



## U.S. DEPARTMENT of STATE

### Cambodia

#### Country Reports on Human Rights Practices - [2006](#)

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Cambodia is a constitutional monarchy with an elected government and a population of approximately 13.8 million. Following elections in 2003, in 2004 the Cambodian People's Party (CPP), led by Prime Minister Hun Sen, and the National United Front for a Neutral, Peaceful, Cooperative, and Independent Cambodia (FUNCINPEC), led by Prince Norodom Ranariddh, formed a coalition government. However, the CPP dominated the three branches of government and other national institutions, with most power concentrated in the hands of the prime minister. Although the civilian authorities nominally controlled the security forces, in practice security forces answered to the CPP leadership.

The government's human rights record remained poor. Government agents committed extrajudicial killings, and security forces acted with impunity. There was little political will to address the failure by government authorities to adhere to the rule of law. 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, often accompanied by violence, were a growing problem. The government restricted freedom of speech and press through the use of defamation and disinformation suits, controlled or influenced the content of television and radio broadcasts, and sometimes interfered with freedom of assembly. Corruption was endemic and extended throughout all segments of society, including the executive, legislative, and judicial branches of government. 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 remained a problem.

In a positive turn, in January the government released five human rights activists jailed in 2005 on charges of defamation and incitement. Parliamentary immunity was restored to opposition leader Sam Rainsy, who returned to the country without incident in February, as well as to two other opposition parliamentarians. Opposition parliament member Cheam Channy was released from prison following a royal pardon. The government also partially decriminalized defamation.

#### 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, human rights nongovernmental organizations (NGOs) reported that extrajudicial killings continued to occur.

During the year NGOs recorded at least 44 cases of extrajudicial killings. NGOs noted that in 26 cases the perpetrators evaded justice following the crimes; in the other cases the perpetrator was either arrested or paid restitution to the victim's family. Nine killings were committed by the military, four by police, two by bodyguards of government officials or wealthy persons, two by guards in prisons or rubber plantations, and one by a member of the forest authority. NGOs also recorded that in at least two cases the perpetrators were convicted, in five they were in detention awaiting trial, and in five others financial restitution was paid to the victim's family as a settlement; no further information was available in the remaining 32 cases.

On March 29, two suspects died while in police custody in Kandal Province. According to the Cambodian Human Rights Action Committee (CHRAC), Pao Rum and Khat Thoeun died in separate districts after police detained them for questioning about theft allegations. CHRAC said that both suspects suffered massive internal injuries, serious burns and bruises on their legs, and broken necks prior to their deaths. The three police officers in charge of Pao Rum's custody in Kandal Stoeung District were suspended pending an investigation into Pao Rum's death. At year's end neither the courts nor the Ministry of the Interior (MOI) had taken further action against the officers. CHRAC reported that Koh Thom District police denied responsibility for the death of Khat Thoeun, alleging that he had been beaten by a military official before being brought to them. NGOs reported that a district military official was detained, questioned for three days, and released; police officers overseeing Khat Thoeun's custody were not charged in the case. At year's end the investigation into Khat Thoeun's death continued.

On June 7, Nong Sam died in a Siem Reap hospital from head injuries received in a beating from Siem Riep provincial police officers. According to an NGO investigation, the police officer in charge, Chhith Bunchhay, arrested Nong Sam for beating his wife, who was also Chhith Bunchhay's sister. A provincial court prosecutor investigated the case but brought no formal charges against Chhith Bunchhay.

Guards of two prisons in Kampong Thom and Battambang killed 10 inmates during prison breaks. On April 9, a prison guard shot one of

three inmates attempting to escape from a prison in Kompong Thom Province. The guard, who fled following the incident, was charged with intentional murder, but at year's end authorities had not located him.

On June 18, during an attempted prison break from Battambang provincial prison, nine inmates and one guard were killed inside the prison when inmates took a guard hostage. Prison authorities did not return the dead bodies to families as requested for a funeral but buried them inside the prison compound. Authorities prohibited local human rights staff from investigating the incident. Prison authorities did not provide access to NGOs to investigate.

There were no confirmed reports of politically motivated killings during the year. On April 21, Koet Chhuon, the Sam Rainsy Party's (SRP) second deputy chief of Yeang Communal Council in Preah Vihear Province's Chamksan District, was killed. Based on preliminary reports, neither human rights NGOs nor the police believed the killing was politically motivated; however, at year's end the investigation was ongoing. On October 16, SRP activist Thoeung Thear was shot and killed in Kampong Cham Province. A provincial court issued a warrant for the arrest of Long Sopheak, the brother of the deputy district chief, who was seen fleeing the scene, but he remained at large at year's end. On November 18, Man Meth was shot and killed in Prey Veng Province. On December 21, police arrested three persons for the killing. NGOs were unable to confirm if the killing of either Theoung Thear or Man Meth was politically motivated.

There were no developments in the 2005 killings of five SRP activists or in the March 2005 case of an attempted escape from Trapoeung Phlong Prison in which 19 prisoners and the prison director were killed. At year's end the Phnom Penh Appeals Court had taken no action regarding the March 2005 killing of five protesters by government security forces in the village of Kbal Spean.

On August 5, retired King Norodom Sihanouk stated to the families of the two persons convicted in 2005 for the killing of union activist Chea Vichea that he believed they were not the killers and asked the government to reconsider their cases. Chea Vichea's family and civil society demanded that the government free the two men, and an eyewitness to the killing recanted an earlier statement to police authorities and said neither man was responsible for the killing. On October 6, the appeals court scheduled a hearing, but it was postponed because one of the three judges was ill. At year's end no date had been set for a new hearing, and the convicted persons remained in prison.

No legal action was taken against a police officer for the 2004 killing of a prisoner awaiting trial in Takeo Province.

There were no developments in the cases of a FUNCINPEC deputy village chief or an SRP activist, who were killed in separate incidents in 2004 in Kompot Province.

On August 2, the Phnom Penh Municipal Court issued a warrant for the arrest of Heng Pov, former under secretary of state of the Ministry of Interior, who was charged with multiple counts of premeditated killings and involvement in illegal arrests and detentions. He was alleged to have been involved in the 2003 Sok Sethamony killing. Heng Pov denied the allegations and sought political asylum abroad. On September 18, the Phnom Penh Municipal Court convicted Heng Pov in absentia for crimes including the murder of Judge Sok Sethamony and sentenced him and five other police officials to 18 years in prison. On December 21, Malaysian authorities deported Heng Pov, and he was taken to Prey Sar Prison to begin serving his sentence. Authorities permitted Heng Pov to meet with his legal counsel, but family members and NGOs were not allowed to see him.

Casualties by mines and unexploded ordinances (UXO) remained high but decreased sharply compared with 2005. According to the Cambodia Mine/UXO Victim Information System, casualties from land mines and UXO totaled 440 cases during the year, a decrease from 875 in 2005. The casualties included 58 deaths, down from 168 deaths in 2005; 91 amputations, down from 173; and 58 other injuries, down from 534.

Vigilante justice as well as killings by mobs persisted. NGOs reported that at least six persons were killed by mobs during the year. Few perpetrators were arrested. In some instances authorities could not protect suspects from angry mobs. NGOs noted that a majority of mob killings were related to thefts, robberies, or suspected witchcraft. On February 5, a man was beaten and killed following accusations that he practiced witchcraft. No one was arrested in connection with the killing. On August 5, Sam Roeun, suspected of stealing a boat, was caught in Kratie Province's Prey Prosap District, placed in a sack weighted with stones, and thrown into a river. Police stated that villagers killed Sam Roeun because they did not trust the judicial system. A human rights NGO based in Kratie reported that six villagers were charged with Roeun's killing and detained at year's end awaiting trial.

#### b. Disappearance

There were no reports of politically motivated disappearances.

#### 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 prisoners continued to be a serious problem.

There were credible reports that military and civilian police officials used physical and psychological torture and severely beat criminal detainees, particularly during interrogation. Human rights NGO LICADHO reported that in the first six months of the year, authorities tortured 96 detainees, of whom 78 were tortured in police custody and 18 in prisons. Based on interviews with thousands of detainees from 18 of the country's 24 prisons, LICADHO added that 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. ADHOC, another NGO monitoring human rights across the country, recorded approximately 150 cases of physical assaults and torture committed by police and military agents. The constitution protects suspects from any form of torture; however, NGOs reported that it was not uncommon for police to torture detained suspects until

they confessed to a crime. Based on LICADHO's report for the year, 191 suspects, including 14 women, were tortured while in police custody, and 22 others were tortured in prison. According to ADHOC's interviews during the year with 300 inmates in the country's 24 prisons, 55 inmates said they were tortured following their arrests and prior to their detention in a prison. ADHOC's interviews disclosed that half of the torture incidents occurred during police custody, while the other half occurred during either military police custody or at the offices of local authorities. Based on the responses of court officials, courts used forced confessions as legal evidence during trial. Additionally, government officials and those in their employment used violence to suppress the weak. The NGOs noted that during the year there were 167 cases of physical assaults by local authorities, government agents, or the bodyguards of the rich and powerful, compared to 154 cases in 2005 and 145 cases in 2004. The NGOs noted that the government frequently expressed ignorance of civil society's demands for abusers to be brought to justice. The same report stated that authorities were disciplined in only 15 percent of all cases.

On January 28, six police officers, including the head of the Phnom Penh Municipal Police Minor Crime Unit, were arrested for torturing a woman to death and other killings. On July 21, the Phnom Penh Municipal Court convicted the officers and sentenced them to 12 years each in prison.

