

HUMAN RIGHTS AND THE RULE OF LAW IN CAMBODIA

HEARING
BEFORE THE
TOM LANTOS HUMAN RIGHTS COMMISSION
HOUSE OF REPRESENTATIVES

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THURSDAY, SEPTEMBER 10, 2009

HOUSE OF REPRESENTATIVES,
TOM LANTOS HUMAN RIGHTS COMMISSION,
Washington, D.C.

The Commission met, pursuant to call, at 1:00 p.m. in Room 2200, Rayburn House Office Building, Hon. James P. McGovern [Co-chairman of the Commission] presiding.

Mr. McGOVERN. Thank you for coming. I want to welcome all of you today to today's Commission hearing on Human Rights and the Rule of Law in Cambodia. I think other Members may be showing up, but this has been kind of a crazy day so people will come and go, and that is just the way things work around here, I guess.

But I want to thank the Commission and the Commission staff in particular for their work in organizing today's hearing, and I would especially like to welcome our distinguished panel today, in particular our Cambodian visitors.

We also owe a lot of gratitude to the distinguished Commission Member, my colleague from Virginia, Congressman Jim Moran, and his staff for initiating today's hearing. This hearing came about because Mr. Moran asked us to do a hearing on this. We are grateful for his interest and his commitment to human rights.

I would like to state for the record that after the hearing I will send a letter to our Ambassador in Cambodia, Carol Rodley, to bring her attention to the important work that our Cambodian witnesses are doing and the issues that we need to follow up in our bilateral conversations with our partners in Cambodia. I know that Ambassador Rodley is in close contact with the entire cross section of NGOs in Cambodia and that she is a strong advocate for civil society and human rights.

I am looking forward to our continued collaboration with all of you who are here today when you return to Cambodia, and I know that our Embassy will keep in contact with you, as well as see how your work is progressing.

I would also like to state for the record that the Cambodian Embassy has released a statement regarding some of the issues that will be the subject of today's Commission hearing which is available at the press table, and this statement will also be made part of the record, so you can pick it up there and it will be part of the permanent record.

[The above documents are unavailable]

Mr. McGOVERN. While Cambodia is an important strategic partner in the region, it has gotten comparatively little attention by the U.S. Congress, and its human rights situation has rarely been the subject matter of this Commission or of its precursor, the Congressional Human Rights Caucus.

On those occasions, congressional human rights deliberations largely focused on the aftermath of the killing fields and the Pol Pot terror regime and the long overdue, rather tedious way in which the hybrid U.N., Cambodia and Khmer Rouge Tribunal, ECCC, is finally, after years of frustrating process deliberations, trying to bring at least a resemblance of justice and accountability since 2003 for the deaths of an estimated 1.7 million people who died in Cambodia from executions, overwork, disease and malnutrition from 1975 to 1979.

That this is still a hemorrhaging wound in Cambodia today became very clear on Tuesday of this week when the international co-prosecutor, William Smith of Australia, submitted his recommendation to the co-investigating judges that five more suspects be investigated for crimes against humanity and other offenses dating back to this reign of terror. This recommendation triggered a vehement response by Prime Minister Hun Sen, who stated his belief that any more arrests could trigger a civil war.

Prime Minister Hun Sen has repeatedly spoken out against expanding the list of defendants beyond the ones now on trial, and previous congressional deliberations have

also focused on past elections which were often marred by street violence and even bombings and paramilitary crises of 2003 to 2005.

Particularly, the tight grip on power of the Cambodian People's Party, CPP, under Prime Minister Hun Sen and a wave of arrests in late 2005/early 2006, which included civil society leaders, human rights and labor activists and journalists and sparked congressional and widespread international criticism. In 2005, the National Assembly moved immunity from key opposition leaders, including Assam Ranzi, Shah Pak and Shiyam Kani. In 2006, those individuals were finally pardoned and their immunity fully restored.

The United States has embraced Cambodia as an important strategic partner, and we have developed our bilateral and multilateral ties. Cambodia is an important country in the fight against regional terror groups such as Gema Islamia and has collaborated with the United States on those matters.

Most recently, a close collaboration with Cambodian authorities has resulted in a breakthrough in the field of sex tourism. As a result, three Americans accused of traveling to Cambodia to have sex with children now face prosecution under a new international initiative intended to combat child sex tourism.

A new initiative of U.S. and Cambodian authorities, as well as NGOs, known as Operation Twisted Traveler is targeting Americans who exploit children for sex in Cambodia, a top destination for pedophiles, and similar efforts should of course also be made regarding Cambodian perpetrators.

In 2007, the U.S. lifted a 10-year prohibition on direct bilateral aid after the release of political prisoners and the restoration of political liberties to opposition leaders. Cambodia is the fourth largest recipient of United States assistance in Southeast Asia, while the United States is Cambodia's largest export partner, buying some 70 percent of its apparel exports.

In 2007, 2008 and 2009, the U.S. provided \$57 million, \$55 million and \$45 million especially for health care, HIV AIDS treatment, civil society and economic programs. Our close ties were formalized in January of 1999 when the U.S. Government and Cambodia entered into a three-year bilateral textile and apparel agreement which provided for a quota on textiles and apparel imports from Cambodia and for reduced tariff rates on U.S. exports to Cambodia.

In 2005, quotas on textile exports by WTO members ended. There is no doubt that Cambodia made significant economic and labor rights progress tied to this agreement during that period, which at a time of relative wealth, fueled by an extremely competitive labor market, motivated the Cambodian Government to sign COA ILO conventions and to allow a robust trade union network at least in the private sector without prior authorization. The ILO has helped monitor labor practices since 2001.

Cambodians should be proud of these achievements, and the United States should always stand as a strong partner with Cambodia and its people so that the U.S.-Cambodian relations can achieve their full potential to the benefit of all of our peoples. This partnership must of course be an open and frank one, and it must continue to include discussions of all aspects of a democratic society with the improvement of human rights as an important cornerstone.

As a reliable partner, the United States must not fall into the easy trap of averting its eyes and silencing its voice when we are presented with reports that indicate stagnation in important areas of human rights in civil society or even outright backsliding.

Such concerns exist in the area of freedom of expression and full participation in a democratic process when the Washington Post reports on July 29 of this year that "'a heightened crackdown on journalists and opposition activists has provoked new concern that the Government of Cambodia is engaging in widespread abuse of the nation's legal system to muzzle its detractors."

The recent spate of government-initiated defamation lawsuits against members of the opposition, including Mu Sochua -- am I pronouncing that correctly?

Ms. SO CHUA. Yes.

