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**UNITED NATIONS
COMMITTEE AGAINST TORTURE**

45th session
(1-19 November 2010)

**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

UNITED NATIONS COMMITTEE AGAINST TORTURE

CAMBODIA

For consideration at the 45th session of the Committee Against Torture

(1-19 November 2010)

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Submission to the UN Human Rights Commission in relation to TORTURE in Cambodia

Article 1

1. Torture is defined in Article 1 of the UN Convention Against Torture (CAT) as follows:

...any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him, or a third person, information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in, or incidental to, lawful sanctions.

—UN Convention Against Torture (Etymology).

Article 1 of CAT defines the perpetrator as a “public official or other person acting in an official capacity”. In the context of giving legal form to human rights principles, the state violates the right through its agents.

Article 2

2. CAT also requires state parties to “undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1.” Moreover, Article 2 provides that: “No exceptional circumstances whatsoever, whether a state of war or threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.” It is recommended that States should reflect this in their own practice and ensure that acts which fall within the definition of torture under Article 1 of CAT are offences within their national legal systems. In addition, the offence must also cover acts constituting complicity or participation in torture, not solely the individual who directly causes pain or suffering.

3. The expression “no exceptional circumstances whatsoever” was used to preclude states from justifying torture by pleading, for example, that this is not an ordinary situation or war. It is in such exceptional circumstances that torture and other violations of human rights are most likely to take place due to the breakdown of governance and legal institutions. The rejection of the justification of “exceptional circumstances” in Article 2(2) of CAT is, therefore, of great importance as it is intended to fulfill this function.

4. For example, those with operational or political responsibility for acts of ill-treatment should be susceptible to legal process. Consequently, military commanders and superiors can be held criminally liable if they order, induce, instigate, aid, or abet in the commission of a crime. This is a principle recognized under international law. In addition, the doctrine of “command responsibility” or “superior responsibility”, holds that individuals who are in civilian or military authority may, under certain circumstances, be criminally liable not only for their actions, but for the crimes of those under their command.

5. There should be no *de jure* or *de facto* immunity from prosecution for nationals suspected of torture, and the scope of immunities for foreign nationals should be as restrictive as possible under contemporary international law. The prosecution and punishment of those responsible for torture and ill-treatment is a vital component of the realization of human rights. Where the human right “not to be subjected to torture or ill-treatment” has been breached, it can also form an important part of the response of the State to the wrong done to the victim, his/her family and community. Full reparation for the wrong identified and punishment of the offender remains the responsibility of the State. The obligation upon the State to offer reparation to victims exists irrespective of whether a successful criminal prosecution can or has been brought. This flows from the very fact that there has been a breach of the State’s obligation to ensure that no one shall be subjected to torture or ill-treatment as a matter of international and human rights law.

6. One of the essential features of torture is the effect it has on the state of mind of the individual as well as his/her physical well-being “an illegal act which violates human rights and which is initially not directly imputable to a State, for example because it is an act of a private person or because the person responsible has not been identified can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it as is required by CAT.”

7. Human rights are the normative articulation of the fundamental rules mediating the relationship of the organs of organized society, typically the state and the individual members of the society. This fits neatly with the basic approach of international law which identifies legal obligations as a matter of state responsibility and violations of those obligations as breaches of state responsibility. It is no accident that the purposive element of torture reflects precisely state purposes or, at any rate, the purposes of an organized political entity exercising effective political power.

8. Torture can be used for the purpose of terrorizing people into submission. Terror is a force-magnifier that permits a relatively small number of police to subdue a far larger population than they could. The practice that exists to make it easier to subdue and tyrannize people is fundamentally hostile to the rule of law of liberal democratic societies.

9. The point must be made from the outset that pain and suffering could be physical or mental. Usually, physical pain and suffering would leave behind scars and marks from the injuries sustained. But in situation where mental pain and suffering is experienced, no visible scars or marks are left. Only the victim who has been inflicted with mental pain knows where the shoe pinches. However, it must be mentioned that the consequences of torture reach far beyond the immediate pain. Many victims suffer from post-traumatic stress disorder, which includes symptoms such as flashbacks, severe anxiety, insomnia, nightmares, depressions and memory lapses.

10. **Psychological torture:** The inclusion of psychological torture recognizes that many of the most barbaric and damaging forms of tortures are psychological. Psychological torture includes mock executions, hearing or seeing others being tortured or executed, deprivation of food, water, or sleep, and prolonged isolation or prolonged stays in darkness, physical abuse, intimidation, humiliation, and threats to family and friends were all forms of torture. Even if the pain and suffering were mental rather than physical, they constitute torture because of their severity and therefore fall under the definitions of torture.

11. It has also been reported that governments use fear as a method of torture and justify same on the ground that their power and privileges means it will not happen to them. Torture, in this sense, becomes an abuse of power. Governments continue to allow torture and ill-treatment to go on, often turning a blind eye or using it to hold on to power.

12. It must be stressed that there can be no justification for torture because CAT and other important international human rights instruments assume increasing importance as a tool which has realistic prospects for eliminating torture as a state policy. It must also be stressed that if arrested persons have been brought under control, there can be no justification for them being struck or tortured by law enforcement agents. It is also clear that coercive force has no legitimate place in the interrogation room and so there is no defensible reason for officers having in their possession or using a device designed to inflict torture.

13. **Effects of Torture:** The effects of torture are complex. Although wounds, bruises and broken bones heal over time, the deeper psychological trauma often lasts for a lifetime. Some of the most common symptoms of mental torture are: anxiety, depression, insomnia, nightmares, memory difficulties, social withdrawal, irritability, feelings of helplessness, affective numbing, flashbacks, shame, mistrust, ruminations, unexplained pain, the feeling of being permanently injured and changed...etc. All these, especially the feeling of being permanently changed, are part of the contemporary torture's objective to destroy the victim's humanity through a systemic infliction of severe pain and extreme psychological humiliation.

14. According to Amnesty International's medical groups, three things were discovered after collecting and analyzing the findings of twenty five years of works with survivors of torture. The finding showed that: "Firstly, torture continued to persecute the survivors many years later with its physical and mental sequelae. Secondly, in modern times it is not aimed primarily at the extraction of information, its real aim is to break down the victim's personality and identity. Thirdly, torture is aimed at strong personalities, people who have stood up against repressive regimes. Breaking down these persons effectively cows the rest of the community into silence."

15. Similarly, survivors of torture frequently have difficulties in trusting themselves and others and in building relationships. Survivors usually experienced disempowerment and disconnection from others which are expressed through depression, fear, feelings of isolation and powerlessness. Thus torture affects not only the individuals, but the family and the entire community.

