



To Permanent Representatives of Member and Observer States of the United Nations Human Rights Council

Geneva, 18 August 2016,

Re: Call on the Human Rights Council to adopt a resolution addressing Cambodia's gravely deteriorating human rights situation

Your Excellencies,

We, the undersigned international, regional, and Cambodian non-governmental organizations (NGOs), urge your delegation to support the adoption of a resolution addressing Cambodia's gravely deteriorating human rights situation at the 33rd session of the Human Rights Council (13-30 September 2016).

This resolution should highlight and condemn the ongoing and systematic human rights violations in the country and impunity for their perpetrators; build on the concerns expressed by a number of States at the Council's 32nd session¹; and urge the Cambodian Government to urgently take corrective action to preserve the legacy of the Paris Peace Agreements,² ahead of their 25th anniversary and of key municipal and general elections (2017-2018). The resolution should also request the United Nations (UN) Special Rapporteur on the situation of human rights in Cambodia, Ms. Rhona Smith, to assess the status of implementation of the recommendations made to Cambodia by various UN bodies and mechanisms, including by her and her predecessors,³ and to identify benchmarks for progress and priority areas for reform with a view to putting an end to the ongoing and systematic human rights violations committed in the country.

The mandate of the Special Rapporteur on Cambodia was extended for an additional two years at the Council's 30th session. This unique practice of bi-annual country-specific resolutions provides important continuity to the monitoring of, and public reporting on, the situation in the country and helps streamline the work of the Council. However, this should not prevent the Council from exercising its responsibility to take more decisive action given the grave circumstances in Cambodia.

1 During the Human Rights Council's 32nd session (13 June-1 July 2016), a number of States expressed concern over the escalation of attacks against civil society and the political opposition in Cambodia. See joint NGO statement, "UN Human Rights Council Puts Cambodia on Notice": www.forum-asia.org/?p=21182

2 The Agreements on a Comprehensive Political Settlement to the Cambodia Conflict, signed in Paris on 23 October 1991, also laid out processes for the building of a just and democratic Cambodia, anchored in human rights and the rule of law.

3 As well as treaty monitoring bodies, thematic special procedures of the Human Rights Council, the Universal Periodic Review (UPR), the Office of the UN High Commissioner for Human Rights (OHCHR) and the UN Secretary-General.

Latest developments on the ground

Since we expressed deep concern about Cambodia's human rights situation in a letter sent to your and other delegations prior to the Human Rights Council's 30th session,⁴ our fear that the country risked “falling deeper into a pattern of institutionalized human rights violations, including political violence”⁵ and the alarm expressed by the Special Rapporteur that the country was reaching a “dangerous tipping point,”⁶ have materialized.

Indeed, since the adoption of Human Rights Council resolution 30/23⁷ on 2 October 2015, the Cambodian Government has taken steps to further restrict the rights to freedom of expression, peaceful assembly and association, limit the political opposition's ability to meaningfully engage in policy-making and campaigning, and prevent civil society organizations from operating freely and independently. Legislation that unduly restricts human rights and fundamental freedoms continues to be in force, including the Law on Association and NGOs (LANGO), which the Office of the UN High Commissioner for Human Rights (OHCHR) has described as falling “significantly short of international human rights laws and norms” and as “threatening the existence of a free and independent civil society in Cambodia,”⁸ with increasing concerns that the government is prepared to use it to arbitrarily de-register civil society organizations it labels as violating the concept of “political neutrality.” A Trade Union Law imposing new restrictions on the right to freedom of association⁹ has also come into force, marking a further downward slide for labor rights in the country. Security forces continue to suppress peaceful protests, and in recent months, instances of judicial harassment and unwarranted legal attacks against human rights defenders, community activists, trade unionists and political opposition members and their supporters have multiplied, with no end in sight.

