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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.

[29 August 2016]

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

Human Rights Now Expresses Serious Concern over Cambodia's Deteriorating Human Rights Situation

1. Introduction

Last year the UN Human Rights Council (HRC) adopted Resolution 30/23 expressing the needs in Cambodia for judicial independence, fair trials, prosecuting human rights violations, establishing a national human rights institution, and protection of freedom of expression, assembly, and association.¹

Human Rights Now (HRN), a Tokyo-based international human rights NGO, regrets the Cambodian government's lack of implementation of the Council's recommendations and the deterioration of Cambodia's human rights situation.

HRN expresses serious concern over the Cambodian government's arbitrary arrests and judicial harassment of political opponents and human rights defenders; and restrictions on freedom of expression, peaceful assembly, and association.

The recent assassination of a prominent Cambodian political commentator suggests a serious risk of escalating political violence approaching the 2017 and 2018 elections. The Council must take the initiative to stop further aggravation of the human rights situation in Cambodia.

2. Human Rights Violations in Cambodia

a. Intimidation of Political Opposition

The Cambodia National Rescue Party (CNRP) president, Sam Rainsy, and vice president, Kem Sokha, and parliamentarians such as Hong Sok Hour, have been prosecuted with defamation or incitement for political statements despite immunity under Cambodian law, and voted to be removed from parliament.²

This has led to Rainsy's self-imposed exile, Kem Sokha's hiding, and the chilling of other opposition members' activities, undermining the CNRP's ability to function and Cambodia Constitution's Article 35

¹ "Advisory services and technical assistance for Cambodia," ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/30/23, paras. 1, 2, 6, 9, 21, 22.

² Sonong Khe, "Cambodia National Rescue Party President Sam Rainsy Found Guilty of Defamation," Radio Free Asia, 28 Jul. 2016, <http://www.rfa.org/english/news/cambodia/cambodia-national-rescue-party-president-sam-rainsy-found-guilty-of-defamation-07282016151936.html>; Kuch Naren, Sek Odom, Cambodia Daily, 28 May 2016, <https://www.cambodiadaily.com/news/after-arrest-attempt-kem-sokha-hit-with-charge-113161/>; Cheang Sokha, Phnom Penh Post, 15 Aug. 2015, <http://www.phnompenhpost.com/national/breaking-senator-hong-sok-hour-arrested>.

guarantee of political participation.³ Critics of the prosecutions such as Ou Virak have also been charged with defamation.⁴

The series of judicial harassments are endorsed by the Cambodian courts, which consistently rule in the government's favour with unfair trials. The lack of independence of judiciary violates Cambodia's Constitution Article 109 mandate of judicial independence and specifically denounced by the last two Special Rapporteurs on the situation in Cambodia.⁵

b. Arbitrary Arrests of Human Rights Defenders

On 2 May 2016 four members of the human rights NGO ADHOC and the Deputy Secretary-General of the National Election Committee, Ny Chakrya, were arrested for supporting a woman involved in Kem Sokha's prosecution.⁶ Over 50 human rights and civil society groups in Cambodia rejected the charges "as a farcical use of both the criminal justice system and state institutions as tools to intimidate, criminalise and punish the legitimate activities of human rights defenders and civil society."⁷

On 12 May, four UN Special Rapporteurs, referencing the case, called on the government of Cambodia to "stop targeting civil society, human rights defenders, parliamentarians and UN personnel and to take effective measures to protect civil society and respect fundamental freedoms in the country."⁸

c. Violations of Freedom of Expression, Assembly, and Association

In recent months Cambodia's government has been detaining protestors of the abovementioned arrests at weekly "Black Monday" peaceful demonstrations, which the government unjustifiably labels as a "color revolution", detaining and threatening 20 people with prosecutions.⁹

On 15 August 2016, the government arrested and charged two Black Monday demonstrators, the Boeung Kak Lake activists, with the hearing set for August 22 allowing no time for preparation.¹⁰ Such judicial harassment violates Cambodia's Constitutional and ICCPR obligations to guarantee freedom of expression and assembly.¹¹

³ Radio Free Asia, Id. Sek Odom, Alex Willemyns, Cambodia Daily, 15 June. 2016, <https://www.cambodiadaily.com/archives/defiant-kem-sokha-still-free-still-in-hiding-114115/>.

⁴ Thai Vuthy, Huot Vuthy, Radio Free Asia, 25 Apr. 2016, <http://www.rfa.org/english/news/cambodia/cambodian-peoples-part-sues-04252016161428.html>.

⁵ <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=16795>;
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15303&LangID=E>

⁶ Ben Sokhean, Alex Willemyns, Cambodia Daily, 3 May 2016, <https://www.cambodiadaily.com/news/un-adhoc-staff-charged-over-sex-scandal-112053/>.

⁷ Joint Organizations Statement, "Civil Society Condemns Charging of Human Rights Defenders", 2 May 2016, <http://www.licadho-cambodia.org/pressrelease.php?perm=404>.

⁸ www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19954&LangID=E.

⁹ Mong Palatino, <http://thediplomat.com/2016/06/whats-behind-cambodias-black-monday-campaign/>.

