



HUMAN
RIGHTS
WATCH

“Tell Them That I Want to Kill Them”

Two Decades of Impunity in Hun Sen’s Cambodia

International treaties to which Cambodia is a party obligate governments to address impunity and provide redress for violations of human rights. The International Covenant on Civil and Political Rights (ICCPR) requires governments to ensure that any person whose rights or freedoms are violated to have an effective remedy before competent judicial, administrative or legislative authorities, “notwithstanding that the violation has been committed by persons acting in an official capacity.”³

Recognizing that impunity can be an important contributing element in the recurrence of abuses, the UN Human Rights Committee, the international expert body that monitors compliance with the ICCPR, has stated that governments that violate basic rights “must ensure that those responsible are brought to justice.” Both the failure to investigate and to bring to perpetrators to justice “could in and of itself” be a violation of the ICCPR.⁴

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In the twenty years since Paris, Cambodia has in many ways changed beyond recognition. The Paris Agreements and UNTAC wedged open space for political parties and civil society organizations. By 1998 the Khmer Rouge had collapsed and armed conflict had finally come to an end. Cambodia’s economy has become more integrated with regional economies. Donors and development agencies have succeeded in improving many human development indicators. The isolation of the Cambodian people from most of the rest of the world has come to an end.

Yet the last two decades have also been a story of missed opportunities. Serious abuses and repression continue. Corruption characterizes the economy, political opposition parties and free media have been slowly but steadily quashed, and NGOs face regular threats and constant pressure. Senior officials are not held accountable under law. None of this is surprising, as one leader, Hun Sen, and one political party, the CPP, have dominated Cambodia throughout. Authoritarian with a propensity for violence, Hun Sen has been prime minister for more than 27 years. A formerly communist party that has

³ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1996, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by Cambodia May 1992, art. 2(3).

⁴ U.N. Human Rights Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN doc. CCPR/C/74/CRP.4/Rev.6/2004, para 18.

The courts and justice system are controlled by Hun Sen and the CPP. Most judges and prosecutors are CPP members who implement party directives, and believe they have no leeway to do otherwise. Most glaringly, Dith Munth, the chief judge of the Supreme Court, is a member of the CPP's Permanent Committee of the Central Committee and of the party's six-person Standing Committee.¹¹ Like all senior party members, he is expected to place party loyalty over his official responsibilities.

¹¹ Ibid.

III. Recommendations

Since the 1991 Paris Agreements, countless reforms of Cambodian institutions responsible for the administration of justice have been suggested. Year after year donors have proposed, and the Cambodian government has agreed to, significant reforms, such as measures to promote the professionalization of the police and independence of prosecutors and judges. Yet the justice system remains a deeply and unwaveringly politicized institution, with senior officials being political appointees whose primary allegiance is to the prime minister and the ruling CPP.

As early as 1995, UN special representative Michael Kirby recommended that a high-level interdepartmental committee be established to investigate and report on judicial complaints concerning refusal or failure of military, police, or other officials to execute court warrants directed at military, police, or political figures or members of their families.¹⁵⁰ Two years later no improvements were evident and his successor, Thomas Hammarberg, called for determined action to address impunity.¹⁵¹ Hammarberg's successors, Peter Leuprecht, Yash Ghai, and Surya Subedi, have repeated these calls. Not only have they been unsuccessful, but Hun Sen has frequently responded to their allegations with angry attacks on their character.

While the UN special representatives and rapporteur and the UN human rights field office have done exemplary work in documenting the problem and making useful recommendations, they have not been backed up by the international community, which does not seem to have adequately grasped the reality of impunity in Cambodia. Donors in particular do not seem to appreciate the corrosive effect that impunity has had on all aspects of governance, including efforts to institute the rule of law and combat the scourge of corruption. In part for this reason, the institution-building efforts demanded and supported by them over 20 years have largely failed, leaving a tragic mark on the post-Paris period.

¹⁵⁰ The Special Representative of the Secretary-General for human rights in Cambodia, "The situation of human rights in Cambodia," UN doc. E/CN.4/1995/87/Add.1, February 13, 1995, p. 11.

¹⁵¹ The Special Representative of the Secretary-General for human rights in Cambodia, "The situation of human rights in Cambodia," UN doc. E/CN.4/1997/85, January 31, 1997, para.148.