards. Enraged villagers reportedly tore down the fence, set ablaze the house of the deputy village chief and destroyed the village office.⁹² Within days of the riot, police had arrested nine people.

Three of those initially arrested were charged with wrongful damage to property,⁹³ among them local newspaper journalist Hem Choun, 47, and two villagers-- Chhen Sovann, 45, and Chan Ra, 48. On 30 November 2006, they were convicted for damage to property, based on

the testimony from one witness who was not present in court, according to their defence lawyer.⁹⁵ The men were sentenced to two years imprisonment, which they are serving at Phnom Penh's Prey Sar prison.

*Srey Mom and her three children were among thousands of people who were displaced in the forced eviction on 6 June. In a pre-dawn operation, 600-700 heavily armed riot police and military police sealed off the area, removed UN human rights staff, NGOs and journalists who had been monitoring the situation, deleted memories from cameras and prevented any audio recordings. As Srey Mom told Amnesty International:

"On the day of eviction, I lost belongings, including clothes, plates and mats. The police and military police arrived in flocks. I saw them, took my children by the hand and tried to stay away. They came in and shouted 'dismantle, dismantle, and leave!' I pleaded to them not to beat me. I agreed to pull down my house. Then they dumped us right here."

The villagers put up no resistance as security forces gave them one hour to leave on trucks readied for the resettlement; no one knew where they were to be taken. Any remaining houses and the temporary shelters were demolished.

Srey Mom and her three children were resettled on a flood plane in Dangkor district, over 20 kilometers from the centre of the city, from where they had been relocated. After some time they were given a plot measuring four by six metres at Andong village, the designated resettlement site for the Village 14 tenants. She believed that the family had been promised land titles to the plot they were given after they had resided there for five years. A year after the forced eviction, Srey Mom and her children continue to live there under a leaky tarpaulin decked shed.

"[When we were moved] they said 'as soon as you arrive, the land will be measured and given to you straight away'. Now, that was not true. We have not been given any land. We are living under the rain and thunderstorms."

She not only lost her home and belongings, but also her income.

"In Phnom Penh, my son and I were scavenging recyclables", Srey Mom told Amnesty International. *"We would earn from 3,000 to 5,000 Riel each day"* [approx 0.75 to 1.25 USD].

In Andong, she faced even greater obstacles to earning a living sufficient to secure a life with dignity. *"Without rice and water, how are we to survive?"*

Pen Sary, 28, a single mother of an eight month old infant who was also affected by the forced eviction on 6 June, had been told by security forces that she would be given land at the new site and that she did not need to bring anything with her.

"The situation at that time was out of control so I just followed what they told me to do. They told me they would find job for me and give me land. They would build factories, hospitals, schools and more. But, when I arrived, everything was empty. The land was flooded, and I felt hopeless."

I had insisted on bringing a small bed, though. As we arrived, the land was muddy and flooded. Luckily, I had the bed."

A year after resettlement, much of the village stands in stale flood water. Evictees told Amnesty International that there is only one toilet in the village, but it is locked and for reasons unknown accessible to a few families only. Srey Mom's oldest son, who prior to the eviction attended grade four, has not been able to continue his education since the eviction as she did not have his birth certificate, which was a requirement to enroll in the near-by public school.

Ill-health is wide-spread, especially among children. According to Ratanak, a local medical doctor interviewed by Amnesty International, skin disease, dengue fever and malnutrition are commonplace and at least three children have died of dengue, one of malnutrition.

Similarly, the lack in Andong of clean water and health clinics appears to have had an impact on the health of the evicted persons, particularly the children, as there is reportedly an increased prevalence of diarrhea, skin infections, malnutrition and respiratory infections.

5.2 Kbal Spean: Dispute turned to deadly violence

Kbal Spean is a village near the north-western town of Poipet. The majority of the village's population worked as porters, carrying or carting goods across the nearby Cambodia-Thai border, others as subsistence farmers. On the morning of 21 March 2005, over 120 security forces -- police, military police and reportedly a third unidentified uniformed group arrived at the village. They were followed by around 50 demolition workers.⁹⁵

The forces divided into sections and encircled the village. Reports given to Amnesty International from local human rights workers detailed how police fired their guns into the air as they entered the village. As community members put up resistance and threw stones more shots were fired, whilst houses were set ablaze and bulldozed. In the commotion most villagers were not even allowed or able to salvage personal belongings.

By the end of the eviction five men had been shot dead, at least 40 were injured, including 14 seriously, and 30 people had been arrested. According to an in-depth study by the Cambodian Human Rights Action Committee, a network of local non-governmental organizations working in the field of human rights, 218 houses had been burnt down or demolished and the former population of Kbal Spean lost their homes and most of their possessions.⁹⁶

Pich Bunthoeun, 40: died at the scene having sustained injuries during the forced evictions;

Sean Sok, 44: died at the scene having sustained injuries during the forced evictions;

Kim Samban, 39: died at the scene having sustained injuries during the forced evictions;

Thaom Bunthin, 38: died at the scene having sustained injuries during the forced evictions;

Korn Koeun, 39: a disabled man, died in hospital after being shot in the abdomen and the right leg.

Around eight years earlier, in 1997, before the end of the civil war between the Khmer Rouge and government forces, district authorities asked a number of families to move to Kbal Spean, a heavily mined, forested and uninhabited area. At that time the area was unsafe due to the proximity to Khmer Rouge held territory and the frontline, and because of the prevalence of landmines.

The villagers, some returnees from refugee camps in nearby Thailand and others demobilised soldiers, cleared the land of mines themselves, at times triggering explosions which caused both death and injury. Subsequently, local authorities arranged distribution of land and issued a range of documents to the community, including specific housing numbers on their land plots.

With the opening of an official border crossing to Thailand in 1998, as the war was coming to an end, Poipet transformed into a bustling border town. A casino boom ensued, and in the area immediately adjacent to Kbal Spean village casinos, golf courses and hotels catering for visitors from Thailand have mushroomed, inflating land prices.