Mr. McGOVERN. -- who is with us today sends a chilling message to opposition voices that broad defamation charges could be brought against them at any time.

A 2006 law allows that members of Parliament can be prosecuted for abusing an individual's dignity, public order, social customs or national security, and the State Department Human Rights Report raises serious doubts about the independence of the judiciary, as well as concerns regarding arbitrary arrests and detentions.

Another longstanding concern arises regarding communal and individual land titling. During Pol Pot's reign of terror, legal documents, including land titles, were destroyed, throwing communal land rights of indigenous people in poor urban communities into legal limbo.

The World Bank is currently working with the Cambodian Government to address the situation of increasing numbers of disputes and evictions by force of poor people in urban settlements, as well as indigenous people in the countryside, without compensation. Despite a 2001 law requiring land titling for communal lands of indigenous people, little progress on this matter has been made.

Another area of concern is the labor sector. Following the 2005 WTO quota loss on textiles, increasing regional competition particularly from China and the recent global economic crisis, the practice of short-term contracts on a hire and fire basis has reached such enormous proportions that it had a chilling effect on union membership and the development for fear of management retributions against labor leaders.

According to the ILO, Article 66, the Cambodian labor law distinguishes between two types of contracts: Fixed duration contracts or FDCs and undetermined duration contracts, UDCs. Labor rights leaders have expressed their strong concern regarding the significant increase and widespread practices of replacing UDCs with FDCs and have

noted an increase in harassment of union organizers to lawsuits and convictions in Cambodian courts which have an extremely chilling effect on trade union membership and participation.

I am grateful that we have such a distinguished panel of witnesses today to shed light on some positive and concrete steps that the United States and our Cambodian partners can take to ensure ongoing progress in the area of human rights.

Before I go to the witnesses I am going to yield to some of my colleagues here, but I want to make one thing clear to my friends who are visiting us from Cambodia. We are honored to have you here, and we appreciate your candor and your honesty about the assessment of human rights in Cambodia.

I want to make it clear that every single Member of this committee will want to remain in contact with you, and we will follow very closely what happens to you when you go home. There should be no retribution for telling the truth. We invited you here. We want you here. We want to learn, but you need to know that all of us up here are going to follow very closely what happens when you return, as well as our Embassy.

With that, I want to yield to my colleague from Virginia, Mr. Moran, who initiated these hearings. I am grateful that he did, and I yield him some time to have an opening statement.

Mr. MORAN. Thanks very much, Chairman McGovern. I appreciate all that you are doing on the Human Rights Commission. I just spoke with Mr. Wolf. He is not able to be here. His staff is.

It is I think entirely appropriate that Cambodia be an issue for discussion before the Human Rights Commission, but you particularly, Mr. Chairman, have been a tremendous leader in that regard.

I see Alita Black here, who is a good friend and brought this issue to our attention. I also want to thank Hans and Elizabeth. Of course, they do great work.

Mr. McGOVERN. They do great work.

Mr. MORAN. The United States has a long history with Cambodia. It is not one that we ought to be particularly proud of, particularly the virtual carpet bombing of some areas of Cambodia. It was horribly disruptive, and then when you think of the killing fields that was just horrendous lives lost. One hesitates to think about it because it was such a horrendous history.

But progress has been made, and I think we should recognize that. We have talked with the State Department recently. They had been encouraged that things had started to get better, but we see some regression recently and that I think is what makes this hearing particularly appropriate.

The United States is not looking for anything from Cambodia really. My colleagues know often times we have hearings because we want to do something that gains the American interest. This is not about American interest. This is about human interests, human rights, the ability of the Cambodian people to express themselves freely, to move freely, to organize freely and certainly to engage in free and fair elections, and that is what we are concerned about.

Cambodia has a very strong chance of reaching the kind of independent, stable democracy that in fact has largely been reached in Indonesia, that we are seeing in other countries in Southeast Asia, and I think ASEAN has recognized that; that Cambodia is kind of in the middle right now. Burma obviously is at the bottom, but Cambodia can be a country that we look to for leadership in that part of the world.

But right now it is not free from human rights violations, from unequal justice, from severe government restrictions on freedom of speech. Human rights can best be safeguarded through the preservation of democracy, and while Cambodia holds some elements of democracy, true democracy has to be based on more than the number of elections it holds.

There has to be true access to the electoral process without intimidation, without fear of reprisal and with a media that is free to say what they want regardless of whether

the government agrees or not with their conclusions, and there ought to be a separation of power. There is no separation of power to speak of right now. The Cambodian Government controls the judiciary system. It is the judiciary system that I personally am most concerned about and I think we will hear about.

In many respects, the State Department feels that there is rampant corruption within the judiciary system, that it renders unequal justice and that in fact some of the recent cases appear to be politically motivated. There are trumped up charges of defamation or whatever that would never hold water in courts where there was an independent and professional judiciary.

Now, Cambodian authorities in some cases have been cooperating with U.S. law enforcement in capturing Americans that have been committing crimes, particularly sex crimes, in Cambodia, and they have been bringing them to justice in the United States. I asked wouldn't it be more severe punishment to simply throw them in a jail in Cambodia. That would be the case, except it is just too easy to pay off a judge apparently in Cambodia, so we are better off prosecuting in the United States.

We have read some notorious stories about HIV infected Cambodians being moved obviously against their will, although that may be more of a land rights issue, and the taking of land that becomes valuable because of development in the cities and so on is another issue. We won't get into that, but it is a serious one.

Cambodia has been active in peacekeeping missions, particularly in Sudan, and I think they ought to be recognized and applauded for that. Clearing out land mines in Southern Sudan is a heroic thing to be doing, and we appreciate the fact the Cambodian Government has taken the initiative. Adam West, Mr. West, who works on Cambodia in the State Department, is here, and he has informed us and been encouraging of that.

So the purpose of this hearing, of course, is to gain a better understanding of the problems Cambodia is facing, to bring attention to human rights abuses, to shed light on the government's repressive practices. As their Chairman is well aware, that is why he

put so much effort into human rights issues. He and his mentor, Joe Moakley, understand this is a global village that we are part of, and what happens in one part of the world should affect us all.

We here in the United States, well, we have been blessed with personal security and individual freedoms. We do have a moral responsibility I think to assist the Cambodian people to achieve the kind of life to which we all aspire.

It is important to recognize that three out of the four witnesses today are native Cambodians who are all concerned about the fate of their beloved country. They love their country, and that is why they are here. They are eager for the United States and the international community to show support and assistance for their struggle for a better life in Cambodia, and that is why the Tom Lantos Human Rights Caucus is so important.