On February 14, two policemen from Border Protection Unit 701 suspended a 13 year old boy upside down and beat him; the policemen accused the boy of assaulting the police. After NGO intervention, the police officers paid approximately \$500 (2.1 million riels) in compensation to the boy. No legal actions were taken against the officers.

On March 29, two suspects died in separate incidents due to police brutality in two districts of Kandal Province. CHRAC found that both died as a result of severe torture (see section 1.a.).

On April 18, following a dispute between Kong Salath and other villagers, police commissioner Team Sangkriem of Tbeng Meanchey District, Preah Vihear Province, and three other police agents detained Kong Salath without a warrant and beat him while he was handcuffed and his legs shackled. An NGO reported that the commissioner detained Salath illegally for one night before he let Salath's father take him for medical treatment. In June the commissioner was removed to another province. At year's end the provincial court reportedly was awaiting the results of a police investigation before deciding whether to take legal action against the commissioner.

On April 24, Battambang military police arrested a motorist without a warrant and accused him of robbery. The military police severely beat him at the scene and additionally abused him and covered his head with a sheet of plastic. Despite a complaint from a local human rights NGO to a court and to the commander of the military police unit, by year's end no disciplinary or legal actions had been taken against the abusive officers.

On June 7, Nong Sam died in a Siem Reap hospital from head injuries caused by a beating from a group of Siem Riep provincial police officers (see section 1.a.).

On December 29 30, Tous Sdoeung died due to injuries sustained in detention. Kompong Thom Provincial Police Chief Mao Pov confirmed that the man was tortured by two military police officers. On December 29, Sdoeung was reportedly arrested after burning down his own house and beating his wife while drunk. His badly beaten body was returned to his family the next day. Sdoeung's family initially agreed not to charge the officers if \$650 (approximately 2.73 million riels) in compensation was paid, but they later appealed for more financial assistance and filed a complaint seeking an additional \$1,250 (approximately 5.25 million riels). The case was taken up by the provincial court, but at year's end no action had been taken against the officers.

At year's end no legal action had been taken in the 2005 complaint filed against a prison guard who allegedly mistreated a female prisoner who refused his sexual advances, although according to NGO reports the guard was transferred in June to another province.

#### Prison and Detention Center Conditions

Prison conditions did not meet international standards and were life threatening. Prison conditions remained harsh, and 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 prison authority statistics, there were 10,250 inmates in prison as of October, compared with 8,943 inmates in 2005. Despite the relocation of three prisons to larger facilities--in Battambang, Kandal, and Kompong Thom provinces--and renovations to other prisons during the year, most prisons remained overcrowded. According to LICADHO, which monitored 18 of the 24 prisons, the 18 prisons had a capacity of 6,410 inmates but held a total 8,835 inmates. Prison authority statistics recorded that from January to November, 90 inmates died, mainly of AIDS and tuberculosis. NGOs recorded that there were 12 prison escapes during the year, resulting in 12 inmates killed, 24 recaptured, and 17 still at large at year's end. NGOs reported that two inmates in Koh Kong prison died in August, a few days following a fierce fight inside their cell; however, prison authorities claimed both died of disease.

In 2005 an NGO noted that the average number of inmates placed in a 23 by 26 foot cell had increased from 45 to between 50 and 60. In some prisons, after escape attempts authorities used shackles and held prisoners in small, dark cells.

Government ration allowances for purchasing prisoners' food routinely were misappropriated and remained inadequate, exacerbating malnutrition and disease. Although during the year the government increased ration allowances from \$0.23 (1,000 riels) to \$0.36 (1,500 riels) per day for each prisoner's food, NGOs noted that food rations for inmates were still inadequate. According to human rights organizations, a culture of corruption existed whereby prisoners whose families bribed prison authorities received better treatment than prisoners who could not afford to pay bribes. Regulations permitted families to provide prisoners with food and other necessities, and prisoners depended on such outside assistance; however, families often were compelled to bribe prison officials to be allowed to provide assistance or to gain access to visit inmates. In 2005 NGOs reported that 89 prisoners died for lack of food or medication or of disease contracted or aggravated

while incarcerated.

On April 9, prison guards shot and killed one of three inmates who escaped prison in Kompong Thom Province (see section 1.a.).

On June 11, 12 pretrial detainees charged with murder escaped from Prey Sar Prison. A prison guard suspected of helping the inmates was arrested. NGOs blamed the escape on prison authorities' negligence and corruption.

On June 18, nine inmates and a guard of the prison in Battambang Province were killed inside the prison when inmates took the guard hostage and tried to escape (see section 1.a.).

There were reports that officials demanded bribes before releasing inmates who had served their 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.

The government generally continued to allow international and domestic human rights groups to visit prisons and provide human rights training to prison guards. However, NGOs reported that at times cooperation from local authorities was limited. Prison monitoring NGOs complained that beginning in March the government curtailed their right to monitor the country's 24 prisons. Battambang prison officials did not give access to human rights organizations to investigate the killing of nine inmates who were killed during their attempted June 18 escape. The MOI continued to require that lawyers, human rights monitors, and other visitors obtain permission prior to visiting prisoners. The MOI withheld such permission in some politically sensitive cases. NGOs were not allowed to interview prisoners in private.

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, the government generally did not respect these prohibitions. ADHOC reported that 90 persons were illegally arrested and detained during the year. ADHOC believed that the actual number of arbitrary arrests and detentions was 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, police were at fault in more than half of the cases, and members of the armed forces and military police were responsible for almost 10 percent; the other cases were committed by civil servants, local government officials, or officials from the judiciary. ADHOC's report stated that most illegal detainees were subsequently freed following detainee complaints, interventions by human rights NGOs, or payment of bribes. Human rights NGOs noted that approximately half of the cases were resolved by release of the victim or payment of compensation to the victim as well as release. The other cases generally went to court, and the victims were held until the case was heard by a judge. The report concluded that neither legal nor disciplinary actions were taken against the persons responsible for the illegal actions.

#### 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 only when authorized by local governments.

Police officers acted 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.

Police, prosecutors, and judges are required by law to investigate all complaints, including those of police abuses; however, in practice judges and prosecutors rarely conducted an investigation prior to a public trial. The presiding judge passes down the verdict based 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.

#### Arrest and Detention

The law requires police to obtain a warrant from a prosecutor 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; however, authorities routinely held persons for extended periods before charging them. Many prisoners, particularly those without legal representation, had no opportunity to seek release on bail. Accused persons legally are entitled to a lawyer, but prisoners routinely were held for several days before gaining access to a lawyer or family members. According to the UN High Commissioner for Human Rights (UNHCHR), such prolonged detention largely was a result of the limited capacity of the court system.

Due to the limited ability to interview inmates during the year, prison monitoring NGOs could not ascertain how many inmates had been detained longer than the legal six month pretrial detention period. LICADHO reported at least 286 inmates had been detained longer than the six month limit. In addition, ADHOC reported that at least 40 convicts were not aware of length of their jail terms; prison authorities claimed that the judiciary did not tell them the verdicts.

On October 29, six persons from the provinces of Svay Rieng, Siem Riep, and Kandal were arrested and charged by the Phnom Pehn Municipal Court with conspiracy to commit terrorism. Police alleged that the suspects were plotting to bomb the annual Water Festival celebrations in Phnom Penh, which attract an estimated million persons to the city. However, the lawyer of the accused stated that no

warrants were shown to his clients when they were arrested, nor were they informed of the charge. The lawyer also stated that the evidence that led to the arrests had not been presented. Court officials replied that the investigation was ongoing and evidence would be presented once the investigation was complete.

CHRAC reported that in Phnom Penh on March 1, Phok Sambath, a Special Airborne Brigade 911 soldier, was detained on orders of General Chap Pheakday, the brigade commander, over a property dispute. On March 8, Sambath's family filed a complaint with human rights organizations. The brigade commander claimed that Sambath was detained for not reporting to duty. Following his release on April 13, Sambath told CHRAC investigators that he had quit the military nearly one year earlier but had not signed any paperwork to that effect; he added that he had not received a salary during that time. CHRAC concluded that the property dispute led to the detention, called the detention illegal, and stated that military officials did not have the authority to judge civil cases. At year's end the property dispute was in the Phnom Penh Civil Court awaiting a decision.

In June Team Sangkriem, police commissioner of Preah Vihear Province, and three police colleagues detained Kong Salath without a warrant and severely tortured him before releasing him after one day. The police commissioner was later transferred from his post following a criminal complaint that an NGO filed with the provincial court. At year's end the investigation was ongoing, and no legal action had been taken against the commissioner (see section 1.c.).

On January 4, Pa Nguon Teang, who worked with human rights activist Kem Sokha, was detained on defamation charges; the government released him after two weeks.

On January 11, human rights advocate Yeng Virak, arrested in December 2005, was freed on bail. On January 17, Pa Nguon Teang and three prisoners detained in 2005--radio station owner Mam Sonando, detained in October 2005; labor activist Rong Chhun, also detained in October 2005; and Kem Sokha, detained on December 31, 2005--were released and their cases suspended. All had been detained on defamation charges.

## Amnesty

On February 5, King Norodom Sihamoni granted pardons to convicted opposition parliamentarians Sam Rainsy, Cheam Channy, and Chea Poch (see sections 1.e. and 3).

### e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, but the government 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 a Supreme Court. The constitution also mandates a Constitutional Council, which is empowered to review the constitutionality of laws, and a Supreme Council of the Magistracy, which appoints, oversees, and disciplines judges. 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. The legal distinction between the military and civil courts sometimes was ignored in practice, and civilians have been called for interrogation by military courts with no apparent jurisdiction in their cases.