On 12 May 2016, four UN Special Rapporteurs jointly called on the Government of Cambodia to “stop targeting civil society, human rights defenders, parliamentarians and UN personnel and to take effective measures to protect civil society and respect fundamental freedoms in the country.”¹⁰ They highlighted the case of the Cambodian Human Rights and Development Association (ADHOC), one of Cambodia's oldest, largest, and most-respected human rights NGOs, whose four senior staff members have been targeted along with a former staff member, now Deputy Secretary-General of the National Election Committee (NEC). They have been subjected to a judicial investigation and arbitrary detention on charges that have all the hallmarks of being politically-motivated of “bribing a witness” in connection with the provision of advice and legitimate reimbursement of food and transportation costs to a woman alleged to have had an extra-marital relationship with the deputy opposition leader, Kem Sokha. The continued detention of the five defenders, as well as the threats and intimidation of those who have spoken out in their defense, including through a campaign on social media,¹¹ has led to an increasingly repressive environment for freedom of expression and sent a chilling message to the critics of the government.

On 10 July 2016, prominent Cambodian political analyst and social justice activist Kem Ley was shot dead in broad daylight at a convenience store in a petrol station in central Phnom Penh. Following the attack, five UN Special Rapporteurs jointly stated that “[t]he circumstances of Mr. Kem Ley's death have given rise to deep concerns in view of his standing as a critic of the government and his regular comments in the media

4 See www.fidh.org/IMG/pdf/cambodia_letter_hrc_30-1.pdf

5 Ibid., p. 1.

6 See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16795&LangID=E Rhona Smith reiterated her concern on other occasions, including at the end of an official visit to Cambodia: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=18552&LangID=E

7 “Advisory services and technical assistance for Cambodia,” available at: ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/30/23

8 www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16263&LangID=E

9 www.hrw.org/news/2015/12/17/cambodia-revise-union-law-protect-worker-rights

10 www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19954&LangID=E In an unprecedented move, the Cambodian Government, including Prime Minister Hun Sen himself, accused a Cambodian staff member of the OHCHR of being an accomplice to the accused. That staff member had to remain within the premises of the United Nations in Phnom Penh for several days in order to avoid arrest, despite a reminder by top UN officials that he enjoyed immunity for the missions carried out as a UN staff member, including in relation to this case.

11 See for instance freethe5kh.net/ and www.licadho-cambodia.org/political_prisoners/

highlighting governance and human rights concerns.” They added that his shooting “exemplifie[d] an alarming negative trend in Cambodia whereby political activists and human rights defenders are facing increasing restrictions [...]” and that his killing is “likely to have a chilling effect on the pursuit of democracy and human rights in Cambodia.”¹² The “prompt, thorough and impartial investigation into this crime” by “an independent body with no ties to the government” they have called for has yet to be conducted.

These developments have taken place in a context of increased political tensions, as the country's two opposition leaders, Mr. Sam Rainsy and Mr. Kem Sokha, President and Vice-President of the Cambodia National Rescue Party (CNRP) respectively, have been targeted with a series of criminal allegations that have prevented them from effectively participating in Cambodia's public life.¹³ In addition, 26 political prisoners, including human rights defenders,¹⁴ are currently in detention in Cambodia. Prime Minister Hun Sen and other high-level officials have threatened several opposition politicians, political commentators and civil society representatives with legal proceedings, including for “defamation.” Amid the attacks against civil society and other critical and independent voices and the increased harassment of the media, these mounting political tensions threaten to make the elections planned for 2017 and 2018 neither free nor fair.

Suggested language for a strengthened Council response

In the face of Cambodia's rapidly deteriorating human rights situation as well as government policies and practices that go against the spirit and purpose of the Paris Peace Agreements and UN engagement in the country since, the Human Rights Council should adopt a resolution that:

- **Condemns threats to, and attacks against, human rights defenders and other critical or independent voices; violations of the rights to freedom of peaceful assembly, association and expression; the lack of independence of the judiciary; violations of land and housing rights; violations of women's and indigenous peoples' rights; the erosion of fundamental democratic principles and institutions; and ongoing impunity for perpetrators of human rights violations and abuses¹⁵;**
- **Urges the Cambodian Government to put an end to these serious violations, abide by its domestic and international human rights obligations, and implement key legal and institutional reforms that UN bodies and mechanisms have highlighted as essential;**
- **Urges the Cambodian authorities to immediately release all activists, human rights defenders, and opposition members and supporters who have been arbitrarily imprisoned or detained in relation to the exercise of fundamental rights and freedoms and to drop all charges that have been pressed against any person for such exercise;**
- **Calls on the Cambodian authorities to carry out prompt, thorough, effective, transparent, impartial and independent investigations into instances of violence, including the October 2015 assault by three of the Prime Minister's bodyguards on two opposition members of the National Assembly and the 10 July murder of political analyst Kem Ley, and bring perpetrators, including anyone who may have instigated or orchestrated these acts, to justice in fair trials;**
- **Calls upon the Cambodian Government to repeal laws that are not in line with international law and standards on the rights to freedom of expression, peaceful assembly and association, or amend them with a view to bring them into line with international standards, including the Law on Associations and NGOs, the Trade Union Law and the Telecommunications Law; and refrain from adopting additional legislation that falls short of international standards;**
- **Calls upon the Cambodian Government to amend the three “judicial reform laws” (on the Orga-**

