

Cambodia

Mid-term Implementation Assessment



*Promoting and strengthening
the Universal Periodic Review*
<http://www.upr-info.org>



Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 8 June 2012

Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/cambodia>

We invite the reader to consult that webpage since all recommendations, all stakeholders reports, as well as the unedited comments can be found at the same internet address.

23 stakeholders' reports were submitted for the UPR. 24 NGOs were contacted. The Permanent Mission to the UN was contacted. No domestic NHRI does exist.

7 NGOs responded to our enquiry. The State under Review did not respond to our enquiry.

IRI: 97 recommendations are not implemented, 10 recommendations are partially implemented, and 4 recommendations are fully implemented. No answer was received for 24 out of 138 recommendations.

2. Index

Hereby the issues which the MIA deals with:

rec. n°	Issue	page	IRI
1	Treaty bodies, Rights of the Child,	page 64	not impl.
2	Technical assistance, Right to land,	page 19	not impl.
3	Poverty	page 20	partially impl.
4	Women's rights, Rights of the Child, Disabilities,	page 64	partially impl.
5	Right to education, Poverty,	page 21	partially impl.
6	Right to health	page 21	-
7	Right to land	page 21	not impl.
8	Right to housing	page 23	not impl.
9	Poverty, Detention conditions,	page 41	not impl.
10	Women's rights	page 65	not impl.
11	Labour, Civil society,	page 7	not impl.



rec. n°	Issue	page	IRI
12	Women's rights, Rights of the Child, Human rights education and training,	page 65	partially impl.
13	Women's rights, Human rights education and training,	page 66	fully impl.
14	Technical assistance, Poverty,	page 24	not impl.
15	Right to health, Right to education,	page 24	-
16	Poverty	page 25	not impl.
18	Rights of the Child, Poverty, Disabilities,	page 25	not impl.
20	Justice, Civil society,	page 42	not impl.
21	Corruption	page 43	not impl.
22	Justice	page 44	partially impl.
23	General	page 69	not impl.
24	Women's rights	page 66	fully impl.
26	Special procedures	page 38	not impl.
27	International instruments	page 39	partially impl.
28	Justice	page 45	not impl.
29	General	page 70	not impl.
30	Human rights defenders	page 45	not impl.
32	Freedom of opinion and expression	page 8	not impl.
33	Justice	page 45	not impl.
34	Right to land, Right to housing,	page 25	not impl.
37	Women's rights	page 67	not impl.
38	Women's rights, Detention conditions,	page 67	not impl.
39	Rights of the Child	page 68	not impl.
40	Special procedures	page 39	not impl.
41	International instruments, Freedom of opinion and expression,	page 10	not impl.
42	Torture and other CID treatment, Human rights violations by state agents, Detention conditions,	page 46	not impl.
43	Torture and other CID treatment, International instruments,	page 47	not impl.
44	Torture and other CID treatment	page 47	not impl.
45	NHRI	page 71	not impl.
47	Freedom of opinion and expression, Freedom of association and peaceful assembly, Civil society,	page 11	not impl.
48	Right to land, Right to housing,	page 26	not impl.
49	Freedom of opinion and expression	page 12	not impl.
51	Right to housing	page 28	not impl.
52	Treaty bodies, Impunity, Indigenous peoples, Human rights defenders,	page 47	not impl.
53	Freedom of the press	page 13	not impl.
54	Other	page 71	not impl.
55	Elections	page 14	-
56	Justice	page 49	not impl.
57	Special procedures, Right to land, Indigenous peoples,	page 29	not impl.
58	ESC rights - general	page 30	not impl.
59	Corruption	page 50	not impl.



rec. n°	Issue	page	IRI
60	Special procedures, Human rights defenders,	page 52	not impl.
61	Treaty bodies, Special procedures, Justice,	page 52	not impl.
62	Treaty bodies, Rights of the Child,	page 68	not impl.
63	Freedom of the press, Freedom of opinion and expression,	page 14	not impl.
64	Civil society	page 15	not impl.
67	Justice	page 53	not impl.
68	Right to land, Justice, Corruption,	page 54	not impl.
69	Other	page 72	not impl.
70	ESC rights - general	page 30	not impl.
72	Women's rights, Human rights education and training,	page 68	not impl.
74	Development	page 30	not impl.
76	Freedom of the press, Freedom of opinion and expression,	page 16	not impl.
78	Right to land	page 31	not impl.
79	International instruments	page 55	not impl.
80	General	page 72	not impl.
82	Right to education	page 32	not impl.
83	Right to land	page 32	not impl.
84	Right to land, Civil society,	page 32	not impl.
85	Special procedures, Justice,	page 39	not impl.
86	ESC rights - general	page 30	not impl.
87	International instruments, Disabilities,	page 40	not impl.
88	Justice, Corruption,	page 55	not impl.
89	Justice	page 45	not impl.
90	Right to housing	page 33	not impl.
91	International instruments, Human rights defenders,	page 56	not impl.
92	Special procedures, Justice,	page 40	not impl.
93	Special procedures, Rights of the Child,	page 40	not impl.
94	Justice, Corruption,	page 56	not impl.
95	Special procedures	page 56	partially impl.
96	Human rights defenders	page 57	not impl.
98	Technical assistance	page 72	not impl.
99	NHRI	page 73	not impl.
100	Treaty bodies	page 40	not impl.
101	NHRI	page 73	not impl.
103	Women's rights, Technical assistance, Right to education, Disabilities,	page 32	not impl.
104	Women's rights, Rights of the Child, Indigenous peoples, Human rights education and training, Disabilities,	page 33	not impl.
106	Women's rights, International instruments,	page 40	fully impl.
107	Justice	page 57	not impl.
108	Special procedures	page 39	not impl.
109	Women's rights, Human rights education and training,	page 69	not impl.
114	Justice	page 58	not impl.



rec. n°	Issue	page	IRI
115	Special procedures, Rights of the Child,	page 41	not impl.
116	Women's rights, International instruments, ESC rights - general, Enforced disappearances, Disabilities, CP rights - general,	page 41	partially impl.
117	Justice	page 57	not impl.
118	Right to land	page 34	not impl.
119	Human rights defenders, Freedom of opinion and expression, Freedom of association and peaceful assembly,	page 59	not impl.
120	Justice	page 60	not impl.
121	Corruption	page 61	fully impl.
122	Right to land, Right to housing,	page 35	not impl.
123	Freedom of the press, Freedom of opinion and expression,	page 17	not impl.
124	Justice	page 62	not impl.
125	NHRI	page 73	not impl.
126	Justice	page 62	not impl.
127	Human rights education and training	page 35	not impl.
129	Freedom of opinion and expression	page 18	not impl.
130	Right to housing	page 35	not impl.
131	Other	page 73	not impl.
132	Labour	page 36	partially impl.
134	Corruption	page 63	not impl.
135	Labour	page 37	not impl.
136	ESC rights - general	page 38	partially impl.
137	Right to education, Poverty, ESC rights - general,	page 31	not impl.
138	Poverty	page 38	not impl.



3. Feedbacks on recommendations

CP Rights

Recommendation n°11: *Publicly speak out on reported cases of intimidation and violence - including murder - of trade unionists, the staff of non-governmental organizations and journalists and to ensure effective investigations and accountability for perpetrators* (Recommended by Austria)

IRI: *not implemented*

Cambodian Human Rights and Development Association (ADHOC) response:

Far from implementing this recommendation, the Cambodian government continues to use criminal charges (mostly defamation, incitement and disinformation) to intimidate and silence independent professionals. On 26 April 2012, Chhut Vuthy, a well-known environmental activist, was killed by military police while investigating a case of illegal logging. Investigations are partial and impunity is the rule. For instance, after Chhuk Bundith, Bavet City Governor, opened fire in February 2012 at protesters demanding higher wages at a workers' demonstration, he was charged only with "causing involuntary bodily harm" despite the fact that all eyewitnesses saw him intentionally shoot at protesters. Chhuk Bundith is a ruling CPP (Cambodian People's Party) member.

Cambodian Center for Human Rights (CCHR) response:

The Royal Government of Cambodia (the "RGC") and its related institutions have failed to publicly speak out against reported cases of intimidation and violence against journalists, trade unionists and the staff of non-governmental organizations ("NGOs"). Journalists are regularly intimidated and subjected to legal action if they dare publish an article that is critical of the RGC or a member of the political elite. CCHR has recently published an online map which details cases of harassment of the media throughout the Kingdom of Cambodia ("Cambodia") from 2008 onwards. NGO staff and trade unionists are also regularly harassed, intimidated or have criminal charges filed against them by the authorities. The recent murder of Chut Wutty, a prominent environmental activist, who was shot dead by a military policeman while investigating illegal logging in the Central Cardamom Protected Forest, provides a chilling reminder of the risks faced by activists in Cambodia. Despite the suspicious circumstances surrounding the incident leading to the death of Chut Wutty, the authorities have failed to ensure that there is a thorough investigation, leading to suggestions that powerful corporate interests, whom the government wishes to protect, were involved in the murder.

These acts by the RGC and related institutions constitute part of a wider campaign of suppression of the fundamental freedoms of expression, association and assembly in



Cambodia. For further information on the RGC's crackdown on journalists, NGO staff and trade unionists please refer to the [following] links [...] [1](#), [2](#), [3](#)

Khmer Unity for Cambodia Network (KUC) response:

The Cambodian people are losing confidence in the present government for corruptions, human rights violations, land grabbing, forced evictions, National Election Committee (NEC), and democracy violations.

Recommendation n°32: *Commit itself to respecting freedom of expression and opinion for all, in particular for members of the opposition* (Recommended by Canada)

IRI: not implemented

Housing Rights Task Force Cambodia (HRTF) response:

In 2009, the RGC adopted a new Penal Code which threatened the right of freedom of expression by defining as a crime some speeches, and provide the possibility of imprisonment for some forms of defamation, and overbroad rules on secrecy which apply to private individuals as well as officials. As an example, under Article 523 of the Penal Code, any person who criticizes a "judicial act or decision" aiming to "endanger Cambodian institutions" can be sentenced to up to six months imprisonment and 1 million riel fine.

The New Code criminalizes any act, gesture, writing, etc., directed at a public official that affects the "dignity of a person." The elements are vague and highly subjective; taken to the extreme the article could criminalize all acts which hurt the feelings of public officials.

More, the crime or incitement of "serious turmoil in society is really vague. This phrasing makes Article 495 similar to the former disinformation provision, which criminalized certain "malicious" disturbances of "the public peace".

These legal dispositions narrow the freedom of expression for all the citizens. In reality this freedom is not guaranteed by the state. Indeed, many protesters and journalist had been arrested and detained without legal justification by the authorities' representatives.

ADHOC response:

This recommendation has not been implemented at all. The government continues to use the courts to silence critics. Opponents or civil society representatives speaking out against land rights violations, illegal logging and other issues regularly face charges of defamation, incitement or disinformation. Defamation [conducts to] prison sentences, a clear violation of international civil and political rights treaties to which Cambodia is a party and of human rights bodies' general comments and jurisprudence. Moreover, the National Assembly has recently removed the immunity of members of the opposition, enabling legal proceedings against them. Sam Rainsy, leader of the opposition, was sentenced in [absentia] to a 10-year term; he is now in exile.

CCHR response:



The Royal Government of Cambodia (the "RGC") controls all television and most radio stations and regularly suspends, threatens, or takes legal action against journalists or news outlets that criticize the RGC. This is the situation which has always existed in Cambodia, and shows no signs of changing, despite provisions in the Constitution of the Kingdom of Cambodia (the "Constitution") that expressly defend the right to freedom of expression and opinion. Despite being expressly granted in the Constitution, legal provisions in Cambodian domestic law mean that expressing views on certain topics, however peacefully, can be met with prosecution. Additionally, activists and reporters risk physical, verbal and legal intimidation for speaking out on certain controversial issues. In July 2008, journalist Khim Sambo was shot dead as a result of speaking out against what he saw was the endemic corruption within the ruling Cambodian People's Party. Khim Sambo is by no means alone: since 1993, ten other journalists are known to have been killed as a result of their work. The situation with regards to members of the opposition is also worrying. A number of prominent opposition members have had their parliamentary immunity stripped in recent years, which has in turn left them opened to a number of freedom of expression-related lawsuits. In 2010, both Mu Sochua and Sam Rainsy were the subject of freedom of expression lawsuits, as a result of expressing discontent with the RGC policies.

Cambodian League for the Promotion & Defense of Human Rights (LICADHO) response:

The government has continued to violate expressive freedoms through erroneous criminal prosecutions and the promulgation of vague legislation. For example, under the country's relatively recent Law on Peaceful Assembly, peaceful demonstrations are frequently broken up with excessive force. On April 21, 2011, for example, roughly 100 Boeung Kak Lake residents were violently dispersed by the municipal intervention police force while staging a peaceful protest in front of the Phnom Penh municipality building. Among the worst injured, an elderly woman suffered from an open wound to the head, a female community representative had her thumb broken, and a pregnant woman in her twenties suffered a miscarriage due to beatings delivered to her stomach. More recently, on September 16, 2011, police in riot gear beat a young activist from Boeung Kak Lake unconscious with bricks and batons when he attempted to lead lakeside villagers in protesting against excavators that were in the process of unexpectedly demolishing eight homes on disputed land. For more detailed information, see [LICADHO's recent report](#). [...]

Unrepresented Nations and Peoples Organization (UNPO) response:

Koeun Preichea Thach, a columnist of the Prey Nokor newspaper, was arrested on 5 April 2010 for asking young men to circulate the newspaper in Phnom Penh. He is currently [09 January 2010] under [threat of arrest by Cambodian authorities](#).

Journalists who criticize the government face biased legal action, imprisonment, and violence. At least 10 opposition journalists have been killed in the past 15 years. Under a new penal code that came into force in November 2009, government critics who peacefully express views about individuals and government institutions risk criminal prosecution for defamation and disinformation. These include the editor of Khmer Amatak newspaper who was charged in March with defamation and



disinformation for a feature on governmental corruption, and the editor of Prey Nokor newspaper, which covers Khmer Krom affairs, [who was forced to resign in August](#).

Recommendation n°41: *Review its newly adopted penal code with a view to ensuring its compliance with the permissible limitations to freedom of expression as stated in ICCPR (Recommended by Czech Republic)*

IRI: *not implemented*

HRFT response:

The Penal Code is still unchanged and still threatened the right of freedom of speech of Cambodians. It criminalizes critics and acts directed toward the Government and officials. Rights of opinion and expression are not ensured and the respect of the right to be free from arbitrary arrested is not implemented. Indeed, several protesters, journalists, human rights defenders have been arrested and detained in jail without legal motivations.

The rights and freedoms enacted in the ICCPR are not guaranteed by the authorities and several violations have been observed.

ADHOC response:

The new Penal Code has not been amended. It still contains non-permissible limitations to the right to free expression as stated in the ICCPR. In particular, defamation (which is generally widely defined by courts) attracts prison terms. Disinformation charges are used to silence the media, and "incitement" (also defined in wide terms) charges are used to intimidate or silence civil society representatives and human rights defenders. Ruling CPP politicians still regard opposition criticisms as personal attacks and use the (largely corrupt) courts to punish opponents.

CCHR response:

The 2009 Penal Code of the Kingdom of Cambodia (the "Penal Code"), which came into force in December 2010 and replaced Cambodia's previous criminal code, has not been reviewed to ensure compliance with the permissible limitations to freedom of expression in the International Covenant on Civil and Political Rights ("ICCPR"). The Penal Code is inconsistent with internationally-accepted principles of freedom of expression in a number of areas. Particular articles which are problematic include Articles 305 (defamation), 307 (public insult), 310 (additional penalties for defamation and insult), 311- 313 (malicious denunciation), 495 (incitement to commit felony), 496 (incitement to discriminate), 498 (additional penalties for incitement offenses), 502 (insult – addressed to a public official acting on behalf of his or her office), 522 (publication of commentary intended to unlawfully coerce judicial authorities), 523 (discrediting judicial decisions), 524 (false denunciation to judicial authorities), and 526 (additional penalties for Articles 522-524). These charges carry with them significant fines. In Cambodia, non-payment of fines can result in prison sentences under the Code of Criminal Procedure of the Kingdom of Cambodia Article 525. Articles 502 and 523 of the Penal Code are particularly problematic and contrary to international standards, which recognize the importance of open criticism of government and public authorities in a democracy, and restrict any entitlement of public bodies to bring defamation actions. For instance, the Siracusa Principles of the Limitation and Derogation Provisions in the International Covenant on Civil and



Political Rights (“ICCPR”) state in principle 37 that “a limitation to a human right based upon the reputation of others shall not be used to protect the state and its officials from public opinion or criticism.” Furthermore, Article 39 of the Constitution of the Kingdom of Cambodia (the “Constitution”) provides a clear right to denounce a breach of the law, be it through the media or other commentary, when it states that “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.”

LICADHO response:

Please see [recommendation n°] 32. The substantive provisions of Cambodia’s new Penal Code came into force in December 2010. The provisions contain over two dozen articles that are insufficiently clear, carry inadequate limitations and harsh penalties, and have the overall effect of seriously undermining expressive and associative rights. Criminal complaints, arrests and convictions with lengthy prison sentences have been used with greater and greater frequency to repress community activists, civil society actors, and journalists. At least 12 people have been imprisoned for incitement under the new Penal Code since December 2010 for allegedly distributing political leaflets. These individuals include a UN World Food Program worker and a LICADHO staff member. The government has also continued to pursue criminal defamation charges against journalists and NGO leaders. Ruling party officials have threatened to file more lawsuits, particularly under the broad provisions in the Penal Code prohibiting any criticism of the judiciary.

Reporters sans frontières (RSF) response:

Aucune modification au nouveau code pénal n’a été apportée. En effet depuis décembre 2010, le Cambodge applique un nouveau code pénal qui renforce les restrictions à la liberté d’expression. L’article 495 introduit la notion vague d’ « incitation ». Elle est définie comme la possibilité de « provoquer directement la commission d’un crime » ou de « créer de sérieux troubles de la société par des discours, des écrits, des dessins ou des interventions audio-visuelles publics ». Le nouveau code pénal permet également des poursuites pour « diffamation » ou « attaques à la dignité ». Ces dispositions portent clairement atteinte à la liberté d’expression et d’opinion et ne sont donc pas conformes au Pacte international relatif aux droits civils et politiques. Nous rappelons que selon l’Observation Générale 10 sur l’article 19 de l’ICCPR « lorsqu’un Etat partie impose certaines restrictions à l’exercice de la liberté d’expression, celles-ci ne peuvent en aucun cas porter atteinte au droit lui-même. Le paragraphe 3 énonce certaines conditions, et c’est seulement à ces conditions que des restrictions peuvent être imposées: 1) elles doivent être fixées par la loi; 2) elles ne peuvent être ordonnées qu’à l’une des fins précisées aux alinéas a) et b) du paragraphe 3; 3) l’Etat partie doit justifier qu’elles sont nécessaires à la réalisation d’une de ces fins ».

