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Written statement* submitted by the Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 August 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The Cambodian Government Must Stop Harassing Opposition and Ensure Fair and Free Elections in 2018

I. Summary of Harassment in Cambodia

Human Rights Now, a Tokyo-based international human rights NGO, expresses deep concern over the recent human rights situation in Cambodia, in particular the intimidation, harassment, and coercion against civil society and members of the main opposition party. This campaign of intimidation has increased as the 2018 national elections approach, with threats against election monitors and warnings of military intervention in opposition areas, crackdowns on peaceful demonstrations, and arbitrary arrests of human rights defenders (HRDs). Such acts violate Cambodia's human rights duties and threaten the minimal remaining legitimacy of its democratic system.

Human Rights Now calls on the Cambodian government to cease its intimidation, harassment, and threats of opposition members, HRDs, and election monitors and to take measures to ensure free and fair elections in 2018.

II. The Cambodian Government's Campaign of Intimidation

A. Background

The government of Cambodia has intimidated political opposition and HRDs for years, but it has worsened in recent years following the Cambodia National Rescue Party's (CNRP) advances in the previous national election in 2013, with an unexpectedly strong performance at the 2017 communal election and approaching 2018 election likely to worsen the situation.

At least 17 opposition figures are currently imprisoned on politically-motivated convictions or awaiting trial on spurious charges, including a number of elected representatives and 14 CNRP officials and supporters convicted of insurrection offences after a peaceful protest turned violent following a state-instigated crackdown in 2014.¹ Former CNRP leader, Sam Rainsy, remains in self-imposed exile to avoid prosecution,² and its current leader, Kem Sokha was convicted in September 2016, although later pardoned.³ The CNRP headquarters has been surrounded by military vehicles or soldiers in displays of intimidation.⁴ In addition, the leader of a minority party, the Khmer Power Party, is in pre-trial detention facing charges of incitement and demoralization of the armed forces after commenting on the government's militarization of a border dispute with Laos.⁵

The government of Cambodia has forced through two rounds of urgent amendments to the Law on Political Parties since early 2017 extending the powers of the courts to dissolve political parties, removing safeguards, and allowing the Ministry of Interior (MOI) to suspend political parties on expanded grounds and without appeal; this could act as de facto dissolution as there is no maximum suspension period. The amended law also forbids convicted persons from holding party positions or the party from even using their image or voice, a clear targeting of Sam Rainsy and other arrested political figures.⁶ This law has been criticized by OHCHR as excessive and vague;⁷ and a joint letter by two Human Rights Council Special Rapporteurs criticized the politically motivated prosecution and harassment of Sam Rainsy.⁸

1 LICADHO, "Briefing Paper: July 2017" (Briefing); LICADHO, [http://www.licadho-cambodia.org/reports/files/2232017_HRD_ENG\[finalWeb\].pdf](http://www.licadho-cambodia.org/reports/files/2232017_HRD_ENG[finalWeb].pdf)

2 <https://www.cambodiadaily.com/news/sam-rainsy-officially-exiled-cambodia-119625/>

3 <https://www.cambodiadaily.com/news/kem-sokha-pardoned-next-step-unknown-121448/>

4 <http://www.phnompenhpost.com/national/exercises-bring-military-helicopters-and-vessels-cnmps-doorstep>

5 <http://www.khmertimeskh.com/5077933/party-leader-detained-military-slurs/>

6 <http://www.rfa.org/english/news/cambodia/law-07282017165222.html>

7 <https://cambodia.ohchr.org/sites/default/files/Analysis%20on%20the%20Amended%20Law%20on%20Political%20Parties%20FINAL%20no%20TC.pdf>

8 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22853>

The ongoing campaign of intimidation has extended to judicial harassment of HRDs, such as arbitrary arrests and charges of staff of the human rights NGO ADHOC, who were released under restrictive judicial supervision after over a year of pre-trial detention on politically-motivated charges.⁹ Police harassment, arrests, and violence against demonstrators, such as the “Black Monday” and “Boeung Kak Lake” activists have also been commonplace.¹⁰ Boeung Kak Lake activist Tep Vanny has been detained for over a year after an initial conviction for participation in the Black Monday campaign and the reactivation of multiple politically-motivated charges against her.¹¹ There have been at least 38 detentions in the Black Monday campaign since 2016.¹² July 2017 saw the one-year anniversary of the murder of HRD Kem Ley. Despite a conviction of the principal suspect, there has not been a credible and thorough investigation into the suspicious circumstances of the killing.

B. Acts of Intimidation Surrounding the 2017 Elections

The June 2017 commune elections were reported to be flawed by Situation Room (SR), a network of 40 Cambodian civil society groups monitoring the election. They cited an atmosphere of intimidation, opaque campaign financing, and irregularities in the election process itself, including allegations of soldiers illegally registering to vote.¹³ There were also reports of the movement of soldiers into electoral districts to alter the election outcome in favor of the ruling party.¹⁴

Following the election, PM Hun Sen called for an investigation of SR for violations of the Law on Associations and Non-governmental Organisations (LANGO)¹⁵ in its first substantive use. The MOI found that SR had violated two parts of LANGO and have ordered it to cease its activities or face sanctions, such as suspension or closure.¹⁶ The claimed violations were:¹⁷

(1) Articles 9(2) and 6, which require all associations register, which SR had not done. SR responded that it was only a network of organizations, not itself an independent organization, so did not require registration. LANGO’s definition of “associations” is also vague and overbroad.