¹⁰ Joint Organization Statement, "Civil Society Calls for Immediate Release of Boeung Kak Lake Activists", 18 Aug 2016, <https://www.licadho-cambodia.org/pressrelease.php?perm=407>.

¹¹ Cambodia Constitution Arts. 41 (expression, assembly), 35 (political participation), 31 (incorporates ICCPR into domestic law); ICCPR, Arts. 19, 20 (expression), 21 (assembly).

d. Assassination of a Prominent Critic

On 10 July 2016, famous political commentator Kem Ley was murdered in Phnom Penh after comments criticizing Cambodia's ruling family.¹²

Five UN Special Rapporteurs noted in a 13 July 2016 joint statement that “[t]he circumstances of Mr. Kem Ley's death have given rise to deep concerns in view of his standing as a critic of the government and his [...] human rights concerns,” adding that his shooting “exemplifie[d] an alarming negative trend in Cambodia whereby political activists and human rights defenders are facing increasing restrictions [...]” and it is “likely to have a chilling effect on the pursuit of democracy and human rights in Cambodia.”¹³

They called for a “prompt, thorough and impartial investigation into this crime” by an “independent body with no ties to the government” which has not been conducted.

3. Reactions by UN Representatives

Several UN representatives have recently commented on the Cambodia's worsening human rights situation.

The Special Rapporteur on the situation of human rights in Cambodia, Rhona Smith, warned in November 2015 and reiterated in April 2016 that Cambodia had reached a “dangerous tipping point” due to political violence, intimidation, and political-motivated judicial harassment and prosecutions by the ruling party against critics.¹⁴

On 12 May 2016, four Special Rapporteurs urged the Cambodia government to end its targeting of civil society and members of parliament with judicial harassment (“criminal charges, questioning, court proceedings, and public statements against them must cease”) and the Cambodian authorities deterrence of peaceful demonstrations and demonstrator arrests as persecution of civil society and unjustified restrictions of fundamental freedoms.¹⁵

At the 32nd Human Rights Council in July 2016, the UN High Commissioner for Human Rights said the political arrests of opposition and civil society members was a “drastic and deplorable narrowing of the democratic space” that threatens the upcoming 2017 and 2018 elections, with five states giving statements criticizing Cambodia's politically-motivated prosecutions of opposition and civil society members.¹⁶

¹² VOA, “Prominent Critic's Killing Raises Political Stakes in Cambodia”, 11 Jun 2016, <http://www.voanews.com/a/assassination-raises-political-stakes-in-cambodia/3413285.html>; Global Witness, “Hostile Takeover”, 7 Jul. 2016, <https://www.globalwitness.org/en/reports/hostile-takeover/>.

¹³ www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20264&LangID=E.

¹⁴ OHCHR, NewsID=16795, supra n. 5; www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=18552&LangID=E.

¹⁵ OHCHR, supra n. 8.

¹⁶ <http://www.ohchr.org/EN/NewsEvents/Pages/GlobalhumanrightsupdatebyHC.aspx>.

4. Recommendations

Due to the serious deterioration of the Cambodian human rights situation since HRC's last resolution, HRN requests the HRC to adopt of a resolution at the 33rd Session expressing strong concern on the human rights violations in Cambodia and strongly encourage the Cambodian government to restore rule of law and ensure protect fundamental human rights guaranteed under international law for the people in Cambodia.

A resolution is particularly important this session as this coming October marks the 25th anniversary of the Paris Peace Agreements, which established a settlement to Cambodia's political conflict and committed the government to justice, democracy, human rights, and rule of law, the legacy of which must be ensured.

Also, Cambodia will have elections in 2017 and 2018, and urgent action must be taken to address human rights violations in Cambodia before this period to ensure that political conflict does not escalate and the rights situation deteriorates further.

HRN requests the HRC to support the adoption of a resolution at its 33rd session:

- Expressing grave concerns over ongoing, systematic human rights violations in Cambodia and impunity for perpetrators;
- Strongly encouraging the Cambodian government to restore rule of law and fundamental human rights
- Prepare for the free, transparent and fair election in 2017 and 2018
- Requesting the UN Special Rapporteur on the situation of human rights in Cambodia, Ms. Rhona Smith, to assess the status of Cambodia's implementation of UN recommendations and set benchmarks for progress and priority areas for assistance on ending systematic rights violations.

HRN urges the government of Cambodia to:

- Immediately release, drop all charges, and end judicial harassment against all activists, commentators, peaceful demonstrators, and human rights defenders, including Ny Chakrya and the four members of ADHOC, and CNRP members and supporters, including Sam Rainsy and Kem Sokha,
- Ensure that Kem Ley's death is investigated by an independent process;
- Ensure the freedoms of expression, peaceful assembly, and association to the people including opposition groups, civil society groups, human rights defenders, and peaceful demonstrators consistent with Cambodia's obligations under its Constitution and the ICCPR;
- Establish a time-bound plan to implement the recommendations of HRC Resolution 30/23, the May 2016 UN Special Rapporteur joint statement, and all other recommendations by UN bodies and mechanisms;
- Keep the commitments of the Paris Peace Agreements and Paris Principles, including the establishment of a National Human Rights Institution.