Recommendation n°47: *Ensure that the draft law on non-governmental organizations does not make their working conditions more difficult and respect their freedom of expression and association (Recommended by France)*

IRI: not implemented

HRTF response:



The first draft Law on Association and Non-Governmental Organisations (NGOs) was released by the Ministry of Interior on December 15, 2010. In 2011, the third draft was released but with only minor changes. The draft law introduces compulsory registration for all associations and NGOs, banning any activity by groups that are not registered. It threatened the essential right of freedom of expression and association as defined in the international treaties that Cambodia ratified (International Covenant on Civil and Political Rights for instance) It also places considerable bureaucratic and administrative requirements on them, and appears to be the most serious threat to civil society in years. The draft law also introduces intrusive reporting requirements for organisations and allows for wide discretionary power for Government officials, without any possibility of appeal against those decisions. The vague and ambiguous wording of certain provisions of the draft law also poses the risk of arbitrary implementation.

These dispositions give legal opportunity to hamper the action of NGO which don't agree with the initiatives of the current government. For example the Ministry of Interior, without justification, closed an NGO Sahmakum Teang Tnaut (STT). A few weeks before, the NGO had published a report finding that the compensation offered by the government to households affected by a government railway project was too low and unfair.

ADHOC response:

The draft law on NGOs is still under discussion at the government's level. It has been amended several times and some of its most controversial provisions have been amended. However, significant concerns remain over registration requirements and the obligation to report on financial and program/project activities to the government. For instance, the draft law now provides that registration is not mandatory, but to get funds or enjoy legal capacity in Cambodia, NGOs would have to register anyway.

CCHR response:

A cause for concern as regards the right to freedom of association has been the development of the Law on Associations and Non-Governmental Organizations (the "LANGO"). In its 18 December 2011 Legal Analysis, CCHR outlined its concerns relating to the fourth draft of the LANGO, which, while a significant improvement on the first three drafts, nevertheless still retained several areas of huge concern. The conclusion is that the LANGO, if passed in its current form, still has the potential to be severely misused given the current political context and would therefore represent a real threat to Cambodian civil society. However, on 28 December 2011, Prime Minister Hun Sen announced that the LANGO would be put on hold for the moment – welcome reward for Cambodian civil society's continuing advocacy efforts and a temporary victory in favor of freedom of association. However, with law enforcement on the ground as it is, and in the absence of the repealing of other draconian legislation such as the Penal Code, in practice human rights defenders ("HRDs") and non-governmental organizations ("NGOs") still have to contend with significant threats to their activities, livelihoods and well-being.



Recommendation n°49: *Re-examine the modalities for lifting parliamentary immunity to ensure that this practice does not contravene the principles of pluralism and respect for freedom of expression (Recommended by France)*

IRI: *not implemented*

ADHOC response:

No action has been taken in this regard. The immunity of several opposition MPs has been removed in the last few years.

CCHR response:

There has been absolutely no reform with regards to the lifting of parliamentary immunity. The stripping of parliamentary immunity, invariably of opposition ministers who speak out on controversial issues, is an ongoing practice in Cambodia. Mu Sochua had her parliamentary immunity lifted in 2009 as a result of trying to bring a defamation lawsuit against Prime Minister Hun Sen. The case was dismissed, and Hun Sen consequently brought a case of defamation against her, of which she was dubiously found guilty. Since then Mu Sochua has been indicted on a range of charges, including incitement and slander – all of which are the direct consequence of her work as a human rights activist as well as her position as a prominent member of the main opposition party, the Sam Rainsy Party (the “SRP”). In 2009, the SRP leader Sam Rainsy, also had his immunity stripped for speaking out against government policy relating to a border dispute with Vietnam. In late 2011, yet another opposition party member, Chan Cheng, was stripped of his parliamentary immunity in what many commentators have described as a further frivolous and politically-motivated attack.

Recommendation n°53: *Elaborate an action plan for ensuring free access to the electronic media and for liberalizing the electronic media ownership rules (Recommended by Hungary)*

IRI: *not implemented*

ADHOC response:

No action was drafted. Access to electronic media/IT is not entirely free. For example, KI media was blocked in December 2010 along with other blogs that are critical of the government; electronic media seem to be free enough compared to some of Cambodia's neighbors but probably due to the fact that it reaches a small percentage of the country's population, therefore it is not a large threat.

CCHR response:

No such action plan has been devised. While generally speaking there has been relative freedom in engaging with new media, particularly in relation to online sources like Facebook and blogging, the recent blocking of blogspots has raised serious concerns that censorship of the internet will soon become a reality in Cambodia. There have been numerous reports over the past few years of access to certain websites being blocked by Internet Service Providers at the request of the Royal Government of Cambodia (the “RGC”). In October 2009, the Ministry of Posts and Telecommunications (the “MOPT”) planned to create a state-run internet hub that would control and monitor all internet traffic, giving it free reign to block websites that it deemed “inappropriate.” This initiative was eventually scrapped as it received no



support from the information technology and business sectors. However, the MOPT has hinted that new licensing requirements might be developed in the future and it is also rumored that the RGC is considering new legislation to regulate the internet.

Recommendation n°55: Take due steps towards the full implementation of the election regulations in the future (Recommended by Hungary)

IRI: -

ADHOC response:

Questions remain as regards elections to be organized (commune elections, 2012; legislative elections, 2013). The government has said it has the full capacity to organize these polls, but is ready to accept financial support from donors.

CCHR response:

The democratic process in Cambodia continues to be weak. For example, during the 2012 Senate elections there were a number of reported instances of vote-buying, and most likely many more unreported instances.

Recommendation n°63: Take effective measures to ensure the freedom of expression and opinion by amending the press law that allows for a broad interpretation of the vague term humiliation of national institutions and authorizes censorship, the suspension of publishing and imprisonment under the guise of national security and political stability (Recommended by Israel)

IRI: *not implemented*

HRTF response:

Media freedom remained under attack in 2012 as the Cambodian government moved forward with several pieces of legislation restricting space for free expression and continued to use criminal charges to punish opposition media. Toward year's end, the government began to show indications of extending these restrictions to the internet. In February 2010, Radio Free Asia reporter Sok Serey was sued for broadcasting on alleged corruption in a community mosque, and the following month the editor of Khmer Amatak was fined in connection with an article on corruption. Two jailed journalists were released in 2011: Hang Chakra, editor in chief of the opposition daily Khmer Machas Srok (closed recently) who had been detained in 2009 for articles critical of the deputy prime minister, and Ros Sokhet, who was released early after having received a two-year prison term in 2009 for disinformation.

The Government of Cambodia did not ensure the freedom of expression by adopting the New Penal Code in 2009 which threatened this right of speech by criminalizing the critics about the government, give a large definition of defamation and provide the possibility of imprisonment for these «crimes». As an example, under Article 523 of the Penal Code, any person who criticizes a "judicial act or decision" aiming to "endanger Cambodian institutions" can be sentenced to up to six months imprisonment and 1 million riels fine.

The New Code criminalizes any act, gesture, writing, etc., directed at a public official that affects the "dignity of a person." The elements are vague and highly subjective. More, the crime or incitement of "serious turmoil in society is really vague. These



legal dispositions narrow the freedom of expression for all the citizens. In reality this freedom is not guaranteed by the state. Indeed, many protesters and journalist had been arrested and detained without legal justification by the authorities' representatives.

ADHOC response:

No action has been taken to implement this recommendation. The Penal Code has not been amended, and this vaguely defined offense of "humiliation of national institutions" is still used to silence opponents or critics.

CCHR response:

The Press Law 1995 has not been amended.

Recommendation n°64: *Facilitate the work of non-governmental organizations and other relevant civil society groups in the country* (Recommended by Italy)

IRI: not implemented

HRTF response:

The work of the NGO and other relevant civil society group in Cambodia is not facilitated by the Government of Cambodia. Legislation has been voted to frame the work of this human rights groups but this dispositions burden their actions. The draft Law on Association and Non-Governmental Organisations (NGOs) was released by the Ministry of Interior on December 15, 2010. In 2011, the third draft was released but with only minor changes. The draft law introduces compulsory registration for all associations and NGOs, banning any activity by groups that are not registered. It threatened the essential right of freedom of expression and association as defined in the international treaties that Cambodia ratified (International Covenant on Civil and Political Rights for instance)It also places considerable bureaucratic and administrative requirements on them, and appears to be the most serious threat to civil society in years. The draft law also introduces intrusive reporting requirements for organisations and allows for wide discretionary power for Government officials, without any possibility of appeal against those decisions. The vague and ambiguous wording of certain provisions of the draft law also poses the risk of arbitrary implementation.

These dispositions give legal opportunity to hamper the action of NGO which don't agree with the initiatives of the current government. For example the Ministry of Interior, without justification, closed an NGO Sahmakum Teang Tnaut (STT). A few weeks before, the NGO had published a report finding that the compensation offered by the government to households affected by a government railway project was too low and unfair.

ADHOC response:

Sahmakum Teang Tnaut (STT), a land and housing rights NGO, was shut down in August 2011 after it released a scathing report. The draft NGO Law is a big threat and has raised concerns of the civil society and development partner's community, as well as embassies.

CCHR response:



No efforts – legislative or practical – have been developed or implemented to facilitate the work of non-governmental organizations (“NGOs”) and related civil society organizations (“CSOs”) in Cambodia.

Despite Article 41 of the Constitution of the Kingdom of Cambodia (the “Constitution”), which affords every Cambodian citizen the right to protest freely, the Law on Peaceful Assembly 2009 (the “Demonstration Law”) has further reduced what little freedom Cambodians once had to protest. As a result of the Demonstration Law, people can only protest if five days’ notice is given to the authorities and, even then, if any disruption occurs during the protest, the organizer is automatically held responsible. The Demonstration Law, along with the culture of impunity which exists for government officers/policemen who deal with protests, has created a very poor situation for the advancement of the right to freedom of assembly in Cambodia.

A further cause for concern has been the development of the Law on Associations and Non-Governmental Organizations (the “LANGO”). In its 18 December 2011 Legal Analysis, CCHR outlined its concerns with the fourth draft of the LANGO, which, while a significant improvement on the first three drafts, nevertheless still retained several areas of huge concern. The conclusion is that the LANGO, if passed in its current form, still has the potential to be severely misused given the current political context and would therefore represent a real threat to Cambodian civil society. However, on 28 December 2011, Prime Minister Hun Sen announced that the LANGO would be put on hold for the moment – welcome reward for Cambodian civil society’s continuing advocacy efforts and a temporary victory in favor of freedom of association. However, with law enforcement on the ground as it is, and in the absence of the repealing of other draconian legislation such as the Penal Code, in practice human rights defenders (“HRDs”) and non-governmental organizations (“NGOs”) still have to contend with significant threats to their activities, livelihoods and well-being.

For further information, please follow the link to [CCHR’s briefing book](#) on the issue of the shrinking space for civil society in Cambodia.

Recommendation n°76: Adopt legislative measures necessary so that journalists are not persecuted while exercising their profession and violations of the limits on freedom of expression are not sanctioned criminally (Recommended by Mexico)

IRI: not implemented

HRTF response:

The Government of Cambodia did not take concrete measures to ensure the security of the journalist and to ease their work. Instead, it narrows the right of freedom of speech by adopting the Penal Code and by implementing the Press Law. Media freedom remained under attack as the Cambodian government moved forward with several pieces of legislation restricting space for free expression and continued to use criminal charges to punish opposition media. Toward year’s end, the government began to show indications of extending these restrictions to the internet. In February 2010, Radio Free Asia reporter Sok Serey was sued for broadcasting on alleged corruption in a community mosque, and the following month the editor of Khmer



Amatak was fined in connection with an article on corruption. Two jailed journalists were released in 2011: Hang Chakra, editor in chief of the opposition daily Khmer Machas Srok (closed recently) who had been detained in 2009 for articles critical of the deputy prime minister, and Ros Sokhet, who was released early after having received a two-year prison term in 2009 for disinformation.

ADHOC response:

No action has been taken. Journalists are still intimidated in relation to the exercise of their functions. Recently, following the killing of environmentalist Chhut Vuthy, two journalists from The Cambodia Daily have been detained by the military police. They may have been threatened for they are eyewitnesses of Chhut Vuthy's death.

CCHR response:

See recommendation n° 11.

RSF response:

Aucune mesure législative protégeant les journalistes n'a été prise. Au contraire, les autorités cambodgiennes ont renforcé leur arsenal législatif à l'encontre de la liberté de la presse et de la liberté d'expression. Le nouveau code pénal, entré en vigueur en décembre 2010, impose de nouvelles restrictions à la liberté d'expression. Il consacre la notion d' « incitation », définie comme la possibilité de « provoquer directement la commission d'un crime » ou de « créer de sérieux troubles de la société par des discours, des écrits, des dessins ou des interventions audio-visuelles publics ». Le nouveau code pénal permet également des poursuites pour « diffamation » ou « attaques à la dignité ». Et ceci intervient alors que le Premier ministre Hun Sen avait promis la dépénalisation de la diffamation en 2009.

Recommendation n°123: *Ensure that the freedom of expression and of the press guaranteed in the Constitution are effectively respected (Recommended by Switzerland)*

IRI: not implemented

HRTF response:

The freedom of speech is not guaranteed by the measures undertaken by the Government. Indeed, the Penal Code and the Press law threatened the right of expression. It criminalizes some speeches, acts criticizing the Government or official. It threatens the right of expression of the population and of the media. It also hampers the dissemination of information which is essential in the fight against forced evictions and violation of human rights more widely.

Several journalists have been arrested and charged in court for defamation and incitement, causing «turmoil» in the society.

ADHOC response:

The Cambodian government has not taken any action to implement this recommendation. The rights to free expression and information are still violated on a daily basis. Citizens, human rights defenders and journalists working on sensitive issues (chiefly, land and natural resources rights, illegal logging, and impunity) face criminal charges, intimidation and violence. Demonstrations of more than 200 people



are forbidden, and peaceful protests are regularly cracked down. Cambodia entirely disregards its own Constitution in this matter.

CCHR response:

Generally speaking, there continues to be extensive restrictions on freedom of expression and the press in Cambodia, including continued harassment of journalists and media outlets (including specious charges, illegal arrests and detentions, acts of intimidation and violence, etc). The Press Law 1995 (the "Law"), which includes poorly defined and vague terminology such as "humiliation of national institutions" and authorizes censorship and the suspension of publishing and imprisonment for reasons of "national security and political stability", allows for many of these restrictions and violations of the right to freedom of expression. Beyond freedom of the press, freedom of expression is also restricted in other segments of society. The recent (March 2012) decision by the Royal University of Law and Economics in Phnom Penh to ban certain thesis topics (all clearly controversial topics in Cambodia) for students' dissertations shows a continuing willingness on the part of the Royal Government of Cambodia (the "RGC") to restrict freedom of expression and to limit dialogue in Cambodia.

RSF response:

La liberté d'expression est soumise à de plus en plus de restrictions au Cambodge. En 2009 un journaliste a été condamné à un an de prison pour diffamation suite à une série d'articles dénonçant la corruption du vice Premier ministre. On constatait alors une politisation des plaintes en « diffamation » ou « désinformation » déposées par des hauts responsables gouvernementaux. En 2010 les autorités ont renforcé les restrictions à la liberté d'expression en appliquant un nouveau code pénal où l'« incitation », notion vague, devient un délit puni par l'article 495. La nouvelle législation permet également des poursuites pour « diffamation » et « attaque à la dignité ». Ainsi un blogueur a été condamné à 6 mois de prison et à une amende de 1 million de riels (250 \$), reconnu coupable d'« incitation ». Il a partagé avec ses collègues un article de Ki-media, un blog très populaire, critiquant le gouvernement.

Recommendation n°129: *Define the scope of defamation and disinformation charges to ensure that these do not impinge on freedom of expression and give clear guidance to judicial officials so that these provisions do not result in a large number of cases where the charges are disproportionate* (Recommended by United Kingdom)

IRI: *not implemented*

ADHOC response:

The Cambodian government has not addressed this issue; quite to the contrary. Defamation charges are used to silence opponents and human rights defenders. Magistrates are corrupt and serve the interests of powerful, well-connected individuals and private companies. For instance, CPP Senator Ly Yong Phat, whose company has been granted an Economic Land Concession to grow sugar cane in Kampong Speu province, was able to use a military unit to crack down on evicted villagers' protests. Community representatives face defamation and disinformation charges.

CCHR response:

The scope of defamation and disinformation charges has not been defined. Article 502 of the Penal Code of the Kingdom of Cambodia 2009 (the "Penal Code") provides for the imprisonment of individuals whose words, gestures, written documents, pictures or objects are held to undermine the dignity of a public official or "holder of public elected office." Article 523 of the Penal Code, which is similarly vague, criminalizes any criticism of court decisions which is said to be aimed at "disturbing public order" or "endangering an institution" of Cambodia. Other articles of the Penal Code which deal with freedom of expression-related issues are similarly vague and provide significant opportunities for the Cambodian government to utilize these legislative provisions to silence criticism.

ESC Rights

Recommendation n^o2: *Intensify efforts to promote fair access to land ownership and good governance, and continue reforms undertaken with the assistance of the international community, in particular the High Commissioner for Human Rights, to reinforce institutional capacities and achieve the enjoyment of full human rights by the population (Recommended by Algeria)*

IRI: *not implemented*

ADHOC response:

The Cambodian government has not made any effort to promote fair access to land tenure. Conversely, 2011 has been the worst year to date for Cambodian peasants and smallholders. The government has granted almost 800,000 hectares of land to private companies through Economic Land Concessions (ELCs), and those companies have been using military/police forces to forcibly evict people from their land. In total, more than 2 million hectares have now been granted to private interests through ELCs. Access to land ownership is more and more difficult for smallholders, who face private interests and widespread corruption on the part of cadastral administrations, local authorities and the judicial system.

CCHR response:

Since 2009 wide spread violation of land rights has intensified with the right to possess or own land frequently violated or ignored. In addition, many people who have been evicted or displaced as a result of government or private development are yet to be provided with remedies. High profile land disputes in the country include Boeung Kak Lake, Borei Keila, and the ongoing dispute in Pursat between communities and a company owned by a senator. In 2011, more land concessions were granted than in any other year since the passing of the Land Law 2001. Displaced and relocated communities travel to Phnom Penh desperately seeking government action to assist them in reclaiming their land, or at least help them receive adequate compensation. The complaints are heard but not acted on as a concerning number of government officials, senators and political elite are directly involved in the displacement of families in Cambodia.



Communities have been unable to resolve their land disputes due to a significant power imbalance between the displaced and powerful government or corporate actors, and a corrupt and disinterested judiciary. Because of this, violent and dangerous confrontations are occurring between companies and people who live on the land.

However in May 2012 Prime Minister Hun Sen announced a moratorium on controversial land concessions and also stated that violations of existing concessions could result in the concession being cancelled. Many commentators have suggested this is simply political window-dressing in light of the upcoming elections, so it is yet to be seen whether the moratorium will be effective in protecting rights to land ownership.

KUC response:

Anti-corruption laws: Anti-corruption laws must be enforced so that all people can benefit from due process rights as stated by the Cambodia Constitution. The current Judicial system is not working/protecting the poor, but in turn working for the rich and a handful of special interest groups with close ties to the ruling party. Lack of transparency: Cambodian people have the rights to know/see/review contracts when the government signs business deals with private companies in Cambodia.

