

CAMBODIA

Cambodia's human rights record during 2001 included progress on some issues as well as several disappointing setbacks. By mid-November, Cambodia was close to becoming the first Southeast Asian country to ratify the Rome Statute of the International Criminal Court (ICC), but the government continued its efforts to dilute the power of a tribunal to bring the Khmer Rouge to justice. While advocacy organizations benefited from relaxed policies on freedom of association, political violence increased. The government risked angering its long-time ally Vietnam by affording temporary asylum to ethnic minority asylum seekers from Vietnam, thereby meeting its obligations as a signatory to the 1951 Refugee Convention. At the same time, provincial Cambodian officials periodically deported dozens of asylum seekers back to Vietnam, violating the fundamental principle of *non-refoulement*. Prison conditions remained poor and torture continued to be used by police and prison officials with impunity. Social and environmental rights increasingly emerged as an issue. Hundreds of villagers organized to protect community fisheries, forests, and other natural resources from abusive exploitation by government agencies or officially sanctioned companies.

HUMAN RIGHTS DEVELOPMENTS

Political violence increased and preparations began for long overdue local elections, scheduled for February 2002 in Cambodia's 1,600 communes, or subdistricts. In the elections, existing commune chiefs, mostly appointed by the ruling Cambodian People's Party (CPP), were to be replaced with popularly elected commune councils. In September, the Cambodian Human Rights Action Committee, a coalition of eighteen nongovernmental organizations (NGOs), documented eighty-two cases of political threats and violence since the beginning of the year, most of them directed at the opposition Sam Rainsy Party (SRP).

By November, at least four likely commune candidates had been shot dead and two others wounded. SRP commune candidate Uch Horn was killed on June 30 in Kompong Speu. He had previously complained to two local human rights organizations and the U.N. that he had received death threats. On July 1, Soeung Sem, a commune candidate for the royalist Funcinpec Party, survived a shooting in Pursat, but Funcinpec candidate Meas Soy was shot and killed on July 17 in Kompong Chhnang. SRP activist Toch Savoeun was shot and killed on August 23 by two unidentified gunmen at his home in Siem Reap. On November 5, SRP candidate Sam Sophear was beaten to death by five unknown assailants in Battambang. While Cambodian human rights groups and the Cambodia Office of the U.N. High Commissioner for Human Rights (COHCHR) determined that at least three of the killings were politically motivated, local officials attributed the murders to personal disputes.

In August, after a barrage of criticism from donor countries, human rights groups and the U.N., the government established a Central Security Office comprising representatives from the interior and defense ministries, national police, military, and the National Election Commission (NEC), to address electoral violence. By mid-November, the office was still inactive.

There were reports of vote buying as early as August. The Committee for Free and Fair Elections (Comfrel), a Cambodian NGO, reported that CPP activists in Takeo and Banteay Meanchey provinces were promising gifts to voters in exchange for pledges of loyalty to the CPP. In September, Comfrel reported widespread confiscation of voter registration cards by CPP officials and accused the CPP of pressuring people in many provinces to sign documents pledging to vote for the CPP.

Local authorities and in some cases uniformed police officers carried out voter opinion surveys on behalf of the CPP, distributing forms with lists of names and photographs of possible candidates. Election monitoring NGOs charged that this was in violation of the Commune Election Law, which calls for government institutions to be politically neutral.

Moves Toward a Khmer Rouge Tribunal

Progress toward establishing a tribunal to bring former members of the Khmer Rouge to justice was slow. In July 2000, the government had agreed on legislation with the U.N. that would establish a “mixed tribunal” presided over by both Cambodian and international judges and co-prosecutors. However, the legislation sent to the Cambodian National Assembly in January 2001 differed markedly from what had been agreed on, most notably deleting the provision that prior amnesties would not be a bar to prosecution. This had been designed to ensure that key people, such as former Khmer Rouge Foreign Minister Ieng Sary, granted a royal pardon in 1996, could still be brought to justice.