In 1998, a man previously unknown to the villagers reportedly took over as the formal village chief. Within a year he lodged a complaint, based on an allegedly invalid title, to the Banteay Meanchey Provincial Court claiming he owned over 51,000 square metres of land where the village was located and that the villagers were "illegal squatters". On 18 November 1999 the Court decided in favour of the "village chief" after a hearing in which the Court failed to hear any witnesses on behalf of the community, or to allow legal representation for the villagers.⁹⁷ In effect the Court granted him the land title. Despite complaints of the numerous irregularities at the Provincial court level, the decision was upheld by the Appeals Court in February 2001.⁹⁸

Although no consultations about resettlement had taken place with the villagers, three attempted evictions reportedly took place between the Appeals Court decision and the eventual forced eviction in March 2005.⁹⁹ The Kbal Spean community maintain that they had been given no formal notice that they were to be evicted.

After eviction, the families set up temporary shelter near their ruined village, rejecting an offer by local authorities to relocate to an area several kilometres from the village. The location, they argued, was too far from the border crossing: they would lose their livelihoods. Despite the risk of another eviction, the evictees moved back to the village after about one month, rebuilding their demolished homes.¹⁰⁰

Following the deadly violence the Deputy Governor of Banteay Meanchey province, An Sum, said that "We are conducting more investigations to find out what exactly happened"¹⁰¹ and within days the authorities set up an inter-ministerial commission of inquiry to investigate the violent course of events. The commission identified the officers in charge of the eviction, and established the number of security forces present as 124. Subsequently two district police were temporarily detained.¹⁰²

Honorary President of the ruling Cambodian People's Party Heng Samrin also pledged clarity. He told reporters in Phnom Penh:

"As one of the leaders of the National Assembly, as well as the Cambodian People's Party, I would like to ask the government to control the situation and bring all the perpetrators to the court for prosecution."¹⁰³

Simultaneously, the Ministry of Justice transferred the criminal complaints lodged against the security forces from Banteay Meanchey Provincial Court where it had been lodged to

neighbouring Battambang. According to a human rights lawyer who followed the case, this happened due to the involvement of Banteay Meanchey court staff in the land dispute and eviction. After an investigation as many as 66 members of the security forces and 52 villagers, including four of the dead, were charged with offences ranging from murder to battery with injury. Five of the security forces were remanded in custody.¹⁰⁴

By August the court dropped charges against the suspects.¹⁰⁵ Investigating judge Nil Nonn told the press that there was not enough evidence to prosecute. The reports of the commission of inquiry were never forwarded to the Battambang Court, and the families appealed against the decision.¹⁰⁶ A human rights worker in Battambang told Amnesty International that the human rights workers and villagers alike were upset by the decision. "If [the Court] had wanted, they would have been able to find those who fired the shots." The case is pending at the Court of Appeal.

By mid-May 2006 the provincial authorities, reportedly acting on the instructions of Prime Minister Hun Sen, mediated an out-of-court settlement between the evicted families and the village chief. The families were granted ownership of four out of five hectares of the land, retaining 8 x 20 meter plots of the 10 x 20 meters that they originally had had. No further problems have been reported since.

Following the forced eviction and killings, gifts were given to the families of the dead: Chuong Prasoeuth, acting chief of cabinet in Banteay Meanchey, told the Phnom Penh Post that the provincial authorities provided 100 kilos of rice and 300,000 Cambodian riels (approx 75 USD) to each of the five families. Furthermore, district and commune officials handed over 200,000 riels (50 USD) to the families.¹⁰⁷ However, no effective remedy has been provided to the victims and families following the killings and injuries, nor have villagers received compensation for property lost in the fire or demolition during the forced eviction. So far no one has been held responsible for the excessive use of force, including the killings of five men.

5.3 Mittapheap 4: Making poor people homeless

"I lost my house, rice and belongings like clothes and utensils. All houses were burned down and destroyed by the excavator and the bulldozer. They kept good-condition corrugated steel and planks of woods for themselves. They even took water jars and looted our chickens and ducks. They never came to evict us like this before."

On 20 April 2007, Sopheap, 43, and her family of six, were among over 100 families who were forcibly evicted from Mittapheap 4 village,¹⁰⁸ on the outskirts of the coastal town of Sihanoukville. They were all made homeless.

In the mid-1980s, 17 families moved into the area; they have remained on the land, including parcels of farming land, till this day. As their extended families have moved to the area and as their children have established their own families, the land has been subdivided to smaller plots.

The forced eviction followed a land dispute which emerged in 2006 when an individual, reportedly the wife of a high-ranking official, filed a complaint with the Mittapheap 4 commune chief, and sent letters to the Ministry of Interior, the National Assembly and the Senate, claiming the villagers were "illegal squatters" living on her property. The complainant has reportedly never presented any title deed or other documentation such as transfer contracts supporting the complaint.

Yet the complaint led the district authorities, on 26 October 2006 to issue an eviction notice without due judicial review and for the law enforcement agencies and the military to implement. The villagers were provided with no opportunity to challenge the decision. The eviction notice claimed that the village enveloped state public land, state private land, and private land¹⁰⁹ belonging to the complainant. With no element of consultation, local authorities offered the original 17 families who had settled in the area in the 1980s US\$ 500 each or resettlement to an area too far from the sea for them to continue making a living from fishing. The villagers turned down both offers.

Two weeks later 53 families lodged a complaint with the Senate Committee on Human Rights, stating they had been threatened with forced eviction from land that was rightfully theirs. In an unusual step, the Committee informed the Sihanoukville Governor about the complaint and that it was launching an investigation. The investigation concluded that the case was a civil matter that should be settled by the courts.