A few months ago I had the honor of meeting a woman who I learned to admire for her honesty, fearlessness and her pursuit of justice, and I am glad that Mu Sochua is going to be testifying. Mrs. Mu is a member of the Sam Rainsy Party. It is an opposition party in Cambodia and it provides important opposition, and it should be respected and have access, full access to the democratic process in Cambodia without fear of intimidation.

She has chosen a harder and less rewarding path in life than many because she is very capable, but she has chosen politics, public service, and she is dedicated to an ideal and it is an ideal that believes that all humans are created equal, should be treated as such. That is the ideal that our country stands for.

So with that, I again appreciate you having the hearing, Chairman McGovern, and I want to thank the witnesses for being here, my colleagues and the audience present who understand how important this issue is. Thank you.

Mr. McGOVERN. Thank you very much, Mr. Moran. I appreciate your statement.

We are going to yield to Mr. Royce from California because I know he has another appointment, but we are going to have him make a statement.

Mr. ROYCE. Well, thank you very much, Mr. Chairman, for yielding. I did have an opportunity, Mr. Chairman, to meet with Parliamentarian Mu Sochua, and I wanted to express just the observation that she is really risking much to be with us today.

We know a lot about the corruption that exists in her country and in particular the fact that the regime stripped her of her Parliamentary immunity and that her own attorney was intimidated, was threatened, so that she did not have legal representation, and she was tried and convicted of openly speaking out against the Prime Minister.

And so I thank her for her bravery. I also thank her for the work she has done in the past in terms of trying to expose something that I think a lot of journalists wrestle with, and that is why the sex trafficking of girls in Cambodia gets so little international attention. I think it is something we all wrestle with. The fact of the matter is it has become so endemic. It is so absolutely horrific.

My own chief of staff, Amy Porter, spent some weeks in Cambodia in Phnom Penh working with some of these children who were trafficking victims and talked not just about the cruelty to us when she got back from that trip, but the amount of corruption on the part of the government, and that indeed is why it continues.

It is a question of how do you bring pressure on a government that decides that it is not going to be under the rule of law? The attempts to do that, the attempts in her position as a parliamentarian to call attention to this and as the former minister in the government speaking on women's issues, have only served to bring a great deal of governmental pressure down on this particular parliamentarian.

But in the meantime, we have this as an ongoing pervasive problem in a society. As Voice of America reports, you know, these girls are sold into brothels, forced to work as sex slaves, and their life as told by Voncina, who was lured away from her village and

into slavery at the age of 13, is a living hell. She was locked in a cellar and tortured with electric shocks and starved if she didn't do exactly as she was told.

So stories like this are heartbreaking. They are all too common. The question is what can we do here in the U.S. in order to elevate this issue in order to bring the kind of pressure to bear on a country that -- we know it is going to be hard. I mean, 20,000 people last year were kicked off of their land and their property simply confiscated by the government. You can have 130 families on a weekend pushed off of their land, and those who have friends in the government end up with the property.

So that is the type of thing that is going on as we speak in Cambodia. The question for us is in the middle of all of this incredible corruption and dysfunction that occurs with those who were originally involved in Pol Pot and now involved in this government, how at the end of the day to at least organize enough international attention and enough concern by the media that we put an end to what is happening to these girls in Cambodia.

And so I thank the Chairman for holding this hearing, and I thank the witnesses especially for their bravery.

Mr. McGOVERN. Thank you very much, Mr. Royce. Hillary Clinton says it takes a village. I say it takes a bigger room.

To those people out in the hallway, you are more than willing to sit on the table or sit on the floor or wherever you might want to. You are more than welcome to come into the room a little bit more if you would like.

I would like to yield to my friend from Louisiana, Mr. Cao.

Mr. CAO. Thank you very much, Mr. Chairman. I would like to thank the Tom Lantos Human Rights Commission for holding this timely hearing for the human rights and the rule of law situation in Cambodia.

As a Vietnamese refugee, I certainly appreciate the plights of our neighbors in Cambodia. Experience has taught us that the first thing any tyrannical regime would do

is to try to silence its critics, and it has occurred repeatedly not only in Cambodia, but also in Vietnam and China. While condition in Cambodia has improved significantly since its dark and horrific days during the Pol Pot reign of terror, the Cambodian people are still a long way from being able to enjoy freedom or justice.

Reports from the State Department, as well as various NGOs, indicate probable political motivation behind many killings and disappearances of people who hold opposing views to that of the Cambodian Government. Perpetrators of these killings and disappearances have not been brought to justice. The dire fate of many political refugees who have been forcefully repatriated by the Government of Cambodia is another source of concern to me. Cambodia needs to recognize the rights of refugees under international laws and agreements.

I especially want to commend Mrs. Mu Sochua for her courage in your fight for equality and justice, especially on behalf of the women of Cambodia. I hope that members of the Vietnamese National Assembly also have the courage as you to speak out in the name of justice as you have. I admire your dedication and your tireless effort to help your people.

I also want to thank the panelists. You have dedicated a good part of your lives for the cause of human rights, freedom and justice. I hope your dedication and tireless efforts will be rewarded with a free and prosperous Cambodia.

I would love to remain here for the hearing, but I have a meeting with the White House medical czar to discuss the health care reform, so I have to leave.

Mr. McGOVERN. We are all happy about that.

Male **Voice**. Almost all of us.

Mr. McGOVERN. Yes. Listen carefully.

Male **Voice**. Give them some advice.

Mr. McGOVERN. Well, thank you very much.

And last, but not least, I want to yield to my colleague from Massachusetts who is a valued Member of this Human Rights Commission and who has been a leader in human rights issues, who cares deeply about Cambodia and the Cambodian people, Congresswoman Niki Tsongas.

Ms. TSONGAS. I want to thank Congressman McGovern for holding this hearing and for an opportunity to hear from those of you who are so concerned about what is happening in Cambodia.

It is obviously significant and critical to the freedom of the Cambodian people the way in which we honor human rights and political freedoms, but also I represent a community that has the second largest Cambodian population in this country, and that is the city of Lowell, Massachusetts.

So what happens in Cambodia is very, very important to so many of my constituents because they remain quite concerned for the loved ones that have remained there, many of their extended family members, so the concern is it is a village in many, many ways, but most significantly because so many have out of necessity traveled from that country to this country and the connections remain very strong.

So I look forward to your testimony. I look forward to making a trip to Cambodia before too long. I know it is a very beautiful country and one which will be much better understood by me once I am there.

So thank you again for your freedoms, your willingness to come forward and be very truthful about what happened to you and what is happening in your country. I look forward to your testimony.

