



Australian Government
Refugee Review Tribunal

Country Advice Cambodia

Cambodia – KHM36853 – FUNCINPEC
Party – CPP – Drug Trafficking
21 June 2010

1. Please give a brief history of relationship between FUNCINPEC and the CPP.

Cambodian People's Party

The Cambodian People's Party (CPP) was launched in October 1991, as the non-Communist successor to the Kampuchean People's Revolutionary Party.¹ A 2008 report by the European Union Election Observation Mission Cambodia (EU EOM Cambodia) provides the following brief overview of the CPP:

Cambodia's largest party is the CPP which has formed part of the political leadership of the country since the Vietnamese invasion in 1979. The CPP front figure is CPP Deputy Chairman and Prime Minister Hun Sen. Since its creation the CPP has been the dominant party in Cambodian politics, a position it has reinforced in recent years; it won a majority of National Assembly seats in 2003, holds a two-third majority in the current Senate, and controls some 97 per cent of Commune Councils. The party has a strong relationship with the booming business sector in Cambodia and strong diplomatic relationships with neighbouring Vietnam and China. Internal party democracy and transparency are weak and leaks of information concerning internal controversies are rare. The CPP is often commended for its strong and very broad presence throughout the country down to the smallest villages. The CPP's political platform features its role in bringing stability, economic growth and new investments, including infrastructure, to Cambodia.²

A report dated 22 August 2008 by Dr Kheang Un, Assistant Director of the Center for Southeast Asian Studies at Northern Illinois University states that "the CPP has effectively gained a monopoly on power and seems to be transforming Cambodia into a de facto one party democracy". The report provides the following analysis on the CPP's rise to power:

Over the past ten years, the CPP controlled state has gained more legitimacy with the public: particularly the rural population. This is reflected in a higher vote share in both the local and national elections. The support for the CPP stems from two key factors. First, the country has experienced peace and political stability for a decade under CPP controlled governments and voters are loathe to risk instability by voting for the opposition. Second, CPP control over the state allows the party to command personalised networks with business tycoons and military leaders alike. Such connections permeate and supersede state institutions, and also provide the party with tremendous resources. These CPP networks are used to devote time and resources to developing local communities and addressing villagers' needs through building schools, roads, irrigation canals, ponds and temples. As a result of these projects, development funds flowing to local communities, in the name of the CPP and Prime Minister Hun Sen, were almost double of the amount provided by the

¹ Banks, A.S., Muller, T.C., Overstreet, W.R & Isacoff, J.F. (eds) 2009, *Political Handbook of the World Online Edition: Cambodia*; CQ Press, Washington - Attachment 1.

² European Union Election Observation Mission 2008, *Kingdom of Cambodia, FINAL REPORT, National Assembly Elections*, 27 July 2008, 13 October, pp. 9 – 10
http://www.eueomcambodia.org/English/PDF/PDF/Final%20Report/final%20report/English/EU_EOM_Final_Report_Com.pdf - Accessed 12 July 2010 - Attachment 2.

state. Despite persistent poverty, the majority of Cambodians, particularly those who are from rural areas, now see the state under CPP control as a “predatory state” that has been transformed into a welcome “service state”.

...CPP power and support also derives from its control of the Cambodian mass media.³

FUNCINPEC Party

The FUNCINPEC Party (FP) was proclaimed in 1989 as the political counterpart of the National Army of Independent Cambodia. In February 1992, the group was redesignated as the FUNCINPEC Party.⁴ The abovementioned 2008 report by the EU EOM Cambodia provides the following overview of the FP party:

FUNCINPEC is the French acronym for Front Uni National pour un Cambodge Indépendant, Neutre, Pacifique, et Coopératif, which translates to “National United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia”.

FUNCINPEC is a conservative, royalist party previously led by Prince Norodom Ranariddh and since October 2006 led by Prince Keo Puth Rasmey. Compared to the CPP, FUNCINPEC has offered a more liberal political platform and in the election the party campaigned largely on messages similar to those of the declared opposition parties. FUNCINPEC has struggled to match the increasing support gained by the CPP and has suffered from continuous defections and splits that significantly rose around the change in leadership in 2006, the run up to the Commune Council election in 2007 and again during the run-up to the 2008 National Assembly election. In 1993 FUNCINPEC secured 45 per cent share of votes but popular support for the party dropped to 31.7 per cent in the 1998 National Assembly election, to 20.8 per cent in the 2003 National Assembly election and to only 2.4 per cent in the 2007 Commune Council elections.⁵

Key political events in the relationship between the FUNCINPEC Party and the Cambodian People’s Party

Cambodia is a multiparty constitutional monarchy with two parliamentary houses, the National Assembly and the Senate. Members of the Senate are indirectly elected and members of the National Assembly are elected through national elections.⁶ Elections were first held for the National Assembly in May 1993 as a result of a United Nations brokered peace settlement which ended the thirteen year civil war in Cambodia. Since 1993, elections for the Cambodian National Assembly have been conducted every five years as stipulated by the Constitution.⁷ These elections have resulted in fragile and uneasy coalitions between the CPP and FP. According to the EU EOM Cambodia, “the CPP has

³ Un, K, 2008, ‘Cambodia’s 2008 Parliamentary Election: Prospects for Opposition Politics’, *Asia Pacific Bulletin*, no. 22, Scholar Space, University of Hawaii website, 22 August http://scholarspace.manoa.hawaii.edu/bitstream/10125/3955/1/apb022_1.pdf - Accessed 13 July 2010 - Attachment 3.

