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Technical assistance and capacity-building

### **Written statement\* submitted by Human Rights Now, a non-governmental organization in special consultative status\***

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2013]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## Human Rights Situation in Cambodia

### 1. Background

In Cambodia, serious human rights abuses continue to be perpetrated, including forced evictions and attacks against activists, and there is a danger of the situation regressing still further.

Throughout 2012 there were serious human rights abuses perpetrated by the Royal Government of Cambodia (RGC), including the detention and trial of Mam Sonando, director and owner of FM 105, “Beehive Radio”; the arresting of two housing rights activists, Yorm Bopha and Tim Sakmony, on questionable allegations; and the killing of environmental NGO leader Chhut Wutty in the middle of a forest while investigating crimes. Sadly, these arrests, prosecutions and killings have become normalized in the current situation in Cambodia.

Human Rights Now(HRN), a Tokyo based international human rights organization, calls for the UN Human Rights Council to closely monitor the human rights situations regarding violations of land rights and other fundamental rights and to urge that the oppression of human rights activists be ceased immediately. Also, HRN calls on Cambodian authorities to comply with international human rights law and immediately cease all violations, and to protect defenders of human rights who monitor and analyze the governance of Cambodia.

### 2. Land Rights

The taking of land, including the destruction of farmland and dwellings, continues to be a problem in Cambodia. According to LICADHO, over 2.2 million hectares of land have been granted to private firms as of May 2013.<sup>1</sup> In most of cases, seizures constitute clear violations of both Cambodian law and obligation under international human rights law obligations.

The requirements of Cambodia’s own 2001 Land Law and the Sub-decree on Economic Land Concession (ELC) have been routinely ignored.<sup>2</sup> For example, in some regions, land has been converted into sugar concessions for farming sugar in place of crops and livestock that fed local villagers, violating both Cambodian law and human rights obligations. As part of these seizures, bulldozers are used to destroy farmland and dwellings while villagers are assaulted and attacked.

Those who attempt to resist the land takings face further oppression. As confirmed during HRN’s 2012 investigation in Cambodia, residents of various areas are oppressed, assaulted and arrested for conducting peaceful protests. These protestors are often convicted in summary trials without the protection of domestic or international law. Efforts to enforce applicable legal requirements in civil lawsuits have been ignored by politically-influenced courts in Cambodia, and those that try are sometimes charged as criminals in retaliation.<sup>3</sup>

As a result of these various issues, the Prime Minister announced a new moratorium on issuing land concessions in May 2012 entitled “Directive No. 01.” The directive also called for a systematic review of

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<sup>1</sup> Cambodian League for the Promotion and Defense of Human Rights (LICADHO) “Cambodia’s Looming Political and Social Crisis” (2013) pg. 5.

<sup>2</sup> HRN fact finding Report for Cambodia in 2012 “ In Cambodia, People are Deprived of Land” accessible at: <http://hrn.or.jp/eng/activity/HRN%20Cambodia%20Report%20on%20Land%20Rights%202012.pdf>

<sup>3</sup> Id at 6.

existing land concessions. In June, based on that directive, he also announced a new ad hoc land titling scheme utilizing thousands of briefly trained, ruling-party affiliated students.

All three aspects of the mid-2012 land related announcements have been highly problematic. Due to the overall lack of transparency surrounding the issuance of land concessions, there have been at least 80,000 hectares awarded since the moratorium. There has also been no systematic review or cancellation of any of the well-documented improperly issued concessions. And the Prime Minister's land titling scheme has bypassed all established state mechanisms for determining property rights and replaced them with a privately funded drive that has explicitly refused all independent monitoring efforts. Despite this, reports of intimidation, particularly in indigenous communities, related to the student run land titling scheme have nevertheless reached multiple human rights organizations. The scheme has also refused to tackle most areas of disputed land, making its efficacy doubly questionable.

In sum, although this program may have sounded initially promising in theory, it has not been pursued with transparency and there have been many reports of abuses as well as areas where land continues to be unregistered and lack clear titles. There is still no national registry of state public versus private land. This lack of clarity allows the Government to continue to take part in forceful evictions without giving the residents in the area a means of redress.

Further, the Prime Minister's pre-election statements warning that the entire program would cease if the Cambodian People's Party lost the elections reflect the scheme's intentions as a campaign tool.<sup>4</sup> In order to protect individual's rights to housing, land and self-determination, local and international laws must be enforced.

### 3. Attacks against Activists

Reports of campaign related abuses proliferated in the run up to the 2013 National Assembly elections. Threats of the cessation of development projects and the land titling scheme were coupled with character attacks against opposition leaders.

In May, there were allegations that opposition leader Kem Sokha denied the genocide committed by the Khmer Rouge.<sup>5</sup> Mr. Sokha was next publically accused of a string of extramarital affairs.<sup>6</sup> In June the allegations reached a peak when Prime Minister Hun Sen accused Kem of having a sexual encounter with a 15-year-old girl, while inexplicably claiming that he personally helped Sokha avoid prosecution for the alleged crime.<sup>7</sup>

Similarly, there have also been attacks on the credibility of the UN human rights envoy, Surya Subedi, during the lead up to the election. Despite appearances of individual activism, there are reports that protests against Mr. Subedi were not spontaneous but were supported by political groups.<sup>8</sup> This was followed by the head of the government's Anti-Corruption Unit, Om Yentieng, claiming that Mr. Subedi's reports were one-sided.<sup>9</sup>

<sup>4</sup> LICADHO "Cambodia's Looming Political and Social Crisis" (2013) pg. 4.

