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## 2009 Human Rights Report: Cambodia

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2009 Country Reports on Human Rights Practices

March 11, 2010

Cambodia is a constitutional monarchy with an elected government and a population of approximately 14 million. In the most recent national elections, held in July 2008, the Cambodian People's Party (CPP), led by Prime Minister Hun Sen, won 90 of 123 National Assembly seats. Most observers assessed that the election process improved over past elections but did not fully meet international standards. The CPP consolidated control of the three branches of government and other national institutions, with most power concentrated in the hands of the prime minister. Although civilian authorities nominally controlled the security forces, in many instances security forces acted under directives of the CPP leadership.

The government's human rights record remained poor. Security forces committed extrajudicial killings and acted with impunity. Detainees were abused, often to extract confessions, and prison conditions were harsh. Human rights monitors reported arbitrary arrests and prolonged pretrial detention, underscoring a weak judiciary and denial of the right to a fair trial. Land disputes and forced evictions were a problem. The government restricted freedom of speech and the press through defamation and disinformation lawsuits and at times interfered with freedom of assembly. Corruption was endemic. Domestic violence and child abuse occurred, education of children was inadequate, and trafficking in women and children persisted. The government offered little assistance to persons with disabilities. Antiunion activity by employers and weak enforcement of labor laws continued, and child labor in the informal sector remained a problem.

### RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed politically motivated killings; however, security forces reportedly committed extrajudicial killings, although significantly fewer than in previous years.

The Cambodian Human Rights and Development Association (ADHOC) reported 18 arbitrary killings, seven of which allegedly were committed by police, three by soldiers, one by a military police officer, and the remaining seven by local-level government officials. Police arrested suspects in at least four cases.

On March 4, Inn Pheang, a soldier in the military's Battalion 617, reportedly shot and killed opposition Sam Rainsy Party (SRP) activist Mang Vith during a dispute in Kampong Cham's Memot District. Sources agreed that Mang Vith was drunk

at the time of the incident, and the two men exchanged words briefly before Inn Pheang opened fire. The soldier reached a settlement with the victim's family out of court.

On June 18, Ou Bunthan, a soldier in the military's 14th Intervention Brigade in Pursat Province, immolated civilian Loeng Saroeun. The victim reportedly worked for Ou Bunthan as part of an illegal wildlife trade business. The military court issued a warrant for the arrest of Ou Bunthan, who remained in hiding at year's end.

On July 6, Phnom Penh military police officer Kep Bros, a bodyguard for the Phnom Penh governor, shot and killed Soy Sokhorn during a dispute. At year's end he had not been arrested.

There were several cases of suspected killings while victims were held in government or police custody. On March 23, fisherman Mao Sok died while in custody of the Takeo Provincial Fishery Department. The victim's family said the body displayed signs of torture; however, provincial authorities stated that Mao committed suicide in his cell, and they did not conduct an investigation. The victim's family filed a complaint to the provincial court, but the provincial prosecutor dismissed the complaint. The family appealed the decision to the appeals court; at year's end the court had taken no action.

On April 1, Kong La died while in custody of the Mong Russei district police in Battambang Province. The victim's family reported that the body showed signs of beating. The district police chief stated that Kong sustained the injuries after he fainted while in custody; the commune chief claimed Kong fell from a motorbike while resisting arrest. Local authorities gave money to Kong's family, who did not file an official complaint.

Nongovernmental organizations (NGOs) reported three killings of political activists during the year, but their investigations could not confirm that the deaths were politically motivated.

There were no developments in the following cases: the April 2008 death of Buern Soksina, who was shot and killed by a police officer during a motorcycle chase in Preah Vihear Province; the April 2008 death of a villager who died after sustaining severe head injuries from a beating allegedly by security forces during an eviction in Preah Vihear Province; and the October 2008 death of a bystander who was killed when a military police officer reportedly opened fire on a crowd.

There also were no developments in the following cases of killings by unidentified persons: the May 2008 deaths of former CPP activists Cheang Sorm and Norodom Ranariddh, Party Deputy Chief Sok Run; and the July 2008 deaths of journalist Khem Sambo and his son.

There were no developments in the 2007 deaths of Khmer Kampuchea Krom monk Eang Sok Thoeurn, SRP activist Chea Sovin, and SRP commune-level vice chairperson Kleb Un.

Mines dating from the Indochina conflict and Khmer Rouge period continued to cause casualties. According to the Cambodia Mine/UXO Victim Information System, from January to November, mines and unexploded ordnance caused 40 deaths, 54 amputations, and 122 other injuries.

On February 9, seven men allegedly killed Hang Heoun, whom they accused of sorcery in Sandan District, Kampong Thom Province. Provincial authorities arrested the seven men and charged them with premeditated murder. At year's end the perpetrators were in pretrial detention, and no trial date had been set.

Local NGOs reported two other mob killings in the first six months--one related to a robbery and the other to an attempted rape.

There were no developments in the two mob killings reported in 2008 or the five mob killings in 2007.

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b. Disappearance

There were no reports of politically motivated disappearances during the year.

On April 4, Khmer Kampuchea Krom monk Tim Sakhorn returned to his home province of Takeo after being released from house arrest in Vietnam. After unsuccessfully attempting to obtain Cambodian citizenship documents, he crossed the border into Thailand on April 12. In July he was granted refugee status and accepted third-country resettlement.

There was no development in the 2007 disappearance of Land Border Protection Unit 504 soldier Im Bun Ny.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits such practices; however, beatings and other forms of physical mistreatment of police detainees and prison inmates continued, although the number of incidents decreased significantly from previous years.

There were credible reports that military and civilian police officials used physical and psychological torture and on occasion severely beat criminal detainees, particularly during interrogation. During the year NGOs reported that authorities allegedly tortured at least 118 prisoners: 100 in police custody and 18 in prisons. Kicking, punching, and pistol whipping were the most common methods of physical abuse, but techniques also included electric shocks, suffocation, caning, and whipping with wire. NGOs reported that it was not uncommon for police to torture detained suspects until they confessed to a crime. Courts used forced confessions as legal evidence during trial despite admissibility prohibitions under the law.

On January 31, five persons from the village of Tumnob Teuk reported that military police from the Bavel District in Battambang Province beat, kicked, and administered electric shocks to them to extract confessions for a robbery they claimed they did not commit.

On February 27, Chea Ly and his wife Chhoun Eng reported that soldiers beat them after the couple refused to pay a bribe at the Prey Nob District checkpoint. The soldiers belonged to the military's Battalion 1 in Preah Sihanouk Province.

On May 25, Pok Un reported that O Chrov District military police in Banteay Meanchey Province beat and kicked him while detaining him on suspicion of theft.

During the year ADHOC noted that there were 100 cases of physical assaults on civilians by local authorities, government agents, or private bodyguards, compared with 110 cases in 2008.

In December national drug control authorities required 21 drug-addicted persons to participate in a human trial of a liquid herbal substance called Bong Sen, used for several years in Vietnam for detoxification of drug-dependent persons. Officials claimed the 21 were volunteers, but informed sources confirmed that many of the addicts were given the choice of participating in the study or being incarcerated. According to the World Health Organization, there was no ethical review of the plans to administer the substance, nor was it registered as a drug under Ministry of Health guidelines. There was little or no information available about the efficacy, contraindications, or side effects of Bong Sen prior to the experiment. Eight of the 21 were HIV-positive, and two of those were on antiretroviral drugs at the time of the Bong Sen "treatment." Several of the 21 reported adverse reactions to the substance, including illness, during the trial. Following the 10-day trial, there was no patient follow-up planned or implemented by authorities. According to local NGO statements, at least 17 of the 21 individuals resumed drug use within two days of the trial.

There was no development in the 2007 case of Kampong Speu Province military police officer Prak Vutha, who reportedly arrested and beat unconscious a man named Sok Soeun.

In response to 2008 reports that police and the Ministry of Social Affairs, Veterans, and Youth Rehabilitation (MOSAVY) guards raped, physically abused, robbed, and extorted detainees in police custody at two MOSAVY rehabilitation centers, officials released all of the detainees at the two rehabilitation centers. At year's end one center remained closed, while another was being used to house and rehabilitate homeless families. MOSAVY officials investigated conditions at the centers but did not issue conclusions or reports. The guards and the MOSAVY deputy director with oversight for the centers retained their positions.

#### Prison and Detention Center Conditions

Prison conditions did not meet international standards. Conditions remained harsh and at times were life threatening. Government efforts to improve them continued to be hampered by a lack of funds and weak enforcement. Human rights organizations cited a number of serious problems, including overcrowding, medical and sanitation problems, food and water shortages, malnutrition, and poor security.

According to the Ministry of Interior (MOI) Prison Department, there were 13,324 prisoners and detainees, including 802 women and 840 juveniles. There are 25 prisons in the country, which were designed to hold between 8,000 and 11,000 prisoners and detainees. The government was building new prisons designed to accommodate 2,500 additional prisoners. There were reports at some prisons that cells of 40 by 20 feet held up to 110 prisoners. At Correctional Center 1 prison, cells of 26 by 26 feet held an average of 50 prisoners. In some prisons authorities used shackles and held prisoners in small, dark cells as a form of harsher punishment. There were reports that at least 58 prisoners died in custody in 18 prisons in 13 provinces during the year.

An investigation continued into the November 2008 death of Heng Touch, who died after sustaining injuries in prison under suspicious circumstances. In March the Phnom Penh Municipal Court summoned the victim's family, two prison officers, and a prison doctor for questioning, but at year's end no charges had been filed.

There were no developments in the following 2008 cases: the death of Bun Vannarith after being taken from a hospital into police custody; the death of prisoner Yan Sok Kea reportedly from a high fever after treatment was allegedly delayed; or the death of an elderly woman confined to a MOSAVY rehabilitation facility without access to medical care.

Government ration allowances for purchasing prisoners' food routinely were misappropriated and inadequate, exacerbating malnutrition and disease. One NGO claimed that in some cases prison authorities withheld 20 to 30 percent of food or materials brought by prisoners' families. Rights organizations confirmed that families had to bribe prison officials to visit prisoners or provide food and other necessities. NGOs also confirmed accounts that prisoners whose families bribed prison authorities received preferential treatment, including access to visitors, transfer to better cells, and the opportunity to leave cells during the day.