12 www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20264&LangID=E

13 Sam Rainsy has been living in exile to avoid arrest in several cases that appear to be politically motivated, while Kem Sokha, who has been threatened by government officials in a case related to the abovementioned extra-marital affair, remains in hiding.

14 www.licadho-cambodia.org/political_prisoners/

15 See annex for references.

nization of the Courts, the Statute of Judges and Prosecutors, and the Organization and Functioning of the Supreme Council of the Magistracy) that infringe on the independence of the judiciary, in contravention of international standards and Cambodia's Constitution;

- ***Calls on*** the Cambodian Government to establish a time-bound action plan for the implementation of recommendations made by the Special Rapporteur and by previous mandate holders, as well as by UN bodies and mechanisms, including treaty monitoring bodies, thematic special procedures of the Human Rights Council, the Universal Periodic Review (UPR), the OHCHR and the UN Secretary-General;

- ***Urges*** the Cambodian Government to ensure the transparency and credibility of the electoral process and to create the necessary conditions for the upcoming municipal and general elections to be free, fair, credible, inclusive, peaceful and transparent, in accordance with the international commitments of the Cambodian Government; in this regard, ***urges*** the government to provide for an expansion of political space and to ensure respect for human rights and fundamental freedoms, including the freedoms of expression, online and offline, peaceful assembly and association;

- ***Calls upon*** the Cambodian Government to establish an independent, well-resourced National Human Rights Institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the "Paris Principles");

- ***Calls on*** the Cambodian Government to fully cooperate with the UN Special Rapporteur on the situation of human rights in Cambodia, as well as with other UN human rights bodies and mechanisms;

- ***Requests*** the Special Rapporteur on the situation of human rights in Cambodia to assess the status of implementation of the recommendations made to Cambodia by various UN bodies and mechanisms, including her and her predecessors, and to identify benchmarks for progress and priority areas for reform with a view to putting an end to the serious and systematic human rights violations committed in the country;

- ***Invites*** thematic special procedure mandate-holders to engage fully and to coordinate with the Special Rapporteur on the situation of human rights in Cambodia; and

- ***Decides*** to remain actively seized of the matter.

We also call upon your Government to express its support to the renewal of the mandate of the OHCHR country office in Cambodia through the prompt signing of a Memorandum of Understanding (MoU) between the Government of Cambodia and the OHCHR, and to underline the importance of the complementarities between the work of the Special Rapporteur, other UN bodies and mechanisms and the OHCHR country office.

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Twenty-five years after the signing of the Paris Peace Agreements, this resolution should reaffirm the UN's historical responsibility to support the Cambodian people's quest for justice, democracy, human rights and the rule of law. As it examines the situation in Cambodia for the last time before the country's municipal elections (4 June 2017), the Human Rights Council should make clear its intention to continue to closely monitor and address the situation in the country by adopting a resolution that highlights the abovementioned concerns and urges the Cambodian Government to urgently take corrective action in this regard.

We thank you for your attention to these pressing issues and are available to provide your delegation with further information as required.

Sincerely,

International Federation for Human Rights (FIDH)
Asian Forum for Human Rights and Development (FORUM-ASIA)
Cambodian Center for Human Rights (CCHR)
Cambodian Human Rights and Development Association (ADHOC)
Cambodian League for the Promotion and Defense of Human Rights (LICADHO)
CIVICUS: World Alliance for Citizen Participation
Civil Rights Defenders
International Commission of Jurists
International Service for Human Rights
Human Rights Now
Human Rights Watch
World Organization Against Torture (OMCT)

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ANNEX: Additional references

Human rights defenders

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