Mr. McGOVERN. Thank you very much.

And now we go to the testimony. Just to remind the audience who is here, we have Mu Sochua, a member of Parliament of the Sam Rainsy Party. We are honored to have you here. We have Pung Kek, the founder of LICADHO; we have Moeun Tola, the

head of the Labor Program, Community Legal Center; and last, but not least, Sophie Richardson, who is the Asia Advocacy Director for Human Rights Watch.

We are honored to have all of you here. We look forward to your testimony. We will begin with you.

STATEMENT OF MU SOCHUA, MEMBER OF PARLIAMENT, SAM RAINSY PARTY

Ms. SOCHUA. Thank you, Congressman McGovern. I wish to express my most sincere gratitude to the co-chairs of the eminent Tom Lantos Human Rights Commission for holding this important hearing this morning. I wish to express my gratitude to Congressman James Moran for initiating this hearing.

Distinguished Members of the U.S. Congress here in this room, I am testifying as an elected representative of the people, as a woman exercising her full right of speech and expression, but in Cambodia this is not possible. In fact, as a member of Parliament from the Sam Rainsy Party, the lead opposition party, I was stripped of my parliamentary immunity and given a criminal conviction for openly criticizing Prime Minister Hun Sen.

I was denied any legal representation because my lawyer was intimidated, threatened with disbarment and pressured into withdrawing from my case.

Unfortunately, my situation is not unique. I am one of the thousands of innocent Cambodians who are tried by a judicial system that is well known for corruption and for acting under the control of the government and those who have political influence.

Distinguished Members of the U.S. Congress, parliamentary immunity should provide members of Parliament with special status, protection and safety in order to give us the ability to serve the people without fear of retribution. However, the unconstitutional lifting of my immunity and the immunity of my colleagues threatens democracy at its core. We cannot fulfill our functions when in constant fear of prosecution.

Today, the nine Commissions in Parliament are entirely controlled by the ruling party. Our recommendations are rejected without any debate. Contrary to the principles of the Paris Peace Accord in 1991, Cambodia is practically a one party state at this present time.

Distinguished Members of the U.S. Congress, as witnesses to this important hearing we bring you the high hope of our people to be ruled by law and not by the power of corrupt officials. When the livelihoods of our people are affected and our natural resources are illegally mismanaged we have the right and the duty to intervene. We have a role to play in building democracy and the development that benefits all.

Numerous reports from the Office of the U.N. Human Rights Commissioner, Human Rights Watch, Amnesty International, Cambodian NGOs, the World Bank and the EU have pointed to the alarming situation on violations of human rights and corruption in Cambodia. All of these reports have been dismissed by the Cambodian Government. We believe that such a denial and the continued grave violations on the rights of our people deserve immediate action to restore the vision of the Paris Peace Accord. We need to crack the facade of democracy in Cambodia.

For this reason, on behalf of the minority in Cambodia we call on the U.S. Congress to send a high level delegation to Cambodia to help negotiate dialogues between the President and the National Assembly and the minority leader and their representatives in order to discuss rules that will bring democratic practices to the functioning of the Cambodian Parliament to stop the practice of lifting parliamentary immunity as a form of political prosecution.

We respectfully urge you to intervene in the following cases: The release from prison and the dropping of charges against journalists, officials of the Sam Rainsy Party, villagers and trade unions and the restoration of parliamentary immunity of opposition members of Parliament.

We call on the U.S. Government to: 1) Increase its funding for the National Democratic Institute and the International Republican Institute to immediately work with the UNDP in democratizing the electoral process for the upcoming local elections in 2012 and national elections in 2013;

2) To request an increase of budget for Voice of America and Radio Free Asia to expand its programming to include televised programs that will bring balanced information to the people of Cambodia;

3) To impose visa sanctions on high ranking officials in the Cambodian Government and their immediate members suspected of corruption and to investigate the investments and bank accounts in the U.S. These investigations should be made public;

4) To tie U.S. assistance to the Cambodian Army through the freeze on the granting of further mineral or petroleum concessions until the government has established a basic legal environmental and social framework to adequately govern the oil, gas and mining sectors.

Distinguished Members of the U.S. Congress, people the world over have heard America's message about the importance of democracy, the need for free and fair elections and the respect for freedom of speech, freedom of expression and the rule of law. Like President Obama and the rest of the world and the rest of the American people, we in Cambodia share the same vision and recognize the need for responsible leadership and a true commitment to global protection of human rights.

We commend Secretary of State Hillary Clinton for her remarkable commitment to make governments and the U.N. responsible for and invest in the protection, promotion and respect for women's rights as human rights. We support U.S. foreign policy that puts human rights first.

I thank you for your attention.

[The prepared statement of Sochua is unavailable]

Mr. McGOVERN. Thank you for your very thoughtful and very powerful statement. We appreciate it.

Pung Kek?

STATEMENT OF PUNG KEK FOUNDER, LICADHO

Ms. KEK. Thank you to Tom Lantos Human Rights Commission for allowing us to come and testify in this important hearing.

The international community, including the USA, played a very important role in the peace agreement in Cambodia in 1991. We get peace now. What we need more in Cambodia, what we need, we need the harmonious balanced development that profits to all Cambodian people, not only to a small group of people. But this is not the case yet, so today I would like to raise three issues of concern: Freedom of expression, nonindependence of the judiciary and land issues.

Like the Honorable James Moran said, there are restrictions on freedom of expression. We have seen the worst case of criminal charges against critics. The government wants to adopt a law on NGO officially to protect the local NGO and international NGO, but negative signs show us that maybe it will not be the case.

But the worst thing is since 1994 until now 10 journalists were assassinated in the daytime. The last one happened in July 2008 just a few days before the national election. He was gunned down in the daytime with his son of 21 years old, and none of the perpetrators of this crime was brought to justice.

So my short-term recommendation is we wish to see you helping us to convince our government to withdraw all the criminal charges against critics and not to enact the so-called NGO law and the law on public demonstration and to investigate all the cases of crime and bring the perpetrators to justice.

The second issue that I want to raise with you is the nonindependence of the judiciary. This affects not only the daily lives of Cambodian people, but can also affect the foreign investor. To illustrate the problems that still face the Cambodian court, I

would like to give you the case, only one case among many others, the case of the leader. A very popular leader of the independent union was gunned down in 2004.

The perpetrator was not brought to justice, but instead two innocents were brought to justice and sentenced to 20 years of jail despite numerous witnesses that came to testify during the trial saying that they saw the accuser far away from the place of killing, but despite that they were sentenced to 20 years of jail. So this case of impunity is not an exceptional one.