Recommendation n°3: *Intensify programmes aimed at eradicating poverty and improving socio-economic indicators* (Recommended by Algeria)

IRI: *partially implemented*

KUC response:

[...]

UNPO response:

Legislative and other measures adopted by the State party to promote the enjoyment of economic, social and cultural rights, in particular:

- (a) The creation of the Cambodian Human Rights Committee for the purpose of preparing reports on the international human rights treaties ratified by the State party.
- (b) The establishment of the Cambodian Landmine Authority, Cambodian Mine Action Centre (CMAC) and the clearing of landmines in the area of 47,650 of which 28,590 hectares is cultivated land with 1,698 villages and communities.
- (c) The adoption in 2007 of the Law on Water Management that regulates water supply, irrigation and drainage systems, and surface water storage capacity and underground water use.
- (d) The Sub-Decree No. 103 of December 2000 on Birth Registration.
- (e) The 2006-2010 Strategic Plan of the Ministry of Labour and Vocational Training, providing special services for persons with special needs such as the youth, persons with disabilities in particular among minority groups.
- (f) The establishment of the Second National Plan on Human Trafficking and Sex Trafficking, 2006-2010.

Ratification by the State Party of the following international human rights treaties since 2009:

The Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women in October 2010



Institutional and policy measures since 2009:

- The National Committee to Lead the Suppression of Human Trafficking, Smuggling, Labour Exploitation and Sexual Exploitation created in 2009;
- The Education Strategic Plan (2009-2013);
- The National Plan of Action for Orphans, Children affected by HIV and other Vulnerable Children (2008-2010);
- The 2008 Policy on Education for Children with Disabilities; and
- The National Plan of Action on the Elimination of the Worst Forms of Child Labour (2008-2012)

Recommendation n°5: *Continue to implement strategies to reduce poverty and to improve and promote education* (Recommended by Angola)

IRI: *partially implemented*

KUC response:

[...]

UNPO response:

The Cambodian MDG report 2010 denotes a slowing down of growth in the primary net enrolment rate in lower secondary school and the continuous "very large gap" between urban, rural and remote areas. The government recognizes the "stagnating trends" of the repetition and drop-out rates in primary education since 2000-01 due to "the poor economic situations of students' families, over-age admissions to primary schools, the high percentage of schools that are incomplete, insufficient student readiness to learn, informal school fees, and the weak learning achievements of students."

The government recognizes the need to remedy such trend with policies such as giving second chances to students failing examinations, providing extra classes for those performing poorly, increasing the number of classrooms, expanding Child Friendly School initiatives, strengthening School Support Committees, providing scholarships for students coming from poor families, expanding early childhood education and eliminating informal school fees.

Recommendation n°6: *Strengthen its partnership with the international community with a view to improving public health of the country* (Recommended by Angola)

IRI: -

KUC response:

[...]

Recommendation n°7: *Increase efforts to ensure that evictions occur in compliance with the land law and that greater attention is paid to ensuring that communities relocated to resettlement sites have access to appropriate facilities, especially in urban areas* (Recommended by Australia)

IRI: *not implemented*

HRTF response:

Almost every relocation sites are not complying with the international standards of adequate housing. They are remote from the city, lack of basic facilities such as



electricity and water. The «houses» are barely described as proper shelters, most likely tents with wood sticks. The residents don't have access to employment opportunities, schools and health care facilities. Some of the inhabitants have been sent there but still don't have a land title and can't settle there.

CCHR response:

Forced evictions continue to be carried out under violent conditions and with disregard for the rights of communities under both domestic law and international conventions. Many people are at risk of eviction as the majority of evictions occur in the context of land concessions where no comprehensive or strict legal framework exists to protect the rights of those occupying the land. The Government has continued to grant an increasing number of land concessions without ensuring that those who are or will be evicted are provided with adequate compensation or suitable resettlement conditions. In March 2012, the Cambodia Daily estimated some 60,000 people were evicted in 2011, the majority of which were evicted in Phnom Penh, Cambodia's largest urban center. Relocation sites often do not have adequate facilities and are a significant distance from the site of eviction. Field studies by the CCHR have confirmed infrastructure is usually inadequate and there is a lack of basic facilities at the majority of relocation sites.

LICADHO response:

The government has ramped up activities that fuel land conflicts over the past two years. Opaque long-term land leases to private companies, forced evictions, and other land rights abuses have increased at an alarming rate. At least 11,000 families were newly affected by land rights abuses in 2011, a year that also saw an enormous increase in the issuance of economic land concessions, particularly over protected land that was hastily reclassified to allow for the lease. Another disturbing and dangerous aspect of Cambodia's land-grabbing crisis is the involvement of Royal Cambodian Armed Forces (RCAF) personnel, particularly in rural areas. Soldiers often are hired as security guards for concessions, participate in evictions of families from their homes or agricultural land on the orders of the government, or even grab land for their own benefit. Where soldiers participate in forced evictions, it is typically on behalf of private interests with close links to the ruling party. This is unlawful. Unlike the police and gendarmerie, soldiers have no law enforcement or eviction powers. Early in 2010, the Cambodian government institutionalized the links between the military and private interests by way of an official "patronage program." Companies are being encouraged to pair with "sister" government ministries to donate food, material and money to specific military units, some of which have a history of involvement in evictions. Violent forced evictions have also continued. On January 3, 2012, for example, the well-connected Phan Imex Corporation proceeded, with the help of armed state forces, to destroy the homes of some 300 Borei Keila families. This forced eviction was in violation of a legal agreement between the corporation and the Borei Keila residents that entitled all families living in the area to obtain on-site apartments. Finally, resettlement sites continue to lack adequate facilities such as clean water and sewage, and remain isolated from medical care and livelihood opportunities.

UNPO response:



Illegal land confiscation and forced evictions by government officials and security forces on behalf of powerful companies and individuals remains a pressing issue. Land rights activists face violence and arrest, with more than 60 people imprisoned or awaiting trial at this writing, for protesting forced evictions and land grabbing.

In August [2011] more than 100 protesters from the Prey Lang forest reserve were arrested in Phnom Penh while distributing pamphlets advocating preservation of the forest. Ten people were injured in June [2011] in Kompong Speu when a prosecutor led over 100 soldiers and police to forcibly take control of disputed land awarded by courts to a Taiwanese company. [Human Rights Watch]

Since 2007 Phnom Penh municipal authorities have sought to evict the approximately 4,200 families living in the Boeung Kak Lake area, to transfer the land in a 99-year lease to a joint venture between a Chinese company and a Cambodian company (Shukaku) owned by Lao Meng Kim, a senator and senior CPP member. [Human Rights Watch]

Recommendation n°8: Adopt and implement a strict legislative framework on evictions and resettlement which ensures that evictions and relocations are legal, negotiated and fairly compensated (Recommended by Austria)

IRI: not implemented

HRTF response:

The Royal Government of Cambodia (RGC) adopted a law in 2010 on expropriation. This law focuses largely on the prices which will be paid for properties, providing different ways that people compelled to sell their land can get a fair price. It will allow authorities to withdraw legal ownership on land and other immovable properties for public development purposes and building infrastructure to serve the national benefit. It does not integrate processes to ensure that expropriation is only used in rare and exceptional cases. Because there are few limitations on what can be defined as “public interest,” this term could be open to abuse. Local communities have very few opportunities to participate in decision-making. While the 2001 Land Law offered more guarantees to the families, the draft Expropriation Law does not have the same protections.

Currently and even since the UPR session in 2009, forced eviction are increasing across Cambodia, mainly for developing purposes. The Land Law, even though, offer some legal protection is not respected and civilian who can apply for ownership are deprived from their lands.

The relocation sites are not complying to the international standards of adequate housing and can't be described as a fair compensation of their lost home. The monetary compensation is not sufficient for the evictees to build a new house, balance the loss of income and the cost of the displacement.

The RGC didn't implement the international and domestic law ensuring the adequate housing rights for the citizen and worsened their situation by initiating evictions.

ADHOC response:

Nothing has been done. 2011 has been worse than any previous year in this regard. Forcible evictions happen on a weekly basis with no or little compensation generally



provided. People are forced to accept unfair deals and those who are relocated end up living in hellish conditions (the relocation sites have no basic infrastructure or public services). Evictions and relocations are in complete violation of international standards.

CCHR response:

A legislative framework for evictions and resettlement exists only in relation to the eviction of owners and lessees in the context of 'public purpose' government works. This is covered in the Expropriation Law of 2010.

However, the majority of current evictions occur in the context of land concessions where no comprehensive or strict legal framework exists to protect the rights of evicted persons. While the law requires that consideration be given to resettlement issues before land concessions are granted, the law relating to land concessions is unclear on both the process of eviction and what ought to happen to evictees. Accordingly, such issues are easily and frequently overlooked or ignored by government officials responsible for implementation.

KUC response:

[...]

LICADHO response:

No. Please see [recommendation n°] 7. The government has issued a subdecree in May 2012 temporarily halting the issuance of economic land concessions (ELCs) and requiring a review of all previously awarded ELCs. The implementation of this subdecree remains to be seen, and it does not specifically address forced evictions.

Recommendation n°14: *Continue to put in place with international assistance effective programs aimed at reducing poverty, especially in the rural areas which host 80 percent of the whole population (Recommended by Azerbaijan)*

IRI: *not implemented*

ADHOC response:

On the one hand, Cambodia is one of the largest recipients of development aid (per capita) and implements poverty reduction programs in the rural areas. On the other hand, the government's policy of granting Economic Land Concessions (ELCs) to private companies is challenging the abovementioned efforts. More and more smallholder farmers are evicted from their land and are obliged either to work as day laborers or to move to urban areas. The ELC policy has been catastrophic as regards poverty reduction, with over 50% of the country's arable land now used (or remaining idle) under the ELC scheme.

KUC response:

[...]

Recommendation n°15: *Further increase its national spending on health and education sectors to meet the targets of the Millennium Development Goals (Recommended by Azerbaijan)*

IRI: -

KUC response:

[...]

Recommendation n°16: *Continue to implement its national strategy to reduce poverty, especially in rural areas, and to enhance the general standard of living of its citizens (Recommended by Belarus)*

IRI: *not implemented*KUC response:

[...]

UNPO response:

Members of the Khmer Krom diaspora living in Cambodia face a strained economic situation, stemming in particular from their [limited access to land and fresh water](#).

Recommendation n°18: *Take further measures to provide protection and assistance to vulnerable social groups, including the elderly, persons with disabilities, poor families, orphans and others (Recommended by Belarus)*

IRI: *not implemented*CCHR response:

As regards lesbian, gay, bisexual and transgender ("LGBT") people, the Royal Government of Cambodia (the "RGC") has not undertaken any legislative measures to further protect their human rights, such as enacting an anti-discrimination law, amending the Constitution of the Kingdom of Cambodia (the "Constitution") to specifically refer to LGBT people as a target of discrimination, incorporate the Yogyakarta Principles (Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity) into domestic law, or advocate for the inclusion of LGBT people as a target for discrimination in the pending Association of South-East Asian Nations Human Rights Declaration

Recommendation n°34: *Undertake a transparent and fair process to determine the conditions and procedures of involuntary relocation (Recommended by Canada)*

IRI: *not implemented*ADHOC response:

Nothing has been done so far.

CCHR response:

A legislative framework for evictions and resettlement exists only in relation to the eviction of owners and lessees in the context of 'public purpose' government works. This is covered in the Expropriation Law of 2010.

People are otherwise inadequately protected from involuntary relocation in Cambodia. It is believed that in 2011 some 60,000 people were displaced or involuntarily resettled. The majority of contentious evictions occur in the context of land concessions. While the law requires that consideration be given to resettlement issues before an economic land concession is granted, the law is unclear on both the process of eviction and what ought to happen to evictees. Accordingly such issues are easily and frequently overlooked or ignored by government officials responsible for implementation. In addition, the laws on land and forestry require consultation



with communities that will face eviction due to economic development projects on land. However, these consultation requirements are also often ignored or completed at the most superficial level.

LICADHO response:

No. Please see [recommendation n°] 7.

UNPO response:

In early November [2011], Mok Kampoul district officials in Kandal province forced Khmer Kampuchea Krom Buddhist monk Chea Sovannaphum to leave the Keo Monyvorn pagoda without reason. [<http://www.unpo.org/article/13680>] Although Khmer Krom are granted the right to live in Cambodia under its constitution, the forceful repatriation of Khmer Krom from Cambodia to Vietnam is an urgent concern [17 March 2010] which needs immediate attention since they face arbitrary arrest and torture upon return [<http://www.unpo.org/article/10874>]

The government has often failed [5 March 2010 and 23 February 2010] to issue identity documents without which refugees cannot find jobs or rent homes [see response to recommendation no. 56]

Recommendation n°48: *Put an end to forced evictions, notably by improving the application of the land law of 2001, ensuring a better verification of land titles and guaranteeing strengthened protection of the population affected by the expropriations, which implies in particular prior consultations, a search for alternative solutions to expropriations, offers of re-housing and appropriate compensation of evicted persons (Recommended by France)*

IRI: not implemented

HRTF response:

Rather than fully implementing the 2001 Land Law and instituting a "moratorium on evictions until safeguards such as full compensation and access to basic services in resettlement areas can be guaranteed" as required in the UPR recommendations, the government has allowed and let increase the number of land disputes cases and land grabbing issues. Opaque long-term land leases to private companies, forced evictions, and other land rights abuses have spread largely across Cambodia. At least 11,000 families were newly affected by land rights abuses in 2011.

The RGC favor the private companies over its citizen and increase the poverty rate of the country. Indeed, forced evictions leave thousands of families homeless. They don't receive any just and fair compensation, as required in the 2001 Land Law, neither a good and healthy relocation land. Many communities interviewed didn't received enough informations about their rights, about the eviction process or about the compensation they would obtain for the displacement. When consultation are organized, the private companies don't answer the main questions or offer adequate solution to the evictees.

The Government used to help the private firms to evict the people without any legal warrant or lawful power. Indeed, authorities' representatives used force to violently evict communities out of their houses. The case of Borei Keila in Phnom Penh showed that the police brought guns and electrical baton to expropriate the residents



while the private worker of a real estate company used bulldozer to destroy their homes.

On top of that, the obtention of land title requires a lot of bureaucracy and in a lot of cases, the Authorities denies the ownership of families, explaining the possible lack of documents for instance. Many families are still waiting for their land titles when the eviction process occurred. They can apply for ownership but because of the long administrative procedure, they don't have titles on time to pretend to the relocation sites offered and are left homeless.

Another case in Phnom Penh reported that since 2007 municipal authorities, supported by military and police, have sought to evict the approximately 4,200 families living in the Boeung Kak Lake area. The land was transferred by the government in a 99-year lease to a joint venture between a Chinese company and Shukaku, a Cambodian company owned by Lao Meng Kim, a senator and senior CPP member. Allegation coming from several communities threatened of evictions across Cambodia reported cases of intimidation and violence made by the Police officers.

Concerning the relocation sites, a majority of them don't comply with the international standards of adequate housing. Indeed they are in remote area, far from the city and the job opportunities. They don't have basic services and facilities, so the displaced people don't have access to schools or medical care. The living conditions onsite are relatively poor: there is not electricity, most of the «houses» are more likely tents made with wood sticks, the water is not edible and the area is, for some cases, full of rubbish and nearby unhealthy water which may causes the spread various diseases.

ADHOC response:

Forced evictions happen on a weekly basis. The Land Law is not enforced, and impunity is the rule. Private companies and well-connected individuals are able to use law-enforcement personnel (military police or police) to evict citizens. Prior consultations seldom take place and alternative solutions are rarely sought. Relocation sites, when they exist, lack basic infrastructure and services (such as schools), and are far away from places where employment is available. Appropriate compensation remains an exception.

CCHR response:

It is estimated that in 2011 some 60,000 people were displaced or involuntarily resettled. In 2010 only 0.07% of people involved in land disputes in Cambodia were able to provide evidence of the title to land. A legislative framework for securing land titles exists; however, the program to secure titles for all land in Cambodia is yet to be completed.

A legislative framework for evictions and resettlement exists only in relation to the eviction of owners and lessees in the context of 'public purpose' government works. This is covered in the Expropriation Law of 2010.



People are otherwise inadequately protected from involuntary relocation in Cambodia. The majority of contentious evictions occur in the context of land concessions. While the law requires that consideration be given to resettlement issues before an economic land concession is granted, the law is unclear on both the process of eviction and what ought to happen to evictees. Accordingly such issues are easily and frequently overlooked or ignored by Royal Government of Cambodia ("RGC") officials responsible for implementation. Social sustainability is intended by law to be an essential feature of economic land concessions, yet these legal requirements, including a viable relocation strategy for each project, are ignored in practice. Rather than designing land concessions around the needs of the local community (for example reserving residential plots and farming plots as the 'leopard print plan' policy proposes) the RGC has continued to grant economic land concessions in excess of 10,000 hectares and without regard to community needs. Where social impact assessments are carried out they often lack legitimacy as the company applying for the grant frequently completes them and once completed their findings are not incorporated as binding terms of the concession contract.

The laws on land and forestry require consultation with communities that will face eviction due to economic development projects on land. However, these consultation requirements are also often ignored or completed at the most superficial level.

LICADHO response:

No. Please see [recommendation n°] 7.

Recommendation n°51: *Halt relocations of families to uninhabitable sites and consider evictions as a last recourse, as was requested by the Secretary-General (Recommended by Germany)*

IRI: not implemented

HRTF response:

Relocations in inadequate and unhealthy sites are still ongoing. The areas are far from the city and from all the basic facilities. The families have to live under tents made out of wood sticks. The sewage and drainage system is rudimentary, including open sewers which will likely be a breeding ground for infection and disease, including mosquito-borne diseases.

The advanced «houses» are small and made with metal sheds and are very hot in the daytime, due to the metal walls and roof, and poorly ventilated.

The fact that the government does not insure a minimally healthy environment or access to healthcare is a violation of the right to health. More, the distance from the city challenge severely the access to employment opportunities and education. The families relocated there are left in a vulnerable economical and social situation. The Government doesn't take any measures to enhance the situation of the evictee at the relocation sites or to avoid displacement and expropriation.

The Government prefers to favor the private companies and invoke the justification of «using the land for public interest» to explain the evictions but doesn't organized



efficient consultation between the threatened communities, the authorities and the private companies to find appropriate alternative solutions.

ADHOC response:

The Cambodian government has done nothing over the last years to implement this recommendation. Evictions are considered as first, not last, recourse. Relocation sites are inadequate and lack basic infrastructure and public services, such as schools and hospitals.

CCHR response:

Evictions and displacement of families continues to occur across the country, affecting both rural and urban communities. Resettlement sites across the country fail to provide facilities to the level required for an acceptable standard of living with many failing to provide even essential infrastructure such as access to water.

LICADHO response:

No. Please see [recommendation n°] 7.

Recommendation n°57: Continue to prioritize the issue of land evictions and to work with the Special Rapporteur to ensure an end to forced evictions and fulfil its obligations to respect and protect the human rights of all Cambodians, including individuals belonging to indigenous groups (Recommended by Ireland)

IRI: not implemented

HRTF response:

The RGC failed to protect its citizens against forced eviction and more likely facilitated the process of expropriation. The number of evictions since the last UPR in 2009 didn't stop to increase and led to the impoverishment of thousands of communities in Cambodia, both in rural and urban areas. The Government doesn't respect the international legal dispositions and its own Land Law. The RGC even initiates legislations which ease the expropriations. Indeed the Government adopted an Expropriation law in 2010 which will allow authorities to withdraw legal ownership on land and other immovable properties for public development purposes and building infrastructure to serve the national benefit. This law has the problematic effect of providing a legal basis for the justification of evictions for purposes well beyond those permitted under international law.

