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NGOs' Joint Submission

to the Universal Periodic Review of the United Nations Human Rights Council

General Introduction to Peace and Security in Cambodia

After decades of turbulence Cambodia has achieved peace, stability, and economic development, and has become to some extent a democracy with pluralism, and a civil society has strongly emerged after the Peace Agreement.

However, all these achievements are not rock solid, but have remained very much fragile when Cambodia is still facing huge challenges in a number of areas such as land disputes, forced eviction, corruption, social injustice, and weak governance. In addition to those challenges, the past violent conflicts have its impacts on the present society such as widespread impunity, culture of fear, social violent behaviors and structural violence (Ernst Jürgensen 2013, p 44). These have affected peace and security, and the democratic space for the exercise of political rights, especially for those who hold opposite opinions. Political activities often have met with repressive measures.

Peace is not the absence of war. Efforts have to be made to build a positive peace, a society with justice and equality, and all this is still very far to go. The ruling party is trying to centralize power to control the democratic space, and this has led to imbalance between judiciary, legislative, and executive bodies. Social injustices have created more suffering and frustration within the society which could then lead toward future violent conflicts and social instability. Socio-political change is strongly needed to address all these national issues, if the country is to move in a direction of positive peace to sustain peace and social cohesion.

There are still several main elements in society that the organizations that compiled this report feel must be adequately addressed if the country is to achieve sufficient and progress peace and security within Cambodia. Namely, these issues are the growing need to foster greater solidarity between the government and civil society, the need to resolve border disputes with Cambodia's regional neighbors, land titling disagreements and land disputes, the use of provocative language during elections, and a social fear of the return of the Khmer Rouge.

A. Solidarity between Government and Civil society

NGOs are an important component of civil society in Cambodia. Cambodian civil society works to achieve civil rights and the healthy holistic development of the nation. However, solidarity between Cambodian civil society and the government faces many obstacles. Recently, there have been intimidations, killing, and lawsuits against several human right activists, hindering the work of the organizations the activists represent (ADHOC, Amnesty International). For example, activists such as Mr. Chut Wutty, an environmental activist and

human right defender and other people were killed or imprisoned for environmental conservation efforts, addressing border issues, or other campaigns voicing against injustices.

While the government continues to persecute human rights activists, the police cannot maintain rule of law elsewhere. The government has demonstrated its ability to take swift action on certain issues. This June, within three days the National Assembly created a new law criminalizing denial of the serious crimes Khmer Rouge regime, (Greenwood). In contrast, passage of the Anti-Corruption law had taken the Royal Government for years and significant international pressure.

Civil society and the government have similar goals: to help Cambodia to become a democratic [country](#) enshrined in the Constitution of the Kingdom of Cambodia. Therefore civil society needs help and cooperation from the government in order to achieve those goals. This includes stopping violence, intimidation, and creating space for opposition and civil society to operate freely. This is necessary for real democracy in Cambodia. Sadly, Cambodian civil society has witnessed increasingly hostile attitudes from the government who now incorrectly assume that most civil society is linked with the opposition or are opposed to the government's development policies.

The Royal Government of Cambodia should be open minded and willing to receive requests and feedback from the public. They must be willing to listen in order to improve the country and build on development work that has taken place thus far; Cambodian people respect their top leaders greatly, and therefore leaders have no reason to condemn the public or restrict the freedom of speech enshrined in the Constitution (LICADHO).

Being in senior leadership for more than 10 years in any country is unhealthy. Opinions and ideas shift during such a long period of time and the leader may no longer understand the people under his leadership. When one person stays in power for such a long time, structures are created to benefit one interest group and create partisan connection and nepotism and leaders often become intolerant towards challengers or activists. Leaders can become less inclined to accept feedback from their people.

Cambodia has seen leaders [as](#) personal power at the expense of poorer Cambodians. When the public witnesses social injustice such as corruption, land grabbing, restrictions on freedom of speech, assembly and expression, environmental damage, they must exercise their rights to hold their leaders responsible for these systematic abuses. In the past, civil war, huge violence and killing were used as tools for resolving differences and injustice. Cambodia must ensure that civil war is never used again as a way restore a fragile peace.

Key Recommendations

1. Khmer people, peace activists and civil society need to collaborate with the authorities to work for the national peace and security. We urge the government leaders to support civil society contributions to the development of the country towards a real pluralistic democracy in accordance with the Cambodian constitution.
2. We urge the government to stop harassing human rights activists and provide them space for freedom of expression and their endeavors to fight against social injustice.
3. We urge the government to amend the Constitution to institute term limits for the office of the Prime Minister in order to increase diversity among the leadership and prevent partisan politics, so that peace and security will be strengthened in the country. This would also prevent the opposition from the perceived need to resort to violence in an effort to voice their concerns. The citizen voters should exercise their rights to vote for their leaders in a peaceful, transparent and legitimate electoral process.
4. We also urge the government to utilize the national assemble inscribed in the Constitution to ensure political dialogue and debate in regard with national interests such as border issue, land concession, development plan, and national incomes and budgets etc.

