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## 1999 Country Reports on Human Rights Practices

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### CAMBODIA

Cambodia is a constitutional monarchy. Political stability, achieved through the coalition Government formed following the 1998 national elections, continued through year's end. Hun Sen of the Cambodian People's Party (CPP) is Prime Minister, Prince Norodom Ranariddh of the National United Front for a Neutral, Peaceful, Cooperative, and Independent Cambodia (FUNCINPEC) is President of the National Assembly, and Chea Sim of the CPP was president of the Senate, which was created in March. The 1998 electoral campaign and its aftermath were marred by protests, voter intimidation, and partisan violence, some of it government-directed. Despite these events, the formation of the new Government reflected the will of the electorate. King Norodom Sihanouk remains the constitutional monarch and Head of State. Most power lies within the executive branch and, although its influence grew within the new coalition structure, the National Assembly does not provide a significant check to executive power. For the first time in 30 years, the Khmer Rouge was not a political or military threat. The judiciary is not independent; it frequently is subject to legislative and executive influence, and suffers from corruption.

The National Police, an agency of the Ministry of Interior, have primary responsibility for internal security, but the Royal Cambodian Armed Forces (RCAF), including the military police, also have domestic security responsibilities. Government efforts to improve police and RCAF performance no longer were hampered significantly by political factionalism within the forces but remained hampered by budgetary limitations. Members of the security forces committed numerous documented human rights abuses.

Cambodia is an impoverished country. It has a market economy in which approximately 80 percent of the population of 11.4 million engage in subsistence farming, with rice as the principal crop. Economic deprivation and poor health characterize life for most citizens. Annual per capita gross domestic product is approximately \$300. Average life expectancy is only 50 years. Foreign aid is an important component of national income. The stagnant economy of previous years began to improve following the formation of the

coalition Government in late 1998, and business activity and tourism increased significantly during the year.

There continued to be serious problems in the Government's human rights record; however, there were marked improvements in several areas. The military forces and police were responsible for dozens of extrajudicial killings, and impunity remains a problem since the Government rarely prosecuted the perpetrators of such killings. However, unlike the previous year, there were no reports of politically motivated killings. There were credible reports that members of the security forces tortured, beat, and otherwise abused persons in custody, often to extract confessions. Prison conditions remained harsh, and the Government continued to use arbitrary arrest and prolonged pretrial detention.

In August the Government repealed civil service legislation that previously made it difficult to arrest and prosecute members of the police and security forces for criminal activity. Courts began to prosecute some members of the security forces for human rights abuses; however, immunity for those who committed human rights abuses remains a problem. The Government, and local government officials, generally continued to lack the political will and financial resources to act effectively against security force officials suspected of being responsible for human rights abuses. Democratic institutions, especially the judiciary, remain weak. The judiciary is subject to influence by the executive branch and is marred by inefficiency, a lack of training, a shortage of resources, and widespread corruption related to low wages. Politically related crimes rarely were prosecuted, and citizens without defense counsel often effectively were denied the right to a fair trial. The Government's respect for freedom of the press, assembly, and association improved, and the Government generally respected these rights.

Societal discrimination against women is a problem. Domestic violence against women and abuse of children are common. Discrimination against the disabled is a problem. The ethnic Vietnamese minority continued to face widespread discrimination by the Khmer majority, and this enmity was exploited by the political opposition. Labor conditions generally improved. The Government took steps to ease the creation and registration of trade unions; however, the Government does not enforce effectively legal provisions on wages, overtime labor, rest time, and protection of workers' rights to organize. Trafficking in women and girls for the purpose of forced prostitution is a serious problem.

Mob violence, not ethnically directed, resulted in some killings. Land mines killed or wounded over 800 persons.

The mass Khmer Rouge defections that began in 1996 and ended in late 1998 with the surrender of senior Khmer Rouge leaders Nuon Chea and Khieu Samphan resulted in complete cessation of the guerrilla insurgency against the Government. In March Ta Mok, the sole remaining Khmer Rouge leader at large following the mass defections, was arrested at the Thai border. Efforts to bring Ta Mok and senior Khmer Rouge leaders to justice for crimes committed from 1975 through 1979 remained underway.

## **RESPECT FOR HUMAN RIGHTS**

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

#### a. Political and Other Extrajudicial Killing

Unlike previous years, there were no reports of politically motivated killings by the government forces; however, the military forces and police committed dozens of extrajudicial killings. The United Nations Center for Human Rights (UNCHR) documented many such nonpolitical killings.

On February 2, Cheng Srey, a 19-year-old woman working in a Phnom Penh karaoke bar was killed following a dispute with a customer. According to witnesses, Cheng Srey had refused a proposition made by the customer, who then shot the victim in the forehead. Witnesses identified a police officer as the assailant, but he escaped without being apprehended. A warrant for his arrest was issued in July.

On October 13, Bith Poeun was arrested in Phnom Penh following a series of robberies. After interrogation and a search of the residence in which he and his accomplices lived, the local police retrieved stolen merchandise and brought it outside the house. They thereafter released Bith Poeun in front of the house, where an angry crowd had gathered. The crowd kicked and beat Bith Poeun severely as the police watched; he was shot and killed by police when he attempted to flee. The Government took no action against the police.

On March 26, opposition party member Chhum Doeun was killed in Kandal province during a nighttime burglary at his home by several persons, including a local village chief who had long been involved in a dispute with the victim. Chhum Doeun was shot at least 11 times; the gunmen then took jewelry and money belonging to the victim's wife and relatives. The UNCHR determined that Chhum Doeun's death was attributed to personal, not political, factors.