There were credible reports that officials occasionally demanded bribes before allowing prisoners to attend trials or appeal hearings and before releasing inmates who had served full jail terms.

In most prisons there was no separation of adult and juvenile prisoners, of male and female prisoners, or of persons convicted of serious crimes and persons detained for minor offenses. Pretrial detainees were routinely held together with convicted prisoners. According to government statistics, an estimated 32 percent of prisoners held in municipal and provincial prisons were pretrial detainees.

The government generally continued to allow international and domestic human rights groups, including the International Committee of the Red Cross and the Office of the UN High Commissioner for Human Rights (UNHCHR), to visit prisons and provide human rights training to prison guards. Some NGOs reported that at times cooperation from local authorities was limited, making it difficult to gain access to pretrial detainees. The MOI continued to require that lawyers, human rights

monitors, and other visitors obtain permission prior to visiting prisoners. The ministry withheld such permission in some politically sensitive cases. In some instances officials continued to permit NGOs to interview prisoners in private. UNHCHR representatives reported they usually were able to have a private meeting when interviewing a particular prisoner of interest.

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, at times the government did not respect these prohibitions. The criminal procedures code allows for pretrial detention of up to six months for misdemeanors and 18 months for felonies. One in every 10 detainees in pretrial detention was held longer than the legal time limit, sometimes without legal representation or trial. The MOI reported having 428 persons in pretrial detention in excess of the legal time limit permitted for the charged offense.

Additionally, some courts lost case files during pretrial detention periods, delaying court procedures. On July 22, a local newspaper reported the case of Roeun Sophea, who had been held in Banteay Meanchey provincial prison for 37 months, awaiting trial on drug smuggling charges. Roeun was in prison with her daughter, who was an infant at the time of Roeun's arrest. After the court located the misplaced file, on August 5 a judge convicted Roeun of the charges and sentenced her to time served.

ADHOC reported at least 103 cases of illegal arrest or detention during the year. ADHOC stated that victims in 43 illegal detention cases subsequently were freed following detainee complaints, interventions by human rights NGOs, or payment of bribes. ADHOC believed that the actual number of arbitrary arrests and detentions was somewhat higher, because some victims in rural areas did not file complaints due to difficulty in traveling to the NGO's offices or out of fear for their family's security. According to ADHOC, authorities took no legal or disciplinary actions against the persons responsible for the illegal detentions.

Throughout the year Phnom Penh municipal authorities arrested dozens of persons—usually the homeless, mentally ill, drug users, or commercial sex workers--during systematic street sweeps. Detainees typically lost all money and belongings in the course of a sweep; in at least one case, an HIV-positive woman lost her medication and authorities would not provide substitute medicines. Authorities called the street sweeps part of a citywide "beautification" process and placed the detainees in a MOSAVY-operated rehabilitation facility 15 miles from Phnom Penh. Detainees were told they were free to leave but would not be provided transportation if they left the rehabilitation center.

#### Role of the Police and Security Apparatus

The General Commissariat of the National Police, which is under the supervision of the MOI, manages all civilian police units. The police forces are divided into those who have the authority to make arrests, those without such authority, and the judicial police. Military police are permitted to arrest civilians if the officers meet the training and experience requirements to serve as judicial police, if civilians are on military property, or when authorized by local governments.

Police officials killed citizens and committed other abuses with impunity, and in most cases the government took little or no action. There were reports that police, prosecutors, investigating judges, and presiding judges received bribes from owners of illegal businesses.

The law requires police, prosecutors, and judges to investigate all complaints, including those of police abuses; however, in practice judges and prosecutors rarely conducted an independent investigation as part of a public trial. Presiding judges usually passed down verdicts based only on written reports from police and witness testimonies. In general police received little professional training. Police who failed to prevent or respond to societal violence were rarely disciplined.

On March 22, commune policeman Thoeun Hok opened fire on a crowd of villagers from Chi Kraeng commune in Siem Reap Province, wounding two villagers. Another unnamed police officer shot and wounded a third villager. The provincial governor had sent the officers in a mixed group of armed forces including district police, military police, and soldiers to remove the villagers from a disputed piece of farmland. Provincial authorities first detained the wounded but then took them to a hospital approximately three hours after the shooting occurred. On August 18, and on two subsequent occasions, the Ministry of Justice sent letters to provincial authorities requesting action in the case, but the orders were not enforced.

On June 22, a provincial police sergeant shot and wounded a villager in Ratanakiri Province during a protest over an economic land concession leased to a private company. The sergeant was held at provincial police headquarters for disciplinary action. Military soldiers reportedly injured another villager in a brawl and fired shots but did not aim at or injure any villagers.

There were no developments in the July 2008 case of Brigade 70 Major Meur Bora, who reportedly beat two men following a minor traffic accident, or in the September 2008 case of an alleged government bodyguard who shot and killed a woman in a bar.

#### Arrest Procedures and Treatment While in Detention

The law requires police to obtain a warrant from an investigating judge prior to making an arrest, but police may arrest without a warrant anyone caught in the act of committing a crime. The law allows police to take a person into custody and conduct an investigation for 48 hours, excluding weekends and government holidays, before charges must be filed. In felony cases of exceptional circumstances prescribed by law, police may detain a suspect for an additional 24 hours with the approval of a prosecutor. However, authorities routinely held persons for extended periods before charging them. Many prisoners, especially those without legal representation, had no opportunity to seek release on bail. Under the criminal procedures code, accused persons may be arrested and detained for up to 24 hours before being afforded access to legal counsel, but prisoners routinely were held for several days before gaining access to a lawyer or family members. According to government officials, such prolonged detention largely was a result of the limited capacity of the court system.

On April 22, the Kampot Provincial Court sentenced policeman Prip Pov in absentia to one year in prison. Phnom Penh Order Police had detained Prip for five weeks in February 2008 due to his alleged involvement in a Kep Municipality land dispute. Prip appealed the decision and remained in hiding at year's end.

At year's end no trial date had been set for the appeals by four of the six persons convicted in 2007 by the Phnom Penh Municipal Court for planning bombings at the 2006 Water Festival.

In the 2007 case of a 13-year-old Jarai ethnic minority youth sentenced to eight months and 10 days despite his being under the minimum age for imprisonment when arrested, the youth's lawyer confirmed his release on appeal in 2007.

#### Amnesty

The king may grant amnesty in certain cases, which he often does during important Buddhist religious ceremonies and national holidays. The MOI reported that King Norodom Sihamoni pardoned 75 persons during year.

#### e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, but in practice the government generally did not respect judicial independence. The courts were subject to influence and interference by the executive branch, and there was widespread corruption among judges, prosecutors, and court officials.

The court system consists of lower courts, an appeals court, and the Supreme Court. The constitution also mandates a Constitutional Council, which is authorized to review the constitutionality of laws, and a Supreme Council of the Magistracy, which appoints, oversees, and disciplines judges and prosecutors. The composition of both councils heavily favored the CPP.

There is a separate military court system, which suffered from deficiencies similar to those of the civilian court system. While civilians may fall under military court jurisdiction in some cases, the legal distinction between the military and civil courts sometimes was ignored in practice.

On November 23, the Extraordinary Chambers in the Courts of Cambodia (ECCC) heard closing arguments in the case against Kaing Guek Eav (alias Duch), former Khmer Rouge director of the S-21 torture prison (Tuol Sleng), who was charged with crimes against humanity and grave breaches of the 1949 Geneva Convention (war crimes), premeditated murder, and torture. A verdict was expected in early 2010. The ECCC continued investigations against four other detained Khmer Rouge leaders charged with crimes against humanity, war crimes, and genocide. On September 2, the Office of the International Co-Prosecutor submitted a list of five additional names for review by the coinvestigating judges and for possible future prosecution.

#### Trial Procedures

Trials are public. Juries are not used; the presiding judge possesses the authority to pass a verdict. Defendants have the right to be present and consult with an attorney, confront and question witnesses against them, and present witnesses and evidence on their own behalf. In felony cases, if a defendant cannot afford an attorney, the court is required to provide the defendant with free legal representation; however, the judiciary often lacked the resources to provide legal counsel, and most defendants sought assistance from NGOs or went without legal representation. Trials based on the civil code system typically were perfunctory, and extensive cross-examination usually did not take place. Defendants and their attorneys have the right to examine government-held evidence relevant to their cases; however, on rare occasions it was difficult for them to obtain such access, especially if the case was political or involved a high-ranking government official or well-connected member of the elite.

Defendants are entitled by law to the presumption of innocence and the right of appeal, but due to pervasive corruption, defendants often were expected to bribe judges to secure a favorable verdict. A citizen's right to appeal sometimes was limited by difficulty in transferring prisoners from provincial prisons to the appeals court in Phnom Penh. Consequently, more than half of all appeals were heard in the absence of the defendant.

On February 16, the appeals court upheld the 2005 conviction of Thach Saveth for the assassination of labor leader Ros Sovannareth. Thach's lawyer, local NGOs, and the International Labor Organization (ILO) continued to report procedural irregularities in the case and a lack of evidence linking Thach to the crime.

A lack of resources, low salaries, and poor training contributed to a high level of corruption and inefficiency in the judicial branch, and the government did not ensure due process.

Observers reported that many cases were pending due to a shortage of judges and courtrooms. Observers also speculated that court officials might have been focusing on cases from which they could gain financial benefits.

There remained a critical shortage of trained lawyers, particularly outside Phnom Penh. Persons without means to secure counsel often in effect were denied the right to a fair trial. According to the Bar Association, approximately 30 percent of the country's 712 lawyers provided pro bono legal counsel to poor persons, which was inadequate to cover the basic legal rights of all of the country's poor.

Sworn written statements from witnesses and the accused usually constituted the only evidence presented at trials. The accused person's statements sometimes were coerced through beatings or threats, and illiterate defendants often were not informed of the contents of written confessions that they were forced to sign. In cases involving military personnel, military officials often exerted pressure on judges of civilian criminal courts to have the defendants released without trial.

Court delays or corrupt practices often allowed accused persons to escape prosecution. Government officials or members of their families who committed crimes often enjoyed impunity.