16. Because Cambodia did not submit its second periodic report to the Committee which was due since 1997, we therefore would raise in this report some cases reflected the issue of severe pain and sufferings inflicted on Cambodian people, either in a form of physical, psychological or mental, through some major events occurred between the period from 1997 up to present which fit into the definition of torture of CAT.

17. **Case: Grenade attack March 30, 1997:**

(a) On March 30, 1997, a crowd of approximately 200 supporters of the opposition Khmer Nation Party (KNP), led by former Finance Minister Sam Rainsy, gathered in a park across the street from the National Assembly to denounce the judiciary's corruption and lack of independence. In a well-planned attack, four grenades were thrown into the crowd, killing protesters and bystanders, including children,

and tearing limbs off street vendors. The grenade attack made headlines and provoked outrage around the world. On June 29, 1997, the Washington Post wrote:

(b) "In a classified report that could pose some awkward problems for U.S. policymakers, the FBI tentatively has pinned responsibility for the blasts, and the subsequent interference, on personal bodyguard forces employed by Hun Sen, one of Cambodia's two prime ministers, according to four U.S. government sources familiar with its contents. The preliminary report was based on a two-month investigation by FBI agents sent here under a federal law giving the bureau jurisdiction whenever a U.S. citizen is injured by terrorism. The bureau says its investigation is continuing, but the agents involved reportedly have complained that additional informants here are too frightened to come forward."

(c) Numerous eyewitnesses reported that the persons who had thrown the grenades were seen running toward Hun Sen's bodyguards, who were deployed in a line at the west end of the park near the guarded residential compound containing the homes of many senior Cambodia People's Party leaders. Witnesses told United Nations and FBI investigators that the bodyguard line opened to allow the grenade-throwers to escape into the compound. Meanwhile, people in the crowd pursuing the grenade-throwers were stopped by the bodyguards at gunpoint and told they would be shot if they did not retreat.

(d) "This brazen attack, carried out in broad daylight, ingrained impunity more than any other single act in recent Cambodian history," said Brad Adams, executive director of Human Rights Watch's Asia Division. "But that appears to have been one of its purposes – to send the message that opposition supporters can be murdered without ever facing justice."

(e) "The Cambodian government should be investigating those implicated in the attack, not promoting them," Adams said. "Since the UN peacekeeping mission arrived in 1992, well over 300 people have died in political attacks, yet not one government or military official has been held to account. Cambodia is the textbook case of impunity for human rights abusers." Human Rights Watch said that US assistance to military units linked to the grenade attack and other serious abuses compounds Cambodia's deeply entrenched culture of impunity for human rights violators.

18. **Case: July 1997 Coup:**

(a) in July 1997, Hun Sen ordered a coup d'etat against First Prime Minister Prince Ranariddh which resulted in the deaths of a large number of civilians caught in the crossfire and the torture and summary execution of at least 100 government officials and the forced displacement of at least 50,000 people as assaults continued on people or communities loyal to Prince Ranariddh. Most prominent opposition politicians, including Prince Ranariddh, fled for their lives into exile. Of those who chose to remain or were too slow in fleeing, many were murdered.

(b) Hun Sen forces have been responsible for the summary arrest, torture and murder of hundreds of opposition leaders. They know that he has killed many of his political opponents, probably by the thousands, and will kill more if he is given the opportunity. And they know that the only hope for Cambodia is for the forces of freedom and democracy to hold on as long as they can. Since the coup, Hun Sen has consolidated his ill-gotten power and human rights abuses in Cambodia have continued to escalate.

(c) What happened in Cambodia on July 5-6, 1997? Thomas Hammarberg, the United Nations Special Representative on Human Rights in Cambodia, made it clear in his October 1997 report to the UN General Assembly: the events of July 5-6 were a "coup d'état." "I and many of my colleagues at the UN human rights office had the unforgettable experience of digging up the bodies of men stripped naked to their underwear, handcuffed behind their backs, blindfolded, and shot in the head."

(d) The 1997 coup has been by far the most important event in Cambodia since the 1993 UNTAC elections. It shattered all illusions that the country was on the path to democracy. It showed that violence was still an acceptable political choice for the country's leaders. It showed indifference to the lingering trauma and fear that so many Cambodians retained after the Khmer Rouge period and the bloody 1993 UNTAC elections. It made clear that commitments to human rights were just words on paper. The coup, therefore, stole something intangible yet essential: it stole hope from people who had just begun to dare to dream that their future would be decided by the ballot instead of the bullet.

(e) From his Khmer Rouge days up to the present, Hun Sen has always used brutal force--intimidation, violence, torture, murder to get and keep power. According to a new report from the relief group, Medecins Sans Frontieres, Hun Sen was responsible for the deaths of 200,000 Cambodians as leader of Cambodia's Vietnamese communist puppet regime from 1984 to 1989. While he was a Khmer Rouge commander, there is no accounting of how many innocent civilians he sent to their deaths. Hun Sen rules through force--it is all he knows and all he understands. This aforementioned about the tragedy in Cambodia was quoted in the Resolutions H. Res. 533 of October 10, 1998 of the US House of Representative.

(f) **"K5 Plan"**: During Vietnamese occupation of Cambodia from 1984-1989, the government of the People's Republic of Kampuchea (PRK) with instructions from Vietnam, had developed a policy known as the "K5 Plan" (*Phaenkar Kor Pram*), which focused on "the urgent task of consolidating the grassroot[s] infrastructure of the PRK regime, the imperative need for a definitive solution to eliminate the Khmer resistance movements, and the all-around integration of Kampuchea into the Indochinese Socialist Bloc." And Hun Sen, as Secretary General of the Cambodian Communist party during this period, played a major role in implementing this "K5 Plan". Described as a "new genocide," Cambodians were formed into forced labor brigades to build an "Asian Wall" along the Thai border, where they died by the "tens of thousands" of starvation, exhaustion, disease, and land mine blasts. With no training and no tools, they were forced into the fields and forests to clear mines, more often than not, blown to pieces when they stepped on mines. If anyone tried to flee, they were shot on the spot. The "Wall," some eight hundred kilometers, was to serve as a "defense line" for the Vietnamese troops against Polpotist bandits in the forests. This all took place during a little-known period in Cambodian history: the time from 1979-1989, after the Pol Pot regime and during the Vietnamese occupation. "Although overshadowed by the great genocide which took place between 1975 and 1978 under Pol Pot, the subsequent period also brought genocide of the same form, though of a lesser scope. It was perpetrated by Pol Pot's successors and former colleagues, among them Hun Sen." [See Marie Alexandrine Martin's "Cambodia, a new colony for exploitation;" Indochina Report--"The military occupation of Kampuchea;" Philippe Pacquet's "Nouveau Genocide;" and Esmeralda Luciulli's "Le Mur de Bambou-Le Cambodge apres Pol Pot"]. One K5 worker described the situation as follows: "There was no shelter, and it was useless to look to build oneself a hut, because we moved every day. Some had hammocks, others nothing. They slept on the ground, on a piece of plastic or even on the dirt." Another person complained about food shortages in the following way: "At the end of two

weeks, nothing came... When new workers arrived, we were forced to share whatever was left with them. There was less and less to eat. A number of people died of starvation. It was like under Pol Pot.”