Two prisoners from the Sihanoukville prison, Chen Vibol and Nguyen Yang Yong, were killed by prison officials on June 17 after an unsuccessful escape attempt by over 30 prisoners. Chen Vibol and Nguyen Yang Yong were among the first prisoners recaptured after the escape attempt and were returned to the prison. Chen Vibol was taken to the prison director's office and Nguyen Yang Yong was brought to the prison yard. Shortly thereafter, they were executed by prison guards. The Government took no action against the prison guards.

Early in the year, there were a number of apparently racially motivated grenade attacks in which 1 person was killed and approximately 30 were injured (see Section 5). There also were killings that may have been ethnically motivated (see Section 5).

In some cases, police or military forces acquiesced in or encouraged mob violence against suspected criminals, which resulted in killings. The Government did not arrest or vigilantes for committing such killings. The Government also has not prosecuted most of those responsible for the numerous political or extrajudicial killings committed during the term of the previous government and reported by the UNCHR in 1997 and 1998. Through year's end, 1,005 civilians and military personnel were killed or wounded by land mines deployed by the Khmer Rouge or various government forces during previous conflicts. The number of such casualties declined by approximately 40 percent from 1998.

In March Ta Mok, the sole remaining Khmer Rouge leader at large, was arrested at the

Thai border. Efforts continued to bring Ta Mok and other senior Khmer Rouge officials to justice for mass killings and other crimes committed from 1975 through 1979 (see Section 1.e.). The Government thereafter charged Ta Mok with illegal membership in the Khmer Rouge and genocide.

In April the Government arrested Kiang Kek Iev ("Duch"), the former director of the Khmer Rouge prison Tuol Sleng. In May he was charged with murder.

In June Nuon Paet, a former Khmer Rouge commander, was sentenced to life imprisonment for his role in the 1994 train ambush in Kampot province that resulted in the deaths of 3 foreigners and at least 13 citizens. Later, charges were brought against Sam Bith and Chouk Rin, former Khmer Rouge commanders who are officers in the RCAF and who allegedly were involved in the ambush as well. By year's end, however, neither Bith nor Chouk had been arrested.

#### b. Disappearance

Unlike previous years, there were no reports of politically motivated disappearances. One local human rights nongovernmental organization (NGO) reported that the whereabouts of four persons were unknown following their arrests during the year by local police or security officials for various crimes, including robbery and theft. By year's end, all remained missing, and NGO efforts to establish their whereabouts continued.

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

The Constitution prohibits torture and physical abuse of prisoners; however, torture, beatings, and other forms of physical mistreatment of persons held in police or military custody continued to be a serious problem. The problem is compounded further by government impunity, whereby perpetrators of torture and abuse frequently are protected from prosecution or disciplinary action by local government authorities, despite some central government efforts to curtail or eliminate violations of prisoners' rights and to address problems of accountability.

There were credible reports that military and police officials used physical and psychological torture and severely beat criminal detainees, particularly during interrogation. According to the UNCHR, the Serious Crimes Department of the municipal police in Phnom Penh beat or tortured persons routinely, but less frequently than during the previous year. Dozens of detainees interviewed in Siem Reap, Sihanoukville, and Banteay Meanchey provinces reported beatings in police custody. One domestic human rights NGO received 8 formal complaints of torture and recorded 94 other cases of new physical assaults through October. At the youth rehabilitation center in Phnom Penh, 13 of 48 detainees interviewed claimed torture or mistreatment by police.

Following intervention by the UNCHR in May, the Government instructed police throughout the country to cease any activity that might violate the law or the rights of citizens and informed them that any violations would be punished. The National Police thereafter investigated and provided detailed accounts of 32 instances of torture in Battambang province that had been reported by the UNCHR in 1997. It is not known whether anyone was prosecuted, nor whether there were further investigations of 1998 abuses. After intervention by human rights organizations, the situation involving torture

by local police in Koh Kong province improved during the year.

There were credible reports that police harassed members of opposition parties (see Section 1.f.). There were also reports that police took the proof of citizenship of persons of Vietnamese ethnicity.

In April the Government arrested the former head of a Khmer Rouge prison and torture center (see Section 1.a.).

Prison conditions remained harsh, and government efforts to improve prison conditions and implement new regulations were hampered by lack of funds and weak enforcement. However, conditions improved due to construction and renovation of some prison buildings, the timely disbursement of monthly government allocations for food and operating costs, and the adoption of new prison regulations that require the application of international standards of detention. Human rights organizations cited a number of serious problems, including overcrowding, health problems, food and water shortages, malnutrition, and poor security. Use of shackles and the practice of holding prisoners in small, dark cells continued in some prisons after escape attempts. Government ration allowances for purchasing prisoners' food remain inadequate, exacerbating their malnutrition.

The Government continued to allow domestic human rights groups to visit prisons and prisoners and to provide human rights training to prison guards. However, NGO's reported occasional limited cooperation from provincial authorities (see Section 4).

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, the Government continued to arrest and detain citizens arbitrarily. A penal code drafted by the U.N. Transitional Authority for Cambodia in 1992 remains in effect, as does a 1993 criminal procedure law. The criminal procedure law in principle provides for adequate protection for criminal suspects; however, in practice the Government sometimes ignored these provisions during the year. One human rights NGO recorded 17 complaints of unlawful detention and arrest by police, military, or local government authorities through October.