In many criminal cases, rich or powerful defendants, including members of the security forces, usually paid money to victims and authorities to drop criminal charges against them. Authorities were known to urge victims or their families to accept financial restitution in exchange for dropping criminal charges or failing to appear as witnesses.

On August 17, the appeals court held a new hearing in the case of Born Samnang and Sok Sam Oeun, finding that the case should remain with the appeals court for reinvestigation and retrial. The two men had spent nearly five years in prison since their 2004 arrest and conviction for the killing of labor leader Chea Vichea before the Supreme Court ordered a retrial in December 2008 and released the men on bail. At year's end the two remained free on bail pending further appeals court action.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Civil Judicial Procedures and Remedies

The country has a judiciary in civil matters, and citizens are entitled to bring lawsuits seeking damages for human rights violations. Generally, there are both administrative and judicial remedies. Enforcing a court order for a civil or criminal case often was a problem. Persons sporadically turned to vigilante justice.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law provides for the privacy of residence and correspondence and prohibits illegal searches; however, observers reported that police routinely conducted searches and seizures without warrants.

There continued to be reports of authorities entering private properties without proper judicial authorization. Due to the forced collectivization during Khmer Rouge rule and the return of hundreds of thousands of refugees, land ownership often was unclear. The 2001 land law states that any person who peacefully possessed private or state private property (not state public land) without contention for five years prior to the 2001 promulgation of the law has the right to apply for a definitive title to that property. Most of the country's impoverished population continued to lack adequate formal documentation of land ownership.

Provincial and district land offices continued to follow pre-2001 land registration procedures, which did not include accurate land surveys and opportunities for public comment. The Cadastral Commission failed to implement the identification and demarcation of state land, leading to land conflicts, arbitrary evictions, and ill-defined, uncontrolled state development. Land speculation, often in the form of land concessions, continued to fuel disputes in every province and increased tensions between poor rural communities and speculators. Urban communities faced forced eviction to make way for commercial development projects, although some cleared properties had not been developed at year's end.

The Cadastral Commission continued to perform its functions slowly. The courts remained responsible for resolving disputes in cases where land was registered or disputants were given land titles. The National Authority for Land Dispute

Resolution was ineffective, and confusion existed over its jurisdiction, which overlapped with that of the national and provincial cadastral commissions. Despite calls from various government officials to increase social land concessions for landless citizens, implementation was limited.

On September 4, the government canceled World Bank support for its Land Management and Administration Program, citing "complicated conditions" for adjudicating land titles. The World Bank had assessed the program in August and found that the government had not complied with requirements for a resettlement policy framework. The government continued the program on its own.

Cases of inhabitants being forced to relocate continued to occur when officials or businesspersons colluded with local authorities, although the numbers reported dropped significantly from 2008. Some persons also used the court system to intimidate the poor and vulnerable into exchanging their land for compensation below market value. ADHOC reported receiving 186 land-related cases during the year. During the same period, another NGO received 115 land-related cases in Phnom Penh and 14 provinces, affecting a total of 8,806 families. The poor often had no legal documents to support their land claims and lacked faith in the judicial system. Some of those expelled successfully contested these actions in court, but the majority of the cases in the courts were still being processed.

On January 24, police, military police, municipal authorities, and employees of the construction firm 7NG forcibly evicted residents of the Dey Krahom community in the Tonle Bassac area of Phnom Penh. At the time of the unannounced eviction, residents had been negotiating compensation packages with the Phnom Penh municipal government and 7NG. Police fired tear gas and rubber bullets into a group of protesters attempting to resist the eviction, injuring at least 16 individuals, while 7NG employees dismantled residents' houses. Bulldozers belonging to 7NG demolished some houses with occupants still inside and seriously injured two individuals. Municipal authorities and 7NG employees moved the evictees to the community's designated resettlement site in Damnak Trayoeng, approximately 10 miles west of the city, which lacked sufficient apartments for the resettled community and basic facilities such as water and sewage. In the immediate aftermath, the evictees lived under tarps along the road next to Damnak Trayoeng and depended on NGOs for basic humanitarian support. At year's end all families recognized by the municipal government and 7NG as landowners in Dey Krahom received apartments in Damnak Trayoeng. Municipal authorities and 7NG moved former Dey Krahom renters to empty plots of land without basic infrastructure in neighboring Kandal Province. Despite government claims that the Dey Krahom site had to be cleared quickly to make way for development, the site remained an empty field at year's end.

In June Phnom Penh municipal authorities moved more than 40 HIV/AIDS-affected families from Phnom Penh's Borei Keila neighborhood to a resettlement site located approximately 15 miles from the city, despite the fact that some of the families were eligible for on-site resettlement in Borei Keila under a social land concession plan. Families at the resettlement site, Tuol Sambo, lived in green metal sheds that became hot during the day and made storage of antiretroviral medication difficult. Like many resettlement sites, Tuol Sambo was not equipped with sufficient infrastructure to support a community, and the remote location restricted families' access to livelihood opportunities and medical care. As of year's end, NGOs and the UN Joint Program on HIV/AIDS planned to upgrade the housing at Tuol Sambo and provide limited livelihood support.

In April a Ratanakiri provincial court prosecutor dismissed both criminal complaints related to a land dispute between Keat Kolney and Jarai ethnic minority villagers from Kong Yu and Kong Thom villages. The villagers had filed a criminal complaint against Keat Kolney, accusing her of tricking them into thumbprinting transfer documents for 1,112 acres of land in Pate Commune, O'Yadau District, Ratanakiri Province, in 2004. Keat Kolney's lawyers filed a countersuit in 2007. At year's end the community's civil case against Keat Kolney remained pending. Villagers reported that the commune chief threatened to file unspecified charges against them if they did not drop the civil case. In December villagers filed

complaints with the Ministry of Interior against the commune chief for allegedly forcing them to thumbprint the documents transferring their land to Keat Kolney. The villagers' attorneys filed complaints seeking the removal of the case's investigating judge, Thor Saron, for failing to act on the case. The Ratanakiri Provincial Court had assigned Judge Thor to the case in September 2008. Reports that Keat Kolney's company was clearing land in the disputed territory continued, despite an agreement to halt development during court proceedings.

Also in April, in the case of villagers evicted from Anlong Khmeng Leng Village in Kampot Province, the prime minister announced the distribution of the confiscated land to approximately 90 families. A local NGO reported that none of the receiving families was from Anlong Khmeng Leng Village.

On April 28, authorities arrested and then released on bail Chea Sam Ath, who allegedly posed as a local village chief and ordered soldiers to shoot villagers protesting eviction in Malai District in Banteay Meanchey Province in March 2008. The investigation continued at year's end.

There were no developments in the February 2008 case of authorities who reportedly beat villagers during an eviction from the Russei Keo District of Phnom Penh.

There were no developments in the June 2008 eviction carried out by soldiers in the Anlong Kroum area of Kampot Province.

In the April 2008 eviction case of the Tonle Bassac neighborhood Group 78 (G78), on April 20, the Phnom Penh Municipal Government issued its sixth eviction notice to G78 residents. The community then filed an injunction request against the eviction notice. While authorities claimed the land was state property, the government did not provide documents classifying it as such, and the land did not meet the 2001 land law definition for state public land. On July 17, municipal police removed 86 families that did not accept the municipal government's compensation package.

On February 13, the Supreme Court upheld the decisions of the Siem Reap Provincial Court and appeals court regarding SRP parliamentarian Son Chhay's 2006 complaint. Son was ordered to sell 7.8 acres of his land to a government agency for an amount reportedly below the market price. Son requested a retrial, as he was absent during the Supreme Court hearing, but no new trial occurred. On December 18, the Siem Reap Provincial Court issued an order instructing Son Chhay to vacate the land within 15 days of the receipt of the order.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press; however, these rights were not always respected in practice.

The constitution requires that free speech not adversely affect public security. The constitution also declares that the king is "inviolable," and a MOI directive conforming to the defamation law reiterates these limits and prohibits publishers and editors from disseminating stories that insult or defame government leaders and institutions.

The 1995 press law prohibits prepublication censorship or imprisonment for expressing opinions. However, the government continued to use the older UN Transitional Authority in Cambodia (UNTAC) law to prosecute journalists and others on defamation and disinformation charges. A 2006 amendment to the UNTAC law eliminates imprisonment for defamation but not for incitement or spreading disinformation, which carry prison sentences of up to three years. In both types of cases, judges can order fines, which may lead to jail time if not paid.

On April 27, opposition parliamentarian Mu Sochua filed a lawsuit against Prime Minister Hun Sen for character defamation. The prime minister filed a countersuit against Mu and her lawyer, stating that comments Mu made in a press conference and her subsequent efforts to attract international support defamed him. On June 10, the court dismissed Mu's suit. On June 22, during a closed-door session, the CPP-dominated National Assembly voted to lift Mu's parliamentary immunity, which allowed the prime minister's countersuit against Mu to move forward. Simultaneously, the Bar Association of the Kingdom of Cambodia pursued an ethics complaint against Mu's lawyer, which was filed by the prime minister's lawyer for the same reasons as the defamation lawsuit. Under pressure of the ethics complaint, Mu's lawyer admitted wrongdoing, apologized to the prime minister, resigned as Mu's lawyer, and joined the CPP. The court used the lawyer's admission as evidence against Mu in her July 24 trial, and on August 4, the court found Mu liable for defaming the prime minister but dismissed the complaint against her lawyer in the same verdict, while the bar association suspended its investigation of the ethics complaint without reaching a decision. Mu appealed both the dismissal of her original complaint and her conviction. On October 14, the appeals court upheld the municipal court decision to dismiss her suit against the prime minister; Mu did not pursue the case further. On October 28, the appeals court also denied her appeal of her August 4 liability for defamation. Mu thereafter appealed the decision to the Supreme Court; at year's end no trial date had been set.