The U.N.’s Office of Legal Affairs sent a strongly worded letter to the Cambodian government in January, calling for clarifications or changes to seventeen of the forty-eight articles in the draft law. In June, U.N. Secretary-General Kofi Annan stressed that the Cambodian law should accord with the previous agreements, but Prime Minister Hun Sen’s response was that Cambodia would conduct its own tribunal if the U.N. refused to participate.

In August, the National Assembly passed the tribunal legislation as proposed by the government. By October, the U.N. had still to agree and sign a Memorandum of Understanding with the Cambodian government, one of the final steps toward actually establishing the court. It was clear, however, that former members of the Khmer Rouge were becoming apprehensive. In August, the Democratic National Union Movement (DNUM), a group loyal to Ieng Sary, urged the government not to prosecute their leader, and former Khmer Rouge leader Khieu Samphan issued a seven-page public letter in which he offered an unusual apology to the Cambodian people.

Cambodia’s judicial system remained weak and far from independent, with numerous court decisions influenced by corruption or apparent political influence. The high-profile trials in June and October of sixty alleged members of the Cam-

bodian Freedom Fighters (CFF) fell short of international standards for fairness. Most of the defendants were arrested without warrants and had little or no access to their lawyers while in pre-trial detention, which exceeded the legal limit of six months. After the first day of the trial of the first thirty-two defendants in June, most of the lawyers for the accused boycotted the proceedings, citing breaches of proper procedures. Five lawyers subsequently received anonymous threats of violence against them if they did not return to the courtroom. The judge appointed two new lawyers to act for all of the accused, and refused to delay the hearing, leaving these lawyers with no opportunity to meet their clients or prepare an adequate defense. On June 22, all but two of the first group of accused were convicted of terrorism and membership in an illegal armed group, and given sentences ranging from three years to life in prison. Another twenty-six defendants were convicted in the October trial.

In September 2001, more than fifty additional CFF suspects were arrested in the provinces and Phnom Penh. Human rights groups expressed concern that the government's response to the CFF's November 2000 attack in Phnom Penh could be used as a pretext to intimidate opposition party members, particularly as the commune election campaign began to get underway.

Two political killings resulted in trials. On March 15, the Kampot provincial court found commune chief Im Nan, a CPP member, and three accomplices guilty of the murder of Funcinpec commune candidate Pak Choeun in June 2000. On October 12, a former soldier, Sang Rin, and another accused were convicted of the murder of SRP member Uch Horn at a trial in the Kompong Speu provincial court. In both cases rights groups held that the murders were politically motivated; the courts, however, attributed both murders to retaliation for the victims' alleged use of "black magic."

Refugee Influx

Beginning in March, a slow but steady stream of refugees from Vietnam entered Cambodia's eastern Mondolkiri and Ratanakiri provinces. They were indigenous minority people from Vietnam's Central Highlands, known collectively as Montagnards, who were displaced by a Vietnamese government crackdown in February. (See Vietnam.) On March 23, Cambodian police arrested twenty-four Montagnards in Mondolkiri and took them to the municipal Gendarmerie headquarters in Phnom Penh, where they detained them for several weeks. Prime Minister Hun Sen initially threatened to deport the group, saying he did not want Cambodia to become a haven for other countries' political opponents. After considerable international pressure, Cambodia agreed to allow United Nations High Commissioner for Refugees (UNHCR) representatives to interview the Montagnards on March 31, and by April, thirty-eight Montagnards were resettled in the United States.

In the following months, more than 1,000 Montagnards crossed the border to Cambodia. Provincial officials forcibly returned several hundred back to Vietnam and in May attempted to arrest and deport several refugees under UNHCR protection. After negotiations between UNHCR and the government, and pressure from

several foreign embassies, Cambodia agreed to provide temporary asylum to Montagnards fleeing Vietnam at two sites operated by UNHCR. As of October, the number of Montagnards asylum seekers in Cambodia had swelled to more than seven hundred.

Unlike in neighboring Laos and Vietnam, recent years have seen the development of a thriving civil society in Cambodia and the emergence of hundreds of local NGOs. The government generally does not obstruct public meetings. In June, however, the Council of Ministers banned a public forum on the country's border disputes, organized by the Students Movement for Democracy, on grounds that it could confuse the public by raising disagreements with the government's National Committee on Border Disputes.