Although lengthy detention without charge is illegal, suspects often are held by authorities for long periods before being charged or brought to trial or released. According to the UNCHR, such prolonged detention largely is a result of a growing prison population and the limited capacity of the court system. Accused persons legally are entitled to a lawyer, although in practice they often have limited access to legal representation. Prisoners are held routinely for several days before gaining access to a lawyer or family members. Although there is a bail system, many prisoners, particularly those without legal representation, often have no opportunity to seek release on bail. The introduction in 1998 into the legal system of newly trained lawyers, who frequently received supplemental training by NGO's, resulted in significant improvements during the year for those defendants who were provided with counsel, including a reduction in pretrial detention period and improved access to bail.

In August the Parliament amended the law to extend the maximum period of pretrial detention to 3 years for alleged Khmer Rouge war crimes in order to permit the continued

detention of Ta Mok and "Duch" until a Khmer Rouge tribunal is formed.

The Government does not use forced exile, and no persons were in self-imposed exile during the year.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the Government does not respect this provision in practice. The courts are subject to influence by the executive, and there is widespread corruption among judges, virtually none of whom receives a living wage.

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 Magistracy, which appoints and disciplines judges. The composition of both of these bodies is viewed widely as favorable to the Cambodian People's Party, resulting in complaints by other political parties of its institutional dominance. There is a separate military court system.

Trials are public. Defendants have the right to be present and to consult with an attorney, to confront and question witnesses against them, and to present witnesses and evidence on their own behalf. However, trials are typically perfunctory, and extensive cross-examination usually does not take place. The serious shortage of attorneys--especially outside of Phnom Penh--remains a significant impediment to broader implementation of the right to counsel in practice. Persons without the means to secure defense counsel often effectively are denied the right to a fair trial.

Defendants also are entitled by law to the presumption of innocence and the right of appeal. However, because of excessive corruption, defendants often are expected to bribe the judge for a favorable verdict, therefore effectively being denied the presumption of innocence. Citizens' rights to appeal sometimes are limited by the logistic difficulties in transferring prisoners from provincial prisons to the appeals court. Many appeals thus are heard in the absence of the defendant.

A serious lack of resources and poor training contribute to corruption and inefficiency in the judicial branch and in practice the Government does not ensure due process. For example, judges often have no legal training and lack copies of the laws on which they are expected to rule. As a result of these weaknesses, citizens often effectively were denied a fair trial.

The courts often pressure victims of crimes to accept small cash settlements from the accused instead of seeking prosecution of the guilty. When a case does make its way to court, the verdict sometimes is determined by a judge before the case is heard, often on the basis of a bribe paid by the accuser or the defendant. Sworn, written statements from witnesses and the accused usually are the extent of evidence presented in trials. Such statements by the accused sometimes result from beatings or threats by investigation officials, and illiterate defendants often are not informed of the content of written confessions that they are forced to sign. In cases involving military personnel, military officers often exert pressure on judges to have the defendant released without a trial or other due process.

In August the National Assembly and Senate amended Article 51 of the Common Statute on Civil Servants that previously had made it difficult to arrest and prosecute members of the police and security forces for criminal activity. Subsequently, the courts began to prosecute some members of the security forces for human rights abuses, but immunity for those who commit human rights abuses remains a problem. The Government and local government officials generally continued to lack the political will and financial resources to act effectively against security force officials suspected of being responsible for human rights abuses.

In November the Government formed a legal committee headed by the Minister of Justice to investigate court corruption. In December the Ministry of Justice suspended two senior municipal court officials for corruption and detained and rearrested several criminals or suspects who had been released previously by them. Although several of those rearrested admitted that they had bribed the court to secure their release, some criticized the Government's actions as procedurally invalid.

There is ongoing cooperation between the Government, many foreign donors, and NGO's to improve the legal system. Assistance programs had been suspended after violence in July 1997.

In an avowed action to remove official impunity for crimes committed by government authorities, the Government in August amended the 1994 law on civil servants to remove the requirement that the courts seek advance government permission to prosecute a member of the civil service, which includes the police. Cited as a positive step by the UNCHR, this reform removed the legal bar to prosecutions of civil servants, and some successful prosecutions of police and security officials began in August. Nonetheless, court delays or corrupt practices often allow those accused of crimes to flee or otherwise escape prosecution, effectively leading to effective impunity for some government officials who commit crimes.

In March Ta Mok, the one remaining senior Khmer Rouge leader still at large was arrested and remains in prison pending trial. In April the Government arrested Duch, the director of the former Khmer Rouge prison Tuol Sleng; he also remains in prison pending trial. During the year, following an initiative by the U.N. Secretary General and agreement by the Government to permit the participation of foreign judges and prosecutors in the domestic legal system, the Government drafted new legislation to create a legal and judicial framework to bring these and other Khmer Rouge leaders to justice. In September it sought expert legal advice from the international community to develop a plan to seek credible justice and accountability for crimes committed during the Khmer Rouge regime in a fashion consistent with the Constitution and international standards of justice. However, despite continued diplomatic efforts, the Government and the U.N. had not reached agreement over a framework for a tribunal by year's end. In August the Parliament amended the law to extend the maximum period of pretrial detention to 3 years for alleged Khmer Rouge war crimes in order to permit the continued detention of Ta Mok and "Duch" until a Khmer Rouge tribunal is formed.