The Expropriation Law stipulates that private property has to be compensated based on market price or replacement value (Article 22). The law, however, only extends protections to legal and rightful owners of land. Some people affected by development projects do not have legal rights to the land required because the land can be classified as State Public property under the Land Law and relevant regulations.

Forced evictions threatened the essential and basic human rights of Cambodians. Indeed, it hampers the rights of adequate housing, to healthy water, to ownership, to health, to food, to employment... The fact that the RGC didn't take concrete



measures to enhance the situation but on the contrary ease the displacement process is a clear failure and disrespect of the commitment taken with the international treaty bodies and at the UPR session in 2009.

ADHOC response:

The issue of land evictions has not been prioritized by the Cambodian government, which continues to totally disregard Special Procedures and Treaty Bodies recommendations. Indigenous people are particularly affected by the policy of granting Economic Land Concessions (ELCs) to private companies, in particular in the remote Rattanakiri and Mondulakiri provinces.

CCHR response:

The Royal Government of Cambodia (the "RGC") has failed to prioritize the issue of land evictions. While the government has promulgated some key regulations protecting the land rights of indigenous communities, the implementation of such regulations has been slow. Communities such as those in and around Prey Lang forest continue to be subjected to illegal displacement and suffer the effects of the destruction of the natural environment due to illegal logging.

LICADHO response:

No. Please see [recommendation n°] 7.

Recommendation n°58: *Ensure transparent management of oil, gas and mineral revenues to meet the social and economic rights of people living in Cambodia by adopting international best practice, in particular implementation of the Extractive Industries Transparency Initiative (Recommended by Ireland)*

IRI: not implemented

ADHOC response:

The extractive sector is absolutely opaque. Cambodia has been granting mining concessions to private interests without making basic information available to the public. Cambodia has so far refused to join the EITI initiative.

CCHR response:

The Royal Government of Cambodia (the "RGC") is yet to sign up to the Extractive Industries Transparency Initiative ("EITI"). Furthermore, the RGC has made little progress towards implementing the necessary framework so as to ensure that information relating to revenue from oil, gas and mineral extraction is made available to the public so that it can be scrutinized by relevant stakeholders.

Recommendation n°70: *Continue to strengthen the economic, political and social development with full participation of its population (Recommended by Laos)*

IRI: not implemented

+

Recommendation n°74: *Redouble its efforts and resources to reach the target sets by the Millennium Development Goals for the improvement of the political, economic, social and cultural rights of the Cambodian people (Recommended by Malaysia)*

IRI: not implemented

+



Recommendation n°86: *Intensify its public expenditure on the implementation of economic, social and cultural rights* (Recommended by Netherlands)

IRI: *not implemented*

+

Recommendation n°137: *Continue efforts in allocating more resources to ensure the betterment of economic and social rights of citizens, in particular in the areas of poverty reduction, urban-rural equality, education, public services, etc.* (Recommended by Viet Nam)

IRI: *not implemented*

CCHR response:

The Royal Government of Cambodia (the "RGC") has only prioritized the economic development of the country, and has resolutely refused to focus on social or political development. Even economic development is only the preserve of the few – a small but powerful group comprising the political elite and well-connected individuals and companies from Cambodia and neighbouring countries. The gap between rich and poor widens all the time, and many poor and vulnerable groups and minorities are increasingly marginalized. There has been no political change, with control by the governing party extended to every level of administration, from the national government right down to commune and village levels. Cambodia continues to be democratic in name, but the opportunities for real change and for genuine democratic participation are negligible

Recommendation n°78: *Promote a legal framework that provides legal certainty in property matters, in particular land ownership and protection against forced evictions* (Recommended by Mexico)

IRI: *not implemented*

HRTF response:

[See response to recommendation n° 48]

ADHOC response:

The only certainty is that public institutions are corrupt and rich, well-connected individuals and companies are able to violate the rights of poor citizens. The Cambodian government has done nothing to strengthen land tenure security, which is recognized as the most effective factor providing protection against forced evictions by all international actors, both intergovernmental and non-governmental.

CCHR response:

The Royal Government of Cambodia (the "RGC") has failed to prioritize the issue of land evictions. While the government has promulgated some key regulations protecting the land rights of indigenous communities, the implementation of such regulations has been slow. Communities like those in and around Prey Lang forest continue to be subjected to illegal displacement and suffer the effects of the destruction of the natural environment due to illegal logging.

UNPO response:

Although the Cambodian government has stated that Khmer Krom who flee to Cambodia from Vietnam are entitled to Cambodian citizenship; the Khmer Krom are treated neither as citizens nor as refugees, rarely granted identity papers, forced to



change their names and asked to provide impossible documentation such as Cambodian birth certificates. This situation is compounded by widespread corruption. Without identity papers, Khmer Krom are denied the right to vote, prevented from seeking employment and are unable to rent or own property [see UNPO response to recommendation no. 56]

Recommendation n°82: *Give more emphasis to the education sector to gradually transform to a quality and advanced education system since education is a vital tool for national development* (Recommended by Myanmar)

IRI: *not implemented*

+

Recommendation n°103: *Through appropriate international assistance, seek to strengthen its educational system and education for all programmes, including for women and persons with disabilities* (Recommended by Philippines)

IRI: *not implemented*

CCHR response:

There is no evidence that the Royal Government of Cambodia (the "RGC") has at any stage prioritized education. Rather, it seems more concerned with stifling freedom of expression, including prohibiting the choice of certain controversial thesis topics at the Royal University of Law and Economics earlier in 2012.

Recommendation n°83: *Intensify its engagement with the international community to share its experiences in strengthening good governance and the land reform programme with a view to effectively fulfilling the Government's duties with accountability and pursuing equitable and efficient management of the distribution and utilization of land* (Recommended by Myanmar)

IRI: *not implemented*

CCHR response:

The Royal Government of Cambodia (the "RGC") has failed to prioritize the issue of land evictions. While the government has promulgated some key regulations protecting the land rights of indigenous communities, the implementation of such regulations has been slow. Communities like those in and around Prey Lang forest continue to be subjected to illegal displacement and suffer the effects of the destruction of the natural environment due to illegal logging.

Recommendation n°84: *Enter into a dialogue with the civil society concerned with a view to addressing incidents of unlawful land-grabbing and evictions* (Recommended by Netherlands)

IRI: *not implemented*

ADHOC response:

The Cambodian government refuses to effectively address the issue of land grabbing and forced evictions. Civil society representatives are even threatened with criminal charges when they criticize the Economic Land Concession policy or denounce violations of citizens' or communities' rights. The OHCHR Representative in Cambodia, Mr. Christophe Peschoux, was removed in 2011 following his actions as regards land grabbing. In August 2011, the World Bank stopped providing loans to



the country due to the Cambodian authorities' unwillingness to address the issue of forced evictions, especially in the Phnom Penh's Boeung Kak area.

CCHR response:

Not only has the Royal Government of Cambodia (the "RGC") failed to enter into a dialogue with civil society, but it has responded with violence towards those seeking to bring land disputes to its attention. Protests relating to land-grabbing and evictions continue to be violently suppressed by the Cambodian authorities. For further information on recent protests relating to evictions in Phnom Penh, please see the links below.

In May 2012, Prime Minister Hun Sen issued an order suspending the issuance of further land concessions in Cambodia, however the effect that this order will have is yet to be seen. [Links: [1](#), [2](#)]

Recommendation n°90: *Work to advance the legal and policy framework on evictions, expropriations and resettlements and to ensure that those resettled have access to the necessary facilities and support* (Recommended by New Zealand)

IRI: *not implemented*

HRTF response:

[See response to recommendation n° 48]

ADHOC response:

This recommendation has not been implemented. Relevant laws and regulations are not implemented, and evicted people either receive no or little compensation, or are relocated to inadequate sites, which lack basic infrastructure and services (schools, sewage, hospitals) and are far away from employment sites.

CCHR response:

Resettlement sites across the country fail to provide facilities to the level required to meet an acceptable standard of living, with many failing to provide even essential infrastructure such as access to water. A legislative framework for evictions, securing land titles and resettlement exists, however the most comprehensive provisions do not apply to the majority of evictions which occur in the context of land concessions. Social sustainability is intended by law to be an essential feature of economic land concessions, yet the relevant legal requirements, including a viable relocation strategy for each project, are ignored in practice.

LICADHO response:

No. Please see [recommendations n°] 7 and 8.

Recommendation n°104: *Further strengthen its advocacy efforts to enhance public awareness of human rights in general and the human rights of vulnerable groups, including women, children, the disabled, the elderly and indigenous people, in particular* (Recommended by Republic of Korea)

IRI: *not implemented*

ADHOC response:

Far from implementing this recommendation, the Cambodian government regularly tries to prevent human rights organizations from providing citizens with information on their rights. Meetings and training sessions organized by NGOs have been disrupted by public authorities outside any legal framework.

CCHR response:

The National Strategic Development Plan 2009-2013 ("NSDP") refers to awareness-raising among the people and institutions to improve the protection of fundamental rights and freedoms.

Furthermore, the Royal Government of Cambodia (the "RGC") has declared that they intend to raise awareness of women's rights in different areas such as education, health, political decision-making, domestic violence and legal protection as outlined the National Strategic Development Plan 2009-2013. However, at the present time, the RGC has not implemented any measures to raise awareness of women's rights in these specific areas.

Recommendation n°118: Fully implement the 2001 land law and institute a moratorium on evictions until safeguards such as full compensation and access to basic services in resettlement areas can be guaranteed (Recommended by Sweden)

IRI: not implemented

HRTF response:

[See response to recommendation n° 48]

ADHOC response:

The Land Law, which is considered to be good by most independent actors, is not implemented. Its provisions, as well as provisions of the Sub-Decree on Economic Land Concessions (ELCs), are generally disregarded in practice. In most cases, no consultations take place with affected communities, no social and environmental impact assessments are conducted, and no fair compensation is provided, if any. Resettlement areas lack basic infrastructure and services, such as schools and medical care facilities.

CCHR response:

The Land Law 2001 (the "Law") has not been fully implemented. In particular, the failure to survey and register all land in Cambodia has significantly undermined the effectiveness of the legislation and any protections that it affords to the owners of property. Evictions have increased with some 60,000 people evicted in 2011. Resettlement sites across the country fail to provide facilities to the level required for an acceptable standard of living with many failing to provide even essential infrastructure such as access to water. Economic Land Concessions («ELCs») have been the source of a large number of evictions and a record number of these concessions were granted in 2011.

In May 2012, in response to the shooting of a prominent rights activist, Prime Minister Hun Sen declared a moratorium on all controversial concessions (note, this is not evictions), however the effect of this order is yet to be seen.

LICADHO response:

No. Please see [recommendations n°] 7 and 8.

Recommendation n°122: *Adopt a moratorium on eviction until measures are taken to guarantee effective implementation of the 2001 law on land property and to deal with this problem in a more humane and dignified manner (Recommended by Switzerland)*

IRI: *not implemented*

HRTF response:

[See response to recommendation n° 48]

ADHOC response:

No moratorium on eviction -- quite the contrary. The 2001 Land Law is not implemented and the government has not demonstrated any will to do so.

CCHR response:

In response to international pressure surrounding the shooting of Natural Resources Protection Group ("NRPG") President Mr. Chut Wutty, Prime Minister Hun Sen has ordered a moratorium on all controversial land concessions. Concessions are the source of the majority of forced evictions; however the moratorium applies only to new concessions and does not prohibit evictions under existing concessions. While the effect of this order is yet to be seen, it is not expected to end forced evictions, which have been occurring at an alarming rate with an estimated 60,000 people evicted in 2011 alone.

LICADHO response:

No. Please see [recommendation n°] 52.

Recommendation n°127: *Promote human rights education and training at all levels, including for Government officials, in order to raise awareness about human rights for all (Recommended by Thailand)*

IRI: *not implemented*

HRTF response:

A majority of the Cambodian population doesn't know about their rights at all. If some are aware of their rights and freedoms, they ignore how to vindicate and exercise them in the daily life. Government official may not be aware of it neither, due to the treatment they inflict to protester, evictees which are considered as human rights abuses.

CCHR response:

To the best of CCHR's knowledge, the Royal Government of Cambodia (the "RGC") has not undertaken any measures to seek technical assistance in providing education about human rights or even improving awareness of human rights in Cambodia.

Recommendation n°130: *Develop an effective, transparent and fair resettlement policy and process that is based on national consultations and international best*



practice and suspend all planned resettlements until this framework is in place (Recommended by United Kingdom)

IRI: *not implemented*

HRTF response:

Displacement processes are made without effective and efficient consultations with the communities concerned. The RGC did not stop or suspend any of the resettlement and forced evictions but on the contrary increased the expropriations across the country. No alternative solutions are considered and the communities are barely aware of the eviction process and about the way they will be or not compensated for their loss of land.

ADHOC response:

The Cambodian government has not taken any step to implement this recommendation and has not demonstrated any will to do so.

CCHR response:

The Royal Government of Cambodia (the "RGC") has failed to engage with the international community and national stakeholders in order to develop just and effective resettlement policy. Communities continue to be displaced to make way for private and government development projects on the land. Resettlement sites across the country fail to provide facilities to the level required for an acceptable standard of living, with many failing to provide even essential infrastructure such as access to water. The current regulatory regime offers inadequate protection to those who cannot prove title over the land they occupy and depend on for their livelihood. The RGC continues to disregard the law, does not engage in consultation with stakeholders and continues to facilitate the displacement of thousands of its citizens.

UNPO response:

Despite a stated policy which considers Khmer Krom to be Cambodian citizens, authorities have failed to grant citizenship and residence rights to numerous Khmer Krom refugees, including 24 who were deported to Cambodia in December 2009 after a failed asylum bid in Thailand. In February 2010 authorities rejected the group's request to receive documents needed to rent housing, get jobs, and access healthcare, education, and other services.

Recommendation n°132: Establish labour courts in an effort to guarantee respect for worker rights and to provide legal and efficient solutions to labour disputes, and revise the law on trade unions (Recommended by United States)

IRI: *partially implemented*

CCHR response:

Despite the creation of labor courts being provided for under Article 387 of the Labor Law 1997, the Royal Government of Cambodia (the "RGC") has yet to take any concrete steps towards the creation of such a body to adjudicate on labor disputes. The most recent development came in April 2009 when the Ministry of Justice, in collaboration with the Council for Legal and Judicial Reform, completed and submitted a draft law on the organization of the courts, which provided for the creation of a labor court. However, three years on, no progress has been made on



the draft law and, as a result, actions relating to labor disputes continue to be brought before civil or criminal courts.

In relation to the Law on Trade Unions (the “Law”), the Cambodian Center for Human Rights (“CCHR”) is concerned that if the most recent draft of the Law (March 2011) is passed into law, the rights of trade unions and trade unionists would be severely curtailed. Furthermore, CCHR believes that trade unions would be weakened and made highly vulnerable to dissolution, de-registration and criminal sanctions and that too much authority over the internal affairs and daily existence of trade unions would be shifted to the arbitrary discretion of RGC authorities and unidentified third parties.

At the present time, civil society is still awaiting the release of a revised draft of the Law.

Recommendation n^o135: Take all necessary measures to ensure that the trade union rights of workers in Cambodia are fully respected and that trade unionists are able to exercise their activities in a climate free of intimidation and risk to their personal security and their lives (Recommended by United States)

IRI: not implemented

ADHOC response:

The rights of trade-unions and trade-unionists are violated on a daily basis. Trade-unionists continue to face criminal (mostly incitement) charges in relation to their legitimate activities. The killing of Chea Vichea (2004), a leading trade-unionist, has not been impartially and thoroughly investigated and other trade-union leaders face violence

CCHR response:

Both trade union leaders and members are continually discriminated against by their employers, particularly in the garment industry. Many workers face being dismissed or threatened with legal action due to their union-related activities, particularly when workers exercise their right to strike. The Royal Government of Cambodia (the “RGC”) and other RGC institutions have failed to take the necessary steps to ensure that rights of workers are respected, and have even been complicit in acts of violence, intimidation and threats of legal action against union leaders and members. For further information on the intimidation of union leaders and members in Cambodia, please see the links below.

A prominent recent example of the authorities’ using violence against protesters was seen on 20 February 2012 outside of the Kaoway Sports Ltd in Svay Rieng province. During the protest, involving approximately 6,000 protesters, an armed man, widely believed to be ChhoukBandith, the Bavet city governor, exited his vehicle and fired indiscriminately into the crowd of protesters before being escorted away from the scene by national and military police officers.

In relation to the Law on Trade Unions (the “Law”), the Cambodian Center for Human Rights (“CCHR”) is concerned that if the most recent draft of the Law (March 2011) is passed into law, the rights of trade unions and trade unionists would be severely curtailed. Furthermore, CCHR believes that trade unions would be weakened and



made highly vulnerable to dissolution, de-registration and criminal sanctions and that too much authority over the internal affairs and daily existence of trade unions would be shifted to the arbitrary discretion of RGC authorities and unidentified third parties. At the present time, civil society is still awaiting the release of a revised draft of the Law. [Links: [1](#), [2](#), [3](#)]

Recommendation n°136: *Stay steadfast in promoting adequate social policies that aim to achieve just distribution of wealth and social wellbeing of the population* (Recommended by *Venezuela*)

IRI: *partially implemented*

UNPO response:

The redistribution of wealth, aiming at the improvement of the well-being of the population, has barely changed as the GDP per capita has increased from \$2,100 (2009), to \$2,200 (2010) and to \$2,300 (2011) USD.

Recommendation n°138: *Further strengthen the law reforms and policy aimed at protecting the people's rights and for the betterment of the poor and other disadvantaged groups* (Recommended by *Viet Nam*)

IRI: *not implemented*

CCHR response:

The Royal Government of Cambodia (the "RGC") has only prioritized the economic development of the country, and has resolutely refused to focus on social or political development. Even economic development is only the preserve of the few – a small but powerful group comprising the political elite and well-connected individuals and companies from Cambodia and neighboring countries. The gap between rich and poor widens all the time, and many poor and vulnerable groups and minorities are increasingly marginalized. There has been no political change, with control by the governing party extended to every level of administration, from the national government right down to commune and village levels. Cambodia continues to be democratic in name, but the opportunities for real change and for genuine democratic participation are negligible. As regards lesbian, gay, bisexual and transgender ("LGBT") people, the RGC has not undertaken any legislative measures to further protect their human rights, such as enacting an anti-discrimination law, amending the Constitution of the Kingdom of Cambodia to specifically refer to LGBT people as a target of discrimination, incorporate the Yogyakarta Principles (Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity) into domestic law, or advocate for the inclusion of LGBT people as a target for discrimination in the pending Association of South-East Asian Nations Human Rights Declaration

International Instruments

Recommendation n°26: *Consider issuing a standing invitation to United Nations human rights special procedures* (Recommended by *Brazil*)

IRI: *not implemented*

ADHOC response:



This recommendation has not been implemented. Despite its commitment, Cambodia has not extended a standing invitation to Special Procedures.