My short-term recommendation, again please we would like you to convince our government to implement the numerous recommendations of the successive Special Representative of the U.N. Secretary General for Human Rights in Cambodia and also donors can put a benchmark to be met.

The third issue that I want to raise with you is the land issue. Like you said, land grabbing, forced eviction, constitute one of the gross violations of human rights. Eighty percent of Cambodian people live in the rural area, and they rely only on the land for their living.

Without land they become resourceless, no access to medical care, no access to education for their children. They become vulnerable to all kinds of exploitation, including human trafficking, especially for women and children. These victims, without no more things to lose, can provoke a social unrest. Social stability is a basic requirement for a harmonious and balanced development.

Amnesty International in its report of 2008 said that 150,000 Cambodian people were victims of eviction. So my short recommendation is please help us to convince our government to put a moratorium on eviction and set up a legal framework for redistribution of land.

Before I close my short remarks I would like to propose to you a long-term recommendation. We would like to get from you full support to be able to set up an independent national human rights institution in Cambodia conformed to the U.N.

international standard called Paris Principle for the promotion and independent protection of human rights. If we can get this kind of institution with your support, of course, we can promote and protect human rights in Cambodia, and maybe the lives of many Cambodians would be better.

Thank you very much for your kind attention, and thank you also for allowing us to show you a video on eviction to permit the voice of the victims to be heard.

[The prepared statement of Mr.Kek is unavailable]

[Whereupon, a video was shown.]

Ms. KEK. So it says that -- only since 2003. We had only 12 offices in the province, and so we provide to 250,000 victims of land grabbing and land eviction.

The case that we show to you is the case -- I will show you. The victim will talk after. No sound? We cannot hear the sound, Elizabeth?

Ms. HOFFMAN. Yes. There is no sound.

Ms. KEK. No sound?

Ms. HOFFMAN. No sound. Sorry.

Ms. KEK. Oh, I am sorry for this technical problem. Yes. Normally we have the sound so you can hear the victims. But yes, I am sorry for that.

So this is the first victim, but you can read if you cannot hear. Yes, you can read. So this has happened in Sihanoukville, southwest of Phnom Penh. One hundred and three families had their house burned and they were evicted from their original place.

You see, not only they had their house burned, but 13 persons were arrested and sentenced to eight months of jail, so the victims become victimized twice. Still the same case in Sihanoukville. Yes. We have normally the sound. We can hear the victims. So this is the 13 persons from Sihanoukville were arrested and then sentenced to eight months of jail. Now they are released.

Yes. Another victim. We had four victims that testify here. It is always the case of Sihanoukville. So this is one of the victims of the eviction in Sihanoukville here and this one also.

Mr. TOLA. After the eviction they go to stay in the pavement of the road. There the victim is complaining about they don't have any house. They don't have homes. They don't have shelter. They just try to stay along the street.

Ms. KEK. He explains that they are a victim of eviction, so he explained that he has no more place to stay, no house, and they stay with a tent like that in the roadside. They become homeless, jobless, resourceless and no access to education for the children. The children have to stay home.

This is the eviction happened in the city, in the capital of Cambodia, Phnom Penh, and the lady explained that she didn't know. They came at night around, you see, the eviction on 17 July 2009. They came at 1 or 2:00 a.m. in the morning, and then she had no time to take her belongings, so she lost everything and now she goes to another place to live in the street.

The police ask the service of a private that wear the red t-shirts in the police car. They came at night and destroyed all the houses in Phnom Penh close to the leader.

Mr. TOLA. This happened in Group 78 in Phnom Penh, Group 78.

Ms. KEK. We have many cases of eviction in Phnom Penh, and the one that may be considered a big eviction in the future is concerning 4,000 families behind the French Embassy. The authority would like to fill a lake and evict 4,000 families.

So this lady of Group 78 is inside the city just in front of the river. The land has become very expensive so they got a little bit of compensation from the company, but not enough to buy another land so they go to live with relatives.

I am sorry that we have no sound.

Mr. McGOVERN. No. Thank you very much. Actually, I think you did a pretty good job of explaining it, and we appreciate it very much.

Now, Mr. Moeun Tola, we welcome your testimony.

STATEMENT OF MOEUN TOLA HEAD OF LABOR PROGRAM, COMMUNITY
LEGAL EDUCATION CENTER

Mr. TOLA. Thank you, Tom Lantos Human Rights Commission, for providing me the great opportunity to testify about a violation of workers' rights in Cambodia.

My testimony will focus on three issues which affect the industry in Cambodia. The first issue is repression of the freedom of association and assembly, killing union leaders, union activists, groundless criminal charges against workers under peaceful labor protesting, and the second issue is violation of fundamental rights of workers through widespread usage of short-term contracts. The third issue is enough wage for workers.

Related to the first issue, the freedom of association is threatened by first is the murder of union leaders. As Madam Kek also mentioned, three union leaders in 2004 were gunned down in the daylight and also in the downtown on the street. Another one was gunned down in 2007. No murderers have been arrested yet. Just only the three scapegoats have been convicted. Two of them have released on bail, but one is still in jail until now.

And the local authority normally uses a violent crackdown on the labor protest, labor rally. Sometimes they arrest without court warrant, so even the workers who ask for a permit -- regarding the law, the workers don't have to ask for a permit. They just inform for the protest for this right, but when they ask for this right they will not get the permission from the court authority.

And also the criminal charges against the union leaders. Union leaders cannot function in their role effectively due to the criminal charges because they normally get a criminal lawsuit against them in case they access or try to function in their role to protect the members.

For example, like in the case of Nagaworld Casino and Hotel, recently the 14 members, the 14 worker representatives, were laid off and then the members were trying

to file a complaint to the Ministry of Labor in order to get reinstatement of the 14 members, of the 14 representatives. Later on, the 14 workers were summonsed by the municipal court to interrogate about three charges. One is incitement, the second is defamation and the third is disinformation.

The freedom of association is also threatened by the short-term contract. Workers cannot join the trade union freely because they are under a short-term contract, just a one month contract, two month contract, three month contract only. If the worker joins a trade union, the management just keeps silent, but they will not renew the contract when they meet the expire date, so they threaten by the short-term contract and look at the impunity is still increasing, so they are really feared to join the trade union.

And the second violation is the violation of the fundamental rights through using short-term contracts is really forget all the fundamental rights of the workers such as annual leave. Regarding the labor law of Cambodia, workers are entitled to 1.5 days per month, totally 18 days per year. They have the right to use it unless they work one year in the enterprise, but management never lets them to reach one year seniority.