⁴ Banks, A.S., Muller, T.C., Overstreet, W.R & Isacoff, J.F. (eds) 2009, *Political Handbook of the World Online Edition: Cambodia*; CQ Press, Washington - Attachment 1.

⁵ European Union Election Observation Mission 2008, *Kingdom of Cambodia, FINAL REPORT, National Assembly Elections, 27 July 2008*, 13 October, pp. 9 – 10 http://www.euomcambodia.org/English/PDF/PDF/Final%20Report/final%20report/English/EU_EOM_Final_Report_Com.pdf - Accessed 12 July 2010 - Attachment 2.

⁶ European Union Election Observation Mission 2008, *Kingdom of Cambodia, FINAL REPORT, National Assembly Elections, 27 July 2008*, 13 October, p.5 http://www.euomcambodia.org/English/PDF/PDF/Final%20Report/final%20report/English/EU_EOM_Final_Report_Com.pdf - Accessed 12 July 2010 - Attachment 2.

⁷ European Union Election Observation Mission 2008, *Kingdom of Cambodia, FINAL REPORT, National Assembly Elections, 27 July 2008*, 13 October, p.5 http://www.euomcambodia.org/English/PDF/PDF/Final%20Report/final%20report/English/EU_EOM_Final_Report_Com.pdf - Accessed 12 July 2010 - Attachment 2

always played the dominant role” in CPP and FP coalitions.⁸ Reports indicate that following a violent CPP led coup against the FP, its coalition partner, in 1997 the FP has become politically weak and electorally unpopular. A 2009 report by the US Congressional Research Service states that “FUNCINPEC, the CPP’s former major rival and partner, has fragmented and is no longer an independent political force”.⁹ The CPP in contrast has become the dominant political party in Cambodia.¹⁰ The following timeline provides a brief history of key political events in the relationship between the FP and the CPP:

- **1993 National Assembly election**

The EU EOM Cambodia has reported that “the 1993-election was marked by high levels of violence but was widely celebrated as Cambodia’s first step towards democracy, stability and rebuilding of an impoverished and ruined nation”. A report titled *Cambodia’s Electoral System* by Jeffrey Gallup states that the Khmer Rouge and its affiliated party the CPP were mainly blamed for the election violence and intimidation. The FP won the election by securing 58 seats. The CPP secured 51 seats and refused to accept the election result. Due to this pressure the FP agreed to form a coalition government with the CPP. Prince Norodom Ranariddh, head of the FP and Hun Sen, head to the CPP acted as co-prime ministers in the new government.¹¹ However, the CPP dominated the coalition government. Tensions between the FP and the CPP led to a “paralysis” within parliament and “armed skirmishes between military units loyal to the two parties”.¹²

- **1997 CPP coup**

As a result of rising tension and disagreements within the FP and CPP coalition, in July 1997 Hun Sen led an armed coup. Hun Sen’s forces reportedly defeated the pro-FUNCINPEC military after two days of violent battles. Approximately 80 to 100 people were killed in the battle, including many FP leaders. Prince Ranariddh and other politicians fled Cambodia. Due to high level international pressure and the halting of foreign aid, Hun Sen agreed that new parliamentary elections would be held and Prince Ranariddh could return to Cambodia to campaign. Gallup has reported that

⁸ European Union Election Observation Mission 2008, *Kingdom of Cambodia, FINAL REPORT, National Assembly Elections*, 27 July 2008, 13 October, p.7 http://www.euomcambodia.org/English/PDF/PDF/Final%20Report/final%20report/English/EU_EOM_Final_Report_Com.pdf - Accessed 12 July 2010 - Attachment 2.

⁹ Lum, T. 2009, *Cambodia: Background and U.S. Relations: Congressional Research Report for Congress*, Congressional Research Service website, 30 April, p.7 http://assets.opencrs.com/rpts/RL32986_20090430.pdf - Accessed 12 July 2010 - Attachment 4.

