

Submission by: Front Line; the International Foundation for the Protection of Human Rights Defenders (Front Line has Special Consultative Status with the Economic and Social Council of the United Nations)

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Introduction

The following submission has been prepared based on information received from independent human rights defenders in Cambodia. Front Line is an international NGO based in Ireland with Special Consultative Status with the Economic and Social Council of the United Nations. We have particular expertise on the issue of the security and protection of human rights defenders and we work to promote the implementation of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders) adopted by General Assembly resolution 53/144 of 9 December 1998.

Front Line is extremely concerned by the ongoing acts of repression against human rights defenders (HRDs) in Cambodia. Human rights defenders in Cambodia are subjected to extrajudicial killings; arbitrary arrests and detentions; prolonged pre-trial detention periods; torture; custodial violence; harassment and intimidation. Human rights defenders working on issues relating to land rights and workers rights are particularly at risk.

Repression against defenders of economic, social and cultural rights

Human rights defenders who work within movements addressing issues of land rights and workers' rights continue to pay a heavy price for their activities in favour of the disadvantaged and their

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opposition to powerful interest groups. According to an Amnesty International report¹, “in 2008, some 150,000 Cambodians were known to live at risk of being forcibly evicted in the wake of land disputes, land grabbing, and agro-industrial and urban redevelopment projects”

❖ Land rights and human rights defenders against forced evictions

In response to the grave concerns regarding forced evictions and land rights many individuals and groups have organised themselves to formally represent their own communities and other communities facing violations of their rights based on land disputes. Through their activities promoting the rights of the communities at risk these individuals themselves face regular threats of unfair arrest, legal action based on groundless criminal charges and prosecution.

• Chan Vichet

Chan Vichet is a community leader in the Dey Krahorm community in Phnom Penh. Since 2005 his human rights activities have centred on resisting the community's forced eviction by a private company, 7NG. He has been actively organising, advocating and negotiating on behalf of the community. He has faced threats and intimidation and other forms of pressure and persecution due to his activities protecting the rights of the community residents. Chan Vichet is currently facing a number of criminal charges, including incitement and falsifying documents, despite a lack of any evidence against him.

On 24 January 2009 hundreds of families were moved to a relocation site after being forcibly evicted from Dey Krahorm in Phnom Penh. Following the forced eviction residents mounted protests to demand proper compensation for their confiscated land and the destruction of their homes. On 16 February 2009, Chan Vichet, together with two other former residents of the Dey Krahorm; Khieu Bunthoeun and Ly Youleng, were convicted by the Phnom Penh Municipal Court of property damage and physical assault, resulting from an incident when villagers were involved in a confrontation with employees of 7NG. During the trial seven defense witnesses testified that the three defendants had not been involved in any acts of violence on the night in question. Furthermore, several defense witnesses testified that Chan Vichet had used a loud speaker during the confrontation to urge residents to cease throwing rocks at the 7NG vehicles and machinery and to conduct their protest through peaceful means. The trial judge however found Chan Vichet, Ly Youleng and Khieu Bun guilty, with the former two given an 18-month suspended prison sentence and ordered to pay 800,000 riels (USD\$200) compensation to 7NG, and the latter given an 18-month suspended sentence and four days' imprisonment which he had already served. In addition the three defendants were ordered to pay 1.2 million riels (USD\$300) to two 7NG employees who had been injured during the confrontation.

LICADHO, the Cambodian League for the Promotion and Defense of Human Rights, notes that “the experience at Dey Krahorm reflects the broader reality throughout Cambodia: land-grabbers frequently filed baseless criminal complaints against residents and their representatives, in a bid to coerce them to give up their land and to punish them if they do not”². LICADHO has recorded over 50 incidents of arrest of community representatives in Cambodia since January 2006.

❖ Trade union rights

The International Covenant on Civil and Political Rights (ICCPR)³, to which Cambodia is a party,

1 *Cambodia – A risky business – defending the right to housing* – Amnesty International September 2008 (AI Index: ASA 23/014/2008)

2 <http://www.licadho-cambodia.org/articles/20090302/91/index.html>

3 <http://www2.ohchr.org/English/law/ccpr.htm>

states in Article 22 that: “1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests. 2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right”. Despite this guarantee many restrictions remain in place on the activities of trade unions in Cambodia and trade union leaders face grave risks in carrying out their work to protect the rights of the workers.