When a worker reaches 11 months they just lay off one man and then call back later. They start with the new employment, a new contract, start with probation and just pay \$45 U.S. dollars, so annually they lose the right to collective bargaining. They cannot bargain anything. If they bargain, if they complain about their rights, if they claim for their rights, they will not be renewed. Their contract will not be renewed, especially the ladies.

My concern is the women's rights. As you understand, in the garment sector 95 percent of the workforce in the garment sector are female. Female workers in Cambodia, they have big responsibility to support the family. Without their wage, they cannot survive in their family. So they have just only one month contracts, two month contracts. When they get pregnant, they will be laid off.

In my case, my niece also she got laid off due to her pregnancy just recently, so it is really violated to the labor law. Not only the labor law, but the constitution of Cambodia, but also to the ILO Convention. Not only the ILO Convention. Cambodia also ratified the CEDAW, the Convention on elimination against all kinds of discrimination against women.

So they cannot organize themselves. They lose the right to organize into trade unions. They lose their wage. Regarding the wage, they can get seniority bonus of \$2 if they work for one year. If they work for two years, they get \$3. Up to \$5 if they work for four years. So if they cannot gain their seniority for one year, two years, four years, they cannot get that benefit, so through the using of short-term contracts we will forget all the legal framework in Cambodia.

The third issue I want to raise is not enough wage for workers. Regarding the Article 107 of the Cambodian labor law, it is clearly stated the Ministry in charge of labor has to issue the subdecree to lead to minimum wage. The minimum wage must ensure decent living of workers with human dignity, but so far it has not done it yet, just only notification based on the collective agreement between employers and union workers.

Minimum wage now is \$50 U.S. dollars for the permanent workers, \$45 U.S. dollars for the probation workers, but within the \$50 U.S. dollars workers cannot afford their living. They cannot afford with their medical treatment. They cannot afford. It is hard for them to support their family. It is hard for them to support their children to go to school fee. School fee in Cambodia is so high. They have low wage. They work long hours, but the school fee is also high so they --

Mr. McGOVERN. What is the minimum? What is the wage again? Can you repeat that?

Mr. TOLA. The minimum wage is only in the garment sector now, but it is not determined by the subdecree. It is just notified by the Minister of Labor based on the collective agreement between the Garment Manufacturer Association of Cambodia.

Mr. MORAN. Sir, you said \$50 U.S. dollars?

Mr. TOLA. \$50 U.S. dollars.

Mr. MORAN. Per week? Per year?

Mr. TOLA. Per month.

Ms. KEK. Per month.

Mr. TOLA. Per month. Sorry.

Mr. McGOVERN. \$50 per month?

Mr. TOLA. Yes.

Mr. McGOVERN. That is what we didn't understand.

Mr. TOLA. Yes.

Mr. McGOVERN. If it was per hour you were doing okay.

Ms. KEK. Per month.

Mr. McGOVERN. Okay. Thank you.

Mr. TOLA. Sorry.

Ms. KEK. Yes. We would be rich.

Mr. TOLA. The minimum is only \$50 U.S. dollars per month, yes, and with the \$50 U.S. dollars per month they cannot afford their living.

They have to save for their family. They have to save for their living. They have to rent a room. Normally they rent a small room, staying with three or five people. Sometimes they don't have even a bed to sleep, just only sleeping on the ground, on the floor.

So all these issues were not happening in the period of the Multi-Fiber Agreement between the U.S. and Cambodia Government from 1995 to 2005. The U.S. expected the end of the quota will ensure the stability of working conditions in Cambodia. All the working conditions in Cambodia, especially in the garment and textile industry, would be improving. But it is wrong, completely wrong.

So in order to respond to those concerns and also as you understand that the economics of Cambodia basically is mainly based on the garment and textile industry, it is the first, the number first. I would like to propose the following recommendation:

The U.S. should provide duty free status to Cambodia textile and footwear conditional on the Cambodian respect of international and national labor law and standards, and specific benchmarks should be set for Cambodia to meet in order to qualify.

To avoid legal consequences, especially to respect the women workers' rights, the U.S. should urge the Cambodian Government to fully implement the labor law and ensure that the workers are not denied its benefit through the systematic use of the short-term contract.

In order to reduce the fear of workers to join trade unions, the U.S. should insist that the Cambodian authorities to investigate the murder of union leaders and end the harassment of union leaders' peaceful protests. Due to the lack of evidence and improper investigation, I also suggest the U.S. should push for the release from the prison of -- another scapegoat in jail who was unfairly convicted of the murder of Unionist -- as a prerequisite for the proper investigation into the killing.

Most management always complain that they cannot increase minimum wage for workers due to the corruption so that the U.S. should urge the Cambodian Government to pass a long-promised anticorruption law which meets the international standard. Also, the U.S. authority should exclude U.S. company operating in Cambodia which may engage in corrupt activities pursuant to the Foreign Corrupt Practice Act.

As we know now, the Cambodian Government is in process to draft the trade union law so we also suggest that the U.S. should urge the Cambodian Government that the new law regulating the trade union must fully protect and respect international standards on the freedom of association, expression and assembly and should be drafted in a transparent and consultative manner.

Last, but not least, the U.S. should ensure that Members of the Congress who travel to Cambodia are prepared to lobby their Cambodian counterparts for the improvement of the labor situation and to raise specific cases of violation.

Thank you for your attention and support. Thank you.

[The prepared statement of Mr. Tola is unavailable]

Mr. McGOVERN. Thank you very much.

Last, but not least, Sophie Richardson from Human Rights Watch. We are happy to have you here.

STATEMENT OF SOPHIE RICHARDSON, ASIA ADVOCACY DIRECTOR,
HUMAN RIGHTS WATCH

Ms. RICHARDSON. Thank you very much. It is always a pleasure to be here with you. I would like to especially thank the Commission for going out of its way to have three Cambodian participants today and for your ongoing vigilance about their well being after they go home.

Thinking about some of Mr. Moran's opening remarks, I think we will know that Cambodia has really -- a real change has come when a member of the opposition like Sochua is able to call in the National Assembly in Phnom Penh a hearing like this with witnesses like this from civil society to have a discussion there. That is when the situation I think we are further along down the track. Unfortunately, I think we are still closer to where we were in 1991 than we would like to be.

I would like to focus very specifically and quickly on a potential point of leverage, and that is the U.S. growing relationship, its military relationship with the Cambodian Government. I want to be very clear here that we are not in any way philosophically opposed to these kinds of military training programs. In certain circumstances we think that they can be quite helpful. Much depends on whether the right kind of vetting is being done and whether really thoughtful oversight is given to the programs and to their participants.