¹⁰ Lum, T. 2009, *Cambodia: Background and U.S. Relations: Congressional Research Report for Congress*, Congressional Research Service website, 30 April, p.3 http://assets.opencrs.com/rpts/RL32986_20090430.pdf - Accessed 12 July 2010 - Attachment 4; Gallup, J. (undated), *Cambodia’s Electoral System: A Window of Opportunity for Reform*, ACE Electoral Knowledge Network website, p.31- 32 <http://aceproject.org/ero-en/regions/asia/KH/01361003.pdf> - Accessed 13 July 2010 - Attachment 5; Banks, A.S., Muller, T.C., Overstreet, W.R & Isacoff, J.F. (eds) 2009, *Political Handbook of the World Online Edition: Cambodia*; CQ Press, Washington - Attachment 1.

¹¹ European Union Election Observation Mission 2008, *Kingdom of Cambodia, FINAL REPORT, National Assembly Elections*, 27 July 2008, 13 October, p.7 http://www.euomcambodia.org/English/PDF/PDF/Final%20Report/final%20report/English/EU_EOM_Final_Report_Com.pdf - Accessed 12 July 2010 - Attachment 2; Lum, T. 2009, *Cambodia: Background and U.S. Relations: Congressional Research Report for Congress*, Congressional Research Service website, 30 April, p.3 http://assets.opencrs.com/rpts/RL32986_20090430.pdf - Accessed 12 July 2010 - Attachment 4; Gallup, J. (undated), *Cambodia’s Electoral System: A Window of Opportunity for Reform*, ACE Electoral Knowledge Network website, p.31- 32 <http://aceproject.org/ero-en/regions/asia/KH/01361003.pdf> - Accessed 13 July 2010 - Attachment 5.

¹² Gallup, J. (undated), *Cambodia’s Electoral System: A Window of Opportunity for Reform*, ACE Electoral Knowledge Network website, p.33 <http://aceproject.org/ero-en/regions/asia/KH/01361003.pdf> - Accessed 13 July 2010 - Attachment 5.

“nevertheless, with virtually all power concentrated in a CPP-led government and the opposition demoralized, disorganized and intimidated, the prospects for genuinely democratic elections seemed dim”.¹³

- **1998 National Assembly election**

The 2008 EU EOM Cambodia report states that a weakened FP party resulted in the CPP winning 41.4% of the vote and securing 64 seats, making it the leading party. The CPP however, still lacked a sufficient majority to form government. According to the report, *Cambodia's Electoral System* by Jeffrey Gallup the FP Party and the Sam Rainsy Party (SRP) rejected the election results, lodged over 800 complaints and conducted street protests. Gallup states that “after weeks of escalating violence, the demonstrations were put down by force”. Four months after the election the FP party dropped its complaints and joined the CPP to form a coalition government in which the FP had limited influence.¹⁴

- **2003 National Assembly election**

EU EOM Cambodia has reported that “the pre-election period of the third National Assembly election in July 2003 was marked by a number of high-profile killings and widespread reports of intimidations and threats”. The FP lost 17 parliamentary seats and its total share of the vote fell to 21%, while the CPP secured 73 seats, a majority but not enough to form government on its own. The FP and the SRP formed an ‘Alliance of Democrats’ in an attempt to prevent Hun Sen from becoming Prime Minister. As a result of this political stalemate a new government was not formed until July 2004 when, as a result of lengthy negotiations, the FP (once again) agreed to form a coalition government. The coalition government was formed with Hun Sen as Prime Minister and Prince Ranariddh as President of the National Assembly. The UC Congressional Research Service have described this coalition government as a resumption of an “uneasy partnership”.¹⁵

- **2006**

In March 2006, Prince Ranariddh resigned as Chairman of the National Assembly. Ranariddh's resignation was reportedly a reaction to a deal negotiated between the CPP and SRP to change the number of votes constitutionally required to form a government to a much less onerous formula of 50% plus one. Previously a two-thirds majority was

¹³ Lum, T. 2009, *Cambodia: Background and U.S. Relations: Congressional Research Report for Congress*, Congressional Research Service website, 30 April, p.4 http://assets.opencrs.com/rpts/RL32986_20090430.pdf - Accessed 12 July 2010 - Attachment 4; Gallup, J. (undated), *Cambodia's Electoral System: A Window of Opportunity for Reform*, ACE Electoral Knowledge Network website, p.33 – 34 <http://aceproject.org/ero-en/regions/asia/KH/01361003.pdf> - Accessed 13 July 2010 - Attachment 5

¹⁴ European Union Election Observation Mission 2008, *Kingdom of Cambodia, FINAL REPORT, National Assembly Elections*, 27 July 2008, 13 October, p.7 http://www.eueomcambodia.org/English/PDF/PDF/Final%20Report/final%20report/English/EU_EOM_Final_Report_Com.pdf - Accessed 12 July 2010 - Attachment 2; Gallup, J. (undated), *Cambodia's Electoral System: A Window of Opportunity for Reform*, ACE Electoral Knowledge Network website, p.33 – 34 <http://aceproject.org/ero-en/regions/asia/KH/01361003.pdf> - Accessed 13 July 2010 - Attachment 5; Banks, A.S., Muller, T.C., Overstreet, W.R & Isacoff, J.F. (eds) 2009, *Political Handbook of the World Online Edition: Cambodia*; CQ Press, Washington - Attachment 1.