For the most part, rallies and demonstrations were allowed, although demonstrators were sometimes dispersed by police or by counter-demonstrators organized by the government. As in previous years, hundreds of farmers from the countryside periodically gathered in front of the National Assembly to demand resolution of land or fishing conflicts or appeal for flood and food relief. In February, scuffles broke out in Siem Reap at the SRP's annual congress, when counter-demonstrators were trucked in to disrupt the proceedings. Police used water cannons to disperse a Buddhist ceremony organized to mark the end of the SRP's congress, reportedly because the SRP lacked proper authorization to hold the ceremony.

In May, more than seven hundred market vendors in Siem Reap demonstrated against a provincial decision to evict them from the provincial market and construct a new market where vendors would be charged higher rents. Cambodian human rights groups urged the provincial authorities to organize a public forum to resolve the dispute. Instead, on July 9, police and soldiers surrounded the market, firing in the air and forcibly removed the vendors, at least fourteen of whom were beaten, handcuffed and temporarily detained by provincial military police. Several SRP parliamentarians observing the process were also assaulted. In August, Hun Sen supported a proposal for negotiations to resume between the vendors and representatives of the market developers.

Cambodian television stations were still owned fully or partly by the government, which continued to deny a broadcast license to the opposition SRP on the grounds that no frequencies were available. In February, Sam Rainsy announced plans to start broadcasting a one-hour radio program from an un-named Asian country. Only one independent radio station, Sambok Kmum (Beehive), broadcast during the year. The NEC's media monitoring subcommittee primarily focused on the political content of voter education materials produced by election NGOs, rather than the denial of access to the airwaves by opposition parties during the election campaign. NGO leaders were occasionally featured on radio and television programs to discuss social issues.

More than two dozen privately owned newspapers were published, including some affiliated with opposition groups. Foreign Minister Hor Nam Hong sued three journalists from the English-language *Cambodia Daily* for defamation after they published an article in January that examined his alleged role in the Khmer Rouge regime. In September, the Phnom Penh municipal court ordered the jour-

nalists to pay U.S. \$6,500 in compensation to Hor Nam Hong and a \$1,280 fine to the government. Both sides appealed the decision. In August, the Ministry of Information banned a Khmer-language book written by Sam Rainsy entitled "Light of Justice," saying that it made false allegations about the government. In response, Rainsy filed a complaint against the banning in the Phnom Penh municipal court in September.

The Ministry of Information revived a media subdecree, in the works since 1996. It included provisions for the licensing of newspapers and defined vague terms used in the 1994 Press Law, including national security and political stability. As a result of pressure from journalist associations and human rights groups, several provisions were dropped from the original draft subdecree, including requirements that publishers certify that they have 2.5 million riel (about U.S. \$640) in the bank and health certificates showing they have no mental problems.

Freedom of expression came under threat in September, when the Ministry of Cults and Religion issued a decision forbidding political discussions in the country's mosques following the September 11 attacks in the United States as well as a controversial leadership split in a mosque near Phnom Penh. In October, Hun Sen reversed the ministry's decision.

Prison conditions continued to be poor, with many facilities seriously overcrowded and lacking adequate medical care, food, and water. At least six prisoners died within a two-month period in Prey Sar prison in Phnom Penh because of insufficient food and medication, according to a report by a Cambodian human rights organization. The use of shackles was reported in prisons in Kompong Som and Kompong Cham. Pre-trial detention beyond the legal limit of six months was common.

Torture continued to be used with impunity, particularly by police officers attempting to extract confessions from suspects in custody. Police also failed to intervene to stop violence against women either in the home, where domestic abuse was considered a family matter, or in the sex industry, which is often supported and protected by members of the military, police or other government officials.