B. Border Disputes and Tension with Cambodia's Regional Neighbors

Cambodia has a long history of conflicts over territory with its neighboring countries especially Thailand and Vietnam. The disputes badly affect livelihoods, especially for those who are living along the borders. For instance, the Cambodian-Thai dispute over Preah Vihear temple resulted in the injury and death of many people both civilian and military (Osborne 2011) and tens of houses were burnt. Many people and livestock were internally displaced and children were not able to go to school during the clash and instability in that border area.

There is also a tension between Cambodian people and the Vietnamese government around the issue of the Sea Islands, particularly “Koh Tral” which is still ongoing accusation by the opposition party over the land encroached by Vietnam due to the unclear border agreement between the two countries. Cambodian people are not clear about the Vietnamese government’s policy and implementation of the Paris Peace Accord in 1991 (concerning the sovereignty, independence, territorial integrity, and inviolability, neutrality and national unity of Cambodia) and the extensional border agreement between Cambodia and Vietnam. There are a lot of accusations between the people and the government in this regard.

The resolution process of border disputes is not clear for some Cambodian people including political parties, especially surrounding the question of which mechanism Cambodia should

use to deal with border disputes with its neighbors.

Key Recommendations

5. The government should use proper mechanisms such as International Court of Justice (ICJ) and Paris Peace Agreement to deal with the border disputes including demarcation among neighboring countries especially Thailand and Vietnam where it is necessary, so therefore it can protect the national interests of the Cambodian public.
6. The governments of the involved parties should build good relationship and cooperation among themselves and promote regional peacebuilding among peoples of those countries.
7. Both governments (Cambodia and Vietnam; and Cambodia and Thailand) should work to inform people living near the disputed border areas about the current situation and the mechanisms they are using to resolve the dispute.
8. We urge Cambodian government as well as all ASEAN member states to promote the rights to peace and respect for human rights by creating safe democratic sphere for all people.
9. We would like to call for both Cambodian government and ASEAN member states to strongly support and invest in capacity building and fund the strengthening of the ASEAN Institute for Peace and Reconciliation. This Institute plays an important role in establishing peace and reconciliation mechanisms and in solving conflicts within the ASEAN community.

C. Land Disputes

One of Cambodia's most pervasive human rights questions today is the issue of land rights. In particular, in both urban and provincial areas, marked out for appropriation by private companies for agricultural businesses or housing developments, land has been taken without the proper consultations or prior informed consent of the local community who are occupying the land prior to any forced eviction. This land grabbing has led to relocation of poor families and communities to remote areas that lack basic infrastructure and resources. Therefore these evictees feel the need to respond to the government's action by holding protests and peaceful marches demanding fair compensations from the companies and fair resolution from the authorities.

The government has responded to the protests by imprisoning some the more outspoken activists, for instance, the women protesting the forced evictions from the Boeung Kak Lake area in Phnom Penh (Amnesty International 2012). [Cambodian](#) Prime Minister has also taken up the cause, enlisting some two thousand youth volunteers to conduct a land-titling program to measure the land of farmers throughout the country, so that titles may be granted to truly reflect the amount of land they own. While the program is a step forward, its implementation

is very flawed, and it has come under great scrutiny and criticism by human rights organizations and nongovernmental organizations in the country (Chen 2013). As long as Cambodians do not have legal titles to their land, and are forcibly evicted from their homes without notice or compensation, we do not believe the government is honoring the statues laid out in the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Cambodia is a party.

Furthermore, dispossessing poor communities has led to an increase in poverty among these communities as they no longer have access to basic goods and services. This land grabbing also foments social unrest as evicted communities in order to be heard, must seek the only avenue available to them, such as demonstrations and protests, to which government forces react unjustly with violence, unfounded imprisonment and unfair trials.