¹⁵ Lum, T. 2009, *Cambodia: Background and U.S. Relations: Congressional Research Report for Congress*, Congressional Research Service website, 30 April, p.4 http://assets.opencrs.com/rpts/RL32986_20090430.pdf - Accessed 12 July 2010 - Attachment 4; European Union Election Observation Mission 2008, *Kingdom of Cambodia, FINAL REPORT, National Assembly Elections*, 27 July 2008, 13 October, p.8 http://www.eueomcambodia.org/English/PDF/PDF/Final%20Report/final%20report/English/EU_EOM_Final_Report_Com.pdf - Accessed 12 July 2010 - Attachment 2; Banks, A.S., Muller, T.C., Overstreet, W.R & Isacoff, J.F. (eds) 2009, *Political Handbook of the World Online Edition: Cambodia*; CQ Press, Washington - Attachment 1.

required to form a government. In October 2006, Prince Keo Puth Rasmey was voted by the FP party as the new party president. Following his loss of leadership, Prince Ranariddh created the Norodom Ranariddh Party in November 2006.¹⁶

- **2008 National Assembly election**

In the July 2008 election the FP only secured approximately 5% of the overall vote. This resulted in two parliamentary seats for the party; a significant reduction from the previously held 26 seats. The CPP in contrast won 58% of the vote, enough to govern without entering into a coalition. The election result was contested by the major opposition parties including the FP. A 2008 Asia Pacific Bulletin states that opposition parties reportedly rejected the result on the grounds of political intimidation, violence, “biased electoral machinery” and corruption within the National Election Committee. On 31 July, however, the FP announced that it had accepted the election result. The CPP invited the FP to once again join a coalition government despite the FP’s poor election result. The FP accepted but has very little real power within the coalition government.¹⁷

2. Is there any evidence of mistreatment of FUNCINPEC officials (or former officials) by CPP people?

No reports were found in the sources consulted regarding the targeting of FP officials or former officials by CPP members during the period of 2009 to 2010. The mistreatment of the opposition parties has however, been a common feature in all Cambodian elections since the first National Assembly elections in 1993. This has involved acts of overt political violence and coercion by the CPP towards FP party members.¹⁸

For example, reports indicate that the CPP engaged in threatening and intimidating behaviour towards opposition party members during the preparation for the 2008 National Assembly elections. A 2008 report by Human Rights Watch states that “opposition parties,

¹⁶ European Union Election Observation Mission 2008, *Kingdom of Cambodia, FINAL REPORT, National Assembly Elections*, 27 July 2008, 13 October, p.8
http://www.eueomcambodia.org/English/PDF/PDF/Final%20Report/final%20report/English/EU_EOM_Final_Report_Com.pdf - Accessed 12 July 2010 - Attachment 2.

¹⁷ Lum, T. 2009, *Cambodia: Background and U.S. Relations: Congressional Research Report for Congress*, Congressional Research Service website, 30 April, p.5 http://assets.opencrs.com/rpts/RL32986_20090430.pdf - Accessed 12 July 2010 - Attachment 4; European Union Election Observation Mission 2008, *Kingdom of Cambodia, FINAL REPORT, National Assembly Elections*, 27 July 2008, 13 October, p.45
http://www.eueomcambodia.org/English/PDF/PDF/Final%20Report/final%20report/English/EU_EOM_Final_Report_Com.pdf - Accessed 12 July 2010 - Attachment 2; Un, K., 2008, ‘Cambodia’s 2008 Parliamentary Election: Prospects for Opposition Politics’, *Asia Pacific Bulletin*, no. 22, Scholar Space, University of Hawaii website, 22 August http://scholarspace.manoa.hawaii.edu/bitstream/10125/3955/1/apb022_1.pdf - Accessed 13 July 2010 - Attachment 3; Banks, A.S., Muller, T.C., Overstreet, W.R & Isacoff, J.F. (eds) 2009, *Political Handbook of the World Online Edition: Cambodia*; CQ Press, Washington - Attachment 1.