On 19 January 2007, the community received a second eviction notice, this time signed by the Municipal Governor Say Hak, who gave the villagers only one week notice to vacate their homes. As with the earlier eviction notice, it was issued without a court decision.¹¹⁰

Early morning on the day of the eviction, a number of police armed with AK47s and in riot

gear arrived at the village, ordering villagers to vacate their homes. Some women attempted to negotiate to delay the eviction, but police refused. Clashes broke out; police fired live ammunition into the air and ground, villagers threw stones and bottles and defended themselves with a barbed wire barrier. Police retreated, then returned with a contingent of roughly around 150 security forces, including soldiers and military police.

Villagers and human rights monitors reported that the forces were accompanied by an excavator and two water trucks filled with a mixture of water and gasoline. Security forces again shot into the air and onto the ground, while also beating people with electric batons. Eighteen villagers, 13 men and five women, were injured, many of them knocked unconscious. Two police officers were also injured.

Security forces continued the demolition in the village and also reportedly removed valuables from the villagers, including 16 motorbikes. They then proceeded to burn down up to 80 homes, including clothes and whatever belongings had not been taken by the government forces. A further 26 houses were demolished.

Following the violence, the 13 injured men were arrested, beaten and taken to prison, where they were reportedly interrogated. The detainees were charged with "battery with injury" (Article 41 of the so-called UNTAC Law, which remains in force¹¹¹) and "wrongful damage to property" (Article 52).

The men were represented by lawyers from Licadho, a leading Cambodian human rights NGO. They were tried on 3-4 July 2007 in the Sihanoukville Municipal Court for their role in the violence that took place during the eviction, which had destroyed their houses and most of their belongings.¹¹²

The legality of the eviction and the way it was carried out was in no way examined during the hearing and there was no attempt to establish responsibility for the violence and destruction.

Nine villagers were found guilty, despite the fact that prosecution failed to produce evidence linking the individuals to the crimes they were accused of. No witnesses could identify any defendant with alleged injuries or damage to property.

Three were convicted for "battery with injury" and "wrongful damage to property." Four were found guilty of complicity, for having "gathered stones" to assist those who threw stones at the intervention force or for attempting to destroy public property by throwing stones at a fire truck. The attempt had failed: no damage was caused, the court concluded, according to the judgment.

Two men were sentenced, one in absentia, to eight months, four of which were to be suspended. Seven others were sentenced to 75 days each, completed on 4 July 2007.

Five men were acquitted, including one minor who according to trial monitors claimed in court that he had been forced to confess to involvement.

The prosecutor appealed against the nine sentences, which he perceived as too light,¹¹³ so those convicted have not been released, even though they have now served their term, pending the hearing at the Court of Appeal, which has not been scheduled but may take up to several years. This clearly constitutes arbitrary detention. Amnesty International calls for their immediate release.

As a result of the eviction, the families, mostly small-scale fishermen and beach vendors, lost most personal possessions, including their fishing nets and other equipment, as well as the shelter of a home. At the time of writing this report over 90 of the families have established basic shelters in very cramped conditions on the side of a road near their former village; they lack basic shelter, food, drinking water and basic sanitation as well as the means of earning a living. Many of the children are unwell with cold, fever or diarrhea.

"They burnt my house. Now I am staying under a tarpaulin on the roadside. An NGO gave us these tarpaulin sheets."

The villagers have not received support from the government, but have benefited from some humanitarian assistance from a network of NGOs, including human rights NGO Licadho, which has helped the injured, sick and traumatised, including many malnourished children, while also providing legal aid.

As one villager told Amnesty International:

"My son was arrested and beaten up while he was collecting belongings from the house. I saw them walking away with him, beating him. Then he was tied up and put on the truck."

"Before, he went fishing and farming. Now who can I rely on? Since he was arrested, I have not managed to earn anything. My house was completely burnt down."

6. Protection for Human rights defenders

"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."

Article 1 of the Declaration on human rights defenders¹¹⁴, adopted by the UN General Assembly in 1998.

In the context of forced evictions, land and natural resources, human rights defenders have come under increasing pressure from authorities, and their adversaries have increasingly come to use courts as a means to stop their activities and silence their voices.

Journalists covering topics such as land grabbing and illegal logging which deprives forest communities of their livelihood have received death threats. NGO staff, including lawyers, have been threatened with legal action involving criminal charges for their work with local communities entangled in land disputes and facing eviction. Charges have been brought against numerous local activists seeking to protect what they perceive is their land. Indigenous leaders have been barred by provincial authorities from leaving their province to take part in meetings and seminars on the topic of Indigenous Peoples' rights.

Numerous human rights defenders seeking to protect land, the environment or forests told Amnesty International of fear of attack, arrest and coercion.

6.1 Arrests and attacks

"We are all feeling very uneasy to talk. Once before when people came and interviewed us [about the situation] we told them everything. A few days later we were summoned to Court", Ravy, a 49 year-old soup-kitchen proprietor and informal representative of a village in Siem Reap, told Amnesty International.

She was taken directly from the Siem Reap courthouse to prison, where she remained detained, accused of "incitement to commit a crime". After 12 days Ravy was released following Prime Minister Hun Sen call in March 2005 to release all detainees held in relation to land disputes.

She had been protesting against the authorities' bulldozing a fence in her village, the legal status of which is an ongoing dispute between villagers and the Apsara Authority, the government body mandated to manage the Angkor temples and surrounding areas.

Following two separate armed attacks and attempted murder of two community forest activists in 2005, another activist told Amnesty International:

"We don't dare to act resolutely any longer. It is difficult since no perpetrator has been found. If we are seen to go against someone strongly, we don't know what could happen."