(g) The international community has at the same time recognized that even in emergencies, there is need for the non-derogation of certain rights and freedoms such as the right to life, the right to be free from torture, the right to be free from slavery, and the right of thought, conscience and religion. These rights and freedoms are considered so fundamental that their exercise does not constitute a burden on states in coping with war or political instability. Accordingly, there can be no justification whatsoever for their violation.

19. **Case: Crack down on peaceful demonstration after 1998 Election:**

(a) During the period leading to the July 1998 national election there were widespread threats, assaults, and the suspected assassination of scores of members of parties opposed to CPP (Cambodian People Party). In September 1998, Hun Sen ordered a violent crackdown on thousands of unarmed demonstrators, including Buddhist monks, who supported credible investigations of irregularities in the electoral process and the change in the format for allocating seats in the National Assembly which resulted in the brutality toward tens of thousands of pro-democracy advocates and the deaths and disappearances of an unknown number of people, and led to widespread civil unrest which threatens to further destroy Cambodian society.

(b) Hun Sen once again is directing a campaign of murder and repression against unarmed civilians, while treating with contempt international efforts to achieve a genuinely democratic government in Cambodia. Hun Sen's storm troopers have cracked down on nonviolent pro-democracy demonstrators, including students and Buddhist monks, and tens of thousands of ordinary people. There are numerous reports by United Nations human rights monitors describing shallow graves containing mutilated bodies with hands tied behind their backs, including some people who were known to have been arrested by Hun Sen's security forces.

(c) Bodies of other victims have been reportedly seen floating down rivers and streams. Buddhist temples and monasteries have been raided and monks whipped by soldiers and goons carrying electric batons and rifle butts. Amnesty International reports that at least 200 democracy protestors arrested are still unaccounted for.

(d) New atrocities continue to emerge. For example, United Nations human rights monitors have been sheltering a 25-year-old woman who was held by Hun Sen's soldiers for 3 weeks in a water-filled fish pen. She saw 5 of 13 fellow prisoners die during that time period from torture, starvation and drowning, including Buddhist monks. The CPP government uses tortures on their political prisoners so that their opponents, knowing that they might face a fate far worse than death, would be afraid to oppose them.

(e) During the 1998 election campaign in Cambodia, the United States international Republican Institute, as well as the National Democratic Institute reported widespread incidents of violence, intimidation and deaths of campaigners for the democratic parties who opposed Hun Sen. The electoral process was described as “fundamentally flawed.” Post-election charges of irregularities in ballot counting and an unconstitutional allocation of parliamentary seats led to the pro-democracy uprising and a subsequent repression in Phnom Penh.

20. The CPP government crimes against the Cambodian people cannot be chronicled only in terms of the loss of life, but must also take account of its consistent efforts to deny their aspirations to a better life. The cases of land grabbing, assassination of trade union leaders, journalists and human rights activists, who dare to speak out for justice and to fight for improved living conditions, who struggle for basic freedoms including labor rights for people are just some examples that show *severe pain or suffering is intentionally inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity* on the Cambodian people, that fall under Article 1 and 2 of CAT as described in paragraph 1 through 15. To date there are countless cases involving torture which are going unresolved.

21. Case: Assassination of Chea Vichea – Head of the Free Trade Union of the Workers of the Kingdom of Cambodia:

(a) “Chea Vichea was one of the best-known and most outspoken voices for workers in Cambodia,” said Sara Colm, senior researcher in Human Rights Watch’s Asia division. He led efforts to organize garment workers and to fight for improved working conditions in Cambodia. In an interview with Human Rights Watch in 2002, Mr. Chea said that he had been attacked and threatened, and had been beaten by a military colonel in charge of security at a garment factory. Chea Vichea was shot dead in a broad daylight in Phnom Penh on Thursday 01/22/2004. “This assassination will surely exacerbate the climate of fear for workers, journalists, environment and human rights activists who speak out or publicly demonstrate to express their views,” said Colm.

(b) A multi award winning documentary film, WHO KILLED CHEA VICHEA explores the motives for the assassination and unravels the plot that framed two men, who were sentenced to 20 years for a crime committed by others. His widow, children and eye witnesses had to flee and seek asylum outside the country in order to survive from the cruel and unpredictable judicial system.

(c) All sort of individuals including ordinary people, villagers, artists and members of the opposition political parties, have been targeted with scoring violence crimes such as brutal assault, acid attack, force eviction, threatened to kill at gun point and all form of intimidation and worse of all incarceration and wrongly conviction on innocent people etc... These actions have generally associated with the authority and the Cambodian law enforcement agencies and their family who hold absolute power to deal with the cases.

22. Case: MP Mu Sochua – the fight for freedom of expression

(a) Mu Sochua a Member of Parliament from the Sam Rainsy Party, the lead opposition party, has been stripped of parliamentary immunity and been given a criminal conviction for openly criticizing Prime Minister Hun Sen. She was denied any legal representation and news reports indicate her lawyer Kong Sam Onn was threatened with disbarment and subsequently dropped her case, apologized publically to Prime Minister Hun Sen, and formally joined the ruling Cambodian People Party (CPP).

(b) On June 2nd, 2010 following the Supreme Court hearing upholding her conviction for defaming Prime Minister Hun Sen, Mu Sochua led an impromptu march of supporters from the Old Municipal Building along Sihanouk Blvd. in front of the Royal Palace and past the Ministry of Justice and towards the Sam Rainsy offices. As supporters peacefully marched with white candles in the direction of where international donors and the RGC were meeting as part of the Cambodia

Development Cooperation Forum meetings, a pick-up truck barreled through and police armed in riot gear jumped out and swarmed the crowd of supporters preventing them from walking further.

(c) The reaction to the march shows the tendency of the RGC to clampdown immediately on protests, no matter how small, no matter how peaceful, in denial of the right to freedom of expression. The march itself however shows that Cambodians have opinions that they want to express and voices that want to be heard which should be protected and promoted. The RGC's reaction to such exercises of expression however is no doubt intended to show the people that if they stand up to the RGC they will fail. Such policies have the potential of entrenching a feeling of exasperation into the Cambodian political and social landscape with regards to peaceful, legitimate expression, which has the potential of manifesting itself in more violent ways.

