

Cambodia

Political stalemate went hand in hand with only minor human rights improvements in 2004. The country suffered an eleven-month political deadlock over formation of a national government following inconclusive parliamentary elections in July 2003. King Norodom Sihanouk abdicated the throne due to his advanced age and was replaced by his son, Prince Norodom Sihamoni, in October 2004.

Authorities continue to ban or disperse most public demonstrations. Politicians and journalists critical of the government face violence and intimidation and are barred from equal access to the broadcast media. In addition, the judiciary remains weak and subject to political influence. Trafficking of women and children for sexual exploitation through networks protected or backed by police or government officials is rampant. The government continues to turn a blind eye to fraudulent confiscation of farmers' land, illegal logging, and widespread plundering of natural resources.

Despite an agreement between the U.N. and Cambodia to bring senior Khmer Rouge leaders to justice, serious doubts remain as to whether a tribunal established within the Cambodian court system can ensure fair and impartial prosecutions and trials.

Political Violence and Intimidation

All three national elections conducted in Cambodia since the signing of the Paris Peace Agreements in 1991 have been conducted in an atmosphere of violence and intimidation. Political violence continued after elections in July 2003. In October 2003 a radio journalist and a popular singer were killed, both of whom were affiliated with FUNCINPEC, the royalist party led by Prince Ranariddh. In January 2004, five political activists were murdered, including prominent labor leader Chea Vichea. Another labor activist, Ros Sovannareth, was killed in May 2004.

A political standoff after the 2003 elections, in which no one party received the required two-thirds majority needed to form a new government, was resolved in July 2004, when FUNCINPEC entered into a power-sharing agreement with the Cambodian People's Party (CPP.) The opposition Sam Rainsy Party (SRP) and some nongovernmental organizations (NGOs) questioned the legality of the new government, which was formed on the basis of controversial amendments to the Constitution.

Weak Judiciary and Impunity

Cambodia has made little progress in reforming its judicial system, which has been widely condemned for its lack of independence, incompetence, and corruption. Cases of politically related violence and crimes committed by government authorities or those with ties to high-ranking officials are often not

prosecuted or even investigated. Chea Vichea's high profile murder case has been marred by reports of torture being used to extract confessions from the alleged suspects, threats against witnesses, and political pressure on the investigating judge, who publicly questioned the legality of the suspects' arrests and called for the case to be dismissed for lack of evidence.

The Cambodian Bar Association has become increasingly politicized. In September 2004 the prime minister and three other senior CPP government officials, none of whom are trained lawyers, were admitted to the Bar. In November, the Appeals Court nullified the results of a Bar Association election, in which a legal aid lawyer was elected president. The court ordered the defeated incumbent, a CPP supporter, to temporarily reassume the position while a new election was organized.

In mid-2003 four men were arrested in Cambodia on charges of being members of the Indonesia-based terrorist group, Jemaah Islamiya, which has links to al-Qaeda. As of this writing, the men still had not faced trial, far exceeding the legal pre-trial detention limit of six months.

In January 2004 the Cambodian government dropped extradition demands for the return from Thailand of political prisoner and SRP activist Sok Yoeun, whom the Cambodian government has accused of organizing a 1998 rocket attack on a convoy that included Prime Minister Hun Sen. Sok Yoeun, a UNHCR-recognized refugee, was released from Thai prison in January 2004 and allowed to resettle in Finland.

Khmer Rouge Tribunal and the ICC

After seven years of negotiations, in 2004 Cambodia approved an agreement with the United Nations to establish an internationally-assisted tribunal under Cambodian law to bring Khmer Rouge leaders to justice. However the Cambodian government's record of interfering with courts and intimidating judges, as well as the grossly inadequate training of many judicial officials, gives reason for concern that prosecutions could be politically influenced.

Pursuant to the agreement with the U.N., the government is to establish an extraordinary chamber to try senior leaders of the Khmer Rouge and those who were most responsible for genocide, war crimes, and crimes against humanity committed while the Khmer Rouge was in power (1975-79). Based in Cambodia, this "mixed tribunal" will be comprised of a majority of Cambodian judges working alongside international judges, with Cambodian and international co-prosecutors.

In 2002, Cambodia became the first Southeast Asian country to ratify the Rome Statute of the International Criminal Court. In June 2003, however, Prime Minister Hun Sen agreed to a bilateral immunity agreement with the U.S. that exempts U.S. citizens from the authority of the court. The draft agreement is expected to be approved by the National Assembly by 2005.

Restrictions on Freedom of Assembly

The government placed strict new restrictions on freedom of assembly in January 2003. Since that time, other than during officially-prescribed electoral campaign periods, the government has denied virtually all requests for permission to demonstrate on the ground that such gatherings would jeopardize national security and public order. Authorities have rejected requests for rallies by students, victims of domestic violence, environmentalists, opposition parties, and garment workers.

During 2004, authorities banned, dispersed, or intervened during at least sixteen public demonstrations in Phnom Penh, sometimes using excessive or disproportionate force. In January 2004, for example, more than one hundred garment workers were injured when dozens of riot police beat protestors with batons and fired into they air as they marched into a rally of two thousand striking workers from the MSI Garment Factory.