Cambodian human rights organizations increasingly gave attention to social and environmental rights. Villagers filed complaints protesting the confiscation by military officers and local officials of natural resources that rural communities depend on for their livelihoods - such as bamboo, tree resin, and rattan. They also protested the government's granting of concessions to exploit such resources. Environmental and human rights advocates worked to draft a Community Forest Sub-decree that would protect community user rights to forests that villagers rely upon for collection of forest products. In April, the Department of Forestry issued an instruction calling for the temporary suspension, in all forest concessions, of cutting of all trees from which people collect resin.

Positive steps were taken during the year to protect community fisheries, on which a huge percentage of Cambodians depend. In late 2000 Hun Sen announced that fishing lots would be taken away from large concessionaires and returned to local people. He subsequently dismissed the director of the Department of Fisheries for not implementing the decision. The department involved local communities in developing legislation to protect community fisheries, setting a positive precedent for local participation in natural resource management. Despite these

efforts, poor implementation of policies at the local level, reflected in the confiscation of community fishing lots by fishery department officials, continued to pose a problem in some areas.

Land conflicts also remained a major issue throughout the country. Legal Aid of Cambodia (LAC), a local NGO, reported that its land-related caseload involved 7,000 families, or 35,000 people, with the vast majority of the conflicts involving military commanders or provincial and local officials. In one high-profile case, indigenous minority villagers in Ratanakiri province filed a lawsuit seeking to protect their rights to 1,250 hectares of village land that they said had been fraudulently obtained by a representative of a military general. Villagers were given bags of salt and promises of development in return for their thumbprints on documents that—without their knowledge—transferred ownership of their ancestral lands to the general. In a decision in March, the Ratanakiri provincial court ruled against the villagers' civil complaint. With the help of LAC the villagers then took the case to the Appeals Court in Phnom Penh, but it had not been heard by November. In July, the National Assembly passed a new land law, drafted with the input of NGOs and local communities, designed to stem the widespread practice of land grabbing.

DEFENDING HUMAN RIGHTS

Several dozen Cambodian human rights organizations were active throughout the country investigating violations, monitoring prison conditions, observing trials, and conducting human rights education. In addition, three large NGOs specializing in election observation monitored voter registration and the commune election process. Overall, the atmosphere for NGOs was less threatening than in previous years. Several times during the year, however, public officials issued strongly worded warnings to NGOs. In the months following the November 2000 CFF attack in Phnom Penh, human rights groups and their leaders came under strong criticism from officials when the groups called for due process to be followed in the arrests and trial of alleged CFF members. In several speeches Prime Minister Hun Sen charged that NGOs were hiding terrorists “under their logos” and threatened them with arrest.

Global Witness, which has served as an independent monitor within the government's Forest Crime Monitoring and Reporting project since 1999, came under fire in January when it released a report critical of illegal logging and resource rights abuses just prior to an international donor meeting. Government officials said Global Witness should have given them the opportunity to review and comment on the report before it was publicized. Prime Minister Hun Sen threatened to expel the group from Cambodia but relented after pressure from donors. In June, Global Witness signed an agreement with the government on new reporting procedures shortly before the annual donor meeting.

In July, Hun Sen criticized the Human Rights Action Committee for its statements deploring the rise in political violence. He said the burden of proof was on the NGOs to show that the killings of commune candidates were politically motivated.

In October, the acting director of the Cambodian League for the Promotion and

Defense of Human Rights (Licadho), a local human rights group, faced criminal charges when a court accepted a complaint by the adoptive parents of a seven-year-old girl whom Licadho was housing. Licadho previously had sought child abuse charges against the adoptive parents and had been granted temporarily lawful custody of the child. Cambodian and international rights groups expressed concern that the initiation of criminal proceedings appeared to be without foundation and aimed at intimidating Licadho. As of November, the case had not yet been heard.