Since 2006, the U.S. has provided approximately \$4.5 million worth of funding via equipment and training to the Cambodian armed forces through FMF. I realize that is not a big number, but this is something that the Cambodian Government and particularly the military care about. Many of the units within the Cambodian security forces -- not just the Army, but the police as well, body guard units -- have appalling track records with respect to human rights issues.

I want to give you an example of one particular unit with which the U.S. has been involved. That is Brigade 31, which was formerly known as Division 44 and subsequently Battalion 44, which continues to operate under its long-time commander, Brigadier General Sroon Sroon, has a particularly bad track record. Its soldiers are alleged to have executed FUNCINPEC soldiers during the 1997 coup d'état and fired gunshots over the heads of human rights officials from the United Nations who investigated the killings.

Headquartered in Kampong Speu Province, the brigade also has long been accused of involvement in illegal logging throughout southern Cambodia. In recent years its commanders have also been implicated in land grabbing from poor villagers. Most recently, the commander of Brigade 31 has publicly confirmed that his unit used U.S. donated trucks to move villagers forcibly evicted by soldiers under his command in Kampot Province in 2008.

Now I do not blame the State Department or the DOD about what happened to one particular truck. We know that that may be a little bit beyond the ability of vetting, but the point here is that we have obviously got to step up our game to make sure that those aren't U.S. trucks turning up in those photographs we have all just seen.

In addition, Brigade 31 assumed a maritime security mandate in late 2006 or early 2007 at the same time as an October 2006 joint defense assessment by RCAF and the U.S. Pacific Command, which identified maritime security as one of the areas for U.S. support.

This raises the question of whether the Cambodian military deliberately gave the brigade a Naval mandate in order to obtain U.S. assistance. If so, this is a clear case of a military unit with a poor human rights record, but a record of loyalty to the ruling party, being rewarded and legitimized by U.S. aid.

One of the challenges is that we have seen not just individuals move from unit to unit but seen units given different mandates or just their titles have been changed, which is one of the problems that we are seeing slipping through the vetting requirements.

We know that U.S. military aid is intended to improve the professionalism of the Cambodian armed forces, but there are disturbing signs that RCAF is in fact becoming more politicized and less professional and that known human rights abuses are gaining increasing power within the RCAF structure.

For example, General Hoy Paset, now an Undersecretary of State in the Ministry of Defense, is former commander of Brigade 70, which is another unit that has a very poor track record. In January 2009, the government announced the appointment of seven new deputy RCAF commanders in chief, including Military Intelligence Chief Mol Roeup, Military Police Chief Soa Sokha and Hinh Buon Hang, Brigade 70 Deputy Commander at the time of the 1997 grenade attack on an opposition rally that killed 16 people and wounded an American. All of these men have clear records as human rights abusers.

Training has also been offered to elite units that are notorious for the impunity enjoyed by their members, as well as to personnel from Prime Minister Hun Sen's body guard unit, which has been implicated in countless rights abuses, including the 1997 massacre to which I just referred, under the cover of a newly created special antiterrorism unit.

The U.S. has given the impression that it has forgotten or lost interest in the human rights record of some of these units or individuals. While the U.S. may have policy reasons to work with the Cambodian security forces such as counterterrorism, it

should work just as hard on holding abusers accountable and ending the culture of impunity that exists for high ranking members of the security forces and those close to Hun Sen.

A quick word on some recommendations, particularly with respect to training and assistance on military matters. All training and material support, including visits to the U.S.

-- that is a big one; that is a big perk for members of RCAF

-- and exchange programs should be conditioned on a serious and systematic vetting process. We think you have to consider going a little bit further, a little bit harder than what Lahey requires because of these shifts between units and changes in name.

The U.S. also should provide a public report on the nature of assistance and training to the Cambodian security services. We have developed a long list of questions about particular units. We would be happy to share that with you and work with you on asking for some more information to be forthcoming on exactly who is getting what and under what circumstances.

All of these problems are really a function of impunity in Cambodia. Very few people are ever prosecuted, perhaps with the exception of Sochua, for real crimes, and certainly senior people in the government are not held accountable.

Ending ongoing abuses and the culture of impunity really has to be one of the main purposes of U.S. policy in Cambodia. Otherwise we are nowhere further down the track than we were in 1991 when we signed the Paris agreements. Without an end to impunity, the rule of law, good governance and a host of other goals will be unobtainable.

The appointment of Ambassador Carol Rodley, who previously served in the U.S. Embassy in Cambodia in the late 1990s, means that the institutional memory that has often been lacking in Cambodia is now in place. Her appointment provides an opportunity to the U.S. to weigh in on long unresolved cases of impunity such as:

The 1997 grenade attack and summary executions committed after the 1997 coup, extrajudicial killings before, during and after the marred 1998 elections, as well as more recent rights violations such as excessive use of force by soldiers and police in forced evictions, the assassinations of labor leaders and journalists and the near monopoly of the broadcast media by the ruling CPP. Ambassador Rodley will be well aware of the main actors and the high level of corruption which often fuels abuses.

As a closing recommendation, I urge that as we consider what can be done differently through the lens of U.S. policy that we be mindful of the extraordinary degree of commingling, of political, economic and military interests amongst the Cambodian elite.

I think Hun Sen is a young man. He is not going to go away any time soon. The idea that the CPP would not be in power remains frustratingly inconceivable, yet essentially what is happening beneath the surface now as we see literally the marriage of particular political interests, military interests and economic interests which suggests to me at least that we are going to be dealing with some of these same kinds of problem and some similar personalities for quite some time to come.

I will stop there. Thank you very much.

[The prepared statement of Ms. Richardson is unavailable]

Mr. McGOVERN. Well, thank you very much. I appreciate all of your testimony.

Let me just say that our friends who are here from Cambodia, after listening to all the testimony I am worried about you. Are there things that we can do here to ensure your security? Should the Embassy be doing something more than in is?

Again, coming here you all spoke very frankly and truthfully, and I just want to emphasize the fact that if there is any problem at all call me, call any of us directly, because we invited you here and we wanted to hear truthfully what the situation is and try to figure out how we can help, but if there is anything we can do please let us know.

My colleagues have questions. I just have one question, and it has to do with China's influence. By some estimates, China has become one of the largest sources of foreign assistance in Cambodia, including a pledge of \$257 million of assistance in 2009 and economic investments in infrastructure and energy projects.

Some experts argue that China's assistance has undermined attempts by other major aid donors, particularly European ones, to tie aid to human rights. How effective have other aid donors been in influencing the Government of Cambodia regarding efforts to improve human rights conditions and how has China's assistance affected those such efforts?