On July 3, 17 local and 10 international judges as well as coprosecutors for the Extraordinary Chambers in the Courts of Cambodia (ECCC) were sworn in. On July 21, Ung Choeun, alias Ta Mok, considered a potential defendant before the tribunal, died at a military hospital in Phnom Penh; his death was attributed to old age, tuberculosis, and a history of poor health. Ta Mok, under military detention since 1997, was a zone secretary, Central and Standing Committee member, and commander of the South East Regional Army of the Khmer Rouge.

At year's end the ECCC could not begin judicial performance due to failure to finalize its internal rules. The delay drew increased public concerns that senior leaders of the Khmer Rouge would die prior to the beginning of or during the ECCC's mandate.

## 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. If a defendant cannot afford an attorney, the court is required to provide the defendant with free legal representation; however, the judiciary lacked the resources to provide legal counsel, and most defendants sought assistance from NGOs or went without legal representation. Trials 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, at times 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 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. Many appeals thus were heard in the absence of the defendant.

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. A report released in March by the Center for Social Development, which monitored nearly 1,000

court cases in one year, indicated that only 15 percent included witness testimony and 71 percent lasted less than 30 minutes. The center's report found that access to lawyers increased in felony cases from 85 percent in 2004 to 97 percent in 2005. Beginning in late 2005, the president of the Phnom Penh Municipal Court banned all reporters from staying inside the court compound following a trial; however, such a ban is not codified in law (see section 2.a.).

Born Samnang and Sok Sam Oeun remained in prison for the murder of Chea Vichea, following a trial marked by serious irregularities and condemned by international observers. On October 6, the appeals court postponed a hearing for the two men. At year's end no date had been set for the court to hear the appeal.

Judges and prosecutors often had little legal training. Early in the year, the Royal School for Judges and Prosecutors began preparing a second group of 55 trainees to become judges and prosecutors.

There remained a critical shortage of trained lawyers, particularly outside Phnom Penh. Persons without means to secure counsel often were effectively denied the right to a fair trial. According to the Bar Association, approximately 30 percent of the country's 300 lawyers were providing legal counsel to poor persons, although this was inadequate to cover the legal needs of all of the country's poor. On August 18, the Association of Lawyers Without Borders signed an agreement with the Bar Association to fund 24 voluntary lawyers to provide legal services to the poor in 21 provinces.

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 content of written confessions that they were forced to sign. In cases involving military personnel, military officers often exerted pressure on judges of civilian 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. At year's end authorities had taken no legal action in the case of the June 2005 killing of a man in a house belonging to the family of a provincial police chief.

Although the courts prosecuted some members of the security forces for human rights abuses, impunity for most of those who committed human rights abuses remained a problem. In many criminal cases, the rich or powerful usually paid money to victims and authorities to drop the criminal charges against them. The authorities were known to urge victims or their families to accept financial restitution in exchange for dropping criminal charges (see section 1.a.).

On April 13, a police officer from the Anti Drug Department and a military policeman accidentally shot and severely injured Sovansocheata, a singer in a Phnom Penh karaoke parlor. The officers paid approximately \$3,000 (12.3 million riels) to the injured woman to settle the criminal case. At year's end neither the local court nor local police authorities had taken legal action against the two officers.

On April 26, Major Phat Sophal and Captain Sim Ry, both of Brigade 70, the military unit charged with defense of Phnom Penh in case of political instability, were arrested by military police in Phnom Penh's Tuol Kork District shortly after they shot and injured a woman. The two officers were released hours later when their commander, General Mao Sophan, intervened. The general subsequently said he punished the two officers by shaving their heads. At year's end no legal action had been taken against the two officers.

On July 1, Lim Srey, a worker in a garment factory, was shot and severely injured by Kuch Panha, a military officer, who was firing at someone throwing stones at his house. Local authorities arrested the officer, but he was subsequently freed after paying an undisclosed amount to the victim.

From November 11 to November 13, three police officers in Siem Riep Province allegedly raped a 12 year old girl at a police post. NGOs helped the girl, who suffered from mental difficulties, file complaints with the provincial court. The district deputy governor, whose son is one of the accused, admitted to offering \$500 (approximately 2.1 million riels) to the victim's family. The Siem Riep provincial police applied for arrest warrants for the three suspects, but at year's end the court had not acted on the request.

On April 21, in the retrial of three judges, two deputy prosecutors, and two court clerks convicted in December 2005 of corruption and corruption related conspiracy, the Battambang Provincial Court acquitted the seven officials. The prosecutor protested the new verdicts and filed an appeal. At year's end the appeal was pending at the appeals court. On June 4, the Supreme Council of Magistracy reappointed five of the seven officials to their judicial posts and dismissed one judge and one prosecutor.

At year's end the appeals court had taken no action in the March 2005 land eviction case in which more than 100 government security agents killed five persons and injured eight others in the village of Kbal Spean. According to NGOs, victims' families accepted the government's offer that returned some of the disputed land with land titles to the families.

The Judicial Reform Council made no significant progress in fulfilling its mandate to develop and implement reform measures. In 2005 the government, in cooperation with legal experts from donor countries, completed draft laws of the criminal and civil codes and began reviewing them. During the year further action was held up by government efforts to harmonize all the draft legislation.

Human rights groups continued to report that the government demonstrated its control of the courts by ordering the rearrest of suspects released either by the courts or through extrajudicial processes. Judges cited examples of interference from high ranking officials tasking them to make rulings in line with political priorities.

Lawyers also noted that some police and prison officials, in violation of the law and with apparent support from other government officials, denied them the right to meet prisoners in private or for adequate lengths of time.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

On February 5, opposition member of Parliament (MP) Cheam Channy, convicted in August 2005 of organizing a shadow army and fraud, was released from prison following a pardon by the king upon the prime minister's request. The National Assembly also reinstated his parliamentary immunity.

#### 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. However, the judiciary was generally viewed as corrupt, politically biased, and weak, and persons seldom filed complaints because they did not trust the judicial system. The public was especially distrusting of the judiciary to act in a transparent manner when a case was in conflict with the government. Enforcing a domestic court order was often problematic. Persons occasionally turned to violence because of their lack of trust in the courts.

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

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

Due to the forced collectivization during Khmer Rouge rule and the return of thousands of refugees, land ownership often was unclear, and most landowners lacked adequate formal documentation of ownership. Following the end of the Khmer Rouge insurgency, a rush to gain possession of lands near potentially lucrative cross border trade routes exacerbated the ownership problem. Widespread land speculation fueled disputes and increased tensions between poor rural communities and wealthy speculators. The Cadastral Commission, established in 2002 to settle disputes over land that had not been registered or where an owner had not been given a land certificate, continued to perform its functions slowly. The courts under the Ministry of Justice remained responsible for resolving disputes in cases where land had been registered or disputants had been given land titles. On March 15, the National Authority for Resolving Land Disputes was established to adjudicate land cases, but it proved ineffective.

Problems of inhabitants being forced to relocate continued to occur when powerful officials or businessmen colluded with local authorities. Some persons also used the court system to intimidate the poor and vulnerable into exchanging their land for meager compensation. One NGO reported receiving 124 land related cases in Phnom Penh and 12 other provinces affecting a total number of 15,274 persons during the year. Another NGO reported 460 cases of land disputes during the same period that pitted individuals against local authorities and private businesses. The poor often had no legal documents to support their land claims and lacked faith in the judicial system due to the corruption within the judiciary. Some of those expelled successfully contested these actions in court, but the majority lost their cases.

On January 5, a provincial court ordered the arrest and detention of two persons representing the Ekkareach commune in Ratanakiri Province in a case that involved 108 families and the ownership of more than 494 acres. Khet Sokhai, who claimed to own the 494 acres, initially obtained 148 acres from villagers in 1996 but did not develop the land for several years. In 2004 Sokhai started clearing the surrounding land, where villagers lived and cultivated crops. The villagers protested and filed a complaint with the Cadastral Commission, which took no action. In late 2005 Sokhai filed a complaint with a Ratanakiri court accusing two villagers of obstructing his land clearing activities. The men were arrested but later released. In early January the Ratanakiri Court judge jailed two other villagers but later released them. Villagers went to Phnom Penh to seek intervention from the National Assembly and the Prime Minister's Office. The National Assembly ordered the local authorities to take action to resolve the problem in the villagers favor. The local authorities reportedly ignored this order, and the attempt to obtain the land continued. An NGO reported that ownership of the land was later transferred from Sokhai to another individual named Piset. Villagers gave in to the intimidation and threats and agreed to accept \$3,000 (approximately 12.6 million riels) in compensation. On July 5, the provincial court ruled that the land be handed to the new owner, which the villagers willingly accepted.

On February 11, approximately 200 villagers of Ratanakiri's Pateh Commune gathered in front of the Commune Office to protest the confiscation of their land by a private company allegedly owned by a sister of the minister of economics and finance. According to an NGO report, the sister came to the area in 2004 trying to buy land from the villagers. At first she used persuasion, but later she reportedly used threats and intimidation with the help of local authorities. Facing the choice of losing their land without compensation or receiving some small payment, the villagers agreed to sell approximately 124 acres. After a drinking party, villagers thumb printed a document to sell 124 acres of their communal land; none of the villagers read the contract, which in reality stipulated 1,236 in lieu of the agreed 124 acres. The villagers filed complaints with an NGO's assistance, but the Ratanakiri Provincial Court took no action.

On May 30, Prime Minister Hun Sen promised to redistribute 494,210 acres of land to 50,000 disenfranchised farmers in Sihanoukville. He stated that the plan would involve taking the land from rich and powerful officials and transferring it to the poor and landless farmers as social land concessions. However, at year's end no land had been redistributed.