¹⁸ Freedom House 2010, *Countries at the Crossroads 2010: Country Report – Cambodia*
<http://www.freedomhouse.org/modules/publications/ccr/modPrintVersion.cfm?edition=9&ccrpage=43&ccrcountry=179> - Accessed 14 July 2010 - Attachment 6; Human Rights Watch 2008, *Cambodia: Threats, Intimidation Mar Campaign*, 26 July <http://www.hrw.org/en/news/2008/07/24/cambodia-threats-intimidation-mar-campaign> - Accessed 14 July 2010 - Attachment 7; Committee for Free and Fair Elections in Cambodia 2008, ‘2nd Preliminary Report on the Environment Surrounding the 2008 Elections Preparation Stage’, 20 March http://www.comfrel.org/images/others/1206588324PR_03_on_Pre-Ele_Env_Eng.pdf - Accessed 14 July 2010 - Attachment 8; Committee for Free and Fair Elections in Cambodia 2007, *Final Assessment and Report on 2007 Commune Council Elections*, 25 August, pp. 25 - 26
<http://www.comfrel.org/images/others/1188360503COMFREL%20CCE%20Report%20Final%20without%20Pictures.pdf> - Accessed 14 July 2010 - Attachment 9; Asian Human Rights Commission 2008, ‘CAMBODIA: The Cambodian government must act against all violence and ensure equal treatment of all political parties’, 9 May <http://www.ahrchk.net/statements/mainfile.php/2008statements/1514/> - Accessed 14 July 2010 - Attachment 10.

particularly the SRP, have operated in an almost continuous environment of threats, harassment, and intimidation”.¹⁹

While the SRP was the primary target, a 2008 report by the Committee for Free and Fair Elections in Cambodia (COMFREL), states that FP members received two threats in 2007 during the pre-election preparation period. The report also states that the CPP used inducements to encourage the defection of high level members of FP and the SRP to the CPP.²⁰ Human Rights Watch further states that opposition party members, particularly the SRP, who refused to defect to the CPP were threatened with arrests and violence.²¹

Despite these events, the Asian Human Rights Commission reported in May 2008 that the police and the judiciary, which are “widely known as under political control of the ruling party”, have not shown any diligence in investigating the incidents against opposition parties during the pre-election period. The report states that “no perpetrator has been apprehended and brought to justice so far”.²²

In addition to pre-election intimidation, a 2010 report by Freedom House states that by 2008 the FP and SRP “were marginalized well before the election, undermined by state harassment and politically-inspired court cases”. An example of the latter is the charging of former FP leader Norodom Rannaridh with corruption and adultery in 2006 and 2007. The report states that:

The use against Rannaridh of a new law criminalizing adultery shortly after it was passed raised concerns that the legislation had been promulgated with the aim of targeting opposition politicians. There is very little sense that the government is expected to comply with court decisions. Rather, the government has on numerous occasions pardoned opposition politicians as part of a political deal following their conviction under dubious circumstances. Such high-profile cases illustrate larger patterns of CPP interference in the judiciary, reinforcing perceptions that the courts serve as a tool of the executive.²³

Similar trends have been observed for commune elections. For example in 2007 a number of FUNCINPEC party members were targeted, including an assassination attempt and what appears to be politically motivated arrests. These events “created an environment of fear and concern during the pre-election period”.²⁴

¹⁹ Human Rights Watch 2008, Cambodia: Threats, Intimidation Mar Campaign, 26 July <http://www.hrw.org/en/news/2008/07/24/cambodia-threats-intimidation-mar-campaign> - Accessed 14 July 2010 - Attachment 7.

²⁰ Committee for Free and Fair Elections in Cambodia 2008, ‘2nd Preliminary Report on the Environment Surrounding the 2008 Elections Preparation Stage’, 20 March http://www.comfrel.org/images/others/1206588324PR_03_on_Pre-Ele_Env_Eng.pdf - Accessed 14 July 2010 - Attachment 8; The Committee for Free and Fair Elections in Cambodia is a permanent election monitoring organisation. (‘About COMFREL’ (undated), Committee for Free and Fair Elections in Cambodia website http://www.comfrel.org/about_comfrel.php - Accessed 16 July 2010 - Attachment 11)

²¹ Human Rights Watch 2008, Cambodia: Threats, Intimidation Mar Campaign, 26 July <http://www.hrw.org/en/news/2008/07/24/cambodia-threats-intimidation-mar-campaign> - Accessed 14 July 2010 - Attachment 7

²² Asian Human Rights Commission 2008, ‘CAMBODIA: The Cambodian government must act against all violence and ensure equal treatment of all political parties’, 9 May <http://www.ahrchk.net/statements/mainfile.php/2008statements/1514/> - Accessed 14 July 2010 - Attachment 10

²³ Freedom House 2010, *Countries at the Crossroads 2010: Country Report – Cambodia* <http://www.freedomhouse.org/modules/publications/ccr/modPrintVersion.cfm?edition=9&ccrpage=43&ccrcountry=179> - Accessed 14 July 2010 - Attachment 6.

²⁴ Committee for Free and Fair Elections in Cambodia 2007, *Final Assessment and Report on 2007 Commune Council Elections*, 25 August, pp. 25 - 26 <http://www.comfrel.org/images/others/1188360503COMFREL%20CCE%20Report%20Final%20without%20Pictures.pdf> - Accessed 14 July 2010 - Attachment 9.