Government authorities filed several similar lawsuits against critics. On May 11, Deputy Prime Minister Sok An filed a disinformation lawsuit against the publisher of pro-opposition newspaper *Khmer Machas Srok* (Khmer Owners of the Land), Hang Chakra, for a series of articles that alleged corruption among the deputy prime minister's advisers and staff. On June 26, the Phnom Penh Municipal Court convicted Hang Chakra in absentia, sentencing him to one year in prison and a large fine. Hang was apprehended the same day in Battambang Province and imprisoned. On August 11, the appeals court upheld the lower court verdict. Hang did not appeal to the Supreme Court, and the verdict went into effect. In September Hang sent a letter of apology to the deputy prime minister requesting release due to medical complications experienced as a result of incarceration, but he had received no response by year's end.

Over a four-day period in June, Phnom Penh municipal authorities arrested, prosecuted, convicted, and fined Soung Sophorn, a resident of the Boeung Kak Lake community, on charges of defaming the government. Soung Sophorn, a member of the SRP's youth wing, had spray-painted messages on the side of his house protesting the impending eviction of communities around the lake to make way for a development project owned by CPP Senator Lao Meng Khin.

On July 7, Dam Sith, editor in chief of the pro-opposition newspaper *Moneaksekar Khmer* (Khmer Conscience), received a summons to appear for court questioning on charges of defamation, disinformation, and incitement. The charges reportedly related to the content of several articles published between February and May. Dam Sith, who served time in pretrial detention in June 2008 on similar charges, apologized in writing to the prime minister and promised to cease publication of the newspaper. The lawsuit was dismissed; the newspaper immediately ceased publication and remained closed at year's end.

In early December the Svay Rieng Provincial Court charged opposition party leader Sam Rainsy with destruction of public property and incitement of racial/national hatred in connection with an October 25 incident in which a group of villagers uprooted wooden stakes demarcating the border with Vietnam. The National Assembly voted to lift Sam's parliamentary immunity on November 16, and the court summoned Sam to appear for questioning on December 28; Sam declined to appear and departed the country in November.

In the April 2008 defamation suit filed in France by Foreign Minister Hor Namhong against Sam Rainsy, on January 27, the French court of first instance found Sam and his book publisher guilty of defamation and disinformation and ordered the defendants to pay a symbolic one euro (\$1.43) to the foreign minister, 5,500 euros (\$7,865) to the French government

in legal fees, and the cost of publishing the verdict in two French newspapers of their choice. Sam Rainsy appealed the decision; an October 8 appeals court hearing was postponed and had not been rescheduled at year's end.

All major political parties had reasonable and regular access to the print media. All major Khmer-language newspapers received financial support from political parties and were politically aligned. There were an estimated 20 Khmer-language newspapers published regularly. In prior years at least four major newspapers supported opposition parties. However, due in part to defamation lawsuits against pro-opposition editors, only three pro-opposition newspapers were publishing at year's end. Although the three largest circulation newspapers were considered pro-CPP, most newspapers criticized the government, particularly on corruption and land grabbing. The prime minister, royalist party leaders, and opposition party leaders frequently came under attack.

The government, military forces, and ruling political party continued to dominate the broadcast media and influence the content of broadcasts. There were nine domestic television stations and approximately 50 radio stations. All television stations and most radio stations were controlled or strongly influenced by the CPP, although a few were independent or aligned with other parties. In June the MOI granted a radio broadcast license to Soy Sopheap, the publisher of the pro-CPP *Deum Ampil* (Tamarind Tree) daily newspaper, but denied similar requests by stations that were politically unaffiliated or operated by opposition parties.

Journalists, publishers, and distributors were also subject to other forms of harassment and intimidation, including one threat by gunshot, and most reporters and editors privately admitted to some self-censorship due to fear of government reprisals.

In January an unnamed military police officer allegedly fired three shots over the head of a local journalist, Lim Lyheang, for covering a story on illegally procured timber being transported to Phnom Penh. Also in January a foreign journalist was assaulted by an off-duty police officer working as a security guard outside the offices of the 7NG construction firm in Phnom Penh.

The government-controlled national television and radio stations broadcast live segments of the first trial at the Khmer Rouge Tribunal (see section 1.e.) and taped National Assembly sessions; however, in some instances National Assembly broadcasts were heavily edited. National radio and television stations broadcast some human rights, social action, public health, education, and civil society programming produced by domestic NGOs.

#### Internet Freedom

There were some reports of government restrictions on access to the Internet. In March the Ministry of Post and Telecommunications banned a series of Web sites with content deemed "offensive" by the Ministry of Women's Affairs (MOWA). Some sites included half-naked Khmer Rouge women, and another featured modern representations of traditional Khmer dancers dressed like those carved on the walls at Angkor Wat. The artist maintained the work was artistic, not pornographic. There were no reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

According to the most recent industry survey, 0.5 percent of the total population had Internet subscriptions, most of them in Phnom Penh and Siem Reap. In urban areas Internet access was widely available through Internet cafes.

#### Academic Freedom and Cultural Events

In general there were no legal impediments to academic freedom. However, scholars tended to be careful when teaching politically related subjects for fear of offending politicians.

In February the Ministry of Education removed Sun Thun from his position as civics teacher at Treal High School in Kampong Thom for criticizing the prime minister in front of students. Sun Thun stated he was teaching the textbook lessons on anticorruption and democracy that are part of the approved curriculum. Some NGOs alleged the decision was politically motivated, because the deputy schoolmaster and provincial education officials belonged to the ruling CPP, while Sun was the provincial president of the Cambodian Independent Teachers' Association and a member of the opposition SRP. The ministry offered Sun a teaching position at a different school several miles away. In May Sun was elected to a provincial council seat and suspended his teaching career to serve on the council.

On March 10, Tieng Narith was released from prison after serving his full prison term of two years and six months for teaching from a self-published text containing antigovernment material.

In contrast with previous years, the government restricted some cultural events. On January 12, the Council of Ministers banned the broadcast of "Where Elephants Weep," a rock-opera retelling of a traditional Khmer story set in the post-Khmer Rouge era, which the Buddhist Supreme Council of Monks claimed insulted Buddhism. The artists agreed to modify the production, and after the cast sent a letter of apology to the Supreme Council of Monks, the Council of Ministers permitted broadcast of the production. In February Prime Minister Hun Sen suggested that in the future, all artistic works featuring Buddhism should seek permission from the Ministry of Cults and Religion before going public.

On August 2, MOSAVY banned a Norwegian organizer from staging a beauty contest for women who had lost limbs to land mines. The ministry stated that the contest "would make a mockery of Cambodian land mine victims." A local NGO, the Cambodian Disabled People's Organization, also retracted its support for the contest after receiving "advice" from MOSAVY Minister Ith Sam Heng. When the pageant organizer expressed the desire to proceed with the pageant in an overseas location, the government forbade the 20 participants to leave the country. The pageant was held in exile in Norway using photographs of the contestants; the pageant organizer visited Cambodia in December to distribute prizes to contestants.

#### b. Freedom of Peaceful Assembly and Association

##### Freedom of Assembly

The constitution provides for freedom of peaceful assembly, but at times the government did not respect this right in practice. The government required that a permit be obtained in advance of a march or demonstration. The government routinely did not issue permits to groups critical of the ruling party or of nations with which the government had friendly relations. Authorities cited the need for stability and public security as reasons for denying permits.

In June the Phnom Penh municipal government twice denied requests from the Cambodian Center for Human Rights (CCHR) to hold on-site public forums on human rights and development for residents of the Boeung Kak Lake community in Phnom Penh, who faced eviction to make way for a development project. The municipal government claimed that the forum could jeopardize public safety. The CCHR reported that local authorities intimidated guesthouse owners who offered to host the session, threatening the owners with closure if the meetings went forward. The CCHR did not seek to hold the forums in other public venues.

Police forcibly dispersed groups that assembled without a permit, in some instances causing minor injuries to some demonstrators.

On August 4, police attempted to disperse an impromptu protest by opposition supporters following Mu Sochua's conviction on defamation charges (see section 2.a.). At various points along the route, police clashed with marchers, resulting in minor injuries to several protesters. Two men were also arrested, although police released them a few hours later without charges.

During the year ADHOC reported 158 protests, most of which were related to land or labor disputes.

A law on peaceful demonstration was passed by the National Assembly in October, approved by the Senate on November 17, and signed into law by the king on December 5. Critics found faults in the law, such as a provision requiring five days' advance notice for most peaceful demonstrations or another provision requiring 12 hours' notice for impromptu gatherings on private property or at the peaceful protest venue in each province, and limiting such gatherings to 200 persons. It remained for implementing decrees to clarify concepts of national security and public disorder that would be used by authorities to allow or prevent demonstrations. A street march and rally in support of Human Rights Day on December 10 showed the law could effectively support public demonstrations.

#### Freedom of Association

The constitution provides for freedom of association, and the government generally respected this right in practice; however, the government did not effectively enforce the freedom of association provisions of the labor law.

Membership in the Khmer Rouge, which ruled the country from 1975 to 1979 and after its overthrow conducted an armed insurgency against the government, is illegal, as is membership in any armed group.

#### c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. The constitution also prohibits discrimination based on religion, and minority religions experienced little or no official discrimination. Buddhism is the state religion, and more than 93 percent of the population is Buddhist. Ethnic Cham Muslims constitute most of the remaining population.

The law requires all religious groups, including Buddhists, to submit applications to the Ministry of Cults and Religious Affairs to construct places of worship and conduct religious activities. However, there is no penalty for failing to register. A 2007 Ministry of Cults and Religious Affairs directive restating a 2003 order prohibiting public proselytizing continued to be loosely enforced.

#### Societal Abuses and Discrimination

Minority religions experienced little or no societal discrimination. There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2009 Annual Report on International Religious Freedom* at [www.state.gov/g/drl/rls/irf/](http://www.state.gov/g/drl/rls/irf/).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. In practice the government generally did not provide protection or assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern, but it generally allowed humanitarian organizations to provide such protection and assistance. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) to provide protection and assistance to Montagnard asylum seekers.

The constitution prohibits forced exile, and the government did not employ it.

#### Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. On December 17, the government issued a subdecree giving practical effect to its assumption of sole responsibility for the refugee status determination process, taking final control of what had been a jointly managed process with the UNHCR since June 2008. The UNHCR provided training and other technical assistance to facilitate the transfer of responsibility, and for most of the year it participated in interviews and made recommendations to the government on asylum cases.