THE ROLE OF THE INTERNATIONAL COMMUNITY

The Cambodia Office of the High Commissioner for Human Rights (COHCHR) maintained a field operation in Phnom Penh and several provinces. The U.N. Secretary General's Special Representative for Human Rights in Cambodia, Peter Leuprecht, made several visits to Cambodia during the year, and called for increased foreign aid while urging the government to address broad issues of poverty, violence, corruption, and lawlessness. During Leuprecht's June trip, he expressed reservations about the Khmer Rouge tribunal bill that had been passed by the National Assembly. In August he condemned mounting political violence against commune candidates and urged the government to cease its involvement in election-related opinion surveys. He constantly pressed the government to formalize its memorandum of understanding with COHCHR so as to extend its mandate, last renewed in March 2000, and to address the security concerns of COHCHR's Cambodian staff.

Relations between the government and the UNHCR were strained at times, particularly over the issue of refolement of Montagnard asylum seekers to Vietnam.

Major Donors

Donors pledged U.S. \$560 million at the World Bank chaired Consultative Group meeting, hosted by Japan in June. Most donors praised the Cambodian government's efforts to improve political stability and the economy, although some raised human rights concerns as well. A study on key governance issues prepared for the Asian Development Bank, released in May, criticized corruption, lack of government transparency and weaknesses in the judiciary, and called for concrete reforms as a precondition for assistance. In August, the World Bank approved a U.S. \$18.4 million loan to demobilize 30,000 soldiers and reintegrate them to civilian life.

China increasingly became a key player in Cambodia. In May, visiting Chinese Prime Minister Li Peng told Hun Sen that China would consider aid requests totaling U.S. \$60 million to assist road construction and demobilization.

Several donors, including Japan, Australia, and the European Union (E.U.), were expected to help meet the costs of the commune elections. In July, an E.U. delegation called for an intimidation-free environment before and during the election. In a meeting with Deputy Prime Minister Sarkheng in September, the U.S., U.K.,

Canadian, Swedish and other ambassadors expressed concern over the low rate of voter registration and pressed for extension of the registration period. On September 6, the European Parliament passed a resolution deploring political violence and calling for E.U. observers to monitor the commune elections.

A number of donor countries expressed interest in funding the Khmer Rouge Tribunal or nominating judges to participate in the proceedings once a final agreement is reached. Japan was expected to contribute an estimated U.S. \$60 million. Judges from Australia, France, India, Japan, Russia, the United Kingdom and the United States were considered candidates to preside over the trials, along with Cambodia judges. China, which was one of the Khmer rouge's main financial backers, was not expected to participate.

The U.S. took a strong stand on the Montagnard refugee issue, swiftly resettling thirty-eight Montagnards in the U.S. in April and consistently pressing for protection of asylum seekers by both UNHCR and Cambodian authorities. In August, the Ministry of Foreign Affairs issued a strongly worded response after the U.S. ambassador criticized government corruption at a public forum, charging that "inflammatory words inciting revolt against the royal government of Cambodia" had been used.

Cambodia's relations with Vietnam were tense at times over the Montagnard issue. During a visit to Cambodia in July, Vietnamese Public Security Minister Le Minh Huong signed a bilateral agreement with Deputy Prime Minister Sar Kheng on cooperation to stem illegal immigration, drug smuggling and organized crime. In November, Vietnamese and Cambodian officials were slated to sign several agreements, including one on border and immigration issues, during a visit to Phnom Penh by Vietnamese President Tan Duc Luong.

CHINA AND TIBET

The Chinese leadership's preoccupation with stability in the face of continued economic and social upheaval fueled an increase in human rights violations. China's increasingly prominent international profile, symbolized in 2001 by its entry into the World Trade Organization (WTO) and by Beijing's successful bid to host the 2008 Olympics, was accompanied by tightened controls on fundamental freedoms. The leadership turned to trusted tools, limiting free expression by arresting academics, closing newspapers and magazines, strictly controlling Internet content, and utilizing a refurbished Strike Hard campaign to circumvent legal safeguards for criminal suspects and alleged separatists, terrorists, and so-called religious extremists. In its campaign to eradicate Falungong, Chinese officials imprisoned thousands of practitioners and used torture and psychological pressure to force recantations. Legal experts continued the work of professionalizing the legal system but authorities in too many cases invoked "rule of law" to justify repressive politics. After the September 11 attacks in the United States, Chinese offi-