23. **Case: MP Sam Rainsy - the border demarcation**

(a) MP Sam Rainsy's immunity was lifted in November 2009 following a closed session of the National Assembly. The lifting of his parliamentary immunity meant that he could be prosecuted on charges relating to incitement and destruction of property following an incident in October of the same year in which he joined villagers from Svay Rieng's Chantrea district in symbolically uprooting temporary Cambodian-Vietnamese border markers, which the villagers claimed had been placed illegally by Vietnamese authorities on Cambodian territory.

(b) Sam Rainsy was convicted in absentia on both charges by Svay Rieng Provincial Court on 27 January 2010 and sentenced to two years in prison in proceedings that were closed to the public, journalists and human rights activists, and where the court refused to consider evidence that defense lawyers for two of the villagers attempted to introduce. In order to avoid imprisonment, Sam Rainsy went back to France, leaves the opposition with no leader and raises the very real possibility of his preclusion from standing in the 2013 National Assembly elections.

(c) The court in March 2010 formally charged Sam Rainsy with spreading disinformation and falsification of public documents following his publication of a series of documents showing border encroachments by Vietnam. On 25 February 2010, the day before the new complaint was filed with the court, Prime Minister Hun Sen was quoted in *The Phnom Penh Post* to the effect that Sam Rainsy would not be able to contest the next national assembly elections in 2013 and that unlike the Royal pardon he received in 2006, "*this time the court sentenced [Sam Rainsy] to jail – no pardon this time.*"

24. The above-mentioned cases reflected the use of torture and other cruel, inhuman or degrading treatment by the powerful CPP government officials for the purpose of terrorizing people into submission, and a measure for them to hold on to power as stated in paragraph 10 through 15.

25. **Case: Land grabbings – severe pain and sufferings intentionally inflicted on the Khmer people by the public officials (government authorities)**

(a) Land-grabbing is arguably Cambodia's most pressing problem, but a weak judiciary has proven no match for powerful interests behind the scourge. In recent years it has become a tragic cliché to say that Cambodia is suffering from an "epidemic" of land-grabbing by the rich and powerful - an epidemic which is resulting in the loss of residence and livelihoods by the poor and vulnerable on a massive scale.

(b) 80% of Cambodia's population live in rural areas and depend on access to land and natural resources for their livelihoods. Access to natural resources such as non-timber forest products are an essential source of household income and safety net; forest and fisheries products accounted for 25% of household incomes of the rural poor. In the 13 provinces in which LICADHO works - roughly half the country - more than a quarter of a million people have been affected by land-grabbing and forced evictions since 2003. An estimated 85 percent of households in Cambodia today do not have land titles, leaving them vulnerable to land grabbing and constant fear and pain for the loss of their livelihoods. Three out of five families in rural Cambodia are either landless or do not own enough land to meet their food needs, a precarious situation that, combined with widespread corruption, feeds into a cycle of poverty.

(c) Prime Minister Hen Sun, offers no solution with his recognition that, "Land-grabbing creates serious threat to the social and political stability of Cambodia." There is no sign of Cambodian authorities slowing down the pace of the land-grabbing orgy and forced evictions in the near future. The Government authorities including the Royal Cambodian Armed Forces (RCAF) is not only failing in its obligations to protect people against forced evictions but instead is often actively involved in illegal land-grabbing and facilitating international powerful individuals, domestic and foreign companies to rob the proud people of Cambodia of their ancestral rights, stripping them, yet again of their dignity and agency.

(d) Land grabbing cause tremendous sufferings on Cambodian lives: People affected by evictions are often made homeless and landless. In rural areas, families are deprived of farming land for livelihoods as well as shelter. In urban areas, people are either evicted without any form of compensation, or are offered inadequate cash payments and/or woefully inadequate resettlement on the outskirts of the city without access to basic services and facilities and economic opportunities for their livelihood. Those who solely depend on the land to make a living have simply found their livelihood destroyed. In forced evictions, public forces have demolished their homes or set fire to them and destroyed their belongings including crops and plantations. Some evictees have been beaten or even arrested on fabricated charges to subdue resistance and force evictees to accept unjust compensation. "It's just like in Pol Pot's time," says one woman facing eviction from the home she's lived in for ten years. "This is a war about land." Land grabbing is a serious threat to the food sovereignty and survival of our Cambodian people, their right to life is being threatened and violated.

(e) Example of case study: Chi Kreng, Siem Reap province - Land activists suffer violent repression and are jailed: A dispute over a paddy field of 92 hectares in Tonub Soung, Anlong Samnor commune, Chi Kreng district, Siem Reap province, started in 2005 between a group of 175 households and the owner of a water reservoir. The outrage of the 175 poor families concerned by this dispute and the perceived unfairness of the January 29 court charges culminated in violent confrontations on March 22, 2009. During the incident, extreme violence broke out. Armed forces shot people in their legs, chased the representatives and arrested many. Authorities tied them and left them to bleed. Many were seriously beaten. After the brutal event, armed forces were deployed around the village and the land in conflict. Hundreds fled their homes and, consequently, were forced to abandon their livelihoods and could not farm on that land any longer.

(f) The deliberate abuse of individual's physical and psychological integrity, in a way that is designed specifically to undermine their dignity, is devastating and disorienting to victims particularly when perpetrated by someone with the responsibility to protect rights.

(g) Multinational corporations are essentially profit-making ventures without established moral obligations beyond their duties to uphold the interests of their shareholders. Since profit making is the main aim of multinational corporations, they are ready to do everything to ensure that nothing stands in the way of their business concerns and profit making. The drives for profit maximization and market forces have often made businesses insensitive to fundamental human rights.

(h) What is decisive is whether a violation of the rights recognized by the Convention has occurred with the support or the acquiescence of the government” where the above-mentioned land grabbing case has proven true. Under international law principles, the nation state as a whole and not individual government official is liable for a violation of its citizens’ human rights. To stem this tide of human rights violations land grabbing and other economic pillage must be brought to light in international political arenas. Otherwise the myth that evictions are crucial for “positive development” will be allowed to perpetuate.

26. Case: Khmer Rouge Tribunal – Extraordinary Chamber in the Court of Cambodia (ECCC)

(a) Between 1975 and 1979 the Cambodian people suffered one of the world’s most brutal regimes, the Khmer Rouge, which used, among things, torture as a means to assert its rule. It is estimated around two million Khmer people’s lives had been lost by direct and indirect action of torture during the Khmer Rouge regime, as a result of the crime against humanity. In its notorious Tuol Sleng Torture Centre in Phnom Penh, some 16,000 Cambodians died horribly by the systematic use of torture by the Khmer Rouge to extract confessions during the four years of its reign. The crime involved tortured beyond imagination to the Khmer people who were the victims of genocide, especially the survival victims who have been dealing with the legacy of the crime on both their physical and emotional scars.