A 2005 memorandum of understanding with the UNHCR and the government of Vietnam to resolve the situation of Montagnards under UNHCR protection remained in effect. Asylum seekers who reached the UNHCR Phnom Penh office were processed with government cooperation. During the year nine Montagnard and 55 other new arrivals sought asylum in the country. According to the UNHCR, 40 Montagnard and eight other refugees departed for a third country, while authorities deported 116 rejected Montagnard asylum seekers to Vietnam, and five Montagnards voluntarily returned to their country of origin. Two of the three protection sites closed during the year, and there were 83 Montagnards in the remaining UNHCR protection site in Phnom Penh. The Montagnard protection site was a limited access site; Montagnard refugees and asylum seekers there under UNHCR protection could leave only with UNHCR permission and escort. According to the UNHCR, during the year no refugees requested local integration.

The government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. However, on December 19, the government forcibly deported to China a group of 20 ethnic Uighur asylum seekers. One Uighur arrived legally in May; the remaining members were smuggled into the country in October and November. All requested political asylum, registering as persons of concern with the UNHCR and the government. On December 18, police entered a UNHCR safe house, detained the 20 Uighurs, and transported them to a municipal detention center. After approximately 27 hours, they were placed on a chartered jet that arrived from China and were transported back to China. At the time of the deportation, all of the Uighurs were awaiting adjudication of their asylum claims through the refugee status determination process, although neither the UNHCR nor the government had initiated the joint adjudication process at the time of the deportation. The government claimed the Uighurs were in violation of immigration laws and therefore subject to deportation. The deportation coincided with a state visit by the vice president of China and bilateral aid agreements totaling \$1.2 billion in assistance for Cambodia.

With the exceptions of the Montagnard and Uighur cases, there were no reported cases of government abuse, restriction of movement, or mistreatment of refugees or asylum seekers.

#### Stateless Persons

The country had habitual residents who were de facto stateless, and the government did not effectively implement laws or policies to provide such persons the opportunity to gain nationality. Under the nationality law, citizenship may be derived by birth from a mother and father who are not ethnic Cambodians if both were born and living legally in Cambodia, or if either parent has acquired Cambodian citizenship. A 2007 study commissioned by the UNHCR estimated that several thousand potentially stateless persons lived in the country. However, the study's estimates came from anecdotal evidence from NGOs, and local UNHCR representatives did not consider the figure conclusive.

The UNHCR stated that the country's potentially stateless population included mostly ethnic Vietnamese. According to an NGO, individuals without proof of nationality often did not have access to formal employment, education, marriage registration, the courts, and land ownership. The most common reason for statelessness was lack of proper documents from the country of origin.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, and citizens generally exercised this right in practice through periodic elections on the basis of universal suffrage. Suffrage is voluntary for all citizens age 18 years and older.

#### Elections and Political Participation

The most recent national elections, held in July 2008 for the National Assembly, were peaceful overall, with a process that was generally considered an improvement over past elections. However, observers noted that the elections did not fully meet international standards. Although some election day irregularities persisted, they were low in number and did not appear to affect the outcome or distort the will of the electorate.

On May 15, the country held indirect elections for 374 provincial and 2,861 district council seats for the first time in its history as part of the government's decentralization and deconcentration initiative. Voting was limited to the 11,353 commune councilors elected in the 2007 commune elections. The CPP won 302 provincial seats and 2,249 district seats; the remainder were split among various royalist and opposition parties.

Parties could register, and individuals were free to declare their candidacy without restrictions. In June the Norodom Ranariddh Party officially became the Nationalist Party, following Prince Ranariddh's withdrawal from politics.

Some NGOs and political parties alleged that membership in the dominant CPP party provided advantages, such as gifts or access to government emergency aid.

Traditional culture limited the role of women in government; however, women took part in the May indirect provincial and district council elections. There were 27 women in the 123-seat National Assembly and nine women in the 61-seat Senate. There was a female deputy prime minister, and 45 female ministers, secretaries of state, undersecretaries of state, and National Election Commission officials. Women also served as advisors, and there were 23 female judges in the municipal and provincial courts, appeals court, and Supreme Court. Although there were no female governors, the government appointed women as deputy governors in all but one of 23 provinces and Phnom Penh Municipality. The National Election Committee reported that women held 15 percent of commune council seats, 13 percent of district council seats, and 10 percent of provincial council seats.

There were five members of minorities--four Cham and one other ethnic minority--in the National Assembly. There also were three members of minorities in the Senate. At least eight officials in senior positions in the government were from minority groups.

### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. There is no dedicated anticorruption law.

Corruption was considered endemic and extended throughout all segments of society, including the executive, legislative, and judicial branches of government. Reported public experience with corruption was widespread, indicating many corrupt practices were not hidden. Meager salaries contributed to "survival corruption" among low-level public servants, while a culture of impunity enabled corruption to flourish among senior officials. In June a justice ministry official was charged with accepting bribes. In September the Ministry of Justice investigated a provincial court judge in Ratanakiri for several alleged incidents of corruption, including personal use of a vehicle seized as evidence in a case, but the investigation concluded there was no wrongdoing. Public officials are not subject to financial disclosure laws.

At year's end the Council of Ministers approved a draft anticorruption law and was preparing to send it to the National Assembly for review and passage. Donors and potential investors continued to express concern about the lack of an anticorruption law and the urgent need to pass such legislation. Civil society organizations continued to await a response to their May 2008 petition to the National Assembly calling for the passage of an anticorruption law compliant with international standards. The petition contained signatures and thumbprints of more than 1.1 million persons of voting age.

Legislation does not contain provisions offering protection to persons who expose corruption in an organization. An independent anticorruption body does not exist. The Council of Ministers' Anticorruption Unit is charged with developing anticorruption measures and presenting proposals to the government. The Ministry of National Assembly–Senate Relations and Inspections is mandated to investigate allegations of corruption. The National Audit Authority has the authority to audit ministries, institutions, and other entities.

The National Archives Law allows unlimited access to informational documents in the public archive. However, the law grants access to other unspecified government documents only after 20 years, and documents affecting national security and preservation of personal lives may be released only after 40 and 120 years, respectively. Some NGOs reported that in practice it was difficult for them to access information; the government frequently did not or could not answer requests for information.

#### Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often cooperated with human rights workers in performing their investigations; however, there were multiple reports of lack of cooperation and, in some cases, intimidation by local government officials.

There were approximately 40 human rights NGOs in the country, but only a small portion of them were actively involved in organizing training programs or investigating abuses.

Domestic and international human rights organizations faced threats and harassment from local officials. These took the form of restrictions on and disruptions of gatherings sponsored by NGOs, verbal intimidation, threats of legal action, and bureaucratic obstruction. NGO public interest lawyers reported being denied access to detained clients in some human rights abuse cases, and an NGO reported that government officials warned that the NGO's representatives might be charged with disinformation and incitement if they spoke to the media about the cases.

In July the Ratanakiri Provincial Court summoned two ADHOC representatives for questioning regarding a complaint that they were inciting villagers in a dispute over a company's economic land concession. On August 4, the court agreed to a delay questioning to allow time for the defendants' attorney to review the case. ADHOC removed its two employees from Ratanakiri and reassigned them to different provinces after the investigating judge in the case, Thor Saron, publicly suggested that if the employees left the province, no charges would be brought against them. At year's end one ADHOC employee remained in Phnom Penh, and the other had returned to Ratanakiri.

Also in July the Banteay Meanchey Provincial Court charged three employees of local NGO Independent Democracy of Informal Economic Association and one SRP commune councilor with incitement and placed them in pretrial detention. The four were among a larger group of 30 individuals arrested on incitement and other charges stemming from a Poipet land dispute. At year's end all the arrested had been released on bail and were awaiting trial, although no date had been set.

The government cooperated with international governmental bodies and permitted visits by UN representatives. In June UN Special Rapporteur for Human Rights in Cambodia Surya Subedi visited the country. The prime minister and other senior government officials met with Subedi, in contrast with their shunning requests by previous representatives for meetings.

The government had three human rights bodies: two separate Committees for the Protection of Human Rights and Reception of Complaints--one under the Senate and another under the National Assembly--and a Cambodian Human Rights Committee that reported to the prime minister's cabinet. The committees did not have regular meetings or a transparent operating process. The committee submitted government reports for participation in international human rights review processes such as the Universal Periodic Review and issued responses to reports by international government bodies, but it did not conduct independent human rights investigations. Credible human rights NGOs considered the government committees to have limited efficacy.

The government hosted the hybrid ECCC, which was jointly administered with the UN to try Khmer Rouge leaders and those most responsible for the abuses of the Khmer Rouge period. There were no allegations of corruption in the court's administration during the year. Some observers believed that public comments by government leaders on matters related to the ECCC's jurisdictional mandate constituted a form of political interference; however, there was no evidence that the work of the court was inhibited in any way, and national authorities successfully fulfilled their responsibility to apprehend and hand over to the tribunal all individuals indicted by the ECCC. There were no tribunal decisions rendered against the accused during the year.

#### Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, gender, disability, language, or social status; however, the government did not generally protect these rights.

#### Women

The law prohibits rape and assault; nevertheless, local and international NGOs reported that violence against women, including domestic violence and rape, was common. Rape is a criminal offense and punishable by a prison sentence of between five and 10 years, according to the UNTAC law. A case of spousal rape could be prosecuted as "rape," "causing injury," or "indecent assault" under the UNTAC law. Under the 2005 domestic violence law, spousal rape may fall within the definition of domestic violence that includes "sexual aggression." Charges for spousal rape cases under the UNTAC law and the domestic violence law were rare. The domestic violence law criminalizes domestic violence but does not specifically set out penalties. However, the UNTAC law on battery and injury can be used to penalize domestic violence offenses, with penalties ranging from two months' to five years' imprisonment.