Key Recommendations:

10. The government must create a comprehensive, transparent and equitable land titling program that does not exclude minorities. We request such a program to be monitored by local and international NGOs to ensure it is indiscriminately implemented.
11. The government should compel private companies interested in purchasing land that is inhabited by Cambodians, to follow prior informed consent with the local communities and to reach a consensus with them with regards to compensation. These companies must respect community refusal to sell/move off their land, as the case may be.
12. That laws enacted would allow for the fair resolution of grievances and complaints brought forward by communities who feel that they were unjustly evicted from their land.
13. We insist upon the immediate and adequate compensation for communities that have already been displaced as a result of the forced evictions that have already transpired.
- 13.14. We also urge the government to stop the regimentation of youth involved in the government's land title registration program where volunteers are given military clothing which they wear when interacting with communities. This practice creates intimidation and biases communities, while also creating fears of civil war.
- 14.15. We reiterate the urgent and necessary reform of the legal and judicial system to gain more trust and confidence among the people and use the state's mechanisms to settle the issues of conflict, land and violence effectively. Case by case conflict resolution mechanism will not lead to good governance and sustainable peace

D. Public Use of Provocative Language

Leaders of the main political parties have taken to referencing the possibility of civil war in their speeches to supporters in the run up of National Elections held on July 28th 2013. Just ahead of the election, Prime Minister has begun to use provocative language by warning citizens that a victory by the opposition would lead to civil war and an outbreak of national violence (Vannarin 2013). Similarly opposition leaders, in response to the eviction of twenty-seven parliamentarians from the national assembly due to constitutional technicalities, also stated that the action created the pre-conditions for civil war (Vannarin 2013).

Talk of civil war in the run-up to a hotly contested election only serves to instigate fear and tension in the country. Both the ruling government and opposition leaders are utilizing language that will in turn create painful memories for the Cambodian people. We do not believe that such rhetoric is useful, relevant or in the interests of promoting a free and fair election or national peace.

Key Recommendations:

~~15.~~16. We recommend that leaders desist from comparing political tension, which reflects a democratic transition in any country, to a symptom of civil war.

~~16.~~17. We recommend that relevant electoral authorities, particularly the National Election Committee (NEC) urge politicians to desist from using the fear of violence as a campaign strategy.

E. Fear of the Return of Khmer Rouge

Millions of victim-survivors of the Khmer Rouge are still traumatized. They are living in a situation of fear and threats, especially because political parties continue to use the threat of civil unrest for their political gains. While Cambodia is in transition to a more democratic pluralism regime, victim and survivors are particularly vulnerable to this type of political intimidation. Although the Extraordinary Chambers in the Courts of Cambodia (ECCC) is in fact established to bring justice, historical facts and reconciliation for Cambodian people, the court's process has been slow and Cases 003 and 004 are still unclear. There are so many challenges in bringing the top leaders of the Khmer Rouge to justice. This is due to political interference and unwillingness from the current government in finding justice and accountability, which adds to the uncertainty that victim-survivors face in Cambodia today.

Cambodian people, both younger and older generations, want to know why Cambodians killed their own people. Most of the post-war generation cannot believe what happened during the Khmer Rouge period. Some of them want to take revenge against former Khmer Rouge cadres or perpetrators while others are simply curious to learn what happened. Still others feel that foreigners were significantly involved in the killing (Burcu Münyas 2005 and Youk Chang). Young people have learned varied historical narratives of the Khmer Rouge era

based on their parent's experiences. For example, the children of former Khmer Rouge cadres learn from their parents about the experience of war and their dedication for sovereignty of the country's territory and how they still consider Pol Pot and other leaders of Khmer Rouge as their heroes. With this conflict of narratives, we need to create a safe space for dialogue across generations to allow victim-survivors, former Khmer Rouge cadres, and different groups of the post war generation, to develop a greater understanding and build relationships in order to move forward.

The Law on Denial of Serious Crimes Committed During the period of Democratic Kampuchea was just recently passed law on 07 June 2013 by the ruling party's members of parliament. This creates concerns of intimidation and violation of people's freedom of expression in Cambodian society (Amnesty International 2013). This law is aimed at discouraging people from engaging in open dialogue and telling the truth about the Khmer Rouge past as many fears being prosecuted by this new law. Cambodian people want to learn in a healthy way through understanding the root causes of the atrocities and avoid similar circumstances from happening again. Without holistic learning about the Khmer Rouge past, elements of the Khmer Rouge regime can return in Cambodian society in other forms such as forced eviction, human rights violations, illegal killings and harassments. We have to have real learning from our past lessons of conflicts and mistakes to avoid repetition.

Key Recommendations

17.18. The government should cooperate with United Nations to fully support the trials process by the ECCC with regard to cases 003 and 004 successfully through political, technical, and financial means.

18.19. The government should make an amendment to the Khmer Rouge denial law after the end of the ECCC process to ensure the freedom of expression, especially when it deals with historical facts of the Khmer Rouge regime and the rights to truth, and justice. The government should collaborate with civil society by providing space for dialogues among Cambodian people across generations to prevent the recurrence of the atrocities of the Khmer Rouge. Khmer schools should include a fair and balance history of the Khmer Rouge.

19.20. All political parties should not politicize history of Khmer Rouge for their political gains. Rather, parties should communicate with Cambodian people who suffered suppression and civil war and work in harmony to ensure that there will be no more gross human rights violation, killing and civil war in Cambodia again.

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