CCHR response:

Not Implemented

Recommendation n°27: *Consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance CED and the Convention on the Rights of Persons with Disabilities CRPD - the two Optional Protocols to the International Covenant on Civil and Political Rights ICCPR - the Optional Protocols to the Convention on the Elimination of All Forms of Discrimination against Women and CRPD - and Convention No. 169 of the International Labour Organization, and accomplish the human rights goals set by Human Rights Council resolution 9-12 (Recommended by Brazil)*

IRI: *partially implemented*

HRTF response:

The RGC ratified the OP-CEDAW in 2010. However, it has failed to ratify the Optional Protocols to the International Covenant on Civil and Political Rights (ICCPR) and the International Convention for the Protection of All Persons from Enforced Disappearance.

CCHR response:

The CED, the CRPD, the two Optional Protocols to the ICCPR, the Optional Protocol to the CRPD and Convention N°169 of the International Labour Organization were not ratified, and the Human Rights goals set by Human Rights Council resolution 9-12 were not accomplished. However, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women ("CEDAW") was ratified on October 13, 2010.

LICADHO response:

The government has not responded to repeated calls for ratification of the two Optional Protocols to the ICCPR.

Recommendation n°40: *Issue and implement a standing invitation to all special procedures (Recommended by Czech Republic)*

IRI: *not implemented*

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Recommendation n°108: *Issue a standing invitation to all Council special procedures (Recommended by Slovakia)*

IRI: *not implemented*

CCHR response:

The Royal Government of Cambodia (the "RGC") has not issued or implemented a standing invitation to all special procedures.



Recommendation n°85: *Grant the request made by the Special Rapporteur on the independence of judges and lawyers in 2006, 2008 and 2009 to visit the country (Recommended by Netherlands)*

IRI: *not implemented*

CCHR response:

The request made by the Special Rapporteur on the independence of judges and lawyers in 2006, 2008 and 2009 to visit the country has not been granted by the Royal Government of Cambodia (the "RGC").

LICADHO response:

No. The government has not granted these requests according to publicly available information.

Recommendation n°87: *Consider ratifying CRPD and ensuring its full implementation in domestic law (Recommended by New Zealand)*

IRI: *not implemented*

HRTF response:

Cambodia still has not ratified it yet.

CCHR response:

Cambodia has not ratified the CRPD or taken steps to ensure its implementation in domestic law.

Recommendation n°92: *Approve the request for a visit by the Special Rapporteur on the independence of judges and lawyers (Recommended by Norway)*

IRI: *not implemented*

CCHR response:

The request for a visit by the Special Rapporteur on the independence of judges and lawyers has not been approved by the Royal Government of Cambodia.

Recommendation n°93: *Approve the request for a visit by the Special Rapporteur on the sale of children, child prostitution and child pornography (Recommended by Norway)*

IRI: *not implemented*

CCHR response:

The Royal Government of Cambodia (the "RGC") has not approved the request for a visit by the Special Rapporteur on the sale of children, child prostitution and child pornography.

Recommendation n°100: *Submit its pending reports to the relevant treaty bodies (Recommended by Pakistan)*

IRI: *not implemented*

CCHR response:

Cambodia has not submitted its pending reports to the relevant treaty bodies

Recommendation n°106: *Consider early ratification of OP-CEDAW, signed in 2001 (Recommended by Slovakia)*

IRI: *fully implemented*HRTF response:

Cambodia ratified the OP-CEDAW in 2010

CCHR response:The OP-CEDAW [was ratified and came into force](#) on 12 January 2011.

Recommendation n°115: *Respond positively to the requests for a visit by the Special Rapporteur on the sale of children (Recommended by Spain)*

IRI: *not implemented*CCHR response:

The Royal Government of Cambodia (the "RGC") has not responded positively to the requests for a visit by the Special Rapporteur on the sale of children.

Recommendation n°116: *Sign and ratify CED and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights ICESCR - ratify OPICCCPR, OP-CEDAW and CRPD and its Optional Protocol (Recommended by Spain)*

IRI: *partially implemented*HRTF response:

Cambodia ratified the OP-CEDAW in 2011.

CCHR response:

Cambodia ratified the OP-CEDAW and it came into force on 12 January 2011. All of the other international treaties and agreements have not been signed and ratified.

Justice

Recommendation n°9: *Close the so-called rehabilitation centres, where poor people living on the streets arrested in police operations are held, and pursue adequate social policies that address the problems of the concerned socially disadvantaged groups (Recommended by Austria)*

IRI: *partially implemented*LICADHO response:

Partially. While two centers have closed, the government has continued to operate most centers, despite mounting criticism and ever-increasing documentation of widespread abuses. In January 2012, the government arbitrarily detained 30 victims of a forced eviction in one such center, including six children, after arresting them during a protest in Phnom Penh. The detainees were not charged with any crime, but were held against their will for a week, until they were able to escape.

HRTF response:

Prey Speu social affairs centers in Phnom Penh is still open and recently was used to detain illegally and unlawfully protesters. The authorities detained 30 women and



children protesters together, without any access to health care, legal advices and without any warrant or legal justification. This center is known to be a place where drug users and street people are held randomly. This is an illustration of the fact that the Royal Government of Cambodia did not full fill its duty regarding the international law on human rights but also did not respect its commitment to the UPR recommendations.

ADHOC response:

These centers still operate, and people are arbitrarily detained for indefinite periods of time. Adequate rehabilitation/social policies have not been adopted.

CCHR response:

Instead of closing Cambodia's 'rehabilitation centers', the Royal Government of Cambodia (the "RGC") has continued to operate them, despite mounting criticism and ever-increasing documentation of wide-spread abuses, such as inadequate living conditions and a complete lack of medical care. In January 2012, the RGC arbitrarily detained 30 victims, all women and children, in one such center – the 'Prey Speu Rehabilitation Centre' – after being arrested during a peaceful protest in Phnom Penh. Despite never being charged with any crime, the detainees were held against their will for a week, until they were able to escape. As far as the CCHR is aware, no social policy has been developed thus far to facilitate the closing of these 'rehabilitation centers' or to address the more general problems faced by socially disadvantaged groups in Cambodia. One piece of policy which has been developed by the RGC is the 'Village-Commune Safety Policy (the "VCSP").' Introduced in 2010, the aim of the VCSP was to reduce crime at local levels throughout Cambodia. While it has had some successes in this respect, it has also had serious implications for the constitutional and civil rights of Cambodians subject to it, for example by curtailing the constitutional right to peaceful assembly and giving police far greater powers of investigation. [\[Link\]](#)

KUC response:

[...]

Recommendation n°20: Cooperate with the Extraordinary Chambers, the United Nations, international donors and civil society to develop a strategy aimed at ensuring that the national jurisdictions can benefit from the experience of the Extraordinary Chambers (Recommended by Belgium)

IRI: not implemented

ADHOC response:

The Cambodian government has openly interfered with the work of the Extraordinary Chambers, refusing to accept the appointment of International reserve Judge Laurent Kasper-Ansermet. Kasper-Ansermet has resigned in Spring 2012, just like his predecessor Siegfried Blunt. Both have put forward "political interference" as the reason for their resignation. In these conditions, national courts and tribunals cannot benefit from the work of the Extraordinary Chambers.

CCHR response:



The Royal Government of Cambodia (the "RGC") has not developed a clear and transparent strategy that focuses on co-operating with the United Nations (the "UN") to ensure that the Extraordinary Chambers in the Courts of Cambodia (the "ECCC") serves as a legacy model for the domestic courts and justice system. Indeed, it has not bothered to include members of civil society, relevant experts or other stakeholders in the process. It also seems that the misunderstanding between international and national prosecutors/investigating judges illustrates the gap between the justice system in Cambodia – influenced heavily by the executive power – and international standards as represented by the UN, as regards the independence of the judiciary. In fact, as has been well-documented, it seems that the RGC has exerted undue pressure on the ECCC by imposing limits within which justice can be served. Indeed, national reconciliation has been evoked many times by the executive and national prosecutors so as to limit the implication and prosecution of officials in the current regime. Co-operation with the UN has been very difficult, as the RGC refused initially to confirm the appointment of the UN-nominated co-investigating judge Kasper-Ansermet after the resignation of co-investigating judge Blunk, and then explicitly refused his appointment.

Indeed, this refusal is linked with the Cambodian authorities' will to ensure that Cases 003 and 004 never come to trial. The desire to try five more leaders in these two cases has been met with severe opposition from Prime Minister Hun Sen, who says that additional trials could lead the country back into civil war. While Cases 003 and 004 are under investigation at the moment, such political interference shows the limits of the reconciliation process and the political will to prosecute all those who are "most responsible". The result of this political interference has been mass resignations of international staff, and a breakdown in trust and communications between the Cambodian and the international sides.

The ECCC may still succeed in leaving the intended positive legacy on the justice system in Cambodia in the long-term, but it is too early to observe the direct impact and potential benefits, and such prospects are not looking promising. At the moment, the justice system in Cambodia is not in accordance with international standards – with absolutely no independence of the judiciary in Cambodia – and the ECCC is not setting a positive example due to the political interference and breakdown in trust and communications as mentioned above. The choice of a hybrid court has also now been called into question. However, some interesting developments within Case 001 could have a positive impact on the issue of pre-trial detention in particular, such as the reduction of sentences in criminal proceedings taking into account the amount of time spent by Duch in custody before his trial.

For more information see: [[1](#), [2](#)]

Recommendation n°21: *Fully cooperate with the United Nations to ensure that all allegations of corruption and political influence are rapidly investigated by an independent and impartial mechanism and that cases found are submitted to the authorities for judicial proceeding (Recommended by Belgium)*

IRI: not implemented

ADHOC response:



Corruption and the fight against impunity are "red lines" which prevent development partners and the United Nations from taking action for positive change in Cambodia. Tensions between the Cambodian government and its international partners culminated in the removal of Mr. Christophe Peschoux as head of the OHCHR in Cambodia. In August 2011, the World Bank stopped providing loans to the country due to the Cambodian authorities' unwillingness to address the issue of forced evictions. The next Cambodia Development Cooperation Forum (CDCF), the country's aid co-ordination structure, has been postponed to 2014.

CCHR response:

There has been a litany of allegations, including political pressure, official obstruction and corruption, leveled against both the Royal Government of Cambodia (the "RGC") and the national side of the Extraordinary Chambers in the Courts of Cambodia (the "ECCC") (otherwise known as the Khmer Rouge Tribunal), the hybrid UN-domestic court established to try senior members of the Khmer Rouge regime.

The RGC has made numerous statements suggesting that it does not wish to proceed with Cases 003 and 004. These cases, according to introductory submissions filed in 2009, name five suspects that are believed to be responsible for murder, extermination and other inhumane acts committed during the Khmer Rouge regime. In addition to voicing their public opposition to future cases at the ECCC, the RGC has also refused to put forward senior members of the executive for the purposes of giving testimony at the ECCC as part of the investigations. Such political interference was further highlighted in the recent resignations of international co-investigating judge, Siegfried Blunk, and his successor, Laurent Kasper-Ansermet, with both citing political interference in their work as a primary factor in their decisions to resign. The allegations of political interference have severely damaged the credibility of the ECCC, and there has been a distinct lack of political will on the part of the RGC to tackle corruption and prevent political interference at the court.

Recommendation n°22: Guarantee the independence of the Extraordinary Chambers and allow them to prosecute and try offenders other than those already indicted (Recommended by Belgium)

IRI: partially implemented

ADHOC response:

In 2011-2012, two International Investigating Judges (Siegfried Blunt and Laurent Kasper-Ansermet) successively resigned from their position, alleging political interference. The Cambodian government is openly opposed to investigations into Cases no. 3 and 4. These cases may concern political allies of Prime Minister Hun Sen - who are former Khmer Rouge cadres.

CCHR response:

[See response to recommendation n° 20]

UNPO response:

Genocide charges have been brought [before 21 June 2011] to the court's [Extraordinary Chambers in the Courts of Cambodia] second case in relation to the



regime's treatment of Cham Muslims and ethnic Vietnamese, though not including the Khmer Krom. [\[Link\]](#)

Recommendation n°28: *Continue and strengthen the activities of the Extraordinary Chambers in the area of the right to truth and reconciliation* (Recommended by Brazil)

IRI: *not implemented*

+

Recommendation n°33: *Continue to support the important work and independence of the Extraordinary Chambers within the Cambodian court system* (Recommended by Canada)

IRI: *not implemented*

+

Recommendation n°89: *Take steps to ensure that the work of the Extraordinary Chambers, including the involvement of international judges working alongside Cambodian judges, is harnessed to contribute to the strengthening of the Cambodian judiciary* (Recommended by New Zealand)

IRI: *not/partially/fully implemented*

CCHR response:

[See response to recommendation n° 20]

Recommendation n°30: *Develop a policy to protect human rights defenders* (Recommended by Brazil)

IRI: *not implemented*

HRTF response:

The recent years were marked by a deterioration of the situation of human rights in Cambodia, confirming the negative trend witnessed in the previous years. The security of the human rights defenders worsened as well. Indeed they are subject of intimidation, threats, and false accusation allowed by the New Penal Code. These recent legal dispositions give the legislative basis to the RGC to prosecute them on defamation, disturbance to the public order or incitement. For instance, in 2011, several human rights defenders have been accused of incitement, causing turmoil in the society and have been charged in court. The example of Pen Bonnar and Chhay Thy (from LICADHO) and a journalist Radio Free Asia who had to go in Court to answer charges dating from 2009. They were investigating a land dispute case in Rattanakiri Province and providing training to the villagers on their human rights relating to land and natural resources and on non-violent means of dispute resolution. Land rights activists routinely faced violence and arrests, and those in power frequently used judicial proceedings to restrict their activities.

The dispositions in the Penal Code give a possibility to the RGC to justify a suspension or closure of human rights NGOs. In August 2011, that the Ministry of Interior has suspended a land rights NGO Sahmakum Teang Tnaut ("STT"), for five months without specifying the legal justifications, which has been critical of a government forced evictions initiative for the rehabilitation of a railway link that will displace thousands of poor families.



When the human rights NGOs and defenders criticized the situation of Cambodia and the initiatives of the Government, they are exposed to threat and intimidation which don't allow them to work in the best conditions. The RGC didn't respect its engagement of protecting human rights defenders.

CCHR response:

As far as CCHR is aware, no such policy, specifically designed to protect the rights of human rights defenders ("HRDs") and activists working in Cambodia, has been developed. Despite an enormous amount of aid supplied by foreign nations, endless advice, technical assistance and goodwill from civil society, the justice system remains largely the same and no other protective mechanisms have been developed. The Royal Government of Cambodia (the "RGC") has absolutely failed to institutionalize protections for HRDs, and the task has wholly been left to non-governmental organizations ("NGOs") working in Cambodia. For example, CCHR has developed its own specialist HRD team to supply legal, financial, humanitarian, logistical and other support to HRDs in need.

UNPO response:

Human rights defenders often find themselves targeted for harassment, arrest, and prosecution by Cambodian authorities. Khmer Krom Buddhist monk Sieng Sovannara was [end December 2011] summoned to Phnom Penh Municipal Court to face accusations of inciting protesters involved in a land dispute in Phnom Penh's Meanchey district. [\[Link\]](#)

Recommendation n°42: Take further concrete steps to address cases of torture in prisons, in particular to ensure impartial and independent investigation of all cases of alleged mistreatment or torture, punish all personnel responsible for torture or mistreatment and provide victims of torture effective access to remedy (Recommended by Czech Republic)

IRI: not implemented

ADHOC response:

The new Penal Code does not provide for any definition of torture, leading to gaps in law implementation. No perpetrators have been punished for acts of torture per se; only for individual criminal offenses. Authorities are in total denial as regards the use of torture. No independent investigations into deaths which happened in custody have been ordered, and medical personnel called upon to certify such deaths in police custody are reluctant to contradict what the police have said. For their part, prosecutors before whom the police bring suspects for charging seldom inquire whether those suspects have been subjected to torture. Victims seldom have access to remedy. Impunity continues to be widespread.

CCHR response:

The absence of anti-torture legislation in Cambodia constitutes an important limit to the criminalization and prevention of this practice by law enforcement officials for the purpose of extracting confessions. This is not CCHR's area of expertise, although, through its Trial Monitoring Project, CCHR has collected direct evidence of the use of torture and violence on prisoners in order to extract confessions or information, mainly through allegations by prisoners during hearings.

For further information see [\[link\]](#)

LICADHO response:

No. There has been no independent investigation of torture allegations. Retaliation is still likely in the event of a complaint of torture, and there have been no reports of any government staff being punished for torture recently. Physically coerced confessions are still heavily relied upon.

Recommendation n°43: *Build on progress towards the establishment of an independent national preventive mechanism with the necessary mandate and resources to fulfill its obligations under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Recommended by Denmark)

IRI: *not implemented*

CCHR response:

The absence of anti-torture legislation in Cambodia constitutes an important limit to the criminalization and prevention of this practice by law enforcement officials for the purpose of extracting confessions. This is not CCHR's area of expertise, although, through its Trial Monitoring Project, CCHR has collected direct evidence of the use of torture and violence on prisoners in order to extract confessions or information, mainly through allegations by prisoners during hearings.

For further information see [\[link\]](#)

Recommendation n°44: *Establish independent and impartial investigations into all allegations of torture and other ill-treatment and bring perpetrators to justice* (Recommended by Denmark)

IRI: *not implemented*

CCHR response:

The absence of anti-torture legislation in Cambodia constitutes an important limit to the criminalization and prevention of this practice by law enforcement officials for the purpose of extracting confessions. This is not CCHR's area of expertise, although, through its Trial Monitoring Project, CCHR has collected direct evidence of the use of torture and violence on prisoners in order to extract confessions or information, mainly through allegations by prisoners during hearings.

For further information see [\[link\]](#)

LICADHO response:

No. Please see [recommendation n°] 42.

Recommendation n°52: *In line with a previous recommendation made by the Committee on Economic, Social and Cultural Rights, adopt effective measures to combat the culture of violence and impunity and to better protect human rights defenders, including indigenous leaders and peasant activists* (Recommended by Germany)

IRI: *not implemented*

HRTF response:

Concerning the combat against the culture of violence and impunity, several recent cases of shooting, harassment, violence perpetrated by the authorities' representatives and private company workers toward communities' member facing



eviction have been reported. Indeed, the Police, military forces and companies' employees used arms and violence to evict residents in the Borei Keila Community in Phnom Penh in January 2012. Many people have been injured, including children. None of the Government's perpetrator has been prosecuted whereas, former inhabitants of the community have been charged in court. 10 persons have been arrested, including 2 children.

Violence used by the Police, security Guards or military has been observed during the several protests against forced evictions in front of the official buildings. The recent case of the shooting of 3 young women protesters perpetrated by a local Governor remaining unpunished is an example of the culture of impunity for the powerful citizens.