According to one NGO, there were 431 cases of rape and 497 cases of domestic violence reported as of November; courts tried 71 of these cases. A different NGO documented 127 cases of domestic violence affecting 131 victims in 14 provinces as of September. During the year the MOI's antitrafficking department investigated 355 cases of violence against women and children, resulting in the arrest of 394 perpetrators and rescue of 469 victims. Of the 355 cases, 249 were for rape and attempted rape. The MOI reported that three cases of rape resulted in the death of four victims. The number of cases likely underreported the scope of the problem, due to ineffective enforcement, inadequate crime statistics reporting, and the fact that women were afraid to make complaints against perpetrators. NGOs reported that enforcement of the domestic violence law was weak, authorities continued to avoid involvement in domestic disputes, and victims frequently were reluctant to pursue formal complaints.

A 19-year-old woman reportedly was raped in November by one police officer while another held her down. Police officials insisted that the perpetrators were sent to court for prosecution and that the court granted bail; court officials insisted that they received a file on the case, but not custody of the perpetrators, and that police released the perpetrators. The victim vanished after allegedly being paid one million riels (approximately \$250) in compensation. Prosecution stalled and the perpetrators remained free at year's end. The MOI did not respond to requests for clarification by members of the National Assembly.

In February the Council of Ministers approved a three-year plan to prevent violence against women. There was a launch event organized by the MOWA, the main entity charged with implementing the plan. Approximately 2,000 books containing the three-year plan were published and distributed to all 24 MOWA provincial offices, all other ministries, and some NGOs.

The government supported NGOs that provided training for poor women vulnerable to spousal abuse, prostitution, and trafficking. A local media center, an NGO, and the MOWA produced programming on women's matters. NGOs provided shelters for women in crisis.

The constitution prohibits prostitution; however, there is no specific legislation against working in prostitution. Trafficking in women for the purpose of prostitution was a serious problem, despite laws against procuring and kidnapping for purposes of sexual exploitation. There were reports that police sexually abused detained women suspected of prostitution and allowed newspapers to take photographs of them even though they were not charged with a crime. Despite increased crackdowns on brothel operators in Phnom Penh, prostitution and related trafficking persisted. The National Center for HIV/AIDS, Dermatology, and STDs reported there were approximately 3,000 women working as direct prostitutes and nearly 31,200 as indirect prostitutes through entertainment work. Some NGOs and club owners reported an increase in the number of women seeking employment in both direct prostitution and indirect sex services such as massage parlors and karaoke bars. Sex tourism was a problem, fueled by pervasive poverty and the perception of impunity.

The labor law has provisions against sexual harassment in the workplace but does not specify penalties.

Couples and individuals could decide the number, spacing, and timing of children, and they had the information and means to do so free from discrimination. Women had access to contraception as well as skilled attendance at delivery and in postpartum care, but access was often limited due to income and geographic barriers. Women were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

The constitution provides for equal rights for women, equal pay for equal work, and equal status in marriage. However, a UN report criticized the continued teaching of a "Women's Law" in the primary school curriculum that it claimed legitimized an inferior role for women in society. For the most part, women had equal property rights, the same legal status to bring divorce proceedings, and equal access to education and some jobs; however, cultural traditions continued to limit the ability of women to reach senior positions in business and other areas. Women often were concentrated in low-paying jobs and largely were excluded from management positions. Men made up the vast majority of the military, police, and civil service.

The MOWA, mandated to protect the rights of women and promote gender equality in society, continued its Neary Ratanak (Women as Precious Gems) program. The program aimed to improve the image of women through gender mainstreaming, enhanced participation of women in economic and political life, and protection of women's rights. Twenty-two percent of teachers at the 37 vocational training centers managed by the government were female, an increase from 13 percent in 2005. Sixteen government ministries instituted gender mainstreaming action plans with support from the UN Development Program and in close collaboration with the MOWA. The government's National Strategic Development Plan 2006-10 committed to ensuring that women as a share in wage employment would increase by 50 percent in agricultural and industrial sectors, and by 37 percent in the service sector.

## Children

By law citizenship may be derived by birth from a mother and father who are not ethnic Cambodians if both parents were born and living legally in Cambodia or if either parent has acquired Cambodian citizenship. The MOI administered a modernized birth registration system, but not all births were registered immediately, due principally to parents' delay. The system did not include special outreach to minority communities. In addition, children born from the mid-1970s to the mid-1990s often were not registered as a result of the Khmer Rouge/Vietnam occupation/civil war. Many of these unregistered persons who later had families of their own did not perceive a need for registration. It was common for young persons not to be registered until a need arose. The failure to register all births resulted in discrimination, including the denial of public services. A study commissioned by the UNHCR on statelessness in the country stated that the birth registration process often excluded children of ethnic minorities and stateless persons. NGOs that provided services to disenfranchised communities reported that children without birth registration and family books were often denied access to education and health care. They stated that later in life the same individuals may be unable to access employment, own property, vote, or use the legal system.

Children were affected adversely by an inadequate educational system. Education was free, but not compulsory, through grade nine. Many children left school to help their families in subsistence agriculture, worked in other activities, began school at a late age, or did not attend school at all. The government did not deny girls equal access to education; however, families with limited resources often gave priority to boys. According to international organization reports, school enrollment dropped sharply for girls after primary school. Schools in many areas were remote, and transportation was a problem. This especially affected girls, due to safety concerns in traveling between their homes and schools.

Child abuse was believed to be common, although statistics were not available. Child rape remained a serious problem; a local NGO reported 351 cases of rape and attempted rape committed on persons under age 18. Eighteen of the cases involved children below age five, 144 involved children ages five to 10, and 189 involved children ages 10 to 18. Sexual intercourse with a person under age 15 is illegal; however, child prostitution and trafficking in children occurred. During the year raids on brothels rescued underage girls trafficked for prostitution. The MOI reported arrests of 31 foreign pedophiles during the year. Some children engaged in prostitution for survival without third-party involvement.

In May the prison director for Preah Sihanouk Province allowed convicted Russian pedophile Alexander Trofimov, who was serving an 18-year sentence for child sexual abuse, to leave prison for a day to visit various investment projects. Government officials issued a warning to the prison director for this breach in regulations but took no further action until media reports uncovered the story. MOI authorities then investigated the incident, and the prison director was demoted and moved to an administrative job in Phnom Penh. On June 22, authorities charged a senior justice ministry official for accepting large bribes in exchange for attempting to engineer the release of Trofimov on the pretense of extradition to Russia. The official reportedly counterfeited false extradition papers and forged the signatures of the justice minister and prime minister on the documents. At year's end the case was pending before the courts.

The government offered limited services to street children at a rehabilitation center, but the services were inadequate. A domestic NGO estimated that more than 1,500 street children in Phnom Penh had no relationship with their families and an estimated 10,000 to 17,000 children worked on the streets but returned to families in the evenings. An estimated 500 to 1,000 children lived with their families on the streets in Phnom Penh.

The MOI reported at least 44 children under the age of six reportedly were living with their mothers in prison. A local NGO reported 40 such children and claimed that the children were subjected to mistreatment by prison guards and faced physical dangers from adult criminal cellmates. The children generally lacked proper nutrition and education.

Child labor was a problem in the informal sector of the economy.

#### Trafficking in Persons

The government continued efforts to implement its 2008 Law on Suppression of Human Trafficking and Sexual Exploitation, which criminalizes all forms of trafficking. However, the country remained a source, destination, and transit country for men, women, and children trafficked for sexual exploitation and labor. Children were trafficked domestically for sexual exploitation and labor. Some Vietnamese women and girls were trafficked through the country for exploitation in the commercial sex trade in other Asian countries.

Children were trafficked to Thailand and Vietnam for begging, soliciting, street vending, and flower selling. The children frequently were placed into debt bondage to beg or sell, or they formed part of organized begging rings. Women as well as children were trafficked to Malaysia and Thailand for sexual exploitation and forced labor in factories or as domestic servants, while men were trafficked for forced labor in the agriculture, fishing, and construction sectors. The country is a destination for foreign child-sex tourists, and there were increasing reports that Asian men travelled to the country to have sex with underage virgin girls.

Trafficking victims, especially those trafficked for sexual exploitation, faced the risk of contracting sexually transmitted diseases, including HIV/AIDS. In some cases victims were detained and physically and mentally abused by traffickers, brothel owners, and clients.

Local traffickers covered specific small geographic areas and acted as middlemen for larger trafficking networks. Organized crime groups, employment agencies, and marriage brokers were believed to have some degree of involvement. Traffickers used a variety of methods to acquire victims. In many cases victims were lured by promises of legitimate employment or travel documents. In other cases acquaintances, friends, and family members sold the victims or received payment for helping deceive them. Young children, the majority of them girls, were often pledged as collateral for loans by desperately poor parents; the children were responsible for repaying the loan and the accumulating interest. A 2007 report by the International Organization for Migration stated that child domestic workers, particularly those used as collateral or placed into debt bondage, were more likely to be trafficked and to enter commercial sexually exploitive activities.

The law establishes a prison sentence of 15 to 20 years for a person convicted of selling, buying, or exchanging a person under 18 years of age; the penalty is seven to 15 years in prison for trafficking persons 18 or older. According to the Cambodian National Police Antihuman Trafficking and Juvenile Protection Department, police investigated 38 cases of trafficking in persons during the year. The investigations resulted in the arrest of 63 offenders. However, NGOs continued to report the limited ability and inadequate resources of law enforcement and other government officials to act on trafficking tip-offs.

The Ministries of Interior, Women's Affairs, and Justice had primary responsibility to combat trafficking in persons. The government merged its national task force with a high-level oversight body to create a single national committee, an interministerial antitrafficking coordination body. There was a Department of Antihuman Trafficking and Juvenile Protection within the Cambodian National Police, and the MOI operated specialized antitrafficking divisions in all provinces and municipalities. While the government arrested and prosecuted traffickers and continued its support for prevention and protection programs through collaboration with foreign and domestic NGOs and international organizations, its antitrafficking efforts continued to be hampered by corruption and a weak judicial system. Certain observers of trafficking in persons in the country believed that some law enforcement, court officials, and other government officials received bribes that facilitated the sex trade and trafficking in persons.

In March the Supreme Court upheld the August 2008 appeals court decision reducing the sentence of Belgian pedophile Philippe Dessart from 18 years to three years in prison under the new antitrafficking law, although Dessart committed his child abuse crimes in 2006. According to an NGO, Dessart compensated the victim, and the victim thereafter dismissed the NGO lawyers. In April Dessart was released after completing the three-year sentence, and he subsequently moved into the home of his victim and married the victim's mother. Several NGOs petitioned the government to expel Dessart from the country, which the law allows in cases of convicted felons. On September 23, the government confirmed that it had deported Dessart the previous week.