At year's end the appeals court had taken no action in a land dispute resulting in the March 2005 mass eviction in the village of Kbal Spean that resulted in the deaths of five villagers and injuries to several others (see section 1.e.).

At year's end the MOI had taken no action regarding a 2005 land dispute involving indigenous Phnong hill tribe members in Monduliri

Province and a Chinese company. In August tribal representatives asked the MOI to demarcate the land in question and cede it to the indigenous community.

There were no developments in the 2004 land dispute involving villagers in Pursat and Kompong Chhnang provinces and the Pheapimex Company.

Land disputes were so prevalent that they no longer affected only the poor and minority groups. Son Chhay, an outspoken SRP lawmaker, was embroiled in a land dispute with the Apsara Authority, a government agency, over 7.8 acres of land that he purchased in the 1990s in Siem Riep. Earmarking the land for a planned Culture and Tourism City, the Apsara Authority filed a case with the Siem Riep Provincial Court demanding the lawmaker abide by a compulsory order to sell his land for approximately \$20,000 (84 million riels). The lawmaker demanded the much higher market price of the land and requested that the Apsara Authority prove that the land would be used for public good. On December 18, the Siem Riep Provincial Court ruled in favor of the Apsara Authority and ordered Son Chhay to sell his land at the price stipulated by the compulsory order. At year's end the parliamentarian said he planned to appeal the decision.

Forced evictions became an increasing occurrence in Phnom Penh, and land disputes and evictions became more violent. During the year a local NGO reported the arrest of, or charges against, 126 persons related to land confiscation or forced evictions. Out of these cases, 117 persons were released, and nine were in detention.

In June more than 1,200 families of the Tonle Basac's Sambok Chab community were moved to relocation sites more than 20 kilometers from Phnom Penh. Three persons, including a journalist, involved in a protest against the forceful eviction were arrested and charged with incitement and destruction of public property. Another group of approximately 200 families in the vicinity was also targeted for eviction.

During the June eviction of Sambok Chap residents, local authorities injured an 11 year old girl and a pregnant woman while destroying their makeshift tent. Enraged villagers rioted and destroyed the buildings used as the village chief's office and attempted to kill the security officer who caused the injuries. Four individuals, including a journalist, were arrested and charged with incitement and destruction of public property. On November 30, the Phnom Penh Municipal Court sentenced the journalist and two other men to two years' imprisonment for destroying public property. The defense lawyers called the verdict unjust and said they would appeal.

In early June approximately 2,000 squatters confronted police officers who were forcing them to leave government owned land in Kampot Province. The confrontation led to the destruction of wooden bridges connecting the disputed area with the only road providing access to the area. The squatters, who were villagers from other provinces, flocked to Kampot's Chhouk District to stake claims, hoping to sell the land later for profit. Six individuals were arrested for inciting persons to stake land in the area. Another person was arrested later for involvement in the case, and the court sought to arrest five others. On November 28, the Kampot Provincial Court convicted the twelve persons, including the five in absentia, and sentenced three of them to eight years and the remainder to six years in prison for deforestation and staking claims to state owned land. NGOs representing the defendants appealed the case.

On July 5, MOI forces evicted more than 168 families living near the Preah Monivong Hospital in Phnom Penh. One woman was injured while clashing with police officers. Most of the residents, some of whom were government officials, had lived in the area since 1988. Families of police officers received \$1,300 (5.46 million riels) for relocation, while other families received \$500 (2.1 million riels). In addition to the monetary compensation, each relocated family received a small plot almost 22 miles from Phnom Penh. Infrastructure, including water and electricity, schools, hospitals, and markets, was lacking at the relocation site.

Early in the year, three of the five families remaining in Koh Pich, a small island in the Tonle Bassac River, agreed to move with compensation of \$12 (50,400 riels) per square meter. The last two families demanded the market value of \$25 (105,000 riels) per square meter for their land. In August the Phnom Penh Municipal Court ordered the villagers to accept the municipality's offer. The families refused and planned to appeal the court's decision. At year's end the appeal court had taken no action in the case.

On August 7, more than 200 villagers from Kandal Province's Ang Snoul District clashed with police officers who blocked them from entering the city to protest a land dispute in their community. Approximately 30 persons were injured; some needed medical treatment for their injuries. Police reportedly used tear gas and electric batons and fired into the air to stop the villagers.

Two land disputes in Prey Veng Province's Peam Chor District resulted in one death and injuries to four others. The first dispute involved 119 acres of land affecting 53 families. On December 14, during a protest staged by villagers against the confiscation of their land, local officials shot and killed a 17 year old boy. Police did not arrest those responsible for the killing; however, the provincial court charged eight villagers involved in the dispute with robbery. On December 5, local authorities injured two other villagers over the same dispute. On November 26, in a separate dispute, a police officer shot two villagers. The offender reportedly escaped.

Another high profile land dispute case in Koh Kong Province led to the suspicious death of one man and injuries to a woman. In August 400 families in Koh Kong's Sre Ambel District protested the Ministry of Agriculture's concessions of two adjacent 24,700 acre plots to two companies owned by businessman and CPP senator Ly Yong Phat. According to law, the maximum concession cannot exceed 24,700 acres. When the company started bulldozing the land for a sugarcane plantation, affecting the villagers' crops and orchards, the villagers protested, demanding that the company cease its operations and negotiate fair compensation. The company agreed to compensate only those villagers who could prove legal ownership and then forced some persons to accept meager compensation ranging from approximately \$35 to \$71 (150,000 to 300,000 riels). NGOs pointed out that although many villagers did not have land titles, they had lived there since the fall of the Khmer Rouge, which under the law made them the owners of the land. On December 15, a villager active in the confrontation was found dead from axe wounds. Police said the death was unrelated to the land dispute. In September security guards and police shot a woman in the foot during a protest by villagers.

## 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 government used the weak and often politically biased judiciary to file defamation and disinformation suits to intimidate and silence antigovernment critics and outspoken civil society leaders. Most reporters and editors privately admitted to some self censorship due to fear of government reprisal. The constitution implicitly limits free speech by requiring that it not adversely affect public security. The constitution also declares that the king is "inviolable."

On January 17, the government provisionally released four political detainees being held on defamation charges: radio journalist and Beehive/FM 105 owner Mam Sonando, labor leader Rong Chhun, Cambodian Center for Human Rights (CCHR) President Kem Sokha, and CCHR employee Pa Nguon Teang (see section 1.d.). While defamation charges were not formally dropped against these individuals or against others who had fled the country to avoid arrest on defamation charges--including royalist politician Prince Sisowath Thomico and Cambodian Watchdog Council members Man Nath, Ear Channa, and Chea Mony--the government did not pursue prosecution.

In August government authorities in Battambang Province confiscated digital video discs (DVDs) with images that appeared to contradict official police reports that nine prisoners killed themselves and a hostage with a hand grenade in a June prison standoff, but the DVDs remained readily available in Phnom Penh and other areas of the country (see section 1.a.). An MOI spokesperson stated that the ministry hoped to arrest the filmmaker and try him for compromising national security, but at year's end no arrest had been made.

At the end of August, the National Assembly passed legislation that many interpreted to limit the right of MPs to speak freely. The new law declares that MPs may not use their parliamentary immunity to abuse national security, social customs, or an individual's honor. In addition, the law allows an MP to be arrested, charged, and detained prior to the lifting of parliamentary immunity. At year's end no MP had been charged under the new law.

The 1995 press law provides journalists with a number of rights, including a prohibition on prepublication censorship and protection from 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 criminal defamation charges rather than the 1995 press law, which treats defamation as a civil matter. In May the National Assembly amended the UNTAC law to eliminate imprisonment as a penalty for defamation, but judges can still order large fines, which many citizens cannot afford to pay. Furthermore, UNTAC Article 62, which covers the crime of disinformation, continues to include prison sentences of up to three years.

The government and influential individuals used defamation suits, both civil and criminal, as well as charges of disinformation in an effort to silence critics. In June Prime Minister Hun Sen's nephew, Hun To, filed a civil defamation lawsuit against You Saravuth, editor-in-chief of the opposition newspaper Sralanh Khmer (Khmer Love) for alleging that Hun To was involved in illegal land seizures. In July senior FUNCINPEC official Prince Norodom Chakrapong filed a civil defamation suit against the same newspaper for reporting on the prince's activities in the early 1990s. In September the editor of opposition newspaper Moneakseka Khmer (Khmer Conscience) was convicted in absentia for disinformation for accusing Deputy Prime Minister Sok An of corruption and was ordered to pay approximately \$2,000 (8.4 million riels) in fines and \$2,500 (10.5 million riels) in compensation to Sok An. Also in September Julio Jeldres, the official biographer for retired King Norodom Sihanouk, was convicted in absentia for defaming Prime Minister Hun Sen in a private e mail that was published in the local press as a public statement. Jeldres was ordered to pay approximately \$2,000 (8.4 million riels) in fines and \$2,500 (10.5 million riels) in compensation to the prime minister.

Journalists were also subject to other forms of harassment and intimidation, including death threats. In the defamation case involving Hun To and You Saravuth, You filed a countersuit against Hun To for alleged death threats and subsequently fled to a third country, where the UN High Commissioner for Refugees (UNHCR) granted him asylum status. In September television journalist Soy Sopheap received an anonymous death threat after the prime minister criticized Soy's popular television "newspaper reading show," and station managers removed the show from the air. In June a journalist with the newspaper Samrek Yutekthor (Scream for Justice) was detained and charged with destruction of public and private property. In an August 14 letter to King Norodom Sihamoni, the prime minister refused to release the jailed journalist, claiming that the reporter had committed criminal acts by injuring policemen and inciting the burning of a local village office during the attempted eviction of residents from the Tonle Bassac area (see section 1.f.). There were also several instances in which government officials seized film and cameras from journalists or deleted digital photos, often linked to reporting on illegal logging or forced land evictions.