With the exception of corruption and adultery charges against Prince Rannaridh, no reports could be located in relation to the mistreatment of FP officials outside of election periods. The relationship between the FP and CPP has however, at times been tense and Cambodia is still dealing with problems of endemic corruption and a weak judiciary.²⁵

3. Can it be confirmed that Mr Sokha Lay was the Premier of Mondulkiri in 2006? If so, does he still hold that position or any other position of influence? What else is known of this man?

Available information indicates that Lay Sokha held the position of Provincial Governor of Mondulkiri (also known as Mondolkiri and Mondol Kiri) from March 2006 to mid 2009.²⁶ The Cambodian Peoples Party (CPP) website lists Lay Sokha as a Central Committee Member of the CPP.²⁷ No other information was found in the sources consulted regarding any other current positions held by Lay Sokha.

No exact date was found in the English languages sources consulted as to when Lay Sokha was replaced as Governor of Mondulkiri Province. A bulletin by the Ministry of Posts and Telecommunications of Cambodia states that Lay Sokha attended a meeting as the Governor of Mondulkiri on 25 February 2009.²⁸ This is the last reference found describing Lay Sokha as the Governor of Mondulkiri. A report dated 23 June 2009 published by *The Phnom Penh Post* describes Chan Yoeun as the “newly elected” governor of Mondulkiri. A report published by *The Phnom Penh Post* on 21 June 2010 indicates that Chan Yoeun continues to hold the position of Provincial Governor of Mondulkiri.²⁹

Reports indicate that prior to his appointment as Governor of Mondulkiri, Lay Sokha was Governor of Takeo province. Lay Sokha was assigned the position of Governor of Takeo province in 2003. Previous to this position Lay Sokha was the Deputy Governor of Takeo.³⁰

²⁵ Freedom House 2010, *Countries at the Crossroads 2010: Country Report – Cambodia* <http://www.freedomhouse.org/modules/publications/ccr/modPrintVersion.cfm?edition=9&ccrpage=43&ccrcountry=179> - Accessed 14 July 2010 - Attachment 6

²⁶ ‘Administration’ 2009, Royal Government of Cambodia website <http://www.cambodia.gov.kh/unisql2/egov/english/organ.admin.html> - Accessed 29 June 2010 - Attachment 12; ‘Armed group operating in Cambodia’s northeast may be part of resistance movement’ 2009, *BBC Monitoring Asia Pacific*, 10 January, source: *Reaksmei Kampuchea* - Attachment 13; Sokheng, V. 2006 ‘Sacked governors did not do their job, says Hun Sen’, *Phnom Penh Post*, 7 April - Attachment 14; Chamroeun, C. 2009, ‘Mondulkiri activists subject to restrictions, threats: NGO’s’, *The Phnom Penh Post*, Sithi website, 23 June <http://www.sithi.org/admin/upload/incident/%5B1354%5D%5B2010-01-21%5DMondulkiri%20Activists%20Blocked%20Access%20to%20Information/Mondulkiri%20activists%20subject%20to%20restrictions.pdf> - Accessed 2 July 2010 - Attachment 15; ‘Bulletin of the Ministry of and Telecommunications of Cambodia’ 2009, Ministry of Posts and Telecommunications of Cambodia website, April http://www.mptc.gov.kh/FileUpload/Magazine_25.pdf - Accessed 5 July 2010 - Attachment 16

²⁷ ‘Members of The CPP Central Committee’ (undated), Cambodian Peoples Party website <http://www.thecpp.org/page.php?page=central.htm&lang=eng> - Accessed 29 June 2010 - Attachment 17.

²⁸ ‘Bulletin of the Ministry of Posts and Telecommunications of Cambodia’ 2009, Ministry of Posts and Telecommunications of Cambodia website, April http://www.mptc.gov.kh/FileUpload/Magazine_25.pdf - Accessed 5 July 2010 - Attachment 16

²⁹ Chamroeun, C. 2009, ‘Mondulkiri activists subject to restrictions, threats: NGO’s’, *The Phnom Penh Post*, Sithi website, 23 June <http://www.sithi.org/admin/upload/incident/%5B1354%5D%5B2010-01-21%5DMondulkiri%20Activists%20Blocked%20Access%20to%20Information/Mondulkiri%20activists%20subject%20to%20restrictions.pdf> - Accessed 2 July 2010 - Attachment 15; Titthara, M. 2010, ‘Official backtracks on arson threat’, *Phnom Penh Post*, 21 June <http://www.phnompenhpost.com/index.php/2010062139980/National-news/official-backtracks-on-arson-threat.html> - Accessed 2 July 2010 - Attachment 18