Two employees of the human rights NGO LICADHO, arrested in 1998 following violent demonstrations against a toxic waste dump in Sihanoukville, were tried in July. At the end of a 3-day trial, all charges against the two human rights workers and eight other defendants were dismissed for lack of evidence. Despite some procedural irregularities,

most observers found the trial to be generally fair, with active participation by defense counsel (see Section 4).

In September the UNCHR received reports that Prey Veng provincial authorities had granted immunity from prosecution to 15 persons who had confessed to crimes that included murder and robbery. In October Prey Veng authorities granted further extraconstitutional amnesties from prosecution to a group of brothel owners. Many suspected that bribery played a decisive role in these cases.

The military court system suffers from deficiencies similar to those of the civilian court system. Moreover, the legal distinction between the military and civil courts often is ignored in practice; several persons arrested for crimes that appear to have no connection with military offenses have been detained for trial by the military court.

There were no reports of political prisoners.

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

The Constitution contains provisions protecting the privacy of residence and correspondence and includes a provision against illegal search; however, the police routinely conducted warrantless searches and seizures. There were no reports that the Government monitored private electronic communications.

Citizens generally were free to live where they wished; however, there were continued reports of land disputes between residents, local authorities, and business persons. Since the forced collectivization during Khmer Rouge rule and the return of thousands of refugees, land ownership is often unclear, and adequate land titles do not exist. Moreover, with the end of the Khmer Rouge insurgency, the rush to gain possession of former Khmer Rouge lands on or near potentially lucrative cross-border trade routes has exacerbated the land ownership problem caused by lack of documentation.

In response to the prevalence of land disputes, several provinces created land dispute settlement committees chaired by one of the deputy provincial governors; these committees resolved several disputes, although sometimes they encountered difficulty in resolving disputes that involved military officials. The Government is drafting a land law with the help of international organizations and NGO's.

In June and July, almost 300 families were removed from land on which they had resided in Banteay Meanchey province amid claims by local military officials and business persons that they were squatters illegally occupying land owned by the Government or other persons. Although some accepted compensation packages through mediation by provincial officials, others claim that they lost the land unjustly and mounted protests at the National Assembly in Phnom Penh to deter use of the land for business and commercial activity or new infrastructure developments to be constructed in the area.

In August 500 families were removed from their homes in the former military resistance stronghold of O'Smach in Oddar Meanchey province. In most cases, the families had occupied the area since they returned from refugee camps in Thailand earlier in the year and were relocated to a newly demined residential building site 1.2 miles away (see Section 2.d.). The Government claimed that a new market and commercial area would be

developed on the cleared land, which is at the Thai-Cambodian border; the Government and Thai companies building the complex paid compensation and distributed roofing materials to the displaced families, but many complained that the compensation was inadequate.

In November approximately 600 residents of a floating village on the Bassac River in Phnom Penh were evicted by municipal authorities as illegal Vietnamese immigrants and forced to float down river toward Vietnam. Although most lacked identity documents, some residents claimed that they were Cambodian citizens of Vietnamese ethnicity and that proof of their citizenship was confiscated by police officials in the days prior to their eviction. The Government claimed that police investigated their residency status and displaced only those without legitimate documents (see Section 5).

The Government does not coerce or forbid membership in political organizations systematically; however, there were several credible cases in which members of the opposition Sam Rainsy party (SRP) complained of being harassed by police or other local officials. In other cases, including the arrest of two persons with ties to the SRP for their roles in the 1998 rocket attack against the Prime Minister's motorcade and the kidnaping for ransom of a SRP parliamentarian, opposition claims of government-sponsored political harassment could not be verified by the UNCHR.

Unlike the previous year, there were no reports that military officers forcibly conscripted adults and children.

## Section 2. Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of expression, press, and publication, and the Government generally respects this right in practice, unlike the previous year when it sometimes limited press freedom. However, the Constitution implicitly limits free speech by requiring that speech not adversely affect public security. The Constitution also declares that the King is "inviolable." The Press Law provides journalists with a number of rights, including a prohibition on prepublication censorship and protection from imprisonment for expressing opinion. However, the Press Law also includes a vaguely worded prohibition on publishing articles that affect national security and political stability. Unlike the previous year, there were no reports that journalists practiced self-censorship. The number of news items critical of the Government was high and included frequent vituperative personalized criticism of the Prime Minister and president of the National Assembly.

Although limited in circulation, newspapers are a primary source of news and expression of political opinion. All major political parties have reasonable and regular access to the print media. The press remained somewhat partisan but, unlike the past year, the only major newspapers receiving substantial financial support from a political party were a few opposition newspapers. As a result, the number of Khmer-language newspapers declined. There are approximately 16 Khmer-language newspapers published regularly. Of these, 11 are considered to be progovernment journals, 4 are considered to support the opposition Sam Rainsy Party, and one is considered to be antimonarchy. In addition there is one French-language daily, one English-language daily, and two other English

newspapers published regularly. Many of the Khmer-language newspapers frequently publish articles translated from the English-language newspapers.

Most newspapers criticize the Government frequently, and Prime Minister Hun Sen and National Assembly President Prince Ranariddh frequently came under strong attack by opposition newspapers. Unlike the previous year, there were no instances of government intimidation or retribution against newspapers for reporting critical of the Government.

In September the Ministry of Information suspended an antimonarchy newspaper, Republic News, for 30 days due to publication of an article critical of King Sihanouk. In at least three other instances, the Ministry of Information sent warning letters to other newspapers for publishing articles critical of the King, citing the constitutional prohibition against such acts.