All major political parties had reasonable and regular access to the print media. Although the press law does not specifically permit newspapers to receive financial support from political parties, in general newspapers were aligned politically. Major newspapers that published in the Khmer language received support from various political parties. There were an estimated 20 Khmer language newspapers published regularly; more than half were considered pro CPP, and at least two newspapers were considered to support each of the other main political parties--FUNCINPEC, the SRP, and the Norodom Ranariddh Party. Although the three largest circulation newspapers were considered pro CPP, most newspapers criticized the government frequently, particularly with respect to corruption. Prime Minister Hun Sen and former FUNCINPEC president Prince Norodom Ranariddh frequently came under strong attack by opposition newspapers.

The government, military forces, and ruling political party continued to dominate the broadcast media and influence the content of broadcasts. There were seven television stations, all controlled or strongly influenced by the CPP. According to a 2001 report by the UNHCHR, the procedures for licensing and allocation of radio and television frequencies to the media were not impartial. Since 2003 the Ministry of Information has refused to grant new broadcast licenses in Phnom Penh, claiming that the Phnom Penh media market was saturated. This policy affected principally the SRP and independent human rights advocacy groups aligned with the opposition seeking to open new radio and television stations. However, in September the Ministry of Information and the UN Educational, Scientific, and Cultural

Organization signed an agreement to establish a Kroeng language radio station in Ratanakiri Province, with the area's minority ethnic groups being the target audience.

Despite being unable to obtain a broadcast license, the CCHR produced Voice of Democracy radio program, which included independent and often antigovernment views, remained extremely popular and continued broadcasting its program on the SRP aligned radio station FM 93.5. Voice of America (VOA) and Radio Free Asia (RFA) Khmer language programming was also regularly broadcast on Beehive/FM 105, and the Women's Media Center signed a contract in September to broadcast VOA and RFA programs on its FM 102 radio station.

The government controlled national television and radio stations broadcast taped sessions of National Assembly debates; however, in several instances these broadcasts were censored. National radio and television stations regularly broadcast some human rights, social action, public health, education, and civil society programming produced by domestic NGOs.

The government continued to restrict media access to government facilities. Although the constitution mandates media access to National Assembly sessions, the National Assembly continued to ban reporters from entering its grounds without authorization from the Assembly's secretary general, due to limited space in the meeting hall. Reporters have not been given free access to the courts since the October 2005 Phnom Penh Municipal Court order requiring reporters to obtain permission to interview court officials and written permission for journalists to bring recording devices into the courtroom. On July 7, the Council of Ministers issued a directive prohibiting government officials and employees from speaking to the media or the public about government corruption.

#### Internet Freedom

There were no government restrictions on access to the Internet or 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 electronic mail. The Internet was widely available through Internet cafes and home subscriptions in urban areas.

#### 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 September the Secretariat of the Ministry of Religions and Cults ordered the removal of Tieng Narith as a professor at the Buddhist University of the Royal Academy of Preah Sihanouk Reach. The government claimed that Tieng, without approval from his supervisors, developed a classroom text that contained inaccuracies about the country's history and inappropriately accused government officials of crimes such as corruption and political assassinations. The Phnom Penh Municipal Court subsequently charged the professor with disinformation and detained him. His family claimed that he was mentally ill; however, the results of a court ordered psychiatric examination were not made available to the court or the public. At year's end Tieng remained in detention awaiting trial.

There were no government restrictions on cultural events.

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

##### Freedom of Assembly

The constitution provides for freedom of peaceful assembly, but 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. The government cited the 2003 anti Thai riots, the need for stability, and public security as reasons for denying permits. Police forcibly dispersed groups that assembled without a permit, often resulting in minor injuries to some demonstrators.

ADHOC reported that during the year police and military police dispersed 46 protests, 11 of which were by labor protesters and 35 by land protesters. Twenty one land protesters were convicted, and 27 workers were subject to investigations. ADHOC added that 12 workers resigned from their factory jobs due to their security concern. The report noted that authorities frequently used criminal charges as a tool to arrest protesters.

Civil society groups noted that authorities used violence and excessive force to disperse protesters. On August 7, on the outskirts of Phnom Penh, antiriot police used fired tear gas and electric batons while firing automatic rifles into the air to disperse 200 land protesters from Kandal Province who were attempting to march to the National Assembly to ask for the release of their representative, who had been arrested as part of the dispute.

The Phnom Penh Municipality denied permission to the Kampuchea Krom community to demonstrate against the March 6 visit of Vietnamese Prime Minister Phan Van Khai. The municipal authorities stated that they were concerned about public order, security, and national dignity. The community had planned to demand that the government of Vietnam respect human rights and freedom for ethnic Khmers in southern Vietnam.

Phnom Penh Municipal authorities denied a permit to labor unions for a May 1 rally in a public area to observe International Labor Day. The unions proceeded to march without a permit (see section 6.b.). On August 1, armed police broke up a gathering of 50 protesters demanding the release of the two men convicted of murdering labor union leader Chea Vichea in 2004 (see section 1.a.).

On August 18, in a nationwide directive to Buddhist monks, the Supreme Patriarch banned all monks from joining a strike, protest, or

insurrection of any form without a permit from the Supreme Patriarch himself.

#### Freedom of Association

The constitution provides for freedom of association, and the government generally respected this right in practice; however, the government did not enforce effectively the freedom of association provisions of the labor law (see section 6.a.).

The government did not coerce or forbid membership in political organizations. Political parties normally were able to conduct their activities freely and without government interference. On February 6, opposition MPs Sam Rainsy, Cheam Channy, and Chea Poch were pardoned and regained their parliamentary immunity.

Human rights organizations reported that some local authorities warned members of certain political parties that if they continued to support those parties, they would face a loss of residency rights, confiscation of property, and a ban on using local infrastructure. However, during the year there were no reports that such acts occurred.

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 an 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 was Buddhist. Ethnic Cham Muslims constituted 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. In 2003 the Ministry of Cults and Religions issued an order prohibiting public proselytizing, but the order was enforced only during the two hour lunch period.

#### 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 [2006 International Religious Freedom Report](#).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the government generally respected them in practice.

The government placed no restrictions on foreign travel. The government also did not restrict emigration or the return of citizens who had left the country.

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

#### Protection of Refugees

The law provides for the granting of asylum or refugee status, and the country is a signatory of the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, in practice the government did not consistently respect the law and has not implemented legislation pertaining to the 1951 UN convention.

A human rights NGO based in Ratanakiri Province reported that in August six Montagnards seeking asylum in the province were arrested and deported to Vietnam without UNHCR review.

On May 27, Ratanakiri provincial authorities found the body of an eight year old Montagnard girl in the Sesan River and returned it to Vietnamese authorities. An NGO reported the body was that of one of five Montagnards missing since May 25 when Vietnam's border authority chased them and fired at them when they crossed a border stream to seek asylum. However, a UNHCR investigation indicated that the refugees were crossing in an overcrowded boat that overturned and the young girl could not swim.

On August 25, police in Mondulakiri Province arrested two teenagers of Phnong minority. The police, who were searching for Montagnards reportedly hiding in the jungle, accused the two teenagers of providing food to Montagnards. The police released the teenagers after one day.

On December 4, the Phnom Penh Municipal Court sentenced ethnic Khmer Krom Vietnamese citizen Lam Huyen to three months in prison; he was arrested on September 6 for guiding Montagnard asylum seekers to Cambodia. UNHCR and UNHCHR intervention prevented his deportation to Vietnam.

A human rights NGO claimed that local authorities at the border with Vietnam increased their search for Montagnards when Vietnamese authorities informed them about new arrivals of Montagnards. There were unconfirmed reports that Vietnamese authorities offered incentive awards to Cambodian border police who returned Vietnamese refugees to Vietnam and that Vietnamese secret police were active on the Cambodian side of the border.

A memorandum of understanding that the country signed in January 2005 with the UNHCR and the government of Vietnam to resolve the situation of Montagnards under UNHCR protection in Phnom Penh remained the operating framework for the UNHCR in the country. However, a human rights NGO based in Ratanakiri Province reported that in August six Montagnards seeking asylum were arrested and deported to Vietnam without UNHCR review.

Asylum seekers who reached the UNHCR office in Phnom Penh were processed with government cooperation. During the year there were 277 new arrivals seeking asylum with the UNHCR. Of this number, 30 persons were later identified as Cambodians. According to the UNHCR, authorities deported 28 rejected Montagnard asylum seekers to Vietnam. On December 6, 43 Montagnard refugees departed for a third country. At year's end there were 235 Montagnards in refugee sites in Phnom Penh, which included 78 refugees who arrived in previous years.

### 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 above the age of 18.

During the year the National Assembly approved a constitutional amendment, later ratified by the Senate and the king, that changed the electoral majority needed to form a government from two thirds of the National Assembly seats to a simple majority, which gave the CPP further control over the legislative process.

#### Elections and Political Participation

On January 22, the first elections for the Senate were held to elect 57 of 61 total senators. Parties and individuals were free to be candidates without restrictions. By an indirect nongeneral system in which parliamentarians and elected members of communal councils were eligible to vote, the CPP won 45 seats, FUNCINPEC 10, and the SRP two. In addition, two senators were appointed by the king and two others by the National Assembly. The elections were conducted peacefully but drew criticism from civil society for the indirect selection process. Previously, political parties in the National Assembly and the king appointed all members of the Senate.