Concerning the security of the human rights defenders, it worsened since the last UPR. Indeed human rights activists are subject of intimidation, threats, and false accusation allowed by the New Penal Code. These recent legal disposition give the legislative basis to the RGC to prosecute them on defamation, disturbance to the public order or incitement. For instance, in 2011, several human rights defenders have been accused of incitement, causing turmoil in the society and have been charged in court. The example of Pen Bonnar and Chhay Thy (from LICADHO) and a journalist Radio Free Asia who had to go in Court to answer charges dating from 2009. They were investigating a land dispute case in Rattanakiri Province and providing training to the villagers on their human rights relating to land and natural resources and on non-violent means of dispute resolution. The disposition in the Penal Code give a possibility to the RGC to justify a suspension or closure of human rights NGOs. In August 2011, that the Ministry of Interior has suspended a land rights NGO, Sahmakum Teang Tnaut ("STT"), which has been critical of government-backed evictions, most notably the rehabilitation of a railway link that could displace thousands of poor families. When the human rights NGOs and defenders criticized the situation of Cambodia and the initiatives of the Government, they are exposed to threat and intimidation which don't allow them to work in the best conditions. The RGC didn't respect its engagement of protecting human rights defenders.

ADHOC response:

The culture of violence and impunity is still widespread, and the government has done nothing to challenge it. On 26 April 2012, Chhut Vuthy, a well-known environmental activist, was killed by military police while investigating a case of illegal logging. Another recent example: after Chhuk Bundith, Bavet City Governor, opened fire in February 2012 at protesters demanding higher wages at a workers' demonstration, he was charged only with "causing involuntary bodily harm" despite the fact that all eyewitnesses saw him intentionally shoot at protesters. Chhuk Bundith is a ruling CPP (Cambodian People's Party) member.

CCHR response:

At the time of writing, the Royal Government of Cambodia (the "RGC") has adopted none of the recommendations set out by the Committee on Economic, Social and Cultural Rights, nor has it adopted effective measures to combat the culture of violence and impunity. Violence and impunity are still rife in Cambodia, with peaceful



protests continually being met with violence from police, local officials and the military. The culture of impunity in Cambodia is as strong as ever, as can be seen from the aftermath of the death of Chut Wutty. The Cambodian courts are very efficient when dealing with the alleged crimes of activists and human rights defenders ("HRDs"), often holding trials so quickly that there is no time to construct a proper defense; however when dealing with the alleged crimes of those connected to the RGC, they are painfully slow, or completely reluctant to follow due process.

LICADHO response:

No. Several human rights organizations, including LICADHO, have noted a dramatic increase in the number of protests related to land rights abuses recently. There have also been at least seven incidents involving armed military and police forces, or provincial authorities, opening fire during protests or against land rights or environmental activists in the past six months. A total of 23 individuals have been injured, including ten from gunfire. Most recently, as has been widely reported, a leading Cambodian environmental activist, Chut Wutty, was killed shortly after photographing evidence of illegal logging on April 26, 2012. Although a growing number of incidents of violence have been documented in video footage or photographs, arrests have been made in relation to only two as of the date of this submission. No one has yet been convicted of any crimes related to these shootings. The brief investigation into Chut Wutty's murder deserves particular scrutiny, as does the questionable composition of the investigative body which included military police leadership and lacked technical police or investigatory competence.

Recommendation n°56: Continue its efforts to promote and protect human rights and to strengthen good governance and respect for the rule of law (Recommended by Indonesia)

IRI: not implemented

CCHR response:

The Royal Government of Cambodia (the "RGC") has not developed any additional initiatives to promote and protect human rights or strengthen good governance and respect for the rule of law. Indeed, human rights defenders ("HRDs"), including activists, journalists and opposition members are still threatened, sanctioned via the courts, or even killed. CCHR has advocated for the protection of HRDs particularly regarding the withdrawal of regressive provisions contained in the Penal Code of the Kingdom of Cambodia 2009 (the "Penal Code") relating to "defamation" and "incitement to commit violence". The principle human rights issues that continue to affect Cambodia are: illegal land grabbing and forced land evictions; the rampant illegal draining of natural resources, including out-of-control illegal logging; increasing restrictions on the fundamental freedoms of expression, assembly and association; endemic corruption at all levels of society; an increasing use of violence to put down protests and to silence HRDs, including extra-judicial killings; a culture of complete impunity as regards the actions of powerful companies and individuals with ties to the governing elite; human trafficking of workers in the sex and other industries; pervasive discrimination against various minorities, including LGBT people, ethnic minorities and women; widespread political interference and a total lack of independence as regards the Cambodian judiciary; and a system of patronage which



prevents people from properly exercising their civil and political rights and enjoying the fruits of true participatory democracy.

For more information on principle human rights issues see [[human rights defender](#), [Land](#), [LGBT](#), [Court monitoring](#)]

UNPO response:

Despite the creation of the Cambodian Human Rights Committee on 2000, amended on 13 February 2009, whose function is to investigate and remedy complaints related to the implementation of human rights, the Khmer Krom and Degar Montagnards continue to be victims of discrimination and multiple human right violations. On 15 February 2011 the Cambodian government closed the UN Refugee Center in Phnom Penh to Montagnard refugees, despite Vietnamese [crackdowns against Christian Montagnards](#). The Cambodian government reportedly screens Montagnard refugee seekers under a procedure not meeting international standards [Article 1 of the Convention and Protocol Relating to the Status of Refugees].

A Cambodian government sub-decree passed in December 2009 allows Cambodia's Interior Ministry, not UNHCR, to make the final decision about a refugee's status. The sub-decree fails to incorporate the 1951 Convention Relating to the Status of Refugees's definition of what constitutes a refugee and provides authorities great leeway to reject and expel asylum seekers, with insufficient procedural protection to prevent forced returns [that are in violation of the Convention](#).

Despite public confirmations by the Royal Government of Cambodia that it considers the Khmer Krom to be Cambodian citizens, Khmer Krom refugees from Vietnam face many difficult hurdles in trying to access the benefits of their Cambodian citizenship, particularly in applying for identification cards which are required in order to claim benefits attached to citizenship such as employment, education, and property rights. Cambodian authorities offer limited assistance to Khmer Krom refugees when applying for identification papers, and there are cases in which their pleas for citizenship are not considered on time, leaving them in a legal limbo. Corruption surrounding access to those documents has been reported, resulting in unfair treatment of refugees based upon their ability to pay bribes to officials. Khmer Krom have also been compelled to change their birth place in order to receive the identification cards. Such identification restriction prevents access to healthcare, schools, and employment, as well as preventing their enjoyment of the right to vote. Without legal registration and identification, many Khmer Krom live in fear knowing that they can be [arrested and deported to Vietnam at any time](#). This issue was raised by the Committee on the Elimination of Racial Discrimination (CERD) during its 2010 review of Cambodia. The CERD Committee noted that there appeared to be "a lot of contradiction" in the Cambodian government's treatment of Khmer Krom refugees when compared with public statements regarding their rights. The Special Rapporteur of the Committee, Mr. Pierre-Richard Prosper, noted that decisions to deny citizenship claims of Khmer Krom refugees were seemingly being made at the local level, and that the central government needed to seize the issue and enforce their stated position that the Khmer Krom are indeed Cambodians.



Recommendation n°59: *Implement anti-corruption legislation through an independent and nonpartisan anti-corruption commission* (Recommended by Ireland)

IRI: *not implemented*

HRTF response:

On March 11, 2010, an Anti-Corruption Law was adopted, and shortly after the draft was released, severely limiting the opportunity for public consultation and comments from the civil society organisations about the document. Among the numerous concerns relating to the new law is the lack of independence of the National Anti-Corruption Commission (NAC), which will be responsible for developing anti-corruption policies at the national level, and the Anti-Corruption Unit (ACU) within the Council of Ministers, which will be in charge of examining allegations of governmental corruption. Neither the NAC nor the ACU is legally required to release public reports on their activities and findings. Additionally, provisions relating to the protection of witnesses and whistleblowers are vague and may put the latter in danger as they could face prosecution if their allegations are deemed to be false.

More allegations of corruption have been reported between private companies and the RGC to allow development of land where communities are settled. Government corruption exacerbated land conflicts and infrastructure concerns because it impoverished Cambodians which could not receive adequate compensation when they are in a conflict against a wealthy or powerful person or company.

The latest example of corruption occurred in early 2012 when a local Governor Chhouk Bandith had confessed shooting three young women protesters outside Kaoway Sports Ltd shoe factory in Bavet, but he still remains a free man. Town officials have allegedly attempted to buy the silence of all three victims, 21-year-old Buot Chinda, 18-year-old Keo Neth and 23-year-old Nuth Sakhorn, offering between \$US 500 and \$1,000 for them not to press charges.

Corruption is at all level of the society and concerns all the field of action of human rights activist. It threatened the safety of the civilian but also the action of the NGOs.

ADHOC response:

A national Anti-Corruption Unit has been established. However, it does not present guarantees of independence, since all of its members are appointed by the executive. Moreover, the anti-corruption law does not contain provisions guaranteeing whistleblower protection, preventing people from speaking up.

CCHR response:

The Law on Anti-Corruption (the “Law”) was promulgated in March 2010, with all provisions subsequently entering into force in August 2011. However, while the premise of the Law is a positive step, the Law, in its present form, contains a number of provisions which seem to go against its stated aim of tackling corruption and is insufficient to address the widespread corruption in the Kingdom of Cambodia (“Cambodia”).

The Law does not create an independent, transparent body to oversee enforcement. The Anti-Corruption Institution, comprising the National Council Against Corruption



(the “NCAC”) and the Anti-Corruption Unit (the “ACU”), work to develop and implement laws, orders and regulations, investigate corruption, and review complaints received about corruption. However, the Law specifies the make-up of these bodies (Articles 6 and 11), and most of the members are appointed by the Prime Minister and/or Royal Government of Cambodia (“RGC”) institutions. The executive branch and governing party therefore have complete control over the composition of these bodies.

In addition, the ACU reports to the NCAC, which in turn reports directly to the Prime Minister (Articles 10 and 13). This chain of reporting gives rise to concerns about the independence of these institutions and, although corruption can and does occur in many aspects of public life, questions as to whether bodies so tightly linked to the RGC can truly address corruption within it.

Despite the RGC taking this positive first step in enacting the Law, the reality is that corruption pervades all corners of Cambodian society. In order to eradicate this endemic corruption, the RGC must seek to adopt measures that encourage a cultural shift within Cambodian society.

For further information please consult the Cambodian Center for Human Rights (CCHR) [fact sheet on the Law](#).

Recommendation n°60: *Investigate and prosecute any attacks on - or false allegations in relation to - human rights defenders, in particular those working with communities to protect land, houses and access to natural resources and prevent forced displacement, an issue that has been reported on by the Special Rapporteur and the Committee on Economic, Social and Cultural Rights (Recommended by Ireland)*

IRI: *not implemented*

CCHR response:

Violence against human rights activists in Cambodia is endemic, with peaceful protests continually being met with violence from police, officials and the military. The investigations into such attacks are continually hampered by the culture of impunity and the failings of the judicial process. The most recent and poignant example of this violence and impunity has been the murder of prominent human rights activist and director of the National Resource Protection Group (“NRPG”), Chut Wutty. Chut Wutty was shot dead for refusing to hand over to the authorities in Koh Kong province evidence of illegal logging that he had gathered from the area. The body of a military policeman was found with gunshot wounds and the authorities concluded, before any investigation had been conducted, that the military policeman had killed Wutty before turning the gun on himself. Only after huge international media attention did the government agree to carry out a report into the death. The present position is that the military policeman shot Wutty and that another man – a security guard for the Timbergreen logging company – then shot him in an apparent attempt to stop him firing his gun. This case clearly shows these pervasive problems, not only as regards solving crimes but also in the attitudes of the authorities towards bringing perpetrators to justice.



LICADHO response:

No. Please see [recommendation n°] 52.

Recommendation n°61: Adopt and enact the Law on the Status of Judges, the Amendment of the Law on the Organization and Functioning of the Supreme Council of Magistracy and the anti-corruption law in accordance with recommendations made by the Special Representative of the Secretary-General for human rights in Cambodia, the United Nations Development Assistance Framework and the Committee on Economic, Social and Cultural Rights, respectively, and create and adopt a code of conduct for judges, prosecutors and disciplinary councils, including disciplinary provisions (Recommended by Israel)

IRI: not implemented

CCHR response:

While an Anti-Corruption Law was passed in 2010, enforcement is an issue, with the anti-corruption unit lacking effectiveness and independence from the executive. The result is that corruption is still a pervasive issue at all levels of Cambodian society and public administration. The other laws have not been enacted.

LICADHO response:

No. The government has failed to make any public progress with respect to promulgating a much needed Law on the Status of Judges.

Recommendation n°67: Regarding the Khmer Rouge tribunal, make further efforts for smooth court proceedings and the early completion of its work, in view of its unexpected delay (Recommended by Japan)

IRI: not implemented

CCHR response:

The Royal Government of Cambodia (the "RGC") has not developed a clear and transparent strategy that focuses on co-operating with the United Nations (the "UN") to ensure that the Extraordinary Chambers in the Courts of Cambodia (the "ECCC") serves as a legacy model for the domestic courts and justice system. Indeed, it has not bothered to include members of civil society, relevant experts or other stakeholders in the process. It also seems that the misunderstanding between international and national prosecutors/investigating judges illustrates the gap between the justice system in Cambodia – influenced heavily by the executive power – and international standards as represented by the UN, as regards the independence of the judiciary. In fact, as has been well-documented, it seems that the RGC has exerted undue pressure on the ECCC by imposing limits within which justice can be served. Indeed, national reconciliation has been evoked many times by the executive and national prosecutors so as to limit the implication and prosecution of officials in the current regime. Co-operation with the UN has been very difficult, as the RGC refused initially to confirm the appointment of the UN-nominated co-investigating Judge Kasper-Ansermet after the resignation of co-investigating Judge Blunk, and then explicitly refused his appointment.

Indeed, this refusal is linked with the Cambodian authorities' will to ensure that Cases 003 and 004 never come to trial. The desire to try five more leaders in these two cases has been met with severe opposition from Prime Minister Hun Sen, who says



that additional trials could lead the country back into civil war. While Cases 003 and 004 are under investigation at the moment, such political interference shows the limits of the reconciliation process and the political will to prosecute all those who are “most responsible”. The result of this political interference has been mass resignations of international staff, and a breakdown in trust and communications between the Cambodian and the international sides.

The ECCC may still succeed in leaving the intended positive legacy on the justice system in Cambodia in the long-term, but it is too early to observe the direct impact and potential benefits, and such prospects are not looking promising. At the moment, the justice system in Cambodia is not in accordance with international standards – with absolutely no independence of the judiciary in Cambodia – and the ECCC is not setting a positive example due to the political interference and breakdown in trust and communications as mentioned above. The choice of a hybrid court has also now been called into question. However, some interesting developments within Case 001 could have a positive impact on the issue of pre-trial detention in particular, such as the reduction of sentences in criminal proceedings taking into account the amount of time spent by Duch in custody before his trial.

The problems discussed above have caused important delays with proceedings at the Extraordinary Chambers in the Courts of Cambodia (the “ECCC”). The main problem now is that what is supposed to be a judicial process has clearly become a political issue. Therefore, court proceedings are unlikely to be concluded any time soon – with budget proposals having projected that the ECCC expects to continue its work until 2018 – exacerbated by the fact that Case 002, involving the three most senior surviving leaders of the Khmer Rouge has been described as “the largest and most complex trial since Nuremberg”.

UNPO response:

In 2011 the government failed to take meaningful steps to ensure that the judiciary was impartial and independent. The courts continued to operate as an arm of the CPP, symbolized by the chief justice of the Supreme Court, Dith Munth, remaining a member of the party’s highest decision-making body. [Human Rights Watch]

Recommendation n°68: Take further measures to proceed with its judicial reform, to address land issues and to combat corruption, as these are important for the promotion and protection of human rights as well as the consolidation of democracy (Recommended by Japan)

IRI: not implemented

HRTF response:

Access to justice for the victims of land grabbing is very difficult due to the cost of it and due to the unequal and impartial treatment in front of the court. Indeed Cambodian people don’t trust in the judiciary system anymore. When the case involves a poor community face to a wealthy person or company, the results is almost all the time in favor of the powerful actor. The judges are not independent but well linked to the ruling political party and to the Government’s officials. The Government of Cambodia does not act to protect and ensure the right of equal access to justice.

CCHR response:

The Law on Anti Corruption (the "Law") is an inadequate legislative protection against corruption. The Anti-Corruption Institution, comprising the National Council Against Corruption (the "NCAC") and the Anti-Corruption Unit (the "ACU"), works to develop and implement laws, orders and regulations, investigate corruption, and review complaints received about corruption. However, the Law specifies the make-up of these bodies (Articles 6 and 11), and most of the members are appointed by the Prime Minister and/or Royal Government of Cambodia (the "RGC") institutions. The executive branch and governing party therefore have complete control over the composition of these bodies.

The Law has been not implemented on the ground as corruption still bedevils all levels of Cambodian society and public administration. The most prominent examples of corruption in Cambodia are seen in land grabbing and forced evictions occurring in land disputes such as Prey Lang Forest, Boeung Kak Lake and throughout Pursat Province. Private companies invest in high-yielding plots of land, bribing high-ranking officials and buying the services of the national law enforcement agencies. The police, the military police and the military, have acted for private companies, clearing the land of occupants and protecting company projects, all on the pretext that such developments are in the economic interests of the whole country.

Recommendation n^o79: *Continue legal and judicial reforms and harmonization of the laws with international human rights instruments* (Recommended by Morocco)

IRI: *not implemented*

CCHR response:

The Royal Government of Cambodia (the "RGC") has taken no steps to harmonize domestic laws with the international treaties – which it has itself ratified – or with its own Constitution of the Kingdom of Cambodia (the "Constitution")

Recommendation n^o88: *Strengthen mechanisms guaranteeing judicial independence, including fully empowering the Government anti-corruption unit to act against corruption within the judiciary* (Recommended by New Zealand)

IRI: *not implemented*

CCHR response:

The Royal Government of Cambodia (the "RGC"), despite announcing plans to the contrary, has failed to take any concrete steps to guarantee judicial independence in the Kingdom of Cambodia ("Cambodia"). The Law on the Status of Judges has still to be adopted and enacted and the necessary amendments required to the Law on the Organization and Functioning of the Supreme Council of Magistracy (the "Law on SCM") have yet to be made. This lack of action on the part of the RGC only serves to maintain the status quo in Cambodia, that is, an executive which exerts total control over the judiciary and abuses its power in order to serve the interests of the political elite rather than provide justice and remedies to those most in need, i.e. the poor, vulnerable and marginalized individuals and communities that make up the majority of Cambodia's population.



UNPO response:

Cambodia's human rights record remains poor. The judiciary lacks independence, leaving the government free to threaten arrest and prosecution and to curtail the right to free speech. The government also jails its critics, disperses peaceful protests by workers, displaces communities and farmers, and silences opposition party members. The military and police frequently kill and torture criminal suspects with impunity, threaten human rights defenders, and forcibly evict residents from land coveted by commercial interests. Government interference threatened to undermine the tribunal trying senior Khmer Rouge officials for genocide, as well as prevent prosecution of additional cases submitted by the international co-prosecutor.