The Government, the military forces, and political parties continued to dominate the broadcast media. The government-sponsored television network inaugurated live coverage of National Assembly sessions at the initiative of Prince Ranariddh, the National Assembly President. According to a report by the U.N. Center for Human Rights (UNCHR), the procedures for licensing and allocation of radio and television frequencies to the media were not impartial.

In March the Government authorized the opposition Sambok Khmum (beehive) radio station to resume broadcasting. In August the FUNCINPEC Party was permitted to resume control of its radio station which had been confiscated in 1997. National radio and television stations regularly broadcast some human rights, social action, public health, and civil society programming produced by domestic NGO's.

The Government respects academic freedom. In January students protested the lack of available jobs. In February university students demonstrated peacefully to protest low budget allocations for education and to support teachers' demands for higher salaries; the Government subsequently agreed to modest increases in teacher salaries. In December students again mounted a public demonstration over dormitory issues.

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

The Constitution provides for freedom of peaceful assembly and, unlike the previous year, the Government generally respected this right in practice. Numerous groups assembled peacefully, including workers protesting labor conditions, political opposition activists supporting a tribunal for Khmer Rouge leaders or other issues, students protesting lower budget allocations and dormitory problems, teachers rallying to demand higher wages, and other groups protesting land seizures or border encroachments, all without incident.

The Government requires a permit to be obtained in advance of a march or demonstration. The Government often did not issue a requested permit, or took no action on a permit application, but these actions did not have any practical effect since the assemblies were held anyway. Unlike the previous year, there were no incidents in which security forces disrupted or ended marches or demonstrations.

The Constitution provides for freedom of association, and unlike the previous years, the Government generally respected this right in practice. There were no reports of

interference with political party offices. The Government proposed a revised draft NGO law that eliminated many provisions previously opposed by the NGO community but retained some registration and reporting requirements for domestic NGO's and associations; by year's end, the National Assembly had not debated or acted on the new draft law.

Membership in the Khmer Rouge, which previously conducted an armed insurgency against the Government, is illegal.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. The Constitution also prohibits discrimination based on religion, and minority religions experience little or no official discrimination. Buddhism is the state religion and over 95 percent of the population is Buddhist. Most of the remainder is made up of ethnic Cham Muslims, who generally are well integrated into society.

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

The Government does not restrict domestic or international travel, although the presence of land mines and bandits makes travel in some areas of the country dangerous.

Monks can move internally without restriction.

All Cambodian refugees remaining in temporary refugee camps in Thailand returned to the country following the formation of the coalition Government in late 1998; over 37,000 refugees returned either spontaneously or through the U.N. High Commissioner for Refugees' (UNHCR's) voluntary repatriation program during the first 4 months of the year. All refugee camps at the Thai border subsequently were closed.

There were no reports of refugees being forced by Thai authorities to return to Cambodia involuntarily, according to the UNHCR, nor were there any reports of persecution or discrimination against those who returned from any country. Internally displaced persons also were allowed to resettle in other areas of the country.

The Government allows noncitizens to apply to the UNHCR for refugee status. The Government cooperated with the UNHCR and other humanitarian organizations to prepare for and assist in the repatriation of the returning refugees from Thailand. The Government has not formulated a policy regarding asylees or first asylum, and it did not provide asylum during the year.

There were no reports that the Government forced persons to return to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and most citizens exercised this right by participating in the 1998 national elections. In

July 1998, in the first national elections since 1993, the CPP won a plurality of votes. The electoral campaign and its aftermath were marred by protests, voter intimidation, and partisan violence, some of it government-directed. Despite such incidents, the formation of the new Government reflected the will of the electorate. Most international and domestic observer groups certified the election as acceptable.

The coalition Government formed in late 1998 between the Cambodian People's Party and FUNCINPEC, the two parties that won the largest number of votes and National Assembly seats in the 1998 election, achieved renewed political stability. The coalition agreement provided for roughly equal power sharing between the parties, with Hun Sen of the CPP as Prime Minister and Prince Ranariddh of FUNCINPEC as President of the National Assembly. The coalition agreement also provided for the creation of a Senate, which was formed in March with Chea Sim of the CPP as President. The Senate's function is to review and provide advice on the laws passed by the National Assembly; the National Assembly retains final authority over whether to modify legislation based upon the Senate's recommendations.

Although growing in influence, the legislature remained weak in comparison with the executive branch. The coalition Government appointed the provincial governors and their deputies, who generally are divided between the CPP and FUNCINPEC parties, as well as district officials. Commune level officials were appointed by the previous government; most of these officials are appointees from the previous regimes, the People's Republic of Kampuchea and the State of Cambodia. Elections for new commune councils were not held in 1999 as planned, and are scheduled for late 2000. The National Assembly has not yet enacted the communal election law or commune administration law.

Although traditional cultural practices inhibit the role of women in government, women took an active part in the 1998 national election and participate actively in the coalition Government. There are 10 women among the 122 members of the National Assembly, 8 women among the 61 members of the Senate, and 2 ministers and 4 state secretaries in the Cabinet, which includes a Ministry of Women's and Veterans Affairs. There are several members of ethnic and religious minorities in the Cabinet and the National Assembly (see Section 5).

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

The large domestic and international human rights community remained active and engaged in diverse activities. Numerous human rights organizations and the UNCHR conducted monitoring activities and human rights training for provincial officials, military officers, villagers, the legal community, and other groups. These organizations operated relatively freely throughout the country. There are approximately 40 NGO's involved in human rights activities, but only a small portion were involved actively in organizing training programs or investigating abuses. The Government generally cooperated with human rights workers in performing their investigations, but some domestic NGO's reported occasional limited cooperation from some provincial authorities in conducting inspections of prison conditions.