The MOI reported two convictions on human-trafficking charges. An unconfirmed Phnom Penh Municipal Court report stated there were 10 convictions of human-trafficking offenders during the year. Police, court officials, and judges often did not separate victims from perpetrators during raids, arrests, and trials. In some cases officials mistreated victims.

In September MOSAVY approved both a policy on protecting the rights of trafficking victims and a set of national minimum standards for the care of such victims. NGOs continued to provide most of the assistance to victims. The government participated as a willing partner in a number of these efforts; however, its contributions were severely hampered by limited resources. NGOs provided intake screening services to identify trafficking victims. Some victims were encouraged by NGOs and the MOI to file complaints against perpetrators; however, victim protection was a problem, and some victims were known to be intimidated into abandoning their cases. Social stigma against women who were prostitutes, victims of sexual assault, or victims of sex trafficking made it difficult for victims to reintegrate into families, communities, and society.

The antitrafficking law contains no provisions to protect foreign victims from being charged under immigration laws, but during the year there were no reported cases of trafficking victims being treated as illegal immigrants. MOSAVY, often working with the International Organization for Migration, repatriated from Thailand, Vietnam, and Malaysia 992 child and adult victims, as well as others vulnerable to becoming victims, and reintegrated them with their families.

Both the government and international donors had programs to prevent child labor or remove children from labor. The country is a signatory to the Coordinated Mekong Ministerial Initiative against Trafficking, whose activities include ensuring the legal, social, and community protection of victims of trafficking; strengthening law enforcement capacity to combat trafficking; and building a comprehensive response involving all relevant ministries. Several ministries, including the MOWA and the Ministry of Tourism, had antitrafficking initiatives to reduce child labor. Donors supported programs to combat child labor implemented by the ILO and World Education, among others.

MOSAVY worked with the UN Children's Fund and local NGOs to manage community-based networks aimed at preventing trafficking.

The Department of State's annual *Trafficking in Persons Report* can be found at [www.state.gov/q/tip](http://www.state.gov/q/tip).

#### Persons with Disabilities

On May 29, the National Assembly passed the Law on the Protection and Promotion of the Rights of Persons with Disabilities. The new law prohibits discrimination, neglect, exploitation, or abandonment of persons with disabilities. It includes persons with mental illnesses in the definition of persons with disabilities and requires that buildings and government services be accessible to persons with disabilities. At year's end MOSAVY was drafting subdecrees to support the law, which the king promulgated in July.

Programs administered by various NGOs brought about substantial improvements in the treatment and rehabilitation of persons with disabilities, but they faced considerable societal discrimination, especially in obtaining skilled employment.

There are no legal limitations on the rights of persons with disabilities to vote or participate in civic affairs, but the government did not make any concerted effort to assist them in becoming more civically engaged. MOSAVY is responsible for making policy to protect the rights of persons with disabilities and for rehabilitation and vocational skills training for such persons.

#### National/Racial/Ethnic Minorities

The rights of minorities under the nationality law are not explicit; constitutional protections are extended only to "Khmer people." Citizens of Chinese and Vietnamese ethnicity constituted the largest ethnic minorities. Ethnic Chinese citizens were accepted in society, but animosity continued toward ethnic Vietnamese, who were seen as a threat to the country and culture. Some groups, including political groups, continued to make strong anti-Vietnamese statements. They complained of political control of the CPP by the Vietnamese government, border encroachment, and other problems for which they held ethnic Vietnamese at least partially responsible.

#### Indigenous People

The government often ignored efforts by indigenous communities to protect their ancestral lands and natural resources. Despite the 2001 land law requiring the registration of communal lands of indigenous people, little was done to implement communal land titling. NGOs called for a moratorium on land sales and land concessions affecting indigenous communities. International and local NGOs were active in educating the indigenous communities about the land registration process and providing legal representation in disputes. NGOs reported loss of agricultural space and livelihoods due to the increased granting of economic land concessions on indigenous land. The NGO Indigenous Rights Active Members reported in December that it had recorded 14 land disputes involving minority groups during the year, an increase from seven in 2008.

The Khao Chuly Group continued to clear land in Pech Chreada District, Mondulakiri Province, for a rubber plantation, doing so before the Ministry of Agriculture, Forestry, and Fisheries approved the economic land concession for the plantation. Ethnic Phnong villagers claimed to own part of the land and demanded that the company leave or pay compensation. The Khao Chuly Group's partner company, foreign rubber conglomerate Socfin, took managerial control of the plantation, and at year's end it was reportedly conducting an environmental and social impact assessment of the project. An NGO found that the project led to the loss of traditional agricultural land, water supplies, and spirit forests and restricted access to schools.

There were no developments in the April 2008 land case affecting members of the indigenous community of Kak Village in Ta Lav Commune, Andoung Meas District, Ratanakiri. NGOs stated that the government granted a 17,000-acre economic land concession covering the disputed land to the company for a rubber plantation in 2006. NGOs reported that much of the area in the concession may be eligible for registration as indigenous community land under the 2001 law. The affected community members were not aware of the concession until the land was cleared.

In the May 2008 case in Ratanakiri Province where the provincial governor reportedly granted a lease that included indigenous lands without consulting the indigenous communities, the BVB Investment Company and members of one of the affected communities, Yeak Laom Commune, reached a mutual agreement for use of the lands in August 2008. The agreement allowed the villagers to continue farming cleared land while preserving forest land in the 1,250-acre site for tourism development. Villagers in the second community, Pachon, continued to report encroachment on the part of the BVB Investment Company and Yeak Laom Commune.

There were no developments in the 2007 cases of a Ratanakiri provincial official preventing Tampoun indigenous villagers from burying their dead on land that had served as their traditional burial ground since 1979, or of the Ratanakiri Jarai

indigenous families demanding the removal of local officials allegedly involved in the fraudulent sale of more than 3,000 acres of their communal land.

#### Societal Abuses, Discrimination, and Act of Violence Based on Sexual Orientation and Gender Identity

There were no laws criminalizing homosexual acts, nor was there official discrimination against the lesbian, gay, bisexual, and transgender (LGBT) community, although some societal discrimination and stereotyping persisted, particularly in rural areas. The LGBT community was visible and active in urban areas, particularly Phnom Penh and Siem Reap. There were a few NGOs dedicated to serving the needs of LGBT persons, primarily focused on delivery of health care. In May several local businesses and NGOs hosted the Fifth Annual Phnom Penh Pride festival, a week-long series of events that highlighted the LGBT community.

There were no reports of discrimination based on sexual orientation in employment, statelessness, or access to education or health care. However, homosexual conduct was typically treated with fear and suspicion, and there were few support groups where such cases could have been reported.

There were a few reports of private individuals refusing to employ or rent property to persons based on sexual orientation or gender identity.

#### Other Societal Violence or Discrimination

There was no official discrimination against those infected with HIV/AIDS. Societal discrimination against those infected with HIV/AIDS remained a problem in rural areas; however, discrimination was moderated by HIV/AIDS awareness programs.

### Section 7 Worker Rights

#### a. The Right of Association

The 1997 labor law permits private-sector workers to form and join trade unions of their own choice without prior authorization. Despite some improvement, enforcement of the labor law was poor. Membership in trade unions or employee associations is not compulsory, and workers are free to withdraw from such organizations, although a few unions attempted to intimidate workers who wanted to withdraw. Unions may affiliate freely, but the law does not explicitly address their right to affiliate internationally. While the law applies to foreign workers, it does not apply to civil servants, including teachers, judges, and military personnel, or to workers in the informal sector. Personnel in the air and maritime transportation industries are not entitled to the full protections of the law but are free to form unions.

Less than 3.5 percent of the labor force, estimated to be 8.8 million persons, was unionized. Unions were concentrated in the garment and footwear industries, where approximately 70 to 80 percent of the estimated 278,400 workers were union members. The Cambodian Tourism and Service Workers Federation reported that it represented approximately 3,750 hotel, casino, and airport workers. There were more than 1,600 registered factory-level unions and 48 union federations and associations, the majority of which were aligned with the government, and five of which were independent.

The Cambodia Independent Teachers Association (CITA), registered as an "association" due to prohibitions on public sector unions, represented 9,263 of the country's 98,690 teachers. CITA's requests for marches and other protests were sometimes denied, although the union reported no direct government interference in day-to-day activities.

Another public sector association, the Cambodian Independent Civil Servants' Association (CICA), represented approximately 1,129 officials from ministries, provincial departments, and commune councils, out of approximately 184,000 civil servants nationwide.

Some CITA members feared that affiliation with the teachers association could hamper their chance of career advancement. CICA leaders alleged that fears of harassment or demotion prevented other civil servants from joining.

There were no developments in the 2007 killing of local union leader Hy Vuthy. The investigation remained open at year's end.

On February 18, the appeals court upheld the 2005 conviction of Thach Saveth for the killing of union leader Ros Sovannareth in 2004. Thach Saveth appealed to the Supreme Court (see section 1.e.).

On August 17, the appeals court ruled to reinvestigate the case of the 2004 killing of labor union leader Chea Vichea. In December 2008 the Supreme Court provisionally released the two suspects convicted of the crime (see section 1.e.).

The labor law provides for the right to strike and protects strikers from reprisal. The law stipulates that strikes can be held only after several requirements have been met, including the failure of other methods of dispute resolution (such as negotiation, conciliation, or arbitration), a secret-ballot vote of union membership, and a seven-day advance notice to the employer and the Ministry of Labor and Vocational Training (MOLVT). There is no law prohibiting strikes by civil servants, workers in public sectors, or workers in essential services.

The MOLVT reported that 40 strikes occurred in the Phnom Penh area during the year. The Garment Manufacturers Association of Cambodia reported 57 strikes nationwide. International observers, employers, and many union leaders agreed that almost no strikes fulfilled all prestrike legal requirements. Although some unions complained of a lack of MOLVT involvement, the MOLVT resolved approximately 50 percent of the disputes.