(2) Article 24’s vaguely defined duty of “political neutrality”. The Ministry issued a letter to the leading election-monitoring NGOs in SR, COMFREL and NICFEC, claiming they were politically biased in violation of LANGO. SR defended its activities as neutral and impartial.

Cambodian officials have threatened violence against political opponents, including the PM’s threat to “eliminate 100-200 people” for security.¹⁸ Officials have also acknowledged surveillance and wiretaps against opposition supporters under the Telecommunication’s Law, which legalizes such surveillance, and a MOI spokesperson threatened further government surveillance and criminal investigations against opposition supporters.¹⁹ A joint letter by two Human Rights Council special rapporteurs has criticized this law for its vagueness and over-breadth threatening and chilling the work of HRDs.²⁰

9 <https://www.cambodiadaily.com/news/un-adhoc-staff-charged-over-sex-scandal-112053/>

10 <http://www.rfa.org/english/news/cambodia/cambodian-authorities-arrest-seven-black-monday-protesters-06062016161232.html>; <http://www.rfa.org/english/news/cambodia/demonstrators-attacked-as-cambodian-court-convicts-prominent-activist-02232017145526.html>

11 <http://www.phnompenhpost.com/national/year-hell-prey-sar-tep-vanny>

12 LICADHO Briefing, above, note 1; Communications with LICADHO.

13 https://www.comfrel.org/eng/components/com_mypublications/files/439937SRs_Statement_Overall_and_Ultimate_Assessment_on_Commune_Council_Election_for_the_4th_Mandate__24_JUNE_2017_English.pdf

14 <http://www.rfa.org/english/news/cambodia/cambodian-opposition-army-09152016142042.html>

15 <http://www.ccc-cambodia.org/index.php/lango>

16 <https://www.cambodiadaily.com/news/interior-ministry-issues-stop-order-to-situation-room-ngos-132133/>

17 <http://www.phnompenhpost.com/national/election-monitors-get-warning-over-law-neutrality>

18 <https://www.cambodiadaily.com/second/hun-sen-goes-tirade-opponents-130441/>; LICADHO Briefing, above, note 1.

19 LICADHO Briefing, above, note 1; <http://www.phnompenhpost.com/national/telecommunications-law-allows-govt-spy-licadho>

20 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22817>

C. Continuing Acts of Intimidation

The MOI has called for excessive reporting requirements with strict deadlines to NGOs generally as a form of intimidation through a direct order enforcing LANGO. PM Hun Sen has made threats to arrest “any spies in Cambodia”, foreign or citizens, and suggested that an election loss may lead to civil war, threatening military intervention.²¹ He has also ordered the closure of a foreign anti-trafficking NGO he considers to have “offended Cambodian traditions.”²² The government has continued to arrest and harass people involved in political demonstrations in support of the opposition, and it continues to pass legislation like the Law on Political Parties amendments mentioned above restricting CNRP’s ability to campaign. Trades unions also face severe threats, with the Trade Union Law restricting their autonomy and the Ministry of Labour preventing registration of many independent unions. This means these unions are excluded from collective bargaining on rights and conditions for workers. The Telecoms Law has also legalized mass secret surveillance of telecommunications.

Every week sees new restrictions, intimidations, harassments, and threats by the government geared to restrict election monitoring and NGO activity and intimidate the political opposition in advance of the 2018 elections.

III. Violations of Human Rights Obligations

The actions of the Cambodian government intimidating and harassing the political opposition are inconsistent with Cambodia’s duties under international human rights law on a number of grounds.

- Alleged interference with elections, if allegations prove true, violates citizens’ rights to vote with equal suffrage and free choice, ICCPR Article 25(b).
- The intimidation and bans on candidates and representatives based on arbitrary grounds also violates their ICCPR Article 25 right to equal status to be elected and be representatives.
- The use of LANGO to criminalize NGOs and their activities, including election monitoring, violate their rights to freedom of association and expression, ICCPR Articles 22.1 and 19.
- Crackdowns and arbitrary arrests of opposition figures and demonstrators violate their rights to freedom of assembly and expression, ICCPR Articles 21 and 19, and freedom from arbitrary detention, ICCPR Article 9.1.
- Surveillance by the government violates persons’ right to privacy, ICCPR Article 17.1.

IV. Recommendations

Human Rights Now calls the Cambodian government to:

- Cease threats, harassment, and prosecutions of opposition members and election monitors;
- Amend and repeal laws which restrict legitimate NGO, opposition, and HRD activities, including LANGO, Telecommunications Law, Trade Union Law, and Law on Political Parties.
- End arbitrary arrests of demonstrators;
- Immediately release all imprisoned HRDs; and
- Take measures to ensure free and fair elections in 2018.

²¹ <http://www.rfa.org/english/news/cambodia/war-05092017165114.html>

²² <https://www.cambodiadaily.com/news/hun-sen-demands-closure-of-ngo-over-cnn-insult-133139/>