Workers active in the promotion and protection of their rights continue to face anti-union measures and are at risk of human rights violations such as threats, intimidation, physical assault, arbitrary arrest and detention, torture, dismissal and killings.

- **Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC)**

The Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC) have reported that since June 2003 four union leaders have been shot dead, 23 union leaders have survived assassination attempts or been attacked, intimidated, harassed, dismissed, arrested or detained as a result of their trade union activities; and 17 union leaders have been blacklisted⁴.

On 22 January 2004, President and co-founder of the FTUWKC, Chea Vichea, was assassinated in Phnom Penh. As a high profile advocate for worker's rights he had been attacked, threatened, beaten by a military officer and in 1997 had lost an eye following a grenade attack during a rally. His murder was seen as a warning to all trade unionists and workers who were openly protesting for their rights. The subsequent trial highlighted the weak functioning of the justice system. Following an allegedly deeply flawed criminal investigation and unfair trial Born Samnang and Sok Sam Oeun were sentenced to 20 years imprisonment for the killing of Chea Vichea. In its decision on 31 December 2008 the Supreme Court of Cambodia cited unclear evidence and called for a new investigation into the case. Born Samnang and Sok Sam Oeun were provisionally released from prison pending a retrial. Local NGOs, including the FTUWKC, who conducted their own investigations into the killing of the trade union leader concluded that the accused were not the killers of Chea Vichea and that their detention was unjust.

On 7 May 2004, Ros Sovannareth, steering committee member of the FTUWKC and President of the Free Trade Union of Trinunngal Komara Garment Factory was shot dead by two unknown assailants on a motorbike in Phnom Penh. On 24 February 2007, Hy Vuthy, President of the Free Trade Union of Workers of SunTex Garment Factory was shot dead by two unidentified men on a motorbike.

The FTUWKC conclude that a weak justice system, the lack of effective and impartial investigation into the killings of union leaders and threats against worker's rights defenders, and low levels of prosecutions of perpetrators of violations, contribute to the ongoing climate of fear within which HRDs are operating in Cambodia.

Human rights non-governmental organisations (NGOs) and freedom of association

Local NGOs are required to register with the Ministry of the Interior and foreign NGOs with the Ministry of Foreign Affairs, with approximately 2000 NGOs on the register. The Ministry of the Interior originally drafted the Local Associations and Non-Governmental Organisations Law in 2006 but in 2008 Prime Minister Hun Sen proposed a new NGO Law which would introduce tighter regulations for NGOs based on the pretext that financial assistance was being provided for terrorist activities through NGOs.

4 FTUWKC: Killings, Violation, Intimidation and Discrimination – Report of the FTUWKC – 03 March 2009

The Anti-Terrorism Law, enacted in 2007, contains legislation on the funding of terrorist activities and therefore Cambodian civil society has raised concerns that the new NGO Law is in fact an attempt to further restrict the activities of NGOs and specifically human rights NGOs. Article 42 of the Constitution of Cambodia establishes that “Khmer citizens have the right to establish associations and political parties. These rights are determined by law”⁵

Freedom of Assembly

Local human rights organisations have reported incidents where the Government of Cambodia has worked to restrict freedom of assembly by declining authorisation for demonstrations or through delaying the granting of permission for public events until shortly before the event is due to take place. Unauthorised rallies and strikes have been suppressed by force by the authorities. The Cambodian Human Rights and Development Association – Adhoc reported that in 2008, “of 155 peaceful strikes and demonstrations that took place 108 (70%) were suppressed forcibly by the armed forces”⁶

Front Line calls upon the UN to urge the authorities in Cambodia to prioritise the protection of human rights defenders and in doing so to:

1. To conduct an independent investigation into the source of threats and attacks on human rights defenders, and all forms of intimidation and harassment directed towards all those human rights defenders mentioned in this report with the specific aim of identifying those responsible, publishing the results and bringing those responsible to justice;
2. Take concrete steps to publicly condemn attacks and campaigns against human rights defenders, giving recognition and importance to their legitimate activities defending the rights of others;
3. Ensure that all human rights defenders in Cambodia are free to carry out their human rights activities free from persecution.

5 <http://www.constitution.org/cons/cambodia.htm>

6 [http://www.adhoc-chra.org/gallery/files/HRs_Situation_2008\(EN\).pdf](http://www.adhoc-chra.org/gallery/files/HRs_Situation_2008(EN).pdf)