³⁰ ‘Two Cambodian officials appointed as Takeo governor and under-Secretary of state of Foreign Affairs’ 2003, *Organisation of Asia-Pacific News Agencies*, 13 February - Attachment 19; Sokha, C. 2004, ‘Strikes looming over late wages for teachers’, *Phnom Penh Post*, 2 January - Attachment 20; Chuong, H. 2002, ‘HCMC, An Giang trade mission arrives in Cambodia’, *The Saigon Times Daily*, 4 July - Attachment 21; Samean, Y. 2006, ‘PM’s Directive Spells out Top Officials’ Roles [more than one year later]’, *KI Media*

A political map of Cambodia showing the provinces of Monduliri and Takeo has been attached to this research response.³¹ A report by *The Phnom Penh Post* indicates that in 2006 Lay Sokha was a CCP Ministry of Interior official.³²

Reports found in English language sources regarding Lay Sokha generally refer to his role as Governor of Monduliri and his response as Governor to issues of illegal land appropriation, logging and indigenous land rights. These reports provide contrasting information regarding Governor Sokha's role in relation to these issues. The following articles report on measures undertaken by Governor Sokha to ameliorate and placate land disputes within Monduliri province:

- A 2008 report published by the Non Timber Forest Products Exchange Program (NTFP) provides information on land disputes in Monduliri Province and the impact of villagers and Indigenous persons. The report states that the Monduliri Governor Lay Sokha issued a letter in March 2008 prohibiting local authorities from authorising any land deals without his prior approval. The NTFP report states that provincial authorities "should strictly enforce the terms of the letter". The report also states that:

The Deputy Provincial Governor admitted that military, police, government officials and even members of the Forestry Administration had been involved inland grabbing in the province. He noted, however, that the provincial government is doing what it can to resolve the issue, but it would be a gradual improvement over time.³³

- In May 2007, *The Cambodia Daily* reported on mining exploration on Nam Lyr Mountain in Monduliri. The report states that Nam Lyr Mountain is sacred to the Phnong people. According to the report 120 Phnong residents hauled two drilling machines out of the area with a tractor and threatened to use violence if mining continues. Governor Lay Sokha stated that provincial authorities would not allow the company to continue exploration on the mountain. Lay Sokha is reported to have stated that "we should keep the sacred place for the Phnong" and that "the threat of violence overrides any legal contract".³⁴

The following two articles however, report criticisms of Governor Sokha in relation to illegal land appropriation and indigenous tribespeople:

- According to information on *The Mirror* website, on 26 May 2008 *Moneakesar Khmer*, a Khmer language news source reported that:

More than 40,000 minority tribespeople made thumbprints to ask for the removal of Lay Sokha and Keo Horn from the positions of Monduliri Governor and Deputy Governor.³⁵

website, source: *The Cambodia Daily*, 30 March <http://ki-media.blogspot.com/2006/03/pms-directive-spells-out-top-officials.html> - Accessed 16 July 2010 - Attachment 22.

³¹ 'Political map of Cambodia' 2010, Nations Online website, 1 January

http://www.nationsonline.org/maps/cambodia_map.jpg - Accessed 30 June 2010 - Attachment 23

³² Sokheng, V. 2006 'Sacked governors did not do their job, says Hun Sen', *Phnom Penh Post*, 7 April - Attachment 14

³³ Diokno, M. 2008, *The Importance of Community: Issues and Perceptions of Land Ownership and Future Options in 5 Communes in Monduliri Province, Cambodia*, Non Timber Forest Products website, May, pp. 48, 54 & 66 http://www.ntfp.org/ntfpadmin/publications-pdf/Final_Importance_of_Community.pdf - Accessed 30 June 2010 - Attachment 24

³⁴ Yun, S. & Kinetz, E. 2007, *The Cambodia Daily*, May

http://www.camnet.com.kh/cambodia.daily/story_month/May-07.htm - Accessed 30 June 2010 - Attachment 25

³⁵ 'Newspapers Appearing on the Newsstand' 2008, *The Mirror*, 26 May

<http://cambodiamirror.wordpress.com/2008/05/27/monday-2652008-more-korean-volunteers-have-arrived-in-cambodia/> - Accessed 29 June 2010 - Attachment 26.

No further information was found in the sources consulted regarding this incident.

- According to an article on *The Mirror* website, on 13 February 2007 *Samleung Yuvachun Khmer*, a Khmer language news source reported that Governor Lay Sokha and Deputy Governor Keo Horn “are grabbing forest land of thousands of hectares each”.³⁶ No further information was found in the sources consulted regarding these allegations.

4. Deleted

5. Are people convicted abroad for drug smuggling subjected to additional punishment on return to Cambodia? If so, would a former official be treated more harshly?

No information was found in the sources consulted regarding the situation for Cambodian returnees who have been convicted abroad for drug trafficking or smuggling.