In July two human rights workers from the NGO LICADHO who were arrested in 1998 following violent demonstrations against a toxic waste dump in Sihanoukville were

acquitted in a trial that most observers found to be credible (see Section 1.e.). Although some NGO's expressed concern that the arrest of these workers would have a negative effect on human rights work, no similar arrests were reported during the year.

In September the Government and the UNCHR agreed to an extension until March 2002 of the UNHCR's activities in the country, although the formal memorandum of understanding was not signed by year's end. The UNCHR maintains a head office in Phnom Penh and has six provincial offices. The U.N. Special Representative for Human Rights met with government representatives at all levels, as well as with representatives of political parties and NGO's.

By year's end, the government-established Cambodian Human Rights Committee had published the results of only a few of its investigations of the human rights abuses that had been reported by the UNCHR in previous years. The Committee, which was established in June 1998, also is charged with improving the administration of justice and drafting a law to establish an independent permanent national human rights commission. By year's end, the commission had not been established.

#### Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, color, sex, language, religious beliefs, or political views. Although the Government does not engage in discrimination systematically, it sometimes fails to protect these rights in practice.

##### Women

Domestic and international NGO workers report that violence against women, including rape and domestic violence, is common. Although there were reports of rape and domestic abuse, accurate statistics are not available. Authorities normally decline to become involved in domestic disputes, and the victims frequently are reluctant to complain.

Prostitution and trafficking in women are serious problems (see Section 6.f.). Due in part to budgetary limitations, the Government has not enforced effectively a 1996 law against prostitution and trafficking in women. Despite sporadic government crackdowns during the year on brothel operators in Phnom Penh, the prostitution trade continues to flourish. A survey by a local human rights NGO found that three-fourths of women and girls who work as prostitutes do so voluntarily, while one-fourth have been forced to work as prostitutes or have been deceived into prostitution.

According to NGO reports, women comprise 52 percent of the population, 60 percent of agricultural workers, 85 percent of the business work force, 70 percent of the industrial work force, and 60 percent of all service sector workers. Women often are concentrated in low-paying jobs in these sectors and largely are excluded from management positions.

The Constitution contains explicit language providing for equal rights for women, equal pay for equal work, and equal status in marriage. In practice women have equal property rights with men, have the same status in bringing divorce proceedings, and have equal access to education and some jobs. However, cultural traditions continue to limit the ability of women to reach senior positions in business and other areas. There are a large

number of women's NGO's that train poor women and widows and address social problems such as spousal abuse, prostitution, and trafficking. An active Women's Media Center NGO produces and broadcasts programming on women's issues.

### Children

The Constitution provides for children's rights, and ensuring the welfare of children is a specific goal in the Government's political program. The Government relies on international aid to fund most social welfare programs targeted at children, resulting in only a modest flow of funds to ameliorate problems that affect children. Children frequently suffer from the inadequacy of the health care system. Infant mortality is reported at 89.4 per thousand, and 12 percent of children do not live to the age of 5 years. Child mortality from preventable diseases is high.

Children also are affected adversely by an inadequate educational system. Despite an extensive government school construction program, schools are overcrowded and short of equipment. Less than 5 percent of primary school teachers have completed high school. The Government does not deny girls equal access to education but in practice families with limited resources often give priority to educating boys.

Child abuse is believed to be common, although there are no statistics available on the extent of the problem. Poverty and domestic violence often drive children onto the streets; domestic NGO's estimate there are more than 10,000 street children in Phnom Penh alone, who are easy targets for sexual abuse and exploitation.

Although sexual intercourse with a minor under the age of 15 is illegal, child prostitution and trafficking in children were common (see Section 6.f.). In July the Government adopted a 5-year plan against child sexual exploitation that emphasizes prevention through information and protection through law enforcement.

In November in a demonstration organized by domestic and foreign NGO's marking the anniversary of the signing of the Convention on the Rights of the Child, 300 child marchers between the ages of 10 and 18 marched peacefully through Phnom Penh to demand that the Government take further steps to protect their rights.

### People with Disabilities

The Government does not require that buildings or government services be accessible to the disabled. According to the Government, approximately 1 in 250 citizens is missing at least one limb. This statistic reflects the continuing effects of land mine detonations. Programs administered by various NGO's have brought about substantial improvements in the treatment and rehabilitation of amputees. However, amputees face considerable societal discrimination, particularly in obtaining skilled employment.

### Religious Minorities

Muslims are the largest religious minority and experience little or no discrimination in practice; however, occasional tensions have been reported among the various branches of Islam, which receive monetary support from groups in Saudi Arabia, Kuwait, Malaysia, or Indonesia depending on the tenets of the particular branch.

The small Christian community has not experienced serious or systematic discrimination; however, occasional tensions have been reported when Christian evangelists have attempted to remove Buddhist images or religious items in private homes. Christian missionary groups have not encountered significant difficulties in performing their work.

#### National/Racial/Ethnic Minorities

Citizens of Vietnamese and Chinese ethnicity have long constituted the largest ethnic minorities. Ethnic Chinese citizens are well accepted in society. However, fear and animosity continue among many Khmer citizens toward ethnic Vietnamese, who are seen as a threat to the Cambodian nation and culture. The rights of minorities under the 1996 Nationality Law are not explicit; constitutional protections are extended only to "Khmer people," that is, Cambodians.