(b) Due to this experience, in 1992, upon the end of the war that had followed the ousting of the Khmer Rouge regime, Cambodia did not hesitate to adhere to the UN Convention against Torture (UNCAT) and has since taken measures to combat torture. In order to show its commitment, Cambodia ratified the Optional Protocol to this convention or OPCAT in 2007. Unfortunately the Cambodian government has failed to honor its obligations under this Protocol and it has not created, within the OPCAT-prescribed one year period, an independent National Preventive Mechanism to visit places of detention; it has simply pledged to do so by the end of 2010.

(c) Among the victims of the crimes, majority are the survivors from the crime against humanity during Pol Pot regime, who had been tortured both physically and emotionally. Unfortunately they are the victims who suffer the double impact of torture through the ordeals in their miserable lives and are waiting helplessly for a justice system that takes too long to come to an effect to save them as for some it’s may be too late.

(d) The very lengthy process of the Extraordinary Chambers in the Courts of Cambodia (ECCC) to reach conclusion in finding justice for the Khmer victims of Khmer Rouge Pol Pot regime has been intervened by the Cambodian Government with their attempt to pervert the course of justice through their imposed criteria and unexpected changes and demands.

(e) The Khmer people seem to lose faith with the lengthy time and progress that hauls the hearing and investigation to an uncertainty which is usually dictated by the government. This is another form of mentally torture for many who are forced to witness the decision in which leads to their grim hope in finding justice and closure for their cases. It's a great tragedy that they have to extensively experience and to live in the society seems to promote impunity where perpetrators are not convicted and the victims are wrongly prosecuted as they drown in despair with the pain and suffering continue on. In addition many have to live within the poor living condition and been deprived the basic of human rights, with the social injustice system and completely rely on the mercy of their dictatorship and corrupted government.

(f) The tribunal, held on the outskirts of the capital, Phnom Penh, is trying five members of the Khmer Rouge for their alleged role in the mass murder that led to the deaths of up to 1.7 million people. Among them is Kaing Guek Eav, also known as Duch, the head of a notorious prison where thousands were sent to be tortured before being dispatched for execution at the "killing fields". In a statement issued in September 2009, the acting international prosecutor, William Smith, had recommended to the trial judges that a further five, so-far unidentified, suspects be investigated. He said the cases involved at least 32 instances of murder, torture, unlawful detention, forced labor and persecution.

(g) However, the statement was attacked by Prime Minister Hun Sen threatened that such a move would lead to widespread violence. "I would like to tell you that if you prosecute [more leaders] without thinking beforehand about national reconciliation and peace, and if war breaks out again and kills 20,000 or 30,000 people, who will be responsible?" he said. If tyranny and especially tyrants like Hun Sen are allowed to thrive in an atmosphere of impunity, violence and destruction will reign not only in Cambodia but elsewhere as well.

(h) The trial's most important contribution will not be the length of Duch's prison term or the legal details of the judgment, but the catalyzing effect of this event in generating discussions about justice, impunity, the rule of law, judicial independence, and the history of the Khmer Rouge era. For Cambodians, the Trial Chamber's carefully executed trial and reasoned judgment will stand as milestones against impunity.

(i) As far as tribunal go, it should not permit that legal action in Cambodia, which is moving forward, to focus exclusively on a handful of geriatric Khmer Rouge leaders while other former Khmer Rouge in CPP ruling party are creating today's killing fields by murdering and torturing with impunity. Torture is a crime, a serious human rights violation with traumatic physical and psychological consequences. For those who have suffered torture, and for their families, finding ways to move forward with their lives and forget about the trauma inflicted on them is a life long challenge. Broken bones take time to heal but it is the shattered spirits that are often the most difficult to repair. Torture by its very nature can be state sanctioned and is often allowed to thrive in an environment where the rule of law and the independence of the judiciary is markedly absent like Cambodia.

(j) Because of political constraints, resource limitations, or lack of will or some combination of the three may limit the extent to which accountability is pursued. The establishment of a permanent international criminal court would certainly contribute to the enhancement of international enforcement.

Article 3, 8

27. Case: Deportation of Khmer Kampuchea Krom monk Tim Sakhorn back to Vietnam

(a) The right of an individual to protection against torture and other prohibited forms of ill-treatment includes the right not to be returned to a country where there are substantial grounds for believing that he or she is at risk of suffering such treatment. People have a right not to be forcibly returned where they are at risk of suffering torture even if they have not yet been recognized as refugees. A state responding to an extradition request also needs to ensure that the other country is complying with its obligations under international law in respect of torture and ill-treatment before it may hand over someone to that jurisdiction. This is what was granted in Article 3 of CAT.

(b) On June 30, 2007, Venerable Tim Sakhorn who was an Abbot of North Phnom Denh temple in Phnom Denh Village, Takeo province, was arrested, defrocked and deported by the Cambodian government to Vietnam, where he was imprisoned the same day. He was accused of “undermining the friendship between Cambodia and Vietnam.” He was imprisoned in Vietnam until June 28, 2008.

Article 11, 15

28. Case: Treatment conditions in prison

(a) Cambodia has no anti-torture law, but torture is criminalized and punishment for it is provided for in the final draft Penal Code.

(b) A report by Asian Human Rights Commission of June 2009 stated that however, torture, though in decline, is still being used, mainly to extract confessions. The surveys conducted so far may not reflect the extent of its use when inmates, interviewed in the presence of prison guards, are inhibited by fear of reprisals to tell about the torture they or their fellow inmates have been subjected to. In the first five months of 2009, there were reportedly five deaths in police custody against three for the whole of 2008. The families of the dead and human rights monitors have suspected torture as the cause of death. The concerned authorities have denied the use of torture and usually claimed suicide. But no independent investigation into those deaths has been ordered, and medical personnel called upon to certify such deaths in police custody are known to be reluctant to contradict what the police have said.

(c) The case of Born Samnang and Sok Sam Oeun, the two men charged with the murder of Trade Union leader Chea Vichea on January 22, 2004. The first, Born Samnang, was arrested in Prey Veng Province and transferred to Phnom Penh overnight. He initially admitted to the killing but then publicly retracted, claiming to have been tortured into confessing. Multiple eyewitnesses have placed Born Samnang in a different part of the country at the time of the murder. The second suspect, Sok Sam Oeun, has consistently denied any involvement and also has alibis placing him in a party with friends at the time of the murder. On 1 August 2005, Sok Sam Oeun and Born Samnang were judged guilty after a trial where no witnesses testified against the accused and no forensic evidence was brought to court. Both individuals were sentenced to 20 years in prison and ordered to pay \$5,000 compensation each to the family of the victim.