Recommendation n°91: *Adopt appropriate measures to disseminate widely and ensure full observance of the Declaration on Human Rights Defenders* (Recommended by Norway)

IRI: *not implemented*

CCHR response:

No measures have been adopted in relation to improving Cambodia's non-observance of the Declaration on Human Rights Defenders (the "Declaration"). The rights and protections accorded to human rights defenders ("HRDs"), though often expressed in the Constitution of the Kingdom of Cambodia (the "Constitution"), are in practical terms, non-existent. Similarly, the duties of the state with regard to dealing with HRDs have largely been ignored, and the efforts to meet these goals are instead met by the work of domestic and international non-governmental organizations ("NGOs").

Recommendation n°94: *Complete the process of judicial reform and enact essential legislation such as a new penal code, an anti-corruption law and legislation to guarantee and safeguard the independence and impartiality of the court system, court personnel and judges in accordance with international standards* (Recommended by Norway)

IRI: *not implemented*

CCHR response:

The Law on Anti Corruption (the "Law") is an inadequate legislative protection against corruption. The Law specifies the make-up of these bodies (Articles 6 and 11), and most of the members are appointed by the Prime Minister and/or Royal Government of Cambodia ("RGC") institutions, removing impartiality and independence of the bodies. Furthermore, the current Penal Code of the Kingdom of Cambodia is inconsistent with international standards of freedom of expression and anti corruption.

With regards to the court system, since the Universal Periodic Review session at the Human Rights Council on 1 December 2009, no legislative measures have been enacted to reform the judicial system and to ensure that judges and other court staff are fully independent and free from political interference and corruption. In short, there is as yet no separation of powers between the executive and the judiciary.



Recommendation n°95: *Consider favourably the request for visits by thematic mandate-holders* (Recommended by Norway)

IRI: *partially implemented*

CCHR response:

The Royal Government of Cambodia (the "RGC") generally responds well to requests for country visits, including United Nations (the "UN") Special Rapporteurs, the UN Secretary General, and foreign dignitaries and representatives.

Recommendation n°96: *Effectively investigate and prosecute crimes and violations against human rights defenders and punish those responsible* (Recommended by Norway)

IRI: *not implemented*

CCHR response:

Violence against human rights activists in Cambodia is endemic, with peaceful protests continually met with violence from police, officials and the military. The investigations into such attacks are continually hampered by the culture of impunity and the failings of the judicial process. The most recent and poignant example of this violence and impunity has been the murder of prominent environmental activist and Director of the National Resource Protection Group ("NRPG"), Chut Wutty. Chut Wutty was shot dead for refusing to hand over to the authorities in Koh Kong province evidence of illegal logging that he had gathered from the area. The body of a military policeman was found with gunshot wounds and the authorities concluded, before any investigation had been conducted, that the military policeman had killed Wutty before turning the gun on himself. Only after huge international media attention did the Royal Government of Cambodia (the "RGC") agree to carry out a report into the death. The present position is that the military policeman shot Wutty and that another man – a security guard for the Timbergreen logging company – then shot him in an apparent attempt to stop him firing his gun. This case clearly shows these pervasive problems, not only with regards to solving crimes but also in the attitudes of the authorities towards bringing perpetrators to justice.

LICADHO response:

No. Please see [recommendation n°] 52.

Recommendation n°107: *Intensify its efforts towards establishment of a fully independent, impartial and neutral judiciary, free from corruption in accordance with international standards, guaranteeing that all perpetrators of human rights violations are held accountable and nobody goes unpunished* (Recommended by Slovakia)

IRI: *not implemented*

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Recommendation n°117: *Ensure the independence and impartiality of the judicial system* (Recommended by Sweden)

IRI: *not implemented*

HRTF response:

The RGC does not comply with the international standards on independence of the judiciary system and the accountability of human rights abuses. Access to justice for the victims of land grabbing or any human rights violation is very difficult due to the



cost of it and due to the unequal and impartial treatment in front of the court. Indeed Cambodian people don't trust in the judiciary system anymore. When the case involve a poor community face to a wealthy person or company, the results is almost all the time in favor of the powerful actor. The judges are not independent but well linked to the ruling political party and to the Government's officials. Crimes are not punished when the perpetrator is a rich people. For instance, the case of the shooting of 3 young women by a local governor in the Svay Rieng Province is the concrete example of impunity. The perpetrator admitted his crime but still is free and unpunished. At least seven episodes of gun violence at protests have been documented since November 2011, but there have been arrests in only one case. The ongoing impunity for the perpetrators of recent incidents is particularly troubling given that there is clear video and photographic evidence and dozens of witnesses to the violence.

CCHR response:

Since the Universal Periodic Review («UPR») session at the Human Rights Council on 1 December 2009, no legislative measures have been enacted to reform the judicial system and to ensure that judges and other court staff are fully independent and free from political interference and corruption. In short, there is as yet no separation of powers between the executive and the judiciary.

The Law on Anti Corruption (the «Law») is an inadequate legislative protection against corruption. The Law specifies the make-up of these bodies (Articles 6 and 11), and most of the members are appointed by the Prime Minister and/or Royal Government of Cambodia («RGC») institutions, removing impartiality and independence of the bodies. Further the current penal code is inconsistent with international standards of freedom of expression and anti corruption.

Recommendation n°114: Look for means to improve the remuneration system for judges to offer better guarantees of independence (Recommended by Spain)

IRI: not implemented

ADHOC response:

The remuneration system for judges has experienced no change. Salaries are still very low, which makes judges more ready to accept bribes. In cases involving rich, well-connected individuals, corruption is the rule, the latter paying to get favorable judgments.

CCHR response:

The remuneration of judges and prosecutors could be raised in order to combat and reduce corruption in the courts. In theory, the judiciary is equal to the other two branches of government, so the salaries of judges and prosecutors could be increased so that they are equal to those of parliamentarians and members of the Royal Government of Cambodia (the "RGC"). However, it must be noted that in 2010, the salaries of judicial actors were raised – but this did not have any major impact on the independence of the judiciary.

CCHR believes that the independence of the judiciary does not depend on the remuneration of judges, and that corruption and partiality are the result of a culture of



fear and patronage that has prevailed for many decades. The other point to consider is that an increase in the salaries of judges could also negatively affect their independence, as it could subordinate them to the executive power by increasing the culture of dependence and loyalty.

Recommendation n°119: Strengthen efforts to protect freedom of expression and the right of all human rights defenders, including those working on land rights issues, to conduct their work without hindrance or intimidation, including by way of safeguarding freedom of assembly and association (Recommended by Sweden)

IRI: not implemented

HRTF response:

The security of the human rights defenders worsened as well. Indeed they are subject of intimidation, threats, and false accusation allowed by the New Penal Code. These recent legal disposition give the legislative basis to the RGC to prosecute them on defamation, disturbance to the public order or incitement. For instance, in 2011, several human rights defenders have been accused of incitement, causing turmoil in the society and have been charged in court. Land rights activists routinely faced violence and arrests, and those in power frequently used judicial proceedings to restrict their activities. The example of Pen Bonnar and Chhay Thy (from LICADHO) and a journalist Radio Free Asia who had to go in Court to answer charges dating from 2009. They were investigating a land dispute case in Rattanakiri Province and providing training to the villagers on their human rights relating to land and natural resources and on non-violent means of dispute resolution.

CCHR response:

No efforts – legislative or practical – have been developed or implemented to safeguard the rights of individuals with regards to the fundamental rights to freedom of expressions, assembly and association. Despite Article 41 of the Constitution of the Kingdom of Cambodia (the "Constitution"), which affords every Cambodian citizen the right to protest freely, the Law on Peaceful Assembly 2009 (the "Demonstration Law") has further reduced what little freedom Cambodians once had to protest. As a result of the Demonstration Law, people can only protest if five days' notice is given to the authorities and, even then, if any disruption occurs during the protest, the organizer is automatically held responsible. The Demonstration Law, along with the culture of impunity which exists for government officers/policemen who deal with protests, has created a very poor situation for the advancement of the right to freedom of assembly in Cambodia.

A cause for concern as regards the right to freedom of association has been the development of the Law on Associations and Non-Governmental Organizations (the "LANGO"). In its 18 December 2011 Legal Analysis, CCHR outlined its concerns with the fourth draft of the LANGO, which, while a significant improvement on the first three drafts, nevertheless still retained several areas of huge concern. The conclusion is that the LANGO, if passed in its current form, still has the potential to be severely misused given the current political context and would therefore represent a real threat to Cambodian civil society. However, on 28 December 2011, Prime Minister Hun Sen announced that the LANGO would be put on hold for the moment – welcome reward for Cambodian civil society's continuing advocacy efforts and a



temporary victory in favor of freedom of association. However, with law enforcement on the ground as it is, and in the absence of the repealing of other draconian legislation such as the Penal Code, in practice human rights defenders ("HRDs") and non-governmental organizations ("NGOs") still have to contend with significant threats to their activities, livelihoods and well-being.

LICADHO response:

No. Please see [recommendations n°] 32 and 52.

UNPO response:

The Cambodian government continues to use the judiciary, penal code, and threats of arrest or legal action to restrict free speech, jail government critics, disperse peaceful protests and silence opposition party members. In 2011 it proposed a law that would give it wide discretion to shut down associations and NGOs. The draft law on associations and NGOs would enable the government to order the closure of organizations on arbitrary grounds. On 2 August 2011 the Ministry of Interior sent a letter to the NGO Sahmakum Teang Tnaut suspending its activities for five months without specifying the legal grounds for the action [Human Rights Watch]

NGOs identified at least 12 persons imprisoned under for peaceful expression of views since December 2010. They include Seng Kunnakar, UN World Food Program employee; Sam Chankea, provincial field coordinator of Cambodian Human Rights and Development Association (ADHOC); Leang Sokchouen, staff member from Licadho; and Hang Chakra, editor of the Khmer Machas Srok newspaper. [Human Rights Watch]

Opposition party leader Sam Rainsy remains in exile as a result of politically motivated and manifestly unfair trials. [Human Rights Watch]

The government uses a 2009 law on demonstrations to deny protest requests or compel smaller protests to use remotely placed, so-called freedom parks for rallies. [Human Rights Watch]

Cambodian authorities have arbitrarily detained more than 2,000 people in 11 government drug detention centers established to "treat" and "rehabilitate" drug users. Detainees in such centers are subjected to torture; violence, including electric shocks and whippings; forced labor; and military-style drills. Police and the military routinely use torture to extract confessions. [Human Rights Watch]

Recommendation n°120: *Take measures to ensure everyone's equal access to justice, in accordance with international standards* (Recommended by Sweden)

IRI: *not implemented*

CCHR response:

The Royal Government of Cambodia (the "RGC") has done nothing to improve access to justice for poor or marginalized groups, except increase the number of courts through the country. Indeed, few efforts have been made to guarantee fair trials as prescribed in the Constitution of the Kingdom of Cambodia (the "Constitution") and the international standards that Cambodia has ratified. The



absence of lawyers, the lack of a presumption of innocence, pre-trial detention for those who cannot afford to pay bail, and widespread impunity afforded to powerful companies and individuals and the governing elite have created a disturbing contrast between rich and poor, government and opposition, private and well-connected investors and human rights defenders. Due to this, court enforced solutions are rare, forcing people to seek to resolve their dispute through other, sometimes violent, avenues. CCHR has launched the Trial Monitoring project (the "Project"), which has assessed access to justice and the right to a fair trial since 2010, attending and evaluating 958 trials in the Phnom Penh and Kandal courts. In order to raise awareness and open a discussion with the judiciary, the Project has launched an on-line database, with all data collected made available to the public. The project also publishes reports and has released a handbook, with the aim of raising awareness among the local and international communities and providing other monitoring non-governmental organizations ("NGOs") with expertise and information. For more information see: [\[Link\]](#)

Recommendation n°121: *Adopt a law against corruption* (Recommended by Switzerland)

IRI: *fully implemented*

HRTF response:

On March 11, 2010, an Anti-Corruption Law was adopted, and shortly after the draft was released, severely limiting the opportunity for public consultation and comments from the civil society organisations about the document. Among the numerous concerns relating to the new law is the lack of independence of the National Anti-Corruption Commission (NAC), which will be responsible for developing anti-corruption policies at the national level, and the Anti-Corruption Unit (ACU) within the Council of Ministers, which will be in charge of examining allegations of governmental corruption. Neither the NAC nor the AUC is legally required to release public reports on their activities and findings. Additionally, provisions relating to the protection of witnesses and whistleblowers are vague and may put the latter in danger as they could face prosecution if their allegations are deemed to be false.

More allegations of corruption have been reported between private companies and the RGC to allow development of land where communities are settled. Government corruption exacerbated land conflicts and infrastructure concerns because it impoverished Cambodians which could not receive adequate compensation when they are in a conflict against a wealthy or powerful person or company.

ADHOC response:

An anti-corruption law has been adopted in 2010.

CCHR response:

The Law on Anti-Corruption (the "Law") was promulgated in March 2010, with all provisions subsequently entering into force in August 2011. However, while the premise of the Law is a positive step, the Law, in its present form, contains a number of provisions which seem to go against its stated aim of tackling corruption and is insufficient to address the widespread corruption in the Kingdom of Cambodia ("Cambodia").



The Law does not create an independent, transparent body to oversee enforcement. The Anti-Corruption Institution, comprising the National Council Against Corruption (the “NCAC”) and the Anti-Corruption Unit (the “ACU”), work to develop and implement laws, orders and regulations, investigate corruption, and review complaints received about corruption. However, the Law specifies the make-up of these bodies (Articles 6 and 11), and most of the members are appointed by the Prime Minister and/or Royal Government of Cambodia (“RGC”) institutions. The executive branch and governing party therefore have complete control over the composition of these bodies.

In addition, the ACU reports to the NCAC, which in turn reports directly to the Prime Minister (Articles 10 and 13). This chain of reporting gives rise to concerns about the independence of these institutions and, although corruption can and does occur in many aspects of public life, questions as to whether bodies so tightly linked to the RGC can truly address corruption within it.

Despite the RGC taking this positive first step in enacting the Law, the reality is that corruption pervades all corners of Cambodian society. In order to eradicate this endemic corruption, the RGC must seek to adopt measures that encourage a cultural shift within Cambodian society.

Recommendation n°124: *Ensure the independence of the judiciary, without any political intervention* (Recommended by Switzerland)

IRI: not implemented

HRTF response:

The independence of the judiciary power is not effective in Cambodia. The judges are not independent but well linked to the ruling political party, wealthy persons and to the Government’s officials.

CCHR response:

Since the Universal Periodic Review («UPR») session at the Human Rights Council on 1 December 2009, no legislative measures have been enacted to reform the judicial system or to ensure that judges and other court staff are fully independent and free from political interference and corruption. In short, there is as yet, no separation of powers between the executive and the judiciary.

The Law on Anti Corruption (the «Law») is an inadequate legislative protection against corruption. The Law specifies the make-up of these bodies (Articles 6 and 11), and most of the members are appointed by the Prime Minister and/or Royal Government of Cambodia (“RGC”) institutions, removing impartiality and independence of the bodies. Further the current Criminal Code of the Kingdom of Cambodia (the «Penal Code») is inconsistent with international standards of freedom of expression and anti- corruption.

Recommendation n°126: *Continue to strengthen the rule of law and good governance as a means to help enhance human rights promotion and protection within the country* (Recommended by Thailand)

IRI: not implemented

CCHR response:

The Royal Government of Cambodia (the "RGC") has not developed any additional initiatives to promote and protect human rights through the rule of law or good governance as regards the main issues concerning the country. Indeed, human rights defenders (HRDs), including activists, journalists and opposition members are still threatened, sanctioned via the courts, or even killed. CCHR has advocated for the protection of HRDs particularly regarding the withdrawal of regressive provisions contained within the Penal Code of the Kingdom of Cambodia 2009 (the "Penal Code") such as "defamation" and "incitement to commit violence. The principle human rights issues that continue to affect Cambodia are: illegal land grabbing and forced land evictions; the rampant illegal draining of natural resources, including out-of-control illegal logging; increasing restrictions on the fundamental freedoms of expression, assembly and association; endemic corruption at all levels of society; an increasing use of violence to put down protests and to silence HRDs, including extra-judicial killings; a culture of complete impunity as regards the actions of powerful companies and individuals with ties to the governing elite; human trafficking of workers in the sex and other industries; pervasive discrimination against various minorities, including lesbian gay bi-sexual and transgender ("LGBT") people, ethnic minorities and women; widespread political interference and a distinct lack of independence of the Cambodian judiciary; and a system of patronage which prevents people properly exercising their civil and political rights and enjoying the fruits of true participatory democracy.

For more information on principle human rights issues see [[human rights defender](#), [Land](#), [LGBT](#), [Court monitoring](#)]

Recommendation n°134: Swiftly review and pass the anti-corruption law, which would include tough penalties for government corruption and would subject public officials to financial disclosures (Recommended by United States)

IRI: not implemented

CCHR response:

The Law on Anti-Corruption (the "Law") was promulgated in March 2010, with all provisions subsequently entering into force in August 2011. However, while the premise of the Law is a positive step, the Law, in its present form, contains a number of provisions which seem to go against its stated aim of tackling corruption and is insufficient to address the widespread corruption in the Kingdom of Cambodia ("Cambodia").

The Law does not create an independent, transparent body to oversee enforcement. The Anti-Corruption Institution, comprising the National Council Against Corruption (the "NCAC") and the Anti-Corruption Unit (the "ACU"), work to develop and implement laws, orders and regulations, investigate corruption, and review complaints received about corruption. However, the Law specifies the make-up of these bodies (Articles 6 and 11), and most of the members are appointed by the Prime Minister and/or Royal Government of Cambodia ("RGC") institutions. The executive branch and governing party therefore have complete control over the composition of these bodies.



In addition, the ACU reports to the NCAC, which in turn reports directly to the Prime Minister (Articles 10 and 13). This chain of reporting gives rise to concerns about the independence of these institutions and, although corruption can and does occur in many aspects of public life, questions as to whether bodies so tightly linked to the RGC can truly address corruption within it.

Despite the RGC taking this positive first step in enacting the Law, the reality is that corruption pervades all corners of Cambodian society. In order to eradicate this endemic corruption, the RGC must seek to adopt measures that encourage a cultural shift within Cambodian society.

For further information on CCHR's key concerns and recommendations relating to the Law please see [fact sheet linked](#). [...]

Women & Children

Recommendation n^o1: *As recommended by the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights, intensify efforts to achieve better promotion and protection of the rights of the child (Recommended by Algeria)*

IRI: *not implemented*

HRTF response:

[...] According to the data and facts of the last years, forced evictions had increased in Cambodia, affecting the lives of thousands of children. Expropriation and displacement afflict the right of health, education, nutrition and social development. The obligation of the state to refrain from forced eviction had not been fulfilled and since 2009 and the UPR of Cambodia, the situation did not improve but worsened for Cambodian children.

KUC response:

[...]

UNPO response:

Cambodia adopted the Law on Inter-Country Adoption in December 2009 and the Law on Promotion and Protection of the Rights of Persons with Disabilities in July 2009.