The National Election Committee (NEC) was scheduled to hold communal council elections on April 1, 2007. During the registration of eligible voters and candidates prior to year's end, election monitoring NGOs were concerned about increasing violence and intimidation committed against political party activists and citizens. The NGOs noted that a number of persons in Takeo Province were forced to take an oath to become CPP members. At year's end NGOs had recorded at least 12 cases of obstruction to SRP and NGO education activities. The NGOs and SRP found many irregularities during the distribution of voter information notes and registration of candidates for the communal elections. Most complaints centered on the NEC's delegation to the mostly CPP affiliated village chiefs the crucial task of providing each voter with an updated information card containing the voter's personal registration information. Voters had only a short amount of time to update incorrect information or risk being turned away on election day. Some village chiefs reportedly did not provide the cards to the voters from the nonruling parties.

From May to July, the largely CPP dominated commune councils selected village chiefs through an indirect election process criticized by civil society as unrepresentative and geared towards maintaining CPP control at the grassroots level. The government argued that direct elections would be too expensive and that the village chiefs have no political role: Their position centered on traditional roles as conflict mediators and authorizers of birth certificates and other public documents issued by the commune councils. Despite their purported apolitical role, the NEC announced in July that village chiefs would assume responsibility for the distribution of over six million voter information cards as well as informing unregistered voters regarding the registration process. One NGO found that approximately 1.7 million eligible voters did not receive voting information from their village chiefs.

In the most recent National Assembly elections, held in 2003, the CPP won 73 seats, FUNCINPEC 26, and the SRP 24. In 2004 the CPP and FUNCINPEC formed a nominal coalition government, but the CPP dominated the government. All election observer groups noted improvements in the elections but concluded they fell short of international standards. Politically motivated violence was a problem, but it was less than during previous elections. The government took action against only some alleged perpetrators and addressed other misconduct inconsistently. Technical problems with the registration process and preparation of voter lists effectively disenfranchised many citizens in the elections. There also were incidents of voter intimidation by local officials. The NEC failed to establish a credible process to resolve election complaints. The appointment of NEC members by the MOI was not transparent and left the NEC open to charges of political influence by the ruling CPP.

During the 2003 elections there were improvements in media access for registered parties, and open political debate and multiparty debates were televised nationally for the first time; however, electronic media coverage heavily favored the ruling CPP.

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

In 2002 the government held its first nationwide commune, local level elections. During the election campaign period, NGOs reported 25 FUNCINPEC and SRP activists and candidates were killed under suspicious circumstances, including seven killings that human rights

monitoring organizations agreed were politically motivated. The election results loosened the CPP's long hold on local governance. CPP commune chiefs remained in 99 percent of the 1,621 communes; however, as a result of the elections, power was shared with other parties in all but 148 communes. At year's end the MOI had not issued instructions for elected commune councils to implement the Commune Administration Law describing the power, duties, and functions of the councils.

Following a political compromise between the ruling party and the SRP, King Norodom Sihamoni granted pardons in February to Sam Rainsy and Cheam Channy; Chea Poch's charges were dropped. Subsequently, the National Assembly voted to restore their immunity and parliamentary status. Sam Rainsy returned from abroad on February 10.

On August 18, the Supreme Patriarch of Buddhism cancelled a 2002 ban that prohibited Buddhist monks from voting. However, in November he warned monks against participating in any mass political movement critical of the government.

Traditional culture limited the role of women in government; however, women took an active part in the 2003 elections. The number of women in the National Assembly, Senate, and senior government positions increased. There were 22 women in the 123 seat National Assembly, nine women in the 61 seat Senate, and 24 women working as ministers, secretaries of state, undersecretaries of state, and NEC officials. Women also served as advisors, and there were 14 female judges at the municipal, provincial, and appeals court levels. After the 2002 local elections, women held 933 (8.3 percent) of the 11,261 commune council seats.

Minorities also took part in the government. There were four members of minorities--two Cham and two tribal--in the National Assembly. There also were six members of minorities--two Cham, two tribal, and two Thai--in the Senate. At least eight officials in senior positions in the government were from minority groups.

#### Government Corruption and Transparency

Corruption was considered endemic and extended throughout all segments of society, including the executive, legislative, and judicial branches of government. Public perception of corruption was widespread. Meager salaries contributed to "survival corruption" among low level public servants, while a culture of impunity enabled corruption to flourish among senior officials. In January 2005 the prime minister instructed the Ministry of National Assembly Senate Relations and Inspection to prepare a draft anticorruption law. At year's end the draft was pending at the Council of Ministers. The prime minister claimed that the draft law needed to be harmonized with the criminal procedures code.

In June the World Bank announced that an audit revealed corruption in World Bank funded projects worth \$68.4 million. The bank ordered a halt to the projects and demanded the repayment of \$7.6 million for misprocurement. The Ministry of National Assembly Senate Relations and Inspection, the body responsible for probing corruption, started an investigation that led to the arrest of a director general of the Ministry of Rural Development. On December 1, the Phnom Penh Municipal Court released the arrested official on bail, citing lack of evidence.

The August 2005 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 would be released after 40 and 120 years, respectively. In practice the government occasionally denied access to information, citing reasons of confidentiality or national security.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The government generally cooperated with human rights workers in performing their investigations; however, there were numerous reports of lack of cooperation or even intimidation by local authorities throughout the country.

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

On March 15, upon request from NGOs, the government ordered the release of 18 persons who had been arrested or detained for having connection with land disputes since late 2005.

While the central government generally was cooperative, human rights NGOs faced a variety of threats and harassment from local officials. These took the form of restrictions on gatherings sponsored by NGOs, verbal intimidation, threats of legal action, bureaucratic obstruction, and other acts of interference. During the year ADHOC reported seven instances in which their activists and investigators were detained or impeded in their work or intimidated by local authorities. In addition, the government did not provide full cooperation with NGOs investigating the March killings of inmates in the Battambang prison.

On May 22, a forest patrol team from the Wild Aid Organization and the Ministry of Environment in Koh Kong Province's Mondul Seima District briefly detained an ADHOC activist and destroyed film in her camera after she had attempted to photograph a confrontation between villagers and the patrol team. She filed a complaint with a prosecutor of the provincial court a few days following the incident. The prosecutor opened an investigation of the case but at year's end had not issued a decision.

In May monitors from ADHOC, LICADHO, and CCHR were detained and threatened at gunpoint by military police in Kampot Province while investigating a land dispute. In another case, LICADHO reported that unidentified armed forces threatened human rights monitors from two local NGOs at gunpoint and kicked one in the stomach while they were monitoring a land dispute in Monduliri Province.

Unlike in 2005, there were no credible threats against local NGO staff providing shelter to trafficked victims and conducting antitrafficking advocacy and investigations.

During the year UNHCHR conducted activities related to human rights and the judiciary, and it maintained its headquarters in Phnom Penh and a regional office in Battambang. The UN special representative for human rights in Cambodia undertook his second mission in March following his appointment in November 2005. In a public statement on March 28, he emphasized the need for an independent and strong judiciary to help root out the problem of impunity for deeply rooted serious human rights abuses in the country. He also noted disappointment that the government had not disclosed information on concessions of natural resources and noted that the information on land concessions fell short of expectations.

The Cambodian Human Rights Committee, which the government established in 1998, remained largely inactive. The committee did not have regular meetings or a transparent operating process.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, sex, color, or language; however, the government did not generally protect these rights.

#### Women

The law prohibits rape and assault; however, local and international NGOs reported that violence against women, including domestic violence and rape, was common. The domestic violence law, passed in 2005, criminalizes domestic violence but does not specifically set out penalties. However, article 41 of 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. Rape is a criminal offense and punishable by a prison sentence of between five and 10 years, according to article 33 of the UNTAC law. Spousal rape and domestic abuse are not recognized as separate crimes. A case of spousal rape could be prosecuted as "rape," "causing injury," or "indecent assault," but such charges were rare. According to an NGO that worked in three provinces, there were 827 cases of domestic violence, six of which resulted in death. During the year the MOI's antitrafficking department investigated 614 cases of violence against women and children, resulting in the arrest of 670 perpetrators and rescue of 784 victims. Of the 670 arrests, 477 were for rape and attempted rape. Fourteen cases of rape resulted in the death of the victims. During the year a legal advocacy NGO reported representing 417 cases of violence against women and children, including trafficking, domestic violence, and rape. Of the 417 cases, 166 were tried during the year, of which 114 resulted in convictions. Defendants in the other cases were acquitted either for lack of evidence or because the victims withdrew their complaints. The number of cases likely underreported the scope of the problem, due to ineffective enforcement and the fact that women were afraid to make complaints against perpetrators. Despite the passage of the 2005 domestic violence law, NGOs reported that authorities continued to avoid involvement in domestic disputes and victims frequently were reluctant to pursue formal complaints.

Prostitution is prohibited constitutionally; however, there is no specific legislation against working as a prostitute. Trafficking in women for the purpose of prostitution was a serious problem, despite laws against procuring and kidnapping for purposes of sexual exploitation (see section 5, Trafficking). There were reports that police abused prostitutes. Despite sporadic crackdowns on brothel operators in Phnom Penh, prostitution and related trafficking persisted. Estimates of the number of working prostitutes ranged from 14,725 to 18,250. 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, and the International Labor Organization reported that sexual harassment in the industrial sector was rare. However, a 2005 NGO study conducted on women working in the beer promotion industry reported widespread harassment.

A large number of NGOs provided training for poor and vulnerable women that addressed social problems such as spousal abuse, prostitution, and trafficking. A local media center produced and broadcast programming on women's issues. NGOs provided shelters for many women in crisis.