After the attacks the two men went underground and relocated to another province in July 2005. Several people witnessed one of the attacks, both of which were reported to authorities by human rights organizations. A high-ranking official with close insight into the case but who wished to remain anonymous told Amnesty International that *"everyone knew who fired the shots"*, but although National Chief of Police Hok Lundy reportedly had ordered the provincial police chief to investigate, so far there has been no police investigation. In July 2007, one of the two men survived a grenade attack on his new home. The same month community activist Seng Sarorn, a long-time associate to human rights organization ADHOC, was shot dead in Stung Treng province reportedly after having actively encouraged people in his community to protest about alienation of natural resources and land-grabbing.¹¹⁵

6.2 Coercion of Indigenous Peoples

Representatives of Indigenous Phnong People¹¹⁶ affected by a pine tree concession in the eastern province of Mondulkiri, have also come up against obstacles when seeking to protect their land. The authorities had carried out no consultations with the Phnong prior to the conclusion of the concession agreement between the government and the company in August 2004. Instead, once the agreement had been reached, local community leaders told Amnesty International that they had been intimidated by provincial authorities into thumb-printing and sealing their approval on a map, which constituted an agreement. One of them told Amnesty International how he was intercepted by the authorities as he travelled by moped on an isolated road and coerced to thumbprint the map; another reportedly had to sign it at the house of a high-ranking official in the provincial capital, in the presence of military police and representatives of the company.¹¹⁷

By 2005, the emerging pine tree plantation had already had a significant impact on the lands, territories and resources of the Phnong. It had enveloped and partly destroyed farmlands, forests and crops, grazing land, ancestral forests and traditional burial sites around the villages.¹¹⁸ In addition this encroachment impacted on the culture of the Phnong,

whose beliefs, religious practices and traditional environment are intimately associated. The forest in particular is central to the spiritual life of the Phnong who worship sacred areas of spirit forest.¹¹⁹

In July 2005, the UN Special Representative of the Secretary General for Human Rights in Cambodia called on the government to cancel the concession:¹²⁰

"The Government and the company have disregarded the wellbeing, culture and livelihoods of the Phnong Indigenous people who make up more than half the population of the province, and many breaches of the law and of human rights have been committed."

Like other highland populations, the Phnong are disadvantaged by the lack of representation within the national power structures and because of the language barrier. The Phnong language is an oral one without a script, and most Phnong speak limited or no Khmer.

"We are worried about expressing our concerns. We are minority people, and we don't seem to get our words across", community representative Blong explained to Amnesty International.¹²¹

6.3 Threats and Intimidation

The release in June 2007 of a report from Global Witness,¹²² a UK based NGO campaigning against exploitation of natural resources, further highlighted the precarious climate in which human rights defenders find themselves. The report was banned in Cambodia and senior public figures, including Hun Neng, brother of the Prime Minister and a provincial governor, publicly threatened to "hit [Global Witness staff] until their heads are broken," according to a media report.¹²³

"The threat against our staff is entirely unacceptable," Global Witness Director, Simon Taylor said in a press statement.¹²⁴ *"Such crude intimidation by a senior public official says little for the government's commitment to upholding human rights and freedom of expression."*

Journalists covering the story received threats and were harassed, some lost their jobs. Other individuals, perceived by the authorities as being part of the production of the report, were subject to harassment and intimidation, ranging from surveillance to death threats.

All those who are peacefully struggling for the realization of the fundamental rights proclaimed in the Universal Declaration of Human Rights are human rights defenders. Some work in human rights organizations, student and youth groups, religious groups, trade unions, women's or development associations; others are lawyers, journalists, teachers, farmers or unemployed.

The majority of human rights defenders work at the local or national level, supporting respect for human rights within their own communities and countries. In such situations, their main counterparts are local authorities charged with ensuring respect for human rights within a province or the country as a whole.

Human Rights Defenders: Protecting the Right to Defend Human Rights, Fact Sheet No. 29, Office of the High Commissioner for Human Rights, April 2004, p. 3.

ADHOC, another local human rights group, reported that during 2005, 53 poor persons involved in land disputes were arrested and detained,¹²⁵ and 78 in 2006.¹²⁶ The number in 2007 was at least 121.¹²⁷ In the majority of cases, people had been charged with criminal offences, the arrests preventing them from acting to defend the land under dispute, or protest against perceived violations of their rights.¹²⁸

Amnesty International is increasingly concerned over the integrity of courts and the narrowing space in which individuals and groups can act in defense of human rights, including in the particular context of forced evictions.

7. Conclusions

The management of Cambodia's land and natural resources is often described as being in a state of crisis. After a visit to Cambodia in 2005, the UN Special Rapporteur on Adequate Housing as a component of the right to an adequate standard of living, Miloon Kothari, described what he encountered as *"a frenzy [...] across the country by the rich and powerful in Cambodia to acquire land."*¹²⁹ Forced evictions are an intrinsic part of this crisis.

The Cambodian authorities are not only failing to protect - in law and practice - its population against forced evictions, but are also actively involved in such acts, which contravene international law. Participation and consultation have been lacking; information on evictions and resettlement has been incomplete and, clearly, forced evictions have not been seen as a last resort. Instead, and in breach of international human rights law and standards, the authorities have opted for eviction long before all other alternatives have been explored.

The lack of transparency and outright secrecy surrounding the cases also deprive affected

communities of the possibilities to seek legal redress and to realize their own human rights, including the right to an adequate standard of living.

As at least 150,000 Cambodians across the country are known to live at risk of being evicted in the wake of development projects, land disputes and land grabbing, there is an urgent need to complete the legal framework to protect the population from forced evictions and further to protect the right to adequate housing and land rights of Indigenous Peoples. **Amendments to the law should include: a clear prohibition of forced evictions; steps to recognise and protect the rights to lands, territories and resources of Indigenous Peoples; a review to ensure that any limitations to housing and land rights are consistent with international human rights law, including that they are necessary, pursue a legitimate aim and are proportionate to achieving that aim.**

Legislative change alone will, however, not be enough. Although both the legal framework and the policies have serious shortcomings in terms of compliance with the international human rights treaties by which Cambodia is bound, it is clear that the forced evictions seen across the country do not emanate from these shortcomings alone. Forced evictions take place in the vacuum created by a systematic lack of enforcement of the legal framework and the failure to act on the words in policy documents.