(d) According to US Department of State Cambodia Country Human Rights Report February 2009 there are at least 43 children under the age of six reportedly were living with their mothers in prison and those children were subjected to mistreatment by prison guards and faced physical dangers from adult criminal cellmates. The children generally lacked proper nutrition and education.

Article 10 - 16

29. As the International Day in Support of Victims of Torture is commemorated globally, the people of Cambodia continue to face serious problems relating to guaranteed rights against torture. As far as legislation is concerned, Cambodia has been a party to all UN conventions relating to civil rights and rights against torture.

30. Cambodia's judicial and rule of law system are wholly inadequate to deal with this problem. In the recent visit of the UN Special Rapporteur on the situation of human rights in Cambodia, Professor Surya Prasad Subedi highlighted the inadequacies of the judicial system in Cambodia. Unfortunately, the only response to this from the country's prime minister was "don't tell me it is raining when I am standing in the rain." His comments were interpreted by the media to mean, 'don't state the obvious.' Clearly, the government shares the view that the country's rule of law and judicial system are inadequate. However, there are no plans of any sort for the improvement of these systems.

31. As far as torture is concerned, Cambodia still does not have a proper definition of torture incorporated into its domestic legislation. The penal code recognizes torture as a crime, but it has not incorporated a clear definition of torture into its legal framework. It has been the recommendation of the CAT committee (Committee Against Torture), as well as local and international human rights organizations, that the government should bring about legislation which incorporates a clear definition of torture. Without clear definitions, it is not possible for courts to properly implement the constitutional and penal code provisions relating to torture in Cambodia.

32. The problem of torture in Cambodia is similar to those in neighboring countries, and is rooted in Cambodia's policing system which is seriously lacking in every way. Criminal investigations still use old methods and there has been no attempt to modernize the policing system in Cambodia. There have been no investments in the improvement of this system. The training of the police as well as the facilities available to the police is entirely inadequate for dealing with criminal investigations in a rational manner. The under-development of the policing system results in the constant use of coercion on people who are arrested by the police.

33. A characteristic of well-developed policing systems is to have a comprehensive system for receiving complaints against the police and dealing with such complaints in a satisfactory manner. In Cambodia, such a system of public complaints does not exist; it has not developed any internal controls to deal with complaints made against the policing institution. As such, the people have no avenues to make complaints.

34. The only limited avenue available involves making such complaints to the courts. However, when the alleged victims of torture make complaints, courts inquire from the victims as to whether they want to make a complaint against the police. At this stage, according to lawyers, the general reply of victims is that they do not wish to make any formal complaint. This is due to the fear of serious reprisals following the complaints. The complete absence of any kind of protection for those making complaints prevents people from making such complaints. Bitter experiences of the cruel systems that

Cambodia has faced in its recent past act as a psychological and emotional barrier for making complaints. While Cambodia is committed to breaking away from its past, and the constitution itself recognizes this commitment, no measures have been taken to ensure protection for torture victims so that they can make complaints without fear of reprisals.

35. The deficient facilities of police stations and prisons mean that properly securing detainees is difficult, which further engenders torture. In police stations, there are no proper lockups, and as a result, people are often shackled to chairs by their legs or arms. Sometimes detainees are shackled for several months; a practice that is commonly discussed in Cambodia. This practice has evolved in order to prevent people from escaping. It is also common knowledge that people who make attempts to escape are punished severely. The development of adequate safeguards for arrested people is a primary need for the protection of victims and prevention of torture at police stations and detention centers.

36. Forensic pathology has not yet been introduced to Cambodia. Victims of torture are not been examined by doctors. The result is that no medical reports are made out on torture victims. The government of Cambodia and United nations agencies operating in Cambodia should collaborate in introducing medical and forensic facilities. Foreign donors should promote education of forensic pathologists. This will be a great contribution to prevention of torture as well as improvement of criminal investigations.

37. The Cambodian government has not acknowledged its duty for the compensation of victims of human rights abuses, including victims of torture. There is no possibility for victims to bring about suits so as to receive compensation for torture or cruel, inhuman treatment. Providing legal redress for torture remains a requirement that needs to be developed.

38. There are no facilities for psychological assistance, such as trauma counseling for torture victims. Some human rights organizations are attempting to provide such help by their own initiatives. However, due to inadequate support from the state and funding agencies, a system of providing psychological rehabilitation for victims has not been developed as yet.

39. Other inadequacies for the legal system for proper investigations into abuses, such as sexual harassment of women and children, are also serious flaws in the Cambodian legal system. In the absence of proper complaint and investigation mechanisms, many crimes are committed in this area and they go unaddressed. Thus, from the point of view of guaranteeing the rights of women and children, the government's compliance with the convention against torture, cruel and inhuman treatment remains a necessity.

40. The ineffectiveness in the enforcement of human rights seems to come from the powerlessness of the institutions of the rule of law that have constitutional duties to protect human rights. The Paris Peace Agreements have spelled out clearly that "Aggrieved individuals will be entitled to have the courts adjudicate and enforce these human rights" and that "An independent judiciary will be established, empowered to enforce the rights provided under the constitution."

41. In fact, Cambodia's Constitution has provided for the separation of powers and the independence of the Judiciary. The executive power is vested in the head of state that is the prime minister. The executive executes government policies. It has further specified that the "King shall be ...the guarantor of the respect for the rights and freedoms of the citizens." and that the "Judiciary shall...protect the rights and freedoms of the citizens."

42. Actually the King cannot provide such a guarantee however much he might want to, as he does not have executive powers and institutions under his command to help him ensure respect for the rights and freedoms of Cambodian citizens. As to the Judiciary, whose organization and practices have been inherited from the communist days, it has neither independence nor human rights expertise yet. Furthermore, the Cambodian judicial system is a civil law system and courts can adjudicate only on the basis of the laws and legal procedures in force. And thus far those legal procedures and laws are still lacking, especially the ones for the protection of human rights, redress for violations and punishment of violators.

43. The irony is that the law enforcement officials and the security agents who are entrusted with the responsibility of maintaining law and order in the society sometimes breach the law which they have been sworn to uphold. For instance, officials may be too overzealous and in the process violate the rights of the citizens by subjecting victims to torture or other cruel, inhuman and degrading punishment. It is pertinent to mention that most of the perpetrators of acts of torture are usually those in positions of State power.