The constitution contains explicit language providing for equal rights for women, equal pay for equal work, and equal status in marriage. In practice 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 Ministry of Women's Affairs, 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. Demographic trends and a history of conflict have resulted in increasing female participation in the labor force. In 2004 women made up an estimated 54 percent of agricultural workers, 51 percent of industrial work force, and 46 percent of service sector workers.

#### Children

The constitution provides for children's rights, and the government made the welfare of children a specific goal. The government relied on international aid to fund most child social welfare programs, resulting in only modest funds for problems that affect children.

Children were affected adversely by an inadequate education system. Education was free, but not compulsory, through grade nine. Many

children either left school to help their families in subsistence agriculture, began school at a late age, or did not attend school at all. A 2005 Ministry of Education report stated that 91 percent of eligible children were enrolled in primary school but only 26 percent of eligible students attended junior high and 9 percent attended high school. Despite an extensive school construction program, schools were overcrowded and lacked sufficient equipment. In rural areas, schools often provided only a few years of education. According to ministry data, 46 percent of schools lacked drinking water, and 37 percent had no toilets. Teachers' salaries were irregularly paid and inadequate to support a decent standard of living, leading to demands for unofficial payments from parents, which the poorest families could not afford. The government did not deny girls equal access to education; however, families with limited resources often gave priority to educating boys. In many areas, schools were remote and transportation was a major problem. This especially affected girls because of safety concerns in traveling between their homes and schools.

Children frequently suffered from malnutrition, and the health care system was inadequate. According to the Demographic and Health Survey 2005 Preliminary Report, infant mortality was estimated at 65 per 1,000. It was also estimated that the child mortality rate was 19 per 1,000.

Child abuse was believed to be common, although no statistics were available. A domestic NGO estimated that more than 1,200 street children in Phnom Penh had no relationship with their families and more than 10,000 children worked on the streets but returned to their family homes in the evenings. An estimated 500 to 1,500 children lived with their families on the streets in provincial towns. A local NGO reported a monthly intake of approximately 60 street children into its shelter for vocational and literacy training. The NGO reported observing 80 to 100 new children on the streets every month. The Ministry of Social Affairs and Youth Rehabilitations (MOSAVY) provided lower statistics, reporting 3,084 street children nationwide in 2005.

Child rape remained a serious problem; a local NGO reported 206 cases of rape committed on persons under the age of 18, five of which resulted in death. During the year 21 cases of rape involving children below five years of age were reported; five of the victims were as young as three.

Sexual intercourse with a person under age 15 is illegal; however, child prostitution and trafficking in children occurred (see section 5, Trafficking). The first five year program against child sexual exploitation, which ended in 2005, emphasized prevention through information dissemination and protection by law enforcement (see section 5, Trafficking). The MOI reported the arrests of 12 foreign pedophiles during the year.

The illegal purchase and sale of children for prostitution was a problem. During the year raids on brothels rescued underage girls who were trafficked for prostitution (see section 5, Trafficking).

Child labor was a problem in the informal sector of the economy (see section 6.d.).

#### Trafficking in Persons

The law prohibits trafficking in persons; however, the country was a source, destination, and transit country for men, women, and children trafficked for sexual exploitation and labor. A 2003 study estimated the number of trafficking victims in the sex industry to be 2,000 victims, approximately 80 percent of whom were Vietnamese women and girls. 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 even when there was no debt or economic hardship involved. A MOSAVY study found that 76 percent of trafficked persons returned from Thailand came from families who owned land, 93 percent owned their own house and had no debt on the land or house, and 47 percent stated that their mother was the facilitator. There was an increase in the trafficking of women to Malaysia to work in the sex industry.

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. 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.

The law establishes a prison sentence of 15 to 20 years for a person convicted of trafficking in persons under 15 years of age; the penalty is 10 to 15 years for trafficking persons age 15 or older. According to the MOI, during the year police investigated 614 cases of violence against women and children, including child sexual exploitation, rape, debauchery, and human trafficking; the investigations resulted in the arrest of 670 offenders, of whom 65 were arrested for cross border and domestic trafficking. A legal advocacy NGO brought 24 trafficking cases to court, of which nine went to trial. Convictions were obtained in six cases, with sentences ranging from three to 20 years' imprisonment and civil compensation issued to victims ranging from approximately \$715 to \$950 (three million to four million riel).

While the government increased arrests and prosecutions of 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 reports of corruption and a weak judicial system. It was widely believed that some law enforcement and other government officials received bribes that facilitated the sex trade and trafficking in persons.

In August the Phnom Penh Municipal Court convicted three police officers for trafficking related corruption committed in 2005, gave them sentences of five to seven years in prison, and ordered the return of \$9,000 (37.8 million riel) extorted from brothel owners in Kampong Speu Province. One of the convicted officers began serving his sentence, but the MOI stated that the other two officers would have to be formally removed from their positions before they were arrested and made to serve jail terms.

In January Meng Say, chief of the Phnom Penh antitrafficking unit, was suspended for extorting money from South Korean nationals. In August he was detained on extortion charges and at year's end was awaiting trial.

The MOSAVY referred trafficking victims to NGOs, which provided most assistance to the victims. The government participated as a partner in a number of these efforts; however, its contributions were severely hampered by limited resources. Some victims were encouraged by NGOs and the MOI to file complaints against perpetrators; however, in the general climate of impunity, victim protection was problematic, and victims were known to be intimidated into abandoning their cases. The MOSAVY and NGOs reported that during the year 366 trafficking victims, beggars, and porters, the majority (more than 70 percent) of whom were children, were reintegrated into their communities.

Several government ministries were active in combating trafficking. There was a Department of Anti Human Trafficking and Juvenile Protection, and mechanisms existed for monitoring and reporting on child sexual exploitation. There also were specialized MOI antitrafficking divisions in all provinces and municipalities.

MOSAVY worked with the International Organization for Migration (IOM) to repatriate trafficked victims from Thailand and Vietnam to Cambodia, and from Cambodia to Vietnam. However, repatriation to Vietnam continued to be a long and arduous process. The MOSAVY also worked with the United Nations Children's Fund and local NGOs to manage community based networks aimed at preventing trafficking.

During the year the MOSAVY repatriated from Thailand and Vietnam 1,273 children, victims, and those vulnerable to becoming victims and reintegrated them with their families. With financial and technical support from IOM, MOSAVY repatriated four trafficked Vietnamese girls to Vietnam.

In 2005 NGOs worked with the Ministry of Women's Affairs to repatriate 23 victims of sex trafficking from Malaysia, bringing to 40 the number of repatriated victims from Malaysia since 2003. The MOI, with help from the Ministry of Women's Affairs, was conducting an investigation into the trafficking of women and girls to Malaysia for prostitution. Although the Ministry of Women's Affairs had no statistics concerning victims of trafficking from Malaysia during the year, a local NGO reported that 33 trafficking victims from Malaysia returned; however, it was not known if they were victims of sex trafficking or labor trafficking.

The trafficking law contains no provisions to protect foreign victims from being charged under the country's immigration laws, but during the year there were no reported cases of trafficking victims being treated as illegal immigrants.

In each of the provinces and municipalities, there existed specialized antitrafficking and juvenile protection divisions, which raided a number of brothels and rescued numerous victims, including underage workers. The government provided most rescued victims with protection and worked with NGOs either to reunite the victims with their families or place them in a shelter. Trafficking victims, especially those exploited sexually, faced societal discrimination, particularly in their home villages and within their own families, as a result of having been trafficked.

During the year the owner and the managers of a notorious Phnom Penh hotel and their accomplices, arrested in September 2005 for trafficking, were convicted and sentenced to prison terms of four to five years.

The government used posters, television, radio, and traditional local theater to raise public awareness of human trafficking. The Ministry of Women's Affairs, in conjunction with IOM, continued its major information campaign to raise awareness of trafficking in persons and safe migration until September, when the project with IOM ended.

On May 6, the government and the other five member states of the Coordinated Mekong Ministerial Initiative Against Trafficking met in Phnom Penh and agreed to approve the plan of action developed in March 2005 in Hanoi.

#### Persons with Disabilities

There is no law explicitly prohibiting discrimination against persons with disabilities. The government does not require that buildings or government services be accessible to persons with disabilities. The government prohibits persons with even minor disabilities from being teachers in public schools.

According to a 1999 survey, there were 170,000 persons with disabilities, including 24,000 persons missing at least one limb and 6,744 persons missing more than one limb. Disability due to landmines accounted for 11.5 percent of persons with disabilities, while disability due to congenital problems and disease accounted for 53 percent.

Programs administered by various NGOs brought about substantial improvements in the treatment and rehabilitation of persons who had lost limbs, 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. The Rehabilitation Department of the MOSAVY is responsible for making policy to protect the rights of persons with disabilities.

## National/Racial/Ethnic Minorities

The rights of minorities under the 1996 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 nation and culture. Some 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. In spite of the 2001 land law, which calls for 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 their land rights and providing legal representation in disputes.

## Other Societal Abuses and Discrimination

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

## Section 6 Worker Rights

### a. The Right of Association

The labor law provides workers with the right to form professional organizations of their choosing without prior authorization, and private sector workers in the formal economy are free to join the trade union of their choice. However, the government's enforcement of these rights was selective. 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 address explicitly 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.

Most workers were subsistence rice farmers, and although there was an expanding service sector, most urban workers were engaged in small scale commerce, self employed skilled labor, or unskilled day labor. Only a small fraction (estimated at less than 1 percent) of the labor force was unionized, and the nascent trade union movement was weak but growing stronger. Unions suffered from a lack of resources, training, and experience. Unions were concentrated in the garment and footwear industries, where approximately 40 to 50 percent of the 333,144 workers were union members. The Cambodian Tourism and Service Workers Federation, formed in 2003, represented more than 3,757 hotel, casino, and airport workers.