<sup>5</sup> "Sokha apology or protests: PM" The Phnom Penh Post, 31 May 2013, <http://www.phnompenhpost.com/national/sokha-apology-or-protests-pm>

<sup>6</sup> "Hun Sen Accuses Kem Sokha of Sex With Girl, 15" 14 June 2013, <http://www.cambodiadaily.com/elections/hun-sen-accuses-kem-sokha-of-sex-with-girl-15-30960/>

<sup>7</sup> Id.

<sup>8</sup> "Subedi Protest Linked to CPP-Aligned Youth Group" The Cambodia Daily, 23 May 2013, <http://www.cambodiadaily.com/archive/subedi-protest-linked-to-cpp-aligned-youth-group-26156/>

<sup>9</sup> "UN envoy's fairness questioned" The Phnom Penh Post, 23 May 2013, <http://www.phnompenhpost.com/national/un-envoy's-fairness-questioned>

These actions extended beyond personal attacks and included alleged attempts to sway the 28 July 2013 elections. In the week before the 28 July 2013 elections, voter registration rates throughout the country exceeded one hundred per cent, with some areas having over 200 per cent of the reported population registered.<sup>10</sup> The local poll monitoring organization—the “Committee for Free and Fair Elections in Cambodia”—alleged that up to 1.25 million people who were eligible to vote were not on voter registries.<sup>11</sup> These actions escalated further with military and police campaigning for one of the political parties.<sup>12</sup> Together these personal attacks and influence by outside actors shows the fragile state of the political process in Cambodia. In late July, the UN Special Rapporteur on the situation of human rights in Cambodia made a statement urging the citizens of Cambodia to refrain from violence.<sup>13</sup> The incidents leading up to the 28 July 2013 elections show that the people of Cambodia were at risk of having their right to vote denied. In order to conduct serious investigations of those attacks and punish the persons responsible, the independence and impartiality of the Cambodian legal system should be improved.

#### 4. Election

Some of these fears were actualized on 28 July 2013.

Transparency International noted irregularities in the vote and stated that it was “very concerned about the disenfranchisement of citizens and voters.”<sup>14</sup> There are reports of people being turned away from polling places and incidents of violence.<sup>15</sup> There were also credible observations of vote rigging through the use of large groups of individuals, often eligible to vote somewhere else in Cambodia, being transported to certain closely contested communes to cast ballots. “On election day itself, many voters complained that they could not find their names on voters lists” and “there have been a number of reports of opposition supporters in different locations facing harassment for their activism around the election.”<sup>16</sup>

Unfortunately, in the wake of the election, Kem Sokha stated that “Cambodian people who don’t like the result will rise up and make chaos”<sup>17</sup> and the government called up hundreds of security forces into Phnom Penh in order to prevent mass demonstrations against the election.<sup>18</sup> However, both parties should take the recommendations of the Special Rapporteur seriously and decry the use of violence, as it delegitimizes the political process.

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<sup>10</sup> “Giving more than 100%” Phnom Penh Post, 24 July 2013, <http://www.phnompenhpost.com/national/giving-more-100>

<sup>11</sup> “Polls close in Cambodia elections” Aljazeera, 28 July 2013, <http://www.aljazeera.com/news/asia-pacific/2013/07/201372813735118644.html>

<sup>12</sup> “Government Denies Claims Military, Police Are Intimidating Voters” The Cambodia Daily, 25 July 2013, <http://www.cambodiadaily.com/elections/government-denies-claims-military-police-are-intimidating-voters-36633/>

<sup>13</sup> “Cambodia: UN expert calls for free, fair and peaceful elections and full respect for human rights” UNOHCHR, 26 July 2013,

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13587&LangID=E>

<sup>14</sup> “Cambodia’s Hun Sen shaken as opposition rejects poll result” Reuters, 29 July 2013 <http://www.reuters.com/article/2013/07/29/us-cambodia-election-opposition-idUSBRE96S03C20130729>

<sup>15</sup> “After Surprise Results, Calls For Calm, Vigilance” The Cambodia Daily, 29 July 2013, <http://www.cambodiadaily.com/elections/after-surprise-results-calls-for-calm-vigilance-37212/>

<sup>16</sup> Amnesty International, “Cambodia: Post-election tension must not lead to violence” (2013)

<sup>17</sup> “Cambodian Opposition Rejects Election Results” New York Times, 29 July 2013, [http://www.nytimes.com/2013/07/30/world/asia/cambodian-opposition-rejects-election-results.html?\\_r=1&gwh=2A21A44B55B60E0E852C50C42DD0B03D&](http://www.nytimes.com/2013/07/30/world/asia/cambodian-opposition-rejects-election-results.html?_r=1&gwh=2A21A44B55B60E0E852C50C42DD0B03D&)

<sup>18</sup> Amnesty International, “Cambodia: Post-election tension must not lead to violence” (2013)

## 5. Recommendations

Human Rights Now(HRN) recommends the following to the Cambodian authorities:

- 1) To take greater steps to implement and enforce land rights in Cambodia in accordance with Cambodian laws and the international human rights laws. Until persistent mechanisms or property determinations in line with international best practices are established and fully implemented, there will be no protection for individual land ownership. The Government must take greater efforts to protect the right to land.
- 2) To take greater steps to ensure the political rights of the citizens of Cambodia. The Government should take actions to prevent violence from occurring at polling places and must not use coercive means, to rally political support.
- 3) To take greater efforts to stop illegal forced evictions and other improper land seizures, to respect the rights to housing and land ownership and to ensure the rights of those living in its territories.
- 4) To decry the use of violence and to not threaten violence in the aftermath of the election.

HRN requests the UN Human Rights Council to closely monitor the current human rights situation in Cambodia, and take necessary action in relation to the above compelling problems.