44. However, some acts require a further form of reparation; namely, the subjection of those who have committed the act to criminal liability. This is especially likely to be the case when individuals invested with special powers by the state, notably powers of physical coercion, abuse that power to commit serious crimes with impunity.

45. Allegations of endemic corruption continue to cast a shadow over the Cambodian judicial and legal system. Cambodians consider that the judiciary is amongst the most corrupt institutions in the country, where low pay makes judges and members of the legal profession easy targets for bribery by the rich and the powerful. Pressure from the rich and powerful is also seen as dictating the verdicts of cases, with personal ramifications if the judiciary fails to tow the line.

46. The government exaggerated the potential of individuals or groups to threaten the state. As such, a systematic policy of state torture typically involves subjecting citizens to torture not because of any criminal acts that they may have performed or are planning, but because they hold political deemed dangerous to the authority of the government. In effect, state torture can escalate into a general state policy under the guise of national security.

Article 10 - 16

47. Because of its far reaching psychological effects, the harm inflicted by torture on the victim cannot be undone. Therefore, prevention is of primary importance. States are enjoined to take effective legislative, administrative, judicial or other measures to prevent acts of torture. Such measures include not only those that clearly outlaw acts of torture, but also training police and security personnel, implementing precise guidelines on the treatment of persons deprived of their liberty, implementing domestic inspection and supervision mechanisms and/or introducing machinery for the effective investigation of complaints regarding ill-treatment.

48. **Cambodians are deprived of access to justice, allowing for violations of rights to go unchallenged and impunity to persist.** Impunity is especially common in Cambodia since it lacks a tradition of the rule of law; where fundamental human rights are violated; the country suffers from corruption and entrenched systems of patronage; where the judiciary is weak and members of the security forces are protected by special jurisdictions or immunities. Also in Cambodia justice is all too

frequently bartered away for political settlements. The practice of impunity has become the political price paid to secure an end to the violence of ongoing conflicts or as a means to ensure tyrannical regime change.

49. However, it is pertinent to mention that justice without a corresponding commitment of the leaders significantly dilutes the message of accountability and undermines its long term viability in preventing torture. Impunity sends the message to torturers that they will get away with torture. Impunity denies the victims and their relatives the right to have the truth established, the right to see justice done and the right to reparation.

50. Impunity for international crimes and for systematic and widespread violations of fundamental human rights is a betrayal of our human solidarity with the victims of torture to whom we owe a duty of justice, remembrance, and compensation. To remember and to bring perpetrators to justice is a duty we also owe to our own humanity and to the prevention of future victimization.

51. The court also held that where an infringement of fundamental rights is established, the court must award compensation for the wrong done due to a breach of public duty by the State for not protecting the fundamental right not to be subjected to torture. The State's vicarious liability for the acts of public servants in infringing such rights is now well accepted in most jurisdictions. This is consistent with international human rights law which recognizes that a state can be responsible for human rights violations even where they are perpetrated by non-state actors.

52. States are not allowed to plead their own domestic law against implementing the provisions of CAT. Thus, if a State Party to CAT fails to adopt the measures called for to execute CAT after its ratification, such State party may not cite its own laws to justify its policy of torture or its failure to prevent it. Under Article 2 paragraph 1 of the ICCPR, State Parties are obliged to ensure that the rights of individuals under CAT are realized. As Article 27 of the Vienna Convention on the Law of Treaties provides: "[a] party may not invoke the provisions of its internal law as justification for failure to perform a treaty obligation."

53. The obligation in Article 4(1) does not extend to include specific, separate offences in national criminal law which correspond exactly to the definition of torture laid down in Article 1 of CAT. However, state parties which do not define torture or do not recognize the offence of torture in national legal systems are confronted with the problem of the classification of a crime over which they need to establish jurisdiction, and on the grounds of which they can institute prosecutions of persons who have perpetrated torture elsewhere.

54. In this regard, in its consideration of initial and periodic reports from states parties, the Human Rights Committee frequently includes in its list of recommendations that a definition of torture in conformity with the definition appearing in Article 1 of CAT be inserted in domestic law as a separate type of crime. In its more recent report, the Committee has deemed the inclusion of torture as an offence defined at least precisely as Article 1 of CAT definition to be a requirement of CAT.

Article 19 - 20

55. It is regretful that Cambodia state party did not submit its second periodic report to the Committee which was due since 1997. Given the lengthy period of time it seems there is no factor should satisfy as acceptable excuse and this reflects the lack of enforcement of the CAT provisions.

Moreover, state party report CAT/C/KHM/2 paragraph 91 mentioned that RGC did not provide response to the letter dated 28 April 2006 (CAT/C/KHM/CO/1/LFP) from the Committee's Rapporteur for Follow-Up on Conclusions and Recommendations to Cambodia (CAT/C/CR/30/2) was due to not receiving the communication and that the RGC has requested that the letter be resent.

56. It should be noted that while the shift in attitudes is to be welcomed and constitutes a positive step towards the prevention of torture and ill-treatment, the practical effect of international and regional mechanisms cannot be assessed solely on the basis of whether a spirit of goodwill prevails during presentation of a report or hosting of a visit. Such goodwill and openness have little actual impact if recommendations of international bodies are not linked with effective and efficient implementation at the national level. Therefore, international institutions must begin to establish follow-up with states after recommendations have been made.

Other issues

57. Additional cases which may exacerbate indirect fear and may encourage torture

(a) Another current example on the issue is Cambodia to host a military exercise for international peacekeepers which is also risen serious concern to all human rights observers. Despite its own reports documenting abusive behavior by Cambodian military units, the U.S. State Department agreed with the Department of Defense to allow The "Angkor Sentinel" exercise, part of the 2010 Global Peace Operations Initiative, will host 1,000 military personnel from 23 Asia-Pacific countries. It also will feature a two-week field training exercise hosted by Cambodia's ACO Tank Command Headquarters in Kompong Speu province.

(b) Since 2006, the United States has provided more than \$4.5 million worth of military equipment and training to Cambodia. US aid includes counter-terrorism training to personnel from Hun Sen's bodyguard unit and Brigade 70, who have been moved to a special anti-terrorist unit that was created in January 2008. US training has also been provided to members of Airborne Brigade 911, which has been implicated in well-documented violations, including arbitrary detentions, killings and other attacks, torture, and summary executions.

(c) "Rather than continuing the FBI probe into the killings, the US has channeled military aid to units linked to the attack and other recent serious abuses," said Brad Adams, executive director of Human Rights Watch's Asia Division.. "The US is sending mixed signals about its commitment to the human rights of the Cambodian people."