Freedom of Expression

More than one hundred privately owned newspapers are published in Cambodia, including some affiliated with opposition groups. However Cambodia's reputation for having one of the freest presses in Southeast Asia has been tarnished by official attempts to silence free speech and block access by opposition parties to the broadcast media, the main source of information for Cambodia's largely rural society. Cambodian television stations are still owned fully or partly by the government. The government continues to deny a radio broadcast license to the SRP.

In 2003, Chou Chetharith, the deputy editor of the royalist radio station Ta Prohm, was shot and killed outside the station's Phnom Penh offices after Hun Sen publicly warned the station to stop broadcasting insults directed at the CPP.

Conflicts over Land and Resource Rights

Land confiscation continues to be a major issue throughout the country, with many land conflicts involving ownership claims by individuals or private concessions backed by military commanders or government officials.

Concessions granted to private companies by the government have led to increasing landlessness and destruction of the natural resources on which Cambodia's rural population depends for its livelihood. In October 2004 Hun Sen called for a review of major new land transactions and a moratorium on new concessions until a subdecree on concession policy is approved.

Volunteers and staff from human rights groups and environmental organizations have been threatened, attacked, arrested, and even killed. In November 2004, six people were wounded in a grenade attack when hundreds of villagers gathered to peacefully protest commencement of forest clearing in a long-disputed paper pulp concession granted by the government to the Pheaphimex Company in Pursat province. Later that month in Kratie province, community forestry activists were threatened and one was

reportedly beaten by members of the military after villagers confiscated several chainsaws being used by illegal loggers in a wildlife sanctuary.

Refugee Rights

Vietnam's crackdown on ethnic minority Montagnards in its Central Highlands region across the border from Cambodia (*see* Vietnam) continues to generate a steady flow of refugees into Cambodia. While Cambodian authorities have taken some action to assist refugees when pressured, political considerations often prevail over refugee rights.

In March 2002 Cambodia closed both of its provincial refugee camps and began to refuse to accept new Montagnard asylum seekers from Vietnam. In a positive move, in July 2004 the government authorized the U.N. High Commissioner for Refugees (UNHCR) to travel to northeastern Cambodia to retrieve hundreds of Montagnard asylum seekers. By year's end UNHCR had registered close to six hundred new arrivals.

At the same time, however, in violation of its obligations under the 1951 Refugee Convention and the Convention against Torture, provincial authorities—under instruction from the Ministry of Interior—have continued to forcibly return hundreds of Montagnard asylum seekers back to Vietnam, where they face ongoing persecution and in some cases arrest, unfair trials, and torture. In addition, officials have harassed and threatened to arrest Cambodian villagers suspected of providing food or assistance to asylum seekers before they have come under UNHCR protection.

In September 2004 Cambodian authorities deported twelve Vietnamese members of the Cao Dai church. They had come to Phnom Penh from Vietnam to deliver a letter requesting religious freedom to international delegates at an ASEAN meeting. UNHCR was refused access to them before their deportation. In a positive move, seven North Korean asylum seekers who were detained for several weeks by Cambodian immigration police were allowed to seek asylum in South Korea in late September 2004.

Torture

Torture continues to be used with impunity in Cambodia, particularly by police officers attempting to extract confessions from suspects detained without access to lawyers. Under Cambodia's amended Criminal Procedure Code, suspects can be held in police detention—the period when police commonly use torture to extract confessions—for up to seventy-two hours. In June 2004 the deputy director general of the National Police publicly condoned the use of torture to obtain information from suspects during interrogation. Under pressure, he later retracted his statement.

Human Trafficking

Despite periodic police raids and temporary closure of brothels, powerful figures running human trafficking networks, and their accomplices—many of them government officials, soldiers, or police—

continue to be largely immune from prosecution. The government provides little in the way of social services, counseling, or job training to child prostitutes “rescued” in high-profile aids, resulting in many returning to the hands of brothel owners or traffickers. Cambodian men, women, and children continue to be trafficked to Malaysia and Thailand for forced labor and forced prostitution.

Key International Actors

Cambodia receives more than half of its annual budget from foreign aid and loans. Cambodia’s international donors have expressed concerns at the slow pace of legal and judicial reform, unchecked exploitation of natural resources, and corruption. In mid-2004 several donors, led by the Canadian ambassador, successfully pressed the government to authorize UNHCR to resume field operations in northeastern Cambodia.

Japan remains the largest bilateral donor to Cambodia and provided the bulk of the funding for the 2003 national elections, along with the European Union, Australia, New Zealand, and Canada. China is playing an increasingly influential role in Cambodia, both as a donor and an investor. The United States has pressed the government to address political violence and advocated that Khmer Rouge leaders be brought to trial but it has hesitated to contribute toward the costs of a tribunal. By December 2004, only three U.N. member states have publicly announced pledges towards the tribunal’s projected three-year budget of US\$60 million: Australia (\$2 million), France (\$1 million), and Japan (\$3 million).

In 2003 the World Bank reduced its \$18 million loan for Cambodia’s demobilization program and called for \$2.8 million to be paid back because of corruption in the administration of the program. In August 2004 the Bank issued a report harshly critical of rampant corruption within Cambodia’s investment sector.

The Cambodia Office of the High Commissioner for Human Rights continues to downsize its staff and in 2003 closed all of its provincial offices. During a visit to Cambodia in November 2004 the U.N. Secretary-General’s Special Representative for Cambodia highlighted problems with the government’s land concession policies and called for an investigation into the grenade attack against villagers peacefully protesting a land concession in Pursat.