The Cambodian government is currently in the process of finalising a new Law of Drug Control, with assistance from the UN.³⁷ The current Cambodian *Law on Drug Control* does not provide information on the treatment of individuals who have been convicted abroad. Article 63 of the legislation does however, provide the following information regarding when Cambodian courts can legally make decisions on drug offences:

Courts of the Kingdom of Cambodia have competence to make decisions on offences:

- when an offence has been committed on the territory of the Kingdom of Cambodia or when an act for which an element of the offence was committed on the territory of the Kingdom of Cambodia;
- when the offence has been committed by a Cambodian citizen or by any person who is permanently living on the territory of the Kingdom of Cambodia;
- when the principal of the offence is staying on the territory of the Kingdom of Cambodia and that principal had not yet been sent to the country of origin;
- when the offender has committed an offence on board an airplane which had been registered on the territory of the Kingdom of Cambodia or on board a ship which flies the flag of the Kingdom of Cambodia;
- Except when upon there is an agreement and settlement between 2 (two) States when an offense/crime is committed on board a ship which the State which is owner of the flag has permitted the Kingdom of Cambodia to order to stop for checking and control and to take appropriate measures for the ship and people on board and the ships cargo, in a case when, upon finding evidence that there is involvement in the illicit trafficking of drugs.³⁸

The current Cambodian *Law on the Control of Drugs* stipulates the punishments for the international transportation of drugs. According to Article 32.2 of the legislation the penalty for the international transportation of “drugs resulting in serious danger” can range from two to twenty years imprisonment. Article 37.3 of the legislation lists the penalties for the international transportation of “dangerous drugs”. The penalties can range from one to ten

³⁶ ‘Newspapers Appearing on the Newsstand’ 2007, *The Mirror* website, 13 February <http://cambodiamirror.wordpress.com/2007/02/13/tuesday-1322007-do-not-sell-radio-and-television-licenses-the-ministry-of-information-prevents-a-war-of-words-on-the-air-prior-to-the-commune-elections/> - Accessed 30 June 2010 - Attachment 27

³⁷ Human Right Watch 2010, “*Skin on the Cable*”: *The Illegal Arrest, Arbitrary Detention and Torture of People Who Use Drugs in Cambodia*, January, p.22 <http://www.hrw.org/en/node/87682/section/1> - Accessed 6 July 2010 - Attachment 31.

³⁸ *Law on the Control of Drugs* (Adopted 9 December 1996, Amended 9 May 2005), Khana website, p. 37 <http://www.khana.org.kh/images/Publication/L.Cambodian%20Law%20on%20Drug%20Control.pdf> - Accessed 6 July 2010 - Attachment 32

years. The length of sentencing depends on whether it is a repeat offence, which drug was exported and the quantity of the drug exported. Article 47 of the Cambodian *Law on the Control of Drugs* states that the maximum imprisonment is doubled for drug offences committed by a person “performing a public function” or “during the accomplishment of such a function”.³⁹

Information contained in the current Cambodian *Law on the Control of Drugs* indicates that if the courts of Cambodia consider that an individual has committed an offence within the territory of Cambodia, then it is possible that the individual could be convicted of an offence. If convicted the individual may receive double the maximum punishment if the court considers that the offence occurred while “performing a public function” or “during the accomplishment of such a function”.⁴⁰

General information on drug policy in Cambodia is provided in a 2010 report by the US Department of State, Bureau of International Narcotics and Law Enforcement Affairs. The report states that Cambodia’s “capacity to implement a satisfactory, systematic approach to counternarcotics operations remains low”. The report provides the following information on the impact of corruption on the enforcement of drug policy:

The Cambodian government does not, as a matter of government policy, encourage or facilitate illicit production or distribution of drugs or controlled substances, or the laundering of proceeds from illegal transactions involving drugs, nor are senior government officials known to engage in or encourage such actions. Nonetheless, corruption remains pervasive in Cambodia, making Cambodia highly vulnerable to penetration by drug traffickers and foreign crime syndicates. Senior Cambodian government officials assert that they want to combat trafficking and illicit drug production; although, corruption, low salaries for civil servants, and an acute shortage of trained personnel severely limit sustained advances in effective law enforcement, recent investigations may indicate a willingness to expose corruption within the police force.⁴¹

³⁹ *Law on the Control of Drugs* (Adopted 9 December 1996, Amended 9 May 2005), Khana website, pp. 18 - 19, 23 - 24, 30

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⁴⁰ *Law on the Control of Drugs* (Adopted 9 December 1996, Amended 9 May 2005), Khana website, pp. 18 - 19, 23 - 24, 30

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⁴¹ US Department of State: Bureau of International Narcotics and Law Enforcement Affairs 2010, 2010 *International Narcotics Control Strategy Report (INCSR): Country Reports – Afghanistan through Colombia*, 1 March <http://www.state.gov/p/inl/rls/nrcrpt/2010/vol1/137194.htm> - Accessed 6 July 2010 - Attachment 33

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