It is evident from the cases presented in this report that there were no "exceptional circumstances" to justify the evictions. Nor had "all feasible alternatives" been explored or the procedural protections been followed, including requirements for information, consultation and participation for those affected and for provisions of adequate alternative housing or land. Without access to information and cut off from participatory consultation they were also deprived of any conceivable opportunities to make long-term choices about strategies for the future. In all three cases, people were made homeless and two cases also highlighted the trend of forcibly evicting people before a final settlement of land disputes have been reached by courts. **This shows the clear need to develop national eviction guidelines, which should be based on the Basic Principles appended to this report and should be consistent with international human rights law.**

Land titles may offer some security of tenure. However, given the selective and arbitrary law enforcement they do not provide guarantees against loss of ownership and/or forced eviction. As seen, the prevalent element of collusion between influential or well-connected claimants to land and local authorities opens the door for dubious land titles, unlawful authorisations leading to land title transfers, the issuing of eviction orders at whim, lack of procedural protections for victims and the apparent use by authorities of the court system to prevent victims from acting to defend their rights. **Concrete and effective measures are needed to ensure to the entire population a degree of security of tenure sufficient, at least, to protect them from forced evictions, and other threats or harassment.**

The opaque system by which economic land concessions are granted follows the same pattern: Negotiations between companies and authorities are not disclosed; agreements and detailed information on the companies -- including ownership -- are kept away from public scrutiny; public consultations and environmental and social impact assessments are non-existent. **There is also a need for clearer legal and policy standards on freedom of information, consultation and participation, in line with the requirements of international human rights law.**

The problem of selective and arbitrary law enforcement, a systemic bias of the judiciary in favour of those with connections to the powerful, endemic corruption and impunity are key elements blocking rule of law and accountability, which in turn deprives ordinary Cambodians of their human rights.

Equality before the courts is a key human right¹³⁰ and the court system is a crucial element in ensuring redress to human rights violations. For the poor and marginalized Cambodians, including Indigenous Peoples, who do not have powerful contacts, this is far from reality.

The patterns of patronage networks and lack of accountability hold sway and set the conditions within which laws are arbitrarily applied, if at all, and human rights are left unprotected. So long as the political will to break these patterns is weak or indeed missing, the powerful will be able to arbitrarily expropriate, with impunity, land and resources from the poor and marginalized whose support systems do not provide strong enough leverage. By complying with its human rights obligations and ensuring an end to forced evictions, the Cambodian government would show such political will and extend protection of human rights of the population.

8. Recommendations

To the Cambodian authorities:

Immediately stop and prevent forced evictions:

- Immediately cease all forced evictions.

- Legislate and enforce a clear prohibition on forced evictions.
- Develop and adopt guidelines for evictions which should be based on the Basic Principles and Guidelines on Development-Based Evictions and Displacement and must comply with international human rights law.
- Until such steps have been taken, introduce a moratorium on mass evictions.

Ensure the right to an effective remedy for all those who have been victims of forced evictions and other human rights violations:

- Ensure that all victims of forced evictions have access to, at the very least, minimum essential levels of shelter, clean water, sanitation, health services and education, including through the provision of humanitarian assistance where necessary.
- Respect the rights of all victims of forced evictions to an effective remedy, including access to justice and the right to reparations, including restitution, rehabilitation, compensation, satisfaction and guarantees of non-repetition;
- Set up an independent commission of inquiry into the manner in which the evictions described in this report, and others, have been carried out and to make recommendations for effective remedies for victims of forced evictions and for the prevention of further forced evictions.
- The inquiry should include an investigation into the role of the police and other law enforcement agencies in assisting evictions, including the proportionality, legality and necessity of use of force and firearms, as well as illegal arrests and intimidation of residents and human rights defenders during the evictions, with a view to bringing to justice those responsible for human rights violations. The report of such a commission of inquiry must be made public.

Adopt effective measures to protect housing and land rights and other human rights associated with evictions:

- Develop and adopt concrete and effective measures to ensure to the entire population a degree of security of tenure sufficient, at least, to protect them from forced evictions, and other threats or harassment.
- Develop and adopt effective legal and policy standards on freedom of information, consultation and participation, in line with the requirements of international human rights law in order to respect, protect and fulfil the rights to participation of the population in all decisions related to evictions and relocation.
- Amend existing law so as to reflect the right to adequate housing and the right not to be forcibly evicted, including
 - ensuring the so-called Sub-decree on Involuntary Resettlement in the Context of Development Projects complies with international law and standards;
 - ensuring that the sub-decrees to make enforceable provisions of the Land Law as regards collective ownership of land for Indigenous communities is adopted so that Indigenous Peoples' rights to adequate housing are guaranteed.
- Ensure that law enforcement officers involved in evictions comply with the UN Code of Conduct and the UN Basic Principles.
- Ensure that the rights of human rights defenders, including local activists, to voice their grievances and exercise their rights to freedom of association, expression and movement are respected. Ensure that the dispute resolution mechanisms, including the courts and the Cadastral Commission strictly respect the rule of law and due process, and are guided by the results of impartial investigations into ownership disputes.
- Ensure that corporations and other business enterprises operational in Cambodia are made aware of their obligations to respect the human right to adequate housing, including the prohibition on forced evictions within their respective spheres of activity and influence.
- Submit as a matter of urgency Cambodia's initial report to the CESCR on its compliance with the ICESCR, overdue since 30 June 1994.
- Consider in earnest the recommendations by the Special Rapporteur on Adequate Housing and the UN Special Representative of the Secretary-General for Human Rights in Cambodia.