(d) The problem with this, says Human Rights Watch (HRW), is that the ACO Tank Unit has been involved in illegal land seizures, which have been noted by the State Department and by Cambodian and international human rights organizations. In 2007, soldiers from the unit destroyed villagers' fences and crops and confiscated land. HRW officials point out that the Angkor Sentinel exercise is likely to include elite Cambodian military units, such as Prime Minister Hun Sen's personal bodyguards and Brigade 70, "both of which have been linked to a deadly March 1997 grenade attack on the political opposition, and Airborne Brigade 911, which has been involved in arbitrary detentions, political violence, torture, and summary executions."

(e) "For the Pentagon and State Department to permit abusive Cambodian military units to host a high-profile regional peacekeeping exercise is outrageous," said Phil Robertson, deputy Asia director

at Human Rights Watch. “The U.S. undermines its protests against the Cambodian government for rampant rights abuses like forced evictions when it showers international attention and funds on military units involved in grabbing land and other human rights violations.”

58. In Cambodia there are many cases of psychological torture imposed over Khmer people to prevent them from using their freedom of expressions and over political opponents to prevent them from conducting electoral campaigns freely. The conditional rural development is just another form of imposed psychological torture to prevent the Khmer people from exercising their legitimate right to freedom of expression.

(a) The government would build roads and irrigation waterways in any commune or village on the condition that their local people voted for government CPP party. If after the elections the standing CPP candidate is not elected, the government will stop all development programs in those communes or villages and recuperate agricultural machines, equipments and tools back as well as the crops... etc

(b) The government distributes humanitarian aids only to its CPP supporters while it considers other Cambodian people, the non-supporters or non-sympathizers of CPP as outsiders who are not under government’s governance.

(c) The government uses judicial system as a political tool to exacerbate psychological torture on the civil society and the opposition parties who use democratic approach to criticize its policies. Tactics of intimidation, harassment, threats and legal charges continue to be used to silence dissenting voices and criticism of governmental policies.

(d) The government exerts arbitrary charges on the victims so the court may condemn them and arrest them. The Cambodian Prime Minister asks the court to suspend the verdict if the victims undertake to stop opposing the government’s policies, otherwise the verdict would be restored and the preset sentence reapplied.

(e) The government exerts a psychological torture against the Khmer overseas people, by threatening them to retaliate with legal action and prosecution when they visit Cambodia. These cases are often used against the leaders of the opposition parties as well as against the opponents to the policy of Vietnamisation in Cambodia.

(f) To prevent the anti-Vietnamese oppression movements, another form of torture, in apparent guise, has been exerted on the origin Khmer people, by depriving education, impoverishing and threatening with an aim to hinder prospect of building a better future on those who refuses Vietnamese’s domination in Cambodia. On the contrary, the government favors those who support Vietnamisation of Cambodia by providing them capacity, wealth and all kind of safety and immunities.

Torture on the Khmer people deliberately violates:

- The Constitution of Cambodia;
- The Paris Peace Agreement on Cambodia of October 23, 1991;
- Particularly Cambodia’s obligations towards the Convention Against Torture as a signatory country.

59. Amnesty International has emphasized that torture must be defined and prohibited in law, reports of torture must be independently investigated and torturers must be prosecuted. There should also be parallel efforts within the UN and at a regional level to bring pressure to bear on states accused of sponsoring torture. The universal prohibition of torture also strengthens the rule of law. Torture, in any form, is abhorrent and universally outlawed.

Recommendations:

60. Finally, the effort to eradicate torture and other related manifestation cannot succeed if an environment to foster democracy and human rights does not exist within states. Democracy opens space for accountability and transparency of governmental institution's and processes. It nurtures an environment in which respect for individual human rights and the rule of law can flourish. If this environment exist in a large measure, both national and international efforts to combat torture can be realized.

Therefore, we would like to make the following recommendations:

⇒ To the Royal Government of Cambodia (RGC):

61. The Cambodian government must now make greater efforts to honor its obligations under the UNCAT and OPCAT and its commitment to combat torture and protect people's absolute right to freedom from it more effectively. It should seek expertise and advice from the UN Subcommittee on Prevention of Torture to create a National Preventive Mechanism that meets the OPCAT requirements without any further delay. It should speed up the enactment of the Penal Code under which torture is criminalized.

⇒ To UN human rights bodies

62. Work with the Royal Government of Cambodia to establish an independent body to directly receive and investigate complaints of torture and other abuses in order to combat impunity.

63. Raise concerns with the Royal Cambodian Government regarding the allegations of arbitrary detention, torture, cruel, inhuman or degrading treatment or punishment, and other abuses committed against people who use drugs (including children) by law enforcement officers detention centers in Cambodia.

64. Request an invitation to visit Cambodia to investigate allegations of arbitrary detention, torture, cruel, inhuman or degrading treatment or punishment, and other abuses committed against people by law enforcement officers in detention centers in Cambodia.

65. Request further information from the Royal Government of Cambodia in its periodic reports on the detention and treatment of those detained in drug detention centers in Cambodia, including women and children.

⇒ To Cambodia donor countries:

66. Publicly demand that the RGC fulfill its obligations to protect and promote human rights of Cambodians, urging the RGC to take action to implement the 91 recommendations it accepted as part of the UPR process.

67. Adopt a human rights-based approach to aid policy and take a tougher line on linking financial assistance to the RGC demonstrating a real commitment to, and showing tangible improvements in, human rights.

68. Maintain funding and technical support to local NGOs and others working towards the realization of human rights in Cambodia.

⇒ **To the international community:**

69. It is important to recall that a number of countries undertook in the Paris Peace Agreements to “*promote and encourage respect for and observance of human rights and fundamental freedoms in Cambodia*” and “*to prevent the recurrence of human rights abuses*”. Cambodia signed the Paris Peace Agreements and, together with eighteen other international signatories and the UN, undertook to protect and promote human rights in Cambodia. This is a legally binding obligation that the Royal Government of Cambodia (RGC), and the other signatories, cannot merely ignore.

As such, it is incumbent on the international community together with the Government of Cambodia to take appropriate steps to ensure respect for human rights and work to ensure that violations are addressed and prevented.

70. The international community has a duty, moral and legal, to exert the necessary pressure and use their political and financial leverage to ensure that the RGC respects human rights and promotes democracy in Cambodia. As respect for civil and political rights deteriorates in Cambodia it is time for all to stand up, take notice and take action before authoritarian forms of control become normalized and Cambodia is pushed closer to the precipice of instability.

Appeals:

71. We call on the Committee Against Torture (CAT) to take measures to definitively stop the torture inflicted on the Khmer people, more or less surreptitiously, in order to continue the policy of Vietnamization of Cambodia.

Paris, October 7, 2010

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