In July in Ratankiri province, a group of armed bandits killed and injured several persons from five remote hill tribe villages. A total of 14 persons were killed, including 13 ethnic Jarai villagers and 1 ethnic Vietnamese. The motive of the killers remains unclear, but it appears that the villages in which the victims lived were targeted specifically.

Unlike 1998 there were no reports of ethnic violence supported by opposition politicians during which ethnic Vietnamese citizens or residents were killed, despite continued anti-Vietnamese statements by the political opposition.

In at least five separate attacks during February and March, hand grenades were thrown into cafes and residences owned by ethnic Vietnamese in one Phnom Penh district, killing one person and injuring approximately 30 others. Although the motive for the attacks was not established, a number of the victims believe that they were racially motivated.

In October approximately 600 residents of a floating village on the Bassac River in Phnom Penh were evicted by municipal authorities as illegal Vietnamese immigrants and forced to float down river toward Vietnam. Although most lacked identity documents, some residents claimed that they were Cambodian citizens of Vietnamese ethnicity and that proof of their citizenship was confiscated by police officials in the days prior to their eviction (see Section 1.f.).

#### Section 6. Worker Rights

##### a. Right of Association

The 1997 Labor Law provides workers with the right to form professional organizations of their own choosing, without prior authorization, and all workers are free to join the trade union of their choice; however, the Government's enforcement of these rights was uneven, and some unions complained that the procedures for registration were burdensome. Membership in trade unions or employee associations is not compulsory, and workers are free to withdraw from such organizations; however, the Ministry of Labor has accepted the charter of at least one union that requires workers to obtain permission before they can withdraw.

During the year, the Government issued decrees and subdecrees clarifying the Labor Law in a number of areas, including the registration of labor unions, the election of shop

stewards, the registration of collective bargaining agreements, and the calculation of overtime pay rates. However, despite these legal advances, the Government's enforcement efforts were hampered by a lack of resources, little knowledge of the law by factory managers, and a lack of qualified labor inspectors. Unions also suffer from a lack of resources, training, and experience.

There were 85 strikes during the first 10 months of the year, none of which were carried out in accordance with the law. The Government allowed all peaceful strikes and demonstrations to take place, although police intervened in violent strikes in garment factories on at least two occasions in October. In the first incident, police fired shots into the air to disperse a violent confrontation between striking and nonstriking workers at a garment factor in Kandal province. Another violent, unannounced strike at a garment factory in Phnom Penh was stopped following peace police intervention.

The Labor Law requires unions and employer organizations to file a charter and lists of officers with the Ministry of Social Affairs, Labor, Vocational Training, and Youth Rehabilitation. Since the Labor Law went into effect, the Ministry registered 77 unions and 4 labor federations. Thirteen new unions were registered through August. Although all unions collect dues from members, none has been able to operate without outside sources of support. None of the unions has the capacity to negotiate with management as an equal.

In October 1998, the Ministry issued a new subdecree relaxing union registration procedures. The Ministry registered one opposition-party linked union in December 1998 after a long delay, even though that union did not comply technically with the requirements of the Labor Law. The vast majority of the other registered unions often failed to meet one or more legal requirements. Unions and other observers still complain of the difficulty and cost associated with assembling the necessary paperwork from other government agencies in registering union officers, particularly the "letter of no criminal record." During the year, there were no credible complaints of political bias in union registration.

In another October 1998 subdecree, the Ministry clarified the role of labor unions in nominating candidates for shop stewards, provided for elections to remove nonperforming shop stewards, and required factories to furnish the Ministry with minutes of shop steward elections. The Ministry reported that it received such minutes for 82 enterprises through September. Shop stewards in some factories began to represent workers effectively to management. However, in a significant number of factories, election irregularities, or irregularities in choosing candidates for election, resulted in the selection of pliant or promanagement shop stewards.

Most workers are subsistence rice farmers and have little knowledge of trade unions. Nearly all trade union activity was concentrated in the rapidly growing garment sector. Although there is an expanding service sector, most urban workers are engaged in small-scale commerce, self-employed skilled labor, or unskilled day labor. The Labor Law does not apply to workers in the public sector.

Unions may affiliate freely, but the law does not address explicitly their right to affiliate internationally.

## b. The Right to Organize and Bargain Collectively

The Labor Law provides for the right to organize and bargain collectively; however, the Government's enforcement of these rights has been uneven.

Since enactment of the Labor Law in 1997, there has been confusion over the overlapping roles of labor unions and shop stewards. The Labor Law gives unions the right to negotiate with management over wages and working conditions and allows unions to nominate candidates for shop steward positions. However, the law gives shop stewards the right to represent the union to the company director and to sign collective bargaining agreements. Legal ambiguities also exist in the process for unions to nominate shop stewards.

In practice very little collective bargaining takes place. A February 1998 strike at a Phnom Penh cigarette factory still represents the only instance in which an officially registered trade union held a strike that generally conformed to the Labor Law and yielded one of the few collective bargaining agreements.

The Labor Law specifically protects shop stewards from dismissal without permission from the Ministry and provides union members protection from discrimination on the basis of union membership. The Government observes neither of these provisions adequately. Illegal dismissals led to several strikes during the year, only some of which ended with reinstatement.

Wages in the private sector are set by market conditions, although the Ministry has the right to set minimum wages based on recommendations from the tripartite Labor Advisory Committee that was established in May 1998. The Government sets wages for civil servants.