Respect and protect the right of human rights defenders, including those working on economic, social and cultural rights, to conduct their work without hindrance, intimidation or harassment, in line with the UN Declaration on Human Rights Defenders.

Uphold the rights of Indigenous Peoples under national and international laws and standards, including the UN Declaration on the Rights of Indigenous Peoples, including through:

- In collaboration with Indigenous Peoples, ensure that all laws and policies are consistent with and fully uphold Indigenous Peoples' right to participate in decisions

affecting their rights and to say no to activities impacting on their human rights in respect to lands, territories and resources unless they have granted their free, prior and informed consent.

- In collaboration with Indigenous Peoples, finalise the sub-decree on the registration of Indigenous land rights so that existing protections under the Land Law can be effectively implemented.
- In the meantime, ensure that interim protections for Indigenous land tenure under the Land Law are fully implemented.
- Ensure that Indigenous Peoples have access to fair and effective mechanisms for the resolution of land disputes and the provision of redress, including wherever possible return of land taken from them, with free, prior and informed consent.
- Provide training and other resources necessary for Indigenous Peoples to access their rights in respect to lands and resources vital to their well-being and cultural identities.
- Ensure that complaints of harassment or destruction of property carried out against Indigenous Peoples are fully investigated and those responsible brought to justice.

To Cambodia's international donors:

- Urge the government of Cambodia to adopt the measures recommended in this report, including calling for an end to forced evictions, in order to address the practice of forced evictions as a serious and unlawful obstruction to poverty reduction, in particular in reducing the vulnerability of poor rural people whose livelihoods are dependent on natural resources.
- Ensure that international assistance does not support human rights violations including forced evictions.
- Support the development of national eviction guidelines, based on the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement. Such guidelines must be consistent with international human rights law.
- Offer international assistance and cooperation, including financial and technical, where necessary, to support Cambodia as it seeks to comply with its human rights obligation to prohibit and prevent forced evictions and to ensure a sufficient degree of security of tenure to the whole population.
- Consider complementing efforts aiming at improving land management and security of tenure with initiatives that aim to end forced evictions and protect the right to adequate housing of the population of Cambodia.
- Where the government of Cambodia is either unwilling or unable to do so, consider adequately supporting efforts of civil society to provide humanitarian assistance to victims of forced eviction and address the needs of communities at risk of eviction, including awareness-raising of their right to an adequate standard of living and the right to protection against forced eviction.

Attachment 1

TEXT OF BASIC PRINCIPLES AND GUIDELINES ON DEVELOPMENT-BASED EVICTIONS AND DISPLACEMENT

BASIC PRINCIPLES AND GUIDELINES ON DEVELOPMENT-BASED EVICTIONS AND DISPLACEMENT

**Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living
A/HRC/4/18**

CONTENTS

Paragraphs

I. SCOPE AND NATURE 1 - 10

II. GENERAL OBLIGATIONS 11 - 36

 A. Duty bearers and nature of obligations 11 - 12

 B. Basic human rights principles 13 - 20

 C. Implementation of State obligations 21 - 27

 D. Preventive strategies, policies and programmes 28 - 36

III. PRIOR TO EVICTIONS 37 - 44

IV. DURING EVICTIONS 45 - 51

V. AFTER AN EVICTION: IMMEDIATE RELIEF AND RELOCATION
..... 52 - 58

VI. REMEDIES FOR FORCED EVICTIONS 59 - 68

 A. Compensation 60 - 63

 B. Restitution and return 64 - 67

C. Resettlement and rehabilitation 68

VII. MONITORING, EVALUATION AND FOLLOW-UP 69 - 70

VIII. ROLE OF THE INTERNATIONAL COMMUNITY, INCLUDING INTERNATIONAL ORGANIZATIONS 71 - 73

IX. INTERPRETATION 74

I. SCOPE AND NATURE

1. The obligation of States to refrain from, and protect against, forced evictions from home(s) and land arises from several international legal instruments that protect the human right to adequate housing and other related human rights. These include the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (art. 11, para. 1), the Convention on the Rights of the Child (art. 27, para. 3), the non-discrimination provisions found in article 14, paragraph 2 (h), of the Convention on the Elimination of All Forms of Discrimination against Women, and article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination.
2. In addition, and consistent with the indivisibility of a human rights approach, article 17 of the International Covenant on Civil and Political Rights states that "[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence", and further that "[e]veryone has the right to the protection of the law against such interference or attacks". Article 16, paragraph 1, of the Convention on the Rights of the Child contains a similar provision. Other references in international law include article 21 of the 1951 Convention relating to the Status of Refugees; article 16 of International Labour Organization (ILO) Convention No. 169 concerning indigenous and tribal peoples in independent countries (1989); and article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (Fourth Geneva Convention).
3. The present guidelines address the human rights implications of development-linked evictions and related displacement in urban and/or rural areas. These guidelines represent a further development of the Comprehensive human rights guidelines on development-based displacement (E/CN.4/Sub.2/1997/7, annex). They are based on international human rights law, and are consistent with general comment No. 4 (1991) and general comment No. 7 (1997) of the Committee on Economic, Social and Cultural Rights, the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2), the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the General Assembly in its resolution 60/147, and the Principles on housing and property restitution for refugees and displaced persons (see E/CN.4/Sub.2/2005/17 and Add.1).
4. Having due regard for all relevant definitions of the practice of "forced evictions" in the context of international human rights standards, the present guidelines apply to acts and/or omissions involving the coerced or involuntary displacement of individuals, groups and communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating or limiting the ability of an individual, group or community to reside or work in a particular dwelling, residence or location, without the provision of, and access to, appropriate forms of legal or other protection.^a *[FN a The prohibition of forced evictions does not apply to evictions carried out both in accordance with the law and in conformity with the provisions of international human rights treaties.]*
5. Forced evictions constitute a distinct phenomenon under international law, and are often linked to the absence of legally secure tenure, which constitutes an essential element of the right to adequate housing. Forced evictions share many consequences similar to those resulting from arbitrary displacement,^b *[FN b Consistent with Principle 6 of the Guiding Principles on Internal Displacement.]* including population transfer, mass expulsions, mass exodus, ethnic cleansing and other practices involving the coerced and involuntary displacement of people from their homes, lands and communities.
6. Forced evictions constitute gross violations of a range of internationally recognized human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman and degrading treatment, and freedom of movement. Evictions must be carried out lawfully, only in exceptional circumstances, and in full accordance with relevant provisions of international human rights and humanitarian law.
7. Forced evictions intensify inequality, social conflict, segregation and "ghettoization", and invariably affect the poorest, most socially and economically vulnerable and marginalized sectors of society, especially women, children, minorities and indigenous peoples.
8. In the context of the present guidelines, development-based evictions include evictions often planned or conducted under the pretext of serving the "public good", such as those linked to development and infrastructure projects (including large dams, large-scale