Recommendation n^o4: *Make it a priority in its future plans to improve the situation of certain vulnerable groups, such as women, particularly those in rural areas, children, and persons with disabilities (Recommended by Algeria)*

IRI: *partially implemented*

CCHR response:

The government has developed various policies to improve the situation of women. In order to achieve the third of the Cambodian Millennium Development Goals ("CMDG"), namely to "Promote gender equality and women's empowerment", the



National Strategic Development Plan ("NSDP") was updated for the period of 2009-2013 and includes strategies to achieve gender equality in several areas: economic empowerment, education, legal protection, promotion of health, promotion in decision-making, and gender mainstreaming in national policies and programs.

The Strategic Plan of the Ministry of Women's Affairs (the "MoWA") "Neary Rattanak III" was also updated for 2009-2013. It focuses on the same main fields as the NSDP. An institutional machinery to support women's issues was set up including the MoWA, the Cambodia National Council for Women ("CNCW"), the Technical Working Group on Gender ("TWG-G"), the Women's and Children's Consultative Committees ("WCCC"), and the Gender Mainstreaming Action Groups in Line Ministries ("GMAGs").

Nevertheless women, especially indigenous and rural women, and women with disabilities are still suffering from discrimination and inequalities since policies are implemented slowly and with varying success according to the applicable policy sectors (education, health, political participation, economic empowerment, human trafficking, and domestic violence). Rather than a lack of policy the problem is a lack of implementation of such policies.

KUC response:

[...]

Recommendation n°10: *Enact legislation that clearly defines discrimination against women and provides for effective remedies* (Recommended by Austria)

IRI: not implemented

ADHOC response:

"Discrimination against women" is not legally defined in Cambodia. As of 2012, there is only a law on domestic violence and a law on trafficking in human beings.

CCHR response:

Cambodia relies on the definition in the Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW") and has not implemented domestic legislation defining discrimination against women. Nor has it enacted legislation that would make it possible for women to obtain a domestic remedy against discrimination, separate to those available pursuant to CEDAW.

KUC response:

[...]

Recommendation n°12: *Sensitize police officers and law enforcement officials and take measures to effectively prosecute sexual and domestic violence* (Recommended by Austria)

IRI: partially implemented

ADHOC response:



This recommendation is being implemented. The government (Ministry of Women's Affairs) has been organizing sensitization activities for law enforcement officials and local authorities.

CCHR response:

In collaboration with the United Nations Development Program (the "UNDP"), the Ministry of the Interior (the "MoI") and the Ministry of Justice (the "MoJ") published a handbook entitled "Talking about domestic violence" (2010). This was aimed at village facilitators and outlined the duties of police and local authorities.

In cooperation with non-governmental organizations ("NGOs") the government and the Ministry of Women's Affairs (the "MoWA") undertook efforts to provide information, education and training to police, judiciary and other local authorities. These activities were aimed at challenging the idea that domestic and sexual violence are private matters, as well as providing training on how to enforce the law on sexual and domestic violence effectively.

KUC response:

[...]

Recommendation n°13: *Conduct a wide awareness-raising campaign to sensitize society to issues of gender equality* (Recommended by Azerbaijan)

IRI: *fully implemented*

ADHOC response:

A campaign has been organized, which includes the screening of video films on the national TV channel on gender equality and domestic violence. A national action plan on the protection of victims of violence against women has been launched (2009).

CCHR response:

In order to achieve gender equality the Royal Government of Cambodia (the "RGC") and the Ministry of Women's Affairs (the "MoWA") mention the strategy of campaigns to raise public awareness on gender-specific problems in various areas as education, health, politics, legal protection, or domestic violence. However, in Cambodia, awareness-raising campaigns are implemented mostly by non-governmental organizations ("NGOs") and international organizations, rather than by the RGC. Furthermore such NGO campaigns tend to focus on specific issues of women's rights, rather than on gender equality in general.

KUC response:

[...]

Recommendation n°24: *Continue making efforts to increase the political participation of women, the percentage of women and young people in positions at all levels of society and the participation of women in the labour market under equal conditions* (Recommended by Bosnia & Herzegovina)

IRI: *fully implemented*

ADHOC response:



A national policy is in place, called Neary Rattanak ("women as precious gems"). Efforts are being made, although social change, including change in attitudes and challenging of stereotypes, is slow.

CCHR response:

Promoting women in public decision-making and politics at all levels of government is one main area of the gender policy program of the Royal Government of Cambodia (the "RGC"). It is outlined in the National Strategic Development Plan ("NSDP") 2009-2013 as well as in the five-year strategic plan of the Ministry of Women's Affairs (the "MoWA") for the period of 2009-2013 (Neary Rattanak III). The policy documents suggest various strategies aimed at increasing the political participation of women including awareness campaigns, lobbying for a quota within parties, capacity-building, education and training for women.

Economic empowerment is another strategic area referred to in the NSDP and Neary Rattanak III. In order to abolish wage differences between men and women and to increase the percentage of women in higher paid jobs, the government has said it intends to implement poverty reduction strategies, provide training opportunities for women, and strengthen business development services to develop micro, small, and medium enterprises.

In both cases these policies have not been comprehensively adopted or implemented.

Recommendation n°37: Continue the implementation of the necessary affirmative measures to achieve gender parity (Recommended by Cuba)

IRI: not implemented

CCHR response:

Although the Ministry of Women's Affairs (the "MoWA") has called for more affirmative action in its third strategic plan (Neary Rattanak III, 2009) the Royal Government of Cambodia (the "RGC") has not taken the necessary measures to achieve gender parity. In particular, it has not established a gender-based quota for seats in parliament or for political positions in the government ministries.

Recommendation n°38: Adjust detention and prison facilities as well as standards of treatment so that they are gender-sensitive and ensure effective protection of the personal safety of all detainees and prisoners (Recommended by Czech Republic)

IRI: not implemented

HRTF response:

Retention and prison facilities standards are still not responding to a gender sensitive approach and don't comply with the international criteria of protection and detention. As an illustration, on the 11th of January, 30 women and children have been held in a social affairs centers, known to be more likely a detention center for street people, after the held of a peaceful protest against the forced eviction they suffered of few days earlier. They have been maintained there in a small room altogether, adults and children mixed and didn't have access to medical care, proper sanitation or legal advices. During this time, a private company representative visited them and tried to intimidate them to force them to agree to move to the remote relocation site and to



stop protesting. They were held without any legal justification or warrant and were detained for their «protection» and in a way to provide them «vocational training», according to the Ministry of Social Affairs.

Another example of a detainee arrested during the violent clash prior to the forced eviction in a community of Phnom Penh, which spent 44 days in a small 3,5x6m room with 20 other persons. He did not have access to medical care and he had to buy his own food to eat a proper meal. He could not use the water in the jail because of its poor and unhealthy quality.

ADHOC response:

Overall, the prison and detention system is in a very bad condition, even though very large differences can be noticed from one province to another. In some prisons, there are no facilities/departments specifically for women. In actual fact, it all depends on the prison chief and on the province's financial capacity (Rattanakiri is a very bad example; whereas Kandal prison is satisfactory). Physical and psychological abuse is a risk for female inmates, and health care is highly unsatisfactory.

LICADHO response:

There have been no improvements with respect to protecting prisoners from other prisoners. Inmates are still designated to sit on self-management committees, which are intended to keep other inmates in line, and are highly susceptible to abuse. This goes on with the explicit support of prison management. Prison staff also continues to represent a threat to inmates' personal safety.

Recommendation n°39: *Ensure registration at birth of all children, including non-Khmer citizens born in Cambodia* (Recommended by Czech Republic)

IRI: not implemented

ADHOC response:

All children are not registered at birth, due to corruption of local officers. Citizens have to pay bribes to get birth certificates, therefore some have no choice but to leave their children unregistered.

Recommendation n°62: *Incorporate a legal definition of the child, a minimum age for criminal responsibility and sexual consent, and enforce the law on the minimum age of marriage, as recommended by the Committee on the Rights of the Child, and develop and implement national legislation which criminalizes and penalizes the distribution, sale and display of child pornography* (Recommended by Israel)

IRI: not implemented

ADHOC response:

The minimum age for criminal responsibility is 16 years old for serious crimes. The minimum age for marriage is 18 years old, but this is not always respected as some people cheat to get their daughters married earlier. The local authorities do not carry out the necessary checks to comply with the law. There is no legal definition of the child in Cambodia.



Recommendation n°72: *Increase its effort in promoting women's empowerment and capacity building through public awareness, education and skill training (Recommended by Malaysia)*

IRI: *not implemented*

HRTF response:

Women are disproportionately affected by evictions which constitutes a direct violation not only of women's rights to adequate housing but also of their economic, social and cultural (ESC) rights.

Despite the existence of national, international laws and the Constitution of 1993 ensuring the equality between men and women, the bigger challenge is in changing the mindset that largely dictates social behavior in terms of gender-stereotyping in Cambodia. For example specific codes of conduct that are taught in school which reinforce unequal gender norms such as the preservation of the notion of an ideal Khmer woman, the idea that men has a higher status than women and notably in ownership. Thus, a majority of the poorest women threatened by eviction are still waiting for their land titles, and are denied security of tenure. Their dire situation is compounded by their lack of knowledge of land rights (e.g., land titling procedures) and access to resources. More, women threatened or victims of forced eviction are more vulnerable to domestic violence, due to the stress generated by the unsecured situation of the family. Women are also suffering from violence perpetrated by authorities while using their right of freedom of speech or just while resisting against these evictions.

Recommendation n°109: *On sexual violence against women, undertake due and timely investigations of all reported cases, punish the perpetrators and implement necessary rehabilitation programmes for the victims - intensify Government efforts to raise public awareness against this negative phenomenon and to fight persistent traditional stereotypes (Recommended by Slovakia)*

IRI: *not implemented*

ADHOC response:

All reported cases of rape and gender-based violence are not investigated, as local authorities often push for out-of-court resolution. In cases involving rich, powerful individuals, legal proceedings usually do not occur. More generally, in cases of human trafficking (sexual exploitation for instance, which often happens in Karaoke clubs and bars), businesses can be closed down and the managers prosecuted, but the owners are almost never under threat.

Other

Recommendation n°23: *Continue to cooperate with the international community in its effort to further advance democratic society and to improve human rights and the wellbeing of its people in accordance with national priorities as reflected in its development strategies and policies (Recommended by Bhutan)*

IRI: *not implemented*



HRTF response:

The Government of Cambodia did not take measures to ensure the concrete wellbeing for its citizens. With the increase and the allowance of forced evictions, the Authorities of Cambodia did not ensure the rights and welfare of the citizen as a national priority. Forced evictions are a threat against the several human rights for the entire Cambodian population and even if the Government enacted legal protection in the laws, these ones are neither respected nor implemented. Displacement and expropriation of the poorest communities in order to favor private businesses and wealthier people are a clear violation of the human rights.

CCHR response:

The Royal Government of Cambodia (the "RGC"), as current chair of the Association of South-East Asian Nations ("ASEAN"), has engaged with governments of other ASEAN countries to finalize an ASEAN Human Rights Declaration (the "AHRD"). However, since thus far there has been no consultation with civil society, and the draft of the AHRD has not been publicized, there is no guarantee that democracy and human rights will be adequately protected in line with international standards. Furthermore, on a domestic front, the RGC has shown little interest in protecting the human rights of its people in line with the Constitution of the Kingdom of Cambodia, and has either turned a blind eye to human rights abuses or been actively involved in facilitating them.

Recommendation n°29: *Continue strengthening its reforms programmes in all sectors to guarantee the human rights and freedoms enshrined in its Constitution (Recommended by Brazil)*

IRI: not implemented

HRTF response:

The Cambodian constitution guarantees all basic human rights described in the international human rights treaties. However, forced evictions threatened various rights and freedoms. More the corruption at all level of the society hamper an easy and equal access to justice. The people suffering of eviction see their rights of adequate housing, education, employment, access to food, access to health care and basic facilities, equal access to justice endangered.

More, the recent law (Penal Code, Press Law) adopted narrow the scope of the rights to freedom of speech, criminalizing some speeches, acts criticizing the Government or official. It threatens the right of expression of the population and of the media. It also hampers the dissemination of information which is essential in the fight against forced evictions and violation of human rights more widely.

Discrimination had been observed in the forced evictions processes. People affected by HIV/AIDS have been denied the right to get an equal relocation site at the time of eviction (case of Borei Keila eviction in Phnom Penh). They had been gathered in one place, remote of the city, which is known now as the «AIDS colony».

The economic and social rights of the cambodian are not guaranteed in this current atmosphere of massive forced evictions.



CCHR response:

The Royal Government of Cambodia (the "RGC") has not undertaken any further measures to guarantee human rights and fundamental freedoms as enshrined in the Constitution of the Kingdom of Cambodia.

Recommendation n°45: *Accelerate the steps currently under way for the establishment of a national human rights institution consistent with the Paris Principles (Recommended by Egypt)*

IRI: *not implemented*

CCHR response:

In September 2006, Prime Minister Hun Sen announced that the Royal Government of Cambodia (the "RGC") would begin to take the necessary steps to create a national human rights institution ("NHRI") based on the Paris Principles. Following these comments, a Cambodian Working Group ("CWG") was created to formulate an action plan and draft a law that would lay the foundations for the creation of an independent national human rights institution.

Following a wide ranging consultation with civil society actors, the CWG submitted their draft law to the RGC in 2008. However, nearly four years on, the CWG is still awaiting a response from the RGC on the first draft. Such a lack of progress illustrates a general lack of political will on the part of the RGC to expedite the process of creating an independent NHRI.

For further information please see [this link](#), which provides an outline of the work of the National Human Rights Bodies in Cambodia and provides CCHR's recommendations for the creation of an independent NHRI.

Recommendation n°54: *Elaborate an effective mechanism to facilitate cooperation with the relevant institutions of the United Nations (Recommended by Hungary)*

IRI: *not implemented*

HRTF response:

The relations with the UN have been really challenged and tense during 2010. The Government threatened to expel the UN Resident Coordinator after he released a statement on March 10, 2010 calling for a more transparent and participatory process on the draft Anti-Corruption Law.

On top of that, in October 2010, the Prime Minister Hun Sen, in a meeting with the UN Secretary General Ban Ki-moon, requested the removal of the top UN human rights official, Mr. Christopher Peschoux in Cambodia, and threatened that the Government may close the country office of the High Commissioner for Human Rights (OHCHR).

CCHR response:

The Royal Government of Cambodia (the "RGC") has not developed any effective mechanism to facilitate co-operation with the relevant institutions of the United Nations (the "UN") beyond those that currently exist. Furthermore, the RGC exerted such a degree of pressure on the head of the UN Office of the High Commissioner



for Human Rights (the "OHCHR") that he was forced to leave Cambodia in early 2011 before the RGC would engage and co-operate with the OHCHR.

Recommendation n°69: Continue to cooperate with the United Nations and other international organizations to strengthen human rights in Cambodia (Recommended by Laos)

IRI: not implemented

ADHOC response:

The level of cooperation between the Cambodian government and its partners working on human rights issues is very low. When the OHCHR addressed the issue of land grabbing, Economic Land Concessions and impunity, tensions escalated and government officials began to refuse to meet with Mr. Christophe Peschoux, the OHCHR Representative in Cambodia. Mr. Peschoux was removed in May 2011, and should be replaced in May 2012.

CCHR response:

The Royal Government of Cambodia (the "RGC") has not developed any effective mechanism to facilitate co-operation with the relevant institutions of the United Nations (the "UN") beyond those that currently exist. Furthermore, the RGC exerted such a degree of pressure on the head of the UN Office of the High Commissioner for Human Rights (the "OHCHR") that he was forced to leave Cambodia in early 2011 before the RGC would engage and co-operate with the OHCHR. Human rights have not been a priority for the RGC since the last Universal Periodic Review.

Recommendation n°80: Continue to pay particular attention to continuing an inclusive process which takes into account all elements of society, and to create favourable conditions, in particular for those living in rural areas, in the framework of the strategic development plan mentioned in paragraph 33 of the national report (Recommended by Morocco)

IRI: not implemented

CCHR response:

The Royal Government of Cambodia (the "RGC") has only prioritized the economic development of the country, and has resolutely refused to focus on social or political development. Even economic development is only the preserve of the few – a small but powerful group comprising the political elite and well-connected individuals and companies from Cambodia and neighbouring countries. The gap between rich and poor widens all the time, and many poor and vulnerable groups and minorities are increasingly marginalized. There has been no political change, with control by the governing party extended to every level of administration, from the national government right down to commune and village levels. Cambodia continues to be democratic in name, but the opportunities for real change and for genuine democratic participation are negligible.

Recommendation n°98: Continue to cooperate and seek technical assistance, if and where necessary, in improving democracy and ensuring the protection and promotion of the human rights of all Cambodians (Recommended by Pakistan)

IRI: not implemented

ADHOC response:



The Cambodian government has reduced its level of cooperation with international partners which work on human rights/rule of law issues, especially the fight against impunity.

CCHR response:

To the best of CCHR's knowledge, the Royal Government of Cambodia (the "RGC") has undertaken no measures to seek technical assistance in improving democracy and ensuring the protection and promotion of human rights in Cambodia.

Recommendation n°99: *Expedite operationalization of an independent human rights institution in accordance with the Paris Principles* (Recommended by *Pakistan*)

IRI: *not implemented*

+

Recommendation n°101: *Advance the process of establishing an independent national human rights institution in a pragmatic manner and in consultation with all relevant actors* (Recommended by *Philippines*)

IRI: *not implemented*

+

Recommendation n°125: *Continue its efforts to establish a national human rights institution in accordance with the Paris Principles, which would strengthen the human rights infrastructure within the country* (Recommended by *Thailand*)

IRI: *not implemented*

CCHR response:

In September 2006, Prime Minister Hun Sen announced that the Royal Government of Cambodia (the "RGC") would begin to take the necessary steps to create a national human rights institution (the "NHRI") based on the Paris Principles. Following these comments, a Cambodian Working Group (the "CWG") was created to formulate an action plan and draft a law that would lay the foundations for the creation of an independent national human rights institution.

Following a wide-ranging consultation with civil society actors, the CWG submitted its draft law to the RGC in 2008. However, nearly four years on, the CWG is still awaiting a response from the RGC on the first draft. Such a delay in the legislative process illustrates a general lack of political will on the part of the RGC to expedite the process of creating an independent NHRI.

For further information please see [this link to the fact sheet](#) [...], which outlines the work of the National Human Rights Bodies in Cambodia and provides CCHR's recommendations for the creation of an independent NHRI.

Recommendation n°131: *Widen its consultation process on the development of policy, legislation and regulations to ensure that all legislative instruments are assessed as to their positive and negative impacts on human rights* (Recommended by *United Kingdom*)

IRI: *not implemented*

CCHR response:

The Royal Government of Cambodia (the "RGC") does not assess any legislation for its impact on human rights; in fact, most recent legislation enacted by the RGC, including the Penal Code of the Kingdom of Cambodia (the "Penal Code"), has had a



very negative impact on human rights, such as the right to freedom of expression. Other legislation that is still in draft form, such as the Law on Associations and Non-Governmental Organizations (the "LANGO"), seems specifically intended to stifle freedom of association.



Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.

We posted our requests to the States and NHRI, and sent emails to NGOs.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing the recommendations

The persons we contact are encouraged to use an Excel sheet we provide which includes all recommendations received by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the



recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for the recommendations received at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.

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