Due to prohibitions against public sector employees forming unions, the Cambodia Independent Teachers Association (CITA) was registered as an "association" and represented 8,000 members in 18 provinces and municipalities. CITA experienced less interference from local provincial authorities than in previous years but still faced significant restrictions. For example, marches and other protests were often forbidden. Another public sector association, the Cambodian Independent Civil Servants' Association (CICA), represented more than 250 members from ministries, provincial departments, and commune councils throughout the country. Many civil servants feared that they would be subject to harassment or demotion if they joined CICA, leading to a low number of official members.

The law requires unions and employer organizations to file a charter and list of officers with the Ministry of Labor and Vocational Training (MOLVT). The MOLVT had registered 1,026 factory unions, 26 national labor federations, and four national confederations (alliances of several like minded federations) since the law went into effect in 1997, including 193 unions and two federations during the year. Some unions and federations complained of unnecessary delays and costs in the registration process. In June the MOLVT refused to register the Cambodian Labor Confederation, the first cross sector union confederation, on the grounds that constituent associations representing civil servants and informal sector workers could not be registered as part of a union confederation. Although all unions collected dues from members, none was able to operate without outside sources of financial support.

Of the 30 national labor federations, 24 were allied with the government, including 11 that were part of the progovernment Cambodian Confederation of Trade Unions (CCTU). The remaining five federations were independent of government ties; one of them had pro opposition leanings or support. There was credible evidence of management involvement in some labor unions. In some factories, management appeared to have established their own unions, supported promanagement unions, or compromised union leaders. Independent union leaders complained that the CCTU frequently intervened in the affairs of other unions, extorted money from management in exchange for discouraging workers from conducting legal strikes and demonstrations, and threatened rival union leaders. There were also widespread complaints that the Khmer Youth Federation of Trade Unions habitually threatened strikes to extort money from management.

Enforcement of the right of association and freedom from antiunion discrimination was poor. The government's enforcement efforts were further hampered by a lack of political will and by confused financial and political relationships with 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 staff adequate salaries. The MOLVT often decided in favor of employees but rarely used its legal authority to penalize employers who defied its

orders.

During the year there were credible reports of antiunion harassment by employers, including the dismissal of union leaders, in garment factories and other enterprises. Employers sometimes relied on the courts to dismiss or punish union leaders. In three cases, union leaders were charged with inciting workers to strike and destroying private property. 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 902 companies of legal violations, fined 19 companies, and sued 17 companies on behalf of workers. During the same period the MOLVT sent 75 cases of unresolved labor disputes to the Arbitration Council for arbitration.

#### 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. Wages were set by market forces, except in the case of civil servants, whose wages were set by the government.

Since passage of the 1997 labor law, there has been confusion about the overlapping roles of labor unions and elected shop stewards. In 2000 the MOLVT issued a regulation that gave trade union leaders roles comparable to those of shop stewards and extended protection from dismissal to certain union officers within an enterprise; however, these protections for union leaders were not always respected by employers.

During the year there were 13 collective bargaining agreements registered with the MOLVT; most were conciliation agreements that did not meet international collective bargaining standards. Only five genuine collective bargaining agreements existed within the garment industry. These agreements provided additional health and welfare provisions such as extra sick leave and maternity leave, factory clinic upgrades, and union controlled welfare funds.

A 2001 regulation established procedures to allow unions to demonstrate that they represent workers for purposes of collective bargaining. The regulation also established requirements for employers and unions regarding collective bargaining and provided union leaders with additional protection from dismissal. The Bureau of Labor Relations facilitated the process of union registration and certification of "most representative status" for unions, which entitled a union representing an absolute majority of workers in a given enterprise to represent all of the workers in that establishment. The MOLVT granted most representative status to 11 unions during the year. Unions that applied for this status but had not received it complained of unnecessary bureaucratic delays.

The 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, and arbitration), a secret ballot vote of union membership, and a seven day advance notice to the employer and Ministry of Labor.

There was a significant increase in labor unrest from February to June, leading to an unprecedented number of working days lost to strikes in the garment industry. The MOLVT reported that 103 strikes occurred during the year, nearly all of which violated prestrike legal requirements. Union leaders, in contrast, maintained that twice as many strikes had actually taken place. However, several unions admitted their strikes were not in compliance with legal procedures. Other unions complained that a severe lack of MOLVT involvement led to an unprecedented increase in industrial strikes from February to June.

The government allowed most strikes held at factories but denied worker requests to hold protest marches outside of the factory district. Police intervention in strikes generally was minimal and restrained, even in those cases where property damage occurred. Police presence at the few marches that occurred tended to be excessive and often included a specialized police intervention unit.

On January 22, approximately 300 union and nongovernment organization workers defied a municipal government ban and held a march commemorating the second anniversary of the assassination of union leader Chea Vichea. The march was peaceful, and there was no police interference.

On May 1, police detained Free Trade Union (FTU) President Chea Mony and two of his colleagues as they attempted to lead more than 1,000 workers in a Labor Day march. When word of their release came two hours later, fellow union leader Rong Chhun led the workers in a peaceful march. However, there were reports of police interference and violence in other parts of the city. Police reportedly blocked major roads into Phnom Penh early in the morning in an effort to prevent workers from entering the city. In addition, there were also many unconfirmed reports of isolated clashes between workers and police across the city, including allegations that police used electric batons and water cannons to subdue workers.

On June 20, approximately 200 riot police officers forcibly broke up a march involving more than 1,500 workers protesting the illegal suspension of a union leader and urging a garment factory to comply with an Arbitration Council award. Four protesters were seriously injured, and 15 more protesters sustained minor injuries.

On August 7, three factory level union leaders affiliated with FTU were convicted of charges of illegal human confinement, marking the first time that union leaders were convicted of felony charges. The workers, who had been imprisoned since July 3, were sentenced to one month and four days in prison and a three year suspended jail term with five years' probation. While the strike and subsequent worker blockade of the factory were both illegal, no evidence emerged to support allegations that managers were detained inside the factory.

At year's end the case of three Federation Union of Solidarity leaders arrested in May 2005 on charges of extorting money from a garment factory was pending.

On October 16, workers at Bright Sky garment factory in Phnom Penh staged an illegal strike stemming from a dispute over short term work contracts. As the strike threatened to become violent, riot police moved in to suppress the unrest. One female worker from a neighboring garment factory was shot in the abdomen as she walked home after work, and several Bright Sky workers alleged that they were beaten by police. Police denied involvement in the shooting or beatings, claiming that they only fired their weapons into the air and did not assault any workers. Two workers were arrested but later released. A week after the incident, the factory ended night shift production and dismissed the entire night shift, arguing that night shift workers were behind the October 16 disturbance and had been provoking labor unrest.

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. In some cases strikers were pressured by employers 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 nonbinding decision. Individual disputes can be brought before the court.

In September and October, 17 garment sector unions--representing essentially all of the country's unionized garment workers--overcame longstanding rivalries to negotiate collectively with the Garment Manufacturers Association of Cambodia. Negotiations, which centered on raising the minimum wage, progressed slowly with neither side willing or able to compromise significantly. On October 19, the day before the last scheduled negotiating session, the government called a meeting of the Labor Advisory Committee (LAC), a tripartite group with probusiness and progovernment leanings. The LAC approved a government plan to increase the minimum wage by \$5 (21,000 riels) per month effective January 1, 2007. Independent labor observers were disappointed by the government action, as they had hoped for a compromise independent of the LAC.

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

The law prohibits forced or compulsory labor, including forced labor by children, but the government did not enforce its provisions adequately. Involuntary overtime remained widespread. Under the law, legal overtime work cannot exceed two hours daily and must be voluntary; however, in practice overtime was often extended beyond the legal limit, and employers used coercion to force employees to work. Workers often faced fines, dismissal, or loss of premium pay if they refused to work overtime.

There also were reports of isolated cases of forced labor by domestic servants.

Forced child labor was a serious problem in the commercial sex industry (see sections 5 and 6.d.).

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

The government has adopted laws to protect 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.

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. MOLVT has responsibility for child labor issues 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. 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.

Of children between ages five and 17, 53 percent were employed; one third of these children were older than 14. Approximately 71 percent of them worked in agricultural, farming, or forestry activities; 21 percent in sales or service; and 7 percent in production work.

The constitution prohibits forced or bonded child labor; however, forced child labor was a serious problem in the commercial sex industry (see section 5). 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 minimum wages based on recommendations from the Labor Advisory Committee. The minimum wage was raised from \$45 to \$50 (189,000 to 210,000 riels) per month. This amount, which applied only to garment and footwear factories, was generally respected during the year. There was no minimum wage for any other industry.

Garment workers earned an average wage of \$70 to \$80 (294,000 to 336,000 riels) per month, including overtime and bonuses. 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. Civil service salaries also were insufficient to provide a decent standard of living, requiring government officials to secure outside sources of income, in many cases by obtaining second jobs or collecting bribes.

The law provides for a standard legal workweek of 48 hours, not to exceed eight hours per day. The law stipulates time and a half for overtime and double time if overtime occurs at night, on Sunday, or on a holiday; however, the government did not enforce these standards effectively. Workers in many garment factories reported that overtime was excessive or involuntary or that they were required to work seven days per week. Similarly, outside the garment industry, regulations on working hours were rarely enforced.

The law states that the workplace should have health and safety standards adequate to ensure workers' well being. The government enforced existing standards selectively, in part because it lacked trained staff and equipment. 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 who removed themselves from unsafe working conditions risked loss of employment.