industrial or energy projects, or mining and other extractive industries); land-acquisition measures associated with urban renewal, slum upgrades, housing renovation, city beautification, or other land-use programmes (including for agricultural purposes); property, real estate and land disputes; unbridled land speculation; major international business or sporting events; and, ostensibly, environmental purposes. Such activities also include those supported by international development assistance.

9. Displacement resulting from environmental destruction or degradation, evictions or evacuations resulting from public disturbances, natural or human-induced disasters, tension or unrest, internal, international or mixed conflict (having domestic and international dimensions) and public emergencies, domestic violence, and certain cultural and traditional practices often take place without regard for existing human rights and humanitarian standards, including the right to adequate housing. Such situations may, however, involve an additional set of considerations that the present guidelines do not explicitly address, though they can also provide useful guidance in those contexts. Attention is drawn to the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, the Guiding Principles on Internal Displacement, and the Principles on housing and property restitution for refugees and displaced persons.

10. While recognizing the wide range of contexts in which forced evictions take place, the present guidelines focus on providing guidance to States on measures and procedures to be adopted in order to ensure that development-based evictions are not undertaken in contravention of existing international human rights standards and do not thus constitute "forced evictions". These guidelines aim at providing a practical tool to assist States and agencies in developing policies, legislation, procedures and preventive measures to ensure that forced evictions do not take place, and to provide effective remedies to those whose human rights have been violated, should prevention fail.

II. GENERAL OBLIGATIONS

A. Duty bearers and nature of obligations

11. While a variety of distinct actors may carry out, sanction, demand, propose, initiate, condone or acquiesce to forced evictions, States bear the principal obligation for applying human rights and humanitarian norms, in order to ensure respect for the rights enshrined in binding treaties and general principles of international public law, as reflected in the present guidelines. This does not, however, absolve other parties, including project managers and personnel, international financial and other institutions or organizations, transnational and other corporations, and individual parties, including private landlords and landowners, of all responsibility.

12. Under international law, the obligations of States include the respect, protection and fulfilment of all human rights and fundamental freedoms. This means that States shall: refrain from violating human rights domestically and extraterritorially; ensure that other parties within the State's jurisdiction and effective control do not violate the human rights of others; and take preventive and remedial steps to uphold human rights and provide assistance to those whose rights have been violated. These obligations are continuous and simultaneous, and are not suggestive of a hierarchy of measures.

B. Basic human rights principles

13. According to international human rights law, everyone has the right to adequate housing as a component of the right to an adequate standard of living. The right to adequate housing includes, inter alia, the right to protection against arbitrary or unlawful interference with privacy, family, home, and to legal security of tenure.

14. According to international law, States must ensure that protection against forced evictions, and the human right to adequate housing and secure tenure, are guaranteed without discrimination of any kind on the basis of race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth or other status.

15. States must ensure the equal right of women and men to protection from forced evictions and the equal enjoyment of the human right to adequate housing and security of tenure, as reflected in the present guidelines.

16. All persons, groups and communities have the right to resettlement, which includes the right to alternative land of better or equal quality and housing that must satisfy the following criteria for adequacy: accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education. *c [Fn c See general comment No. 4 on the right to adequate housing, adopted by the Committee on Economic, Social and Cultural Rights in 1991.]*

17. States must ensure that adequate and effective legal or other appropriate remedies are available to any person claiming that his/her right to protection against forced evictions has been violated or is under threat of violation.

18. States must refrain from introducing any deliberately retrogressive measures with respect to de jure or de facto protection against forced evictions.

19. States must recognize that the prohibition of forced evictions includes arbitrary displacement that results in altering the ethnic, religious or racial composition of the affected population.

20. States must formulate and conduct their international policies and activities in compliance with their human rights obligations, including through both the pursuit and provision of international development assistance.

C. Implementation of State obligations

21. States shall ensure that evictions only occur in exceptional circumstances. Evictions require full justification given their adverse impact on a wide range of internationally recognized human rights. Any eviction must be (a) authorized by law; (b) carried out in accordance with international human rights law; (c) undertaken solely for the purpose of promoting the general welfare; **d** [FN d In the present guidelines, the promotion of the general welfare refers to steps taken by States consistent with their international human rights obligations, in particular the need to ensure the human rights of the most vulnerable.] (d) reasonable and proportional; (e) regulated so as to ensure full and fair compensation and rehabilitation; and (f) carried out in accordance with the present guidelines. The protection provided by these procedural requirements applies to all vulnerable persons and affected groups, irrespective of whether they hold title to home and property under domestic law.

22. States must adopt legislative and policy measures prohibiting the execution of evictions that are not in conformity with their international human rights obligations. States should refrain, to the maximum extent possible, from claiming or confiscating housing or land, and in particular when such action does not contribute to the enjoyment of human rights. For instance, an eviction may be considered justified if measures of land reform or redistribution, especially for the benefit of vulnerable or deprived persons, groups or communities are involved. States should apply appropriate civil or criminal penalties against any public or private person or entity within its jurisdiction that carries out evictions in a manner not fully consistent with applicable law and international human rights standards. States must ensure that adequate and effective legal or other appropriate remedies are available to all those who undergo, remain vulnerable to, or defend against forced evictions.