There are no export processing zones.

## c. Prohibition on Forced or Compulsory Labor

The Labor Law prohibits forced or compulsory labor, including forced labor by children; however, the Government does not enforce these prohibitions adequately.

Mandatory overtime is widespread in the garment industry, with workers in some factories facing fines, dismissal or loss of premium pay if they refuse, even occasionally. There were numerous reports that women and girls were trafficked into prostitution. A 1995 survey of prostitution made by a local NGO indicated that 31 percent of female prostitutes were between the ages of 12 and 17. Up to half of the girls involved were sold by their families, then forced to work as prostitutes. There were also reports that children were kidnaped and forced to work in the illegal sex trade (see Sections 5 and 6.f.).

Although the institution of bonded labor does not appear to be widespread, there were reports of it in the wood- processing, rubber, and brick making industries. Although the Labor Law prohibits the collection of recruitment fees from new workers, some garment workers reported that they paid fees in excess of 2 months' salary to various middlemen, inside or outside the factory, in order to gain employment or pass their probation periods.

There were no reports of forced conscription, unlike in 1998.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Labor Law establishes 15 years as the minimum age for employment. However, the law permits children between 12 and 15 years of age to engage in "light work," that is, work that is not hazardous to their health and that does not affect school attendance. The Labor Advisory Committee, which held its first meeting in October, is responsible for specifying occupations that are hazardous to the health, safety, or morality of adolescents, as well as consulting with the Ministry to determine which types of employment and working conditions constitute "light work." Children under 15 are about 43 percent of the population. According to the Government, about 17 percent of children between the ages of 5 and 17 are active economically, the vast majority of whom fall toward the upper end of the age range, and 80% of whom are engaged in agriculture. Few children are engaged in industrial work. Some children work in brick factories and on rubber plantations. With assistance from the International Labor Organization (ILO), the Ministry of Social Affairs, Labor, Vocational Training, and Youth Rehabilitation in 1995 established a child labor unit to investigate and suppress child labor. However, the Ministry is hampered by inadequate resources, staff, and training. In August the Government ratified seven ILO conventions, including Convention 105 (abolition of forced labor) and Convention 138 (minimum age).

The Labor Law prohibits forced or compulsory labor, including forced labor by children; however, the Government does not enforce the law effectively, and children are trafficked and forced to work as prostitutes (see Sections 5, 6.c., and 6.f.).

#### e. Acceptable Conditions of Work

The Labor Law requires that minimum wages be established for each sector of the economy based on recommendations by the Labor Advisory Committee. To date a minimum wage has been set only in the garment sector, where workers must receive at least \$40 (151,000 riel) per month (based on 26 8-hour days) at the conclusion of their training. Most garment factories pay in excess of this wage, but prevailing wages in the industry are not sufficient to provide a worker and family with a decent standard of living.

The Labor Law provides for a standard legal workweek of 48 hours, not to exceed 8 hours per day. The law stipulates time-and-one-half for overtime hours, and double time if overtime work occurs at night, on Sunday, or on a holiday. The Government does not enforce these standards adequately. Workers frequently complain of overtime in excess of 2 hours per day and of being forced to work 7 days per week. Many factories do not pay the legally mandated premiums for overtime (150 percent) and night or holiday work (200 percent) properly, and there is legal ambiguity over which hours constitute night work. Another common complaint is that management violates the law by paying the overtime rate only for the salary component of workers' pay, leaving piece rates unchanged regardless of the number of hours worked.

The Labor Law states that the workplace should have health and safety standards adequate to ensure workers' well-being. The Government enforces existing standards inconsistently, in part because it lacks staff, equipment, and training. Work related injury and health problems are common. Conditions in small-scale factories and cottage

industries are generally poor and often do not meet international standards. The Government issued several instructions on workplace standards during the year, and more detailed regulations awaited approval by the Labor Advisory Committee at year's end. Penalties are specified in the Labor Law, but there are no specific provisions to protect workers who complain about unsafe or unhealthy conditions. Workers who remove themselves from unsafe working conditions risk loss of employment.

#### f. Trafficking in Persons

The 1996 Law on the Exploitation and Trafficking of Humans prohibits these abuses, but the Government does not enforce the law effectively in practice. Trafficking in women and children for the purpose of forced prostitution remained a serious problem, and government prosecution of traffickers is rare. The law established a jail sentence of up to 20 years for any person convicted of trafficking; however, its enforcement is hampered in part by budget limitations and a lack of implementing subdecrees.

Surveys conducted by domestic NGO's in 1995 indicated that 40 to 50 percent of young women who were trafficked were victimized by a close relative or friend of the family for money or on promises of a better life. Poverty and ignorance at the village level is a major factor contributing to the trafficking problem.

Child prostitution and trafficking in children were common. There were reliable reports that children were lured from or kidnaped in some provinces and forced into the illegal sex trade, both in Cambodia and abroad. Other children were smuggled into Thailand to become beggars.

In July the Government adopted a 5-year plan against child sexual exploitation that emphasizes prevention through information and protection through law enforcement. In September the Prime Minister instructed the Cabinet to develop additional measures to fight trafficking of women and children, including speedy promulgation of subdecrees and signing bilateral extradition treaties to bring traffickers to justice. In September, in the country's first trial on cross-border trafficking, Seng Savoeun was sentenced to 15 years in prison in Banteay Meanchey province for trafficking a 2-year old girl, a 4-year old boy, and a 7-year old girl into Thailand to work as beggars.

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