The government allowed most strikes held at factories but denied worker requests to hold protest marches outside of the factory area. Police intervention in strikes generally was minimal and restrained, even in those cases where property damage occurred.

On January 22, two workers were injured during a strike staged by more than 3,000 workers of the Yung Wah factory in Kandal Province. The protest took place after the factory management told the workers that they would not receive the traditional 200,500 riel bonus (approximately \$50) for the Lunar New Year. A Kandal police deputy chief claimed that his officers used minimal force to subdue the protesters.

On February 9, approximately 450 workers from Van Lida factory in Phnom Penh staged a strike and appropriated equipment after learning that the foreign owner had left the country without paying salaries.

On May 20, more than 1,000 workers from the Sangwoo factory in Kampong Speu Province clashed with police during a strike over working conditions. On May 21, strikers and policemen threw stones at each other, and shots were fired. There were no serious injuries.

In spite of legal provisions protecting strikers from reprisals, there were credible reports that workers were dismissed on spurious grounds after organizing or participating in strikes. While most strikes were illegal, participating in an illegal strike was not by itself a legally acceptable reason for dismissal. In some cases employers pressured strikers to accept compensation and leave their employment. There are potential remedies for such dismissals, although none was particularly effective. The MOLVT can issue reinstatement orders, but these often provoked management efforts to pressure workers into resigning in exchange for a settlement. Collective disputes, such as when multiple employees are dismissed, can be brought before the Arbitration Council for a decision. Parties can choose if decisions are binding or nonbinding; if neither party objects to the arbitral award within eight days of its being issued, it automatically becomes binding. Individual disputes can be brought before the courts, although the judicial system was neither impartial nor

transparent. Some unions urged the government to expand the role of the Arbitration Council to include individual and collective interest disputes and to make its decisions binding.

On May 1, the Cambodian Confederation of Unions together with the Cambodian Labor Confederation led a march to appeal for the creation of an independent and impartial labor court as stipulated in the 1997 labor law.

#### b. The Right to Organize and Bargain Collectively

The law provides for the right to organize and bargain collectively, but the government's enforcement of these rights was inconsistent. Collective bargaining agreements existed within the garment and hotel industry and with contract workers at the two international airports.

There were 131 collective bargaining agreements registered with the MOLVT during the year. However, these were not comprehensive agreements, but rather simple agreements covering a few points on wage-related matters.

A regulation establishes procedures to allow unions to demonstrate that they represent workers for purposes of collective bargaining. The regulation also establishes requirements for employers and unions regarding collective bargaining and provides union leaders with additional protection from dismissal. The labor law requires trade unions and employers' organizations to file charters and lists of officials with the MOLVT. The Bureau of Labor Relations is responsible for facilitating the process of union registration and certification of "most representative status" (MRS) for unions, which entitles a union representing an absolute majority of workers in a given enterprise to represent all of the workers in that establishment. The government began reexamining its MRS certification process with support from international organizations and a diplomatic mission. In April 2008 authorities issued a new MRS notification detailing the procedures for applying, objecting to, and holding of elections. This resulted in a marked improvement in MRS procedures, as evidenced by the 400 percent increase in certifications.

Enforcement of the right of association and freedom from antiunion discrimination was inconsistent. Acts of union discrimination by the employer often went unpunished. Government enforcement of rights was hampered by a lack of political will and by confused financial and political relationships among employers and union leaders. The government also suffered from a lack of resources, including trained, experienced labor inspectors, in part because it did not pay officials adequate salaries. The MOLVT often decided in favor of employees but rarely used its legal authority to penalize employers who defied its orders, instead referring many cases to the Arbitration Council.

There were credible reports of antiunion harassment by employers, including the dismissal of union leaders, in garment factories and other enterprises. During the year approximately 30 union leaders were dismissed or suspended without cause. Prominent independent and opposition union leaders reported receiving veiled threats of violence. Two union leaders affiliated with the Free Trade Union of Workers in the Kingdom of Cambodia were injured by factory security guards, one was hurt by two unidentified men, and two others were threatened. Both independent and progovernment union leaders were injured by unidentified assailants. In four cases, 25 union leaders were threatened with suits or sued for defamation, perjury, inciting workers to strike, destroying private property, and attempting to incite workers to commit assault. On several occasions dismissed union leaders accepted cash settlements after unsuccessfully appealing to the government to enforce laws requiring their reinstatement. At other times the government upheld labor rights. For example, during the year the MOLVT formally warned 691 companies of legal violations. The MOLVT sent 87 cases of unresolved labor disputes to the Arbitration Council. The Arbitration Council received 178 cases from across the country (up from 159 complaints in 2008), of which approximately 65 percent were successfully resolved.

Unions continued to gain strength, but many were not able to represent member interests adequately due to insufficient resources, training, and experience. In addition, corruption plagued the ranks of unions, employers, and government

officials, hampering legitimate industrial relations. Violence, harassment, and intimidation between rival unions were common. Union leaders from across the political spectrum complained that the progovernment Khmer Youth Federation of Trade Unions habitually threatened and harassed workers from other unions.

In some factories persons employed in management appeared to have established their own unions, supported promanagement unions, or compromised union leaders through efforts to jeopardize their employment.

There are no special laws or exemptions from regular labor laws in export processing zones (known as special economic zones).

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, but there were reports that such practices occurred, almost exclusively in the informal sector. There were reports of forced labor by domestic servants.

#### d. Prohibition of Child Labor and Minimum Age for Employment

The law protects children from exploitation in the workplace; however, enforcement was often weak. The law establishes 15 years as the minimum age for employment and 18 years as the minimum age for hazardous work. The law permits children between 12 and 15 to engage in "light work" that is not hazardous to their health and does not affect school attendance. The National Plan of Action on the Worst Forms of Child Labor (2008-12) aimed to reduce the number of working children ages 5-17 to 10.6 percent in 2010 and 8 percent by 2015.

Child labor was widespread in agriculture, brick making, fishing, the commercial sex industry, domestic service and on tobacco and rubber plantations. Child labor was also reported in the formal sector but to a much lesser extent. According to a 2006 study conducted by the World Bank and others, more than 750,000 economically active children were below the absolute minimum working age of 12, and an additional 500,000 children (12 to 14 years old) conducting nonlight economic activity were below the minimum age for this type of work. According to the report, more than 250,000 children ages 15 to 17 worked more than 43 hours per week or in hazardous sectors. An expert from the ILO's International Program on the Elimination of Child Labor stated that the number of children working in hazardous work conditions rose to approximately 300,000 during the year. Three-quarters of economically active children were in the agriculture sector, 15 percent in commerce, 5 percent in small-scale manufacturing, and 2 percent in services.

According to a 2007 report, a total of 21,266 child domestic workers were found in Phnom Penh and the three provinces of Battambang, Kampong Cham, and Siem Reap. The children typically did not attend school, worked long hours with no medical benefits, and received little or no pay. In October police arrested Meas Nary, a high-school teacher, and her husband Va Saroeun, a former government official, for the severe mistreatment of their ward, an 11-year-old girl, whom they used as a domestic servant. The child told investigators she had been forced to do housework for years and was repeatedly abused by the couple, including punishments with pincers, beatings with whips and electrical wires, and burns.

No aspect of the law prohibiting child labor was adequately enforced in the formal employment sector. No employer was prosecuted for violating laws against child labor. The MOLVT has responsibility for child labor matters in both the formal and informal sectors of the economy, but its labor inspectors played no role in the informal sector or in enforcing the law in illegal industries, such as unregistered garment factories operating without a license from the MOLVT and the Ministry of Commerce. Within the formal sector, labor inspectors conducted routine inspections of some industries, such as garment manufacturing (where the incidence of child labor is negligible), but in some industries with the highest child labor risk, labor inspections were entirely complaint driven.

The constitution prohibits forced or bonded child labor; however, forced child labor was a serious problem in the commercial sex industry, particularly among those ages 15 to 18. Law enforcement agencies failed to combat child prostitution in a sustained, consistent manner. Widespread corruption, lack of transparency, inadequate resources, and staffing shortages remained the most challenging obstacles.

e. Acceptable Conditions of Work

The law requires the MOLVT to establish a garment-sector minimum wage based on recommendations from the Labor Advisory Committee. There was no minimum wage for any other industry. Garment-sector workers were guaranteed a minimum wage equivalent to \$50 per month, plus a minimum \$6 living allowance. Prevailing monthly wages in the garment sector and many other professions were insufficient to provide a worker and family with a decent standard of living, although garment-sector wages were generally higher than wages in the informal economy. The vast majority of employers in garment factories paid the minimum wage to permanent workers, although temporary and other such workers were often paid less.

The law provides for a standard legal workweek of 48 hours, not to exceed eight hours per day. The law establishes a rate of 130 percent of daytime wages for nightshift work and 150 percent for overtime, which increases to 200 percent if overtime occurs at night, on Sunday, or on a holiday. Employees are allowed to work up to two hours of overtime each day. However, the government did not enforce these standards effectively. Workers reported that overtime was excessive and sometimes mandatory. Similarly, outside the garment industry, regulations on working hours were rarely enforced. Involuntary overtime remained a problem, although the practice decreased during the year. Employers used coercion to force employees to work. Workers often faced fines, dismissal, or loss of premium pay if they refused to work overtime.

The law states that the workplace should have health and safety standards adequate to provide for workers' well-being. The government enforced existing standards selectively, in part because it lacked trained staff and equipment. The MOLVT's Department of Labor Inspection was the primary enforcement agency, and during the year it issued 691 warnings about labor law violations to companies. The agency appeared to conduct proactive inspections, but endemic corruption hindered the efficacy of such inspections. Work-related injuries and health problems were common. Most large garment factories producing for markets in developed countries met relatively high health and safety standards as conditions of their contracts with buyers. Working conditions in some small-scale factories and cottage industries were poor and often did not meet international standards. Penalties are specified in the law, but there are no specific provisions to protect workers who complain about unsafe or unhealthy conditions. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, but those who did so possibly risked loss of employment.

On October 12, 414 garment workers at a Will Bes garment factory fainted and were sent to a hospital for treatment. Workers said strong chemicals used at the factory caused them to faint. After the incident, the factory was ordered to shut down for cleaning.