23. States shall take steps, to the maximum of their available resources, to ensure the equal enjoyment of the right to adequate housing by all. The obligation of States to adopt appropriate legislative and policy measures to ensure the protection of individuals, groups and communities from evictions that are not in conformity with existing international human rights standards is immediate. **e** [FN e See general comment No. 3 on the nature of States parties' obligations, adopted in 1990 by the Committee on Economic, Social and Cultural Rights.]

24. In order to ensure that no form of discrimination, statutory or otherwise, adversely affects the enjoyment of the human right to adequate housing, States should carry out comprehensive reviews of relevant national legislation and policy with a view to ensuring their conformity with international human rights provisions. Such comprehensive review should also ensure that existing legislation, regulation and policy address the privatization of public services, inheritance and cultural practices, so as not to lead to, or facilitate forced evictions. **f** [FN f See the guidelines on housing and discrimination contained in the 2002 report of the Commission on Human Rights Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (E/CN.4/2002/59).]

25. In order to secure a maximum degree of effective legal protection against the practice of forced evictions for all persons under their jurisdiction, States should take immediate measures aimed at conferring legal security of tenure upon those persons, households and communities currently lacking such protection, including all those who do not have formal titles to home and land.

26. States must ensure the equal enjoyment of the right to adequate housing by women and men. This requires States to adopt and implement special measures to protect women from forced evictions. Such measures should ensure that titles to housing and land are conferred on all women.

27. States should ensure that binding human rights standards are integrated in their international relations, including through trade and investment, development assistance and participation in multilateral forums and organizations. States should implement their human rights obligations with regard to international cooperation, **g** [FN g As set forth in article 22, Universal Declaration of Human Rights; Articles 55 and 56 of the Charter of the United Nations; articles 2, paragraph 1, 11, 15, 22 and 23, International Covenant on Economic, Social and Cultural Rights; articles 23, paragraph 4, and 28, paragraph 3, Convention on the Rights of the Child.] whether as donors or as beneficiaries. States should ensure that

international organizations in which they are represented refrain from sponsoring or implementing any project, programme or policy that may involve forced evictions, that is, evictions not in full conformity with international law, and as specified in the present guidelines.

D. Preventive strategies, policies and programmes

28. States should adopt, to the maximum of their available resources, appropriate strategies, policies and programmes to ensure effective protection of individuals, groups and communities against forced eviction and its consequences.

29. States should carry out comprehensive reviews of relevant strategies, policies and programmes, with a view to ensuring their compatibility with international human rights norms. In this regard, such reviews must strive to remove provisions that contribute to sustaining or exacerbating existing inequalities that adversely affect women and marginalized and vulnerable groups. Governments must take special measures to ensure that policies and programmes are not formulated or implemented in a discriminatory manner, and do not further marginalize those living in poverty, whether in urban or rural areas.

30. States should take specific preventive measures to avoid and/or eliminate underlying causes of forced evictions, such as speculation in land and real estate. States should review the operation and regulation of the housing and tenancy markets and, when necessary, intervene to ensure that market forces do not increase the vulnerability of low-income and other marginalized groups to forced eviction. In the event of an increase in housing or land prices, States should also ensure sufficient protection against physical or economic pressures on residents to leave or be deprived of adequate housing or land.

31. Priority in housing and land allocation should be ensured to disadvantaged groups such as the elderly, children and persons with disabilities.

32. States must give priority to exploring strategies that minimize displacement. Comprehensive and holistic impact assessments should be carried out prior to the initiation of any project that could result in development-based eviction and displacement, with a view to securing fully the human rights of all potentially affected persons, groups and communities, including their protection against forced evictions. "Eviction-impact" assessment should also include exploration of alternatives and strategies for minimizing harm.

33. Impact assessments must take into account the differential impacts of forced evictions on women, children, the elderly, and marginalized sectors of society. All such assessments should be based on the collection of disaggregated data, such that all differential impacts can be appropriately identified and addressed.

34. Adequate training in applying international human rights norms should be required and provided for relevant professionals, including lawyers, law enforcement officials, urban and regional planners and other personnel involved in the design, management and implementation of development projects. This must include training on women's rights, with an emphasis on women's particular concerns and requirements pertaining to housing and land.

35. States should ensure the dissemination of adequate information on human rights and laws and policies relating to protection against forced evictions. Specific attention should be given to the dissemination of timely and appropriate information to groups particularly vulnerable to evictions, through culturally appropriate channels and methods.

36. States must ensure that individuals, groups and communities are protected from eviction during the period that their particular case is being examined before a national, regional or international legal body.

III. PRIOR TO EVICTIONS

37. Urban or rural planning and development processes should involve all those likely to be affected and should include the following elements: (a) appropriate notice to all potentially affected persons that eviction is being considered and that there will be public hearings on the proposed plans and alternatives; (b) effective dissemination by the authorities of relevant information in advance, including land records and proposed comprehensive resettlement plans specifically addressing efforts to protect vulnerable groups; (c) a reasonable time period for public review of, comment on, and/or objection to the proposed plan; (d) opportunities and efforts to facilitate the provision of legal, technical and other advice to affected persons about their rights and options; and (e) holding of public hearing(s) that provide(s) affected persons and their advocates with opportunities to challenge the eviction decision and/or to present alternative proposals and to articulate their demands and development priorities.

38. States should explore fully all possible alternatives to evictions. All potentially affected groups and persons, including women, indigenous peoples and persons with disabilities, as well as others working on behalf of the affected, have the right to relevant information, full consultation and participation throughout the entire process, and to propose alternatives that