Ms. SOCHUA. If I may?

Mr. McGOVERN. Yes. Sure.

Ms. SOCHUA. Congressman McGovern, I think this issue is very, very important. I think the track record of China, a big, very significant donor in the development of Cambodia, is something that we worry about. There are signs, really clear signs, that the government is becoming more and more secure about the crackdowns, about the oppression.

I believe there is a significant link between Chinese aid and this wider, stronger widespread of human rights. I think in that sense I urge the U.S. to join its voice, its stand with other donors such as the EU, who just recently over the situation just last month the EU, the 27 governments of the EU, put together one message to the Government of Cambodia.

I think the U.S. should join the EU and other governments to put forward a very strong message, and I think here the Congress, I urge the Congress to put a resolution, a strong resolution, and that will also give a message and protection to us to say that you cannot tolerate this situation and to give hope to the people of Cambodia. Thank you.

Mr. McGOVERN. Anyone else? Sophie?

Ms. RICHARDSON. Yes. If I can just add a quick word to that?

I mean, obviously the presence of hundreds of millions of dollars of completely unconditioned aid does not help, but I think one of the problems that creates is sometimes a little bit of a I don't quite mean race to the bottom. I think you know what I mean.

Mr. McGOVERN. Right. I do. That is what I am worried about.

Ms. RICHARDSON. You know, we often hear from across the donor community that if they don't engage on X and such issue the Chinese will, and therefore they will lower their own standards simply to have a seat at the table --

Mr. McGOVERN. Right.

Ms. RICHARDSON. -- rather than get left behind. I mean, we have certainly heard this repeatedly about dealing with the military, that either the U.S. can get in there or the field is essentially ceded to the Chinese.

I don't want to see the standards being negotiated to the low level of the Chinese Government, and I think we have to be clear about what our own red line is --

Mr. McGOVERN. Right.

Ms. RICHARDSON. -- that we are not going to drop below.

Frankly, I think that even if Chinese aid dried up tomorrow we would still face a lot of the same problems, but that if Hun Sen didn't want U.S. money or U.S. recognition the U.S. would have been asked to leave, right? I mean, there is still plenty of room, plenty of leverage I think there to work with.

Mr. McGOVERN. Yes?

Ms. SOCHUA. Yes. I think that there are two groups of donors unfortunately for Cambodia; the group of democratic countries that are always raising the issue of human rights, good governance and anticorruption, et cetera, but unfortunately like for China, China is now the biggest donor and the condition of China is not the same --

Mr. McGOVERN. Right.

Ms. SOCHUA. -- as the democratic countries, so by saying that China gives us without condition is not true. The condition of China is different. It is not concerning

human rights, not concerning the good governance, but they would like maybe the oil. They would like to have concessions. They would like maybe the forest, the mine, et cetera.

So this makes our government can play two cards, you know, saying that the government can rely on some donor without condition, but I still think that you, USA, you still have a good influence on the Cambodian Government.

As now you resume the bilateral cooperation with the Cambodian Government I think that you still can talk, can have dialogue with our government. This will leave you some influence on our government I still think, yes.

Mr. McGOVERN. I appreciate that.

Ms. SOCHUA. And you can join the group of EU. EU now starts to be a little more active than in the past.

Mr. McGOVERN. I appreciate that. I think, and I will just close with this. I think you have all given us a lot of food for thought here maybe to have us sit down with our officials and have a more frank conversation about some of these things, as well as perhaps in the short term asking the Cambodian Embassy officials who are here maybe to come in.

I mean, they provided us with a statement in response to everything today. There are some discrepancies between what they are saying and what you are saying, but I think it might incite a very good conversation, but I think we need to have a dialogue and let them know that we are very, very concerned at a minimum so they can report back to the Government of Cambodia.

But I think maybe those two things are concrete things we can do in the short term: Meet with our own officials and also meet with the officials from Cambodia who are here in Washington. I think that might be something we could do pretty quickly.

Yes?

Ms. SOCHUA. I would add something. This is not possible maybe. Maybe it is a dream, but maybe you can try.

Mr. McGOVERN. Everything is possible.

Ms. SOCHUA. Yes. Why not talk to the high ranking of China and demonstrate that if the work in Cambodia, it is good that they influence the Cambodian Government to take the right direction to our democracy because China was one of the countries that ratified the peace agreement.

Mr. McGOVERN. Right. Well, I think that is a good suggestion too.

I should just tell you, though, for the record I have had some experience with the Government of China. Frank more than me, but I have tried to influence China when it came to the issues in Sudan and Darfur and had very little luck.

But clearly I think it is important that we let the Chinese Government know too that we expect them to care about human rights and that they can play a positive role if they want to. That would be very welcome. That would be a welcome step.

At this point I want to yield to my co-chair who knows a lot about this issue, Congressman Frank Wolf from Virginia.

Mr. **Wolf**. Thank you, Jim, and I have a 2:30 appointment in my office, but I am really here because of Jim Moran and the hearing. I am glad we had the hearing, and I am glad Jim asked.

Speaking for myself, I believe that our Embassy should be an island of freedom. It should be a place that you feel very comfortable coming to and to be your advocate, if you will, for protection. Again speaking for myself, I will write a letter to our Ambassador saying that we somewhat hold our Ambassador and Embassy partially responsible for when you return to the country to meet with you and also to sort of let them know that it is careful that you are under their watchful eye.

We have done that on a number of other countries, in China and all, and I think it would be helpful for our Embassy to actually meet you at the airport and to let them know that they stand with you.

Secondly, if anything I want to second -- I appreciate Jim McGovern raising this. I saw the note with regard to the potential threats. Again speaking for myself, if there is any harm or ill will done to any of you, I personally will offer an amendment to cut the aid across the board, zero it out -- military, nonmilitary, everything -- to Cambodia because I think we need you, and I think you are really the Solzhenitsyns and the Elena Bonners of Cambodia, willing to be forward, to come forth.

That doesn't mean that everyone will agree with everything you say, but no one should live in fear or intimidation so obviously there is a lobbyist in this room from the Cambodian Embassy or there is someone representing him. If anything happens to these four people, I personally will do it, and I think we will get a lot of other Members to go along.

And so thank you for being willing to stand up and speak out. It has been an educational process. Elizabeth, who has been in my office, has sort of brought me up to speed on a lot that is going on. I appreciate Jim holding this hearing and Jim Moran bringing it to us.

China has not been a good influence around the world, and I think there has been a problem both in their own country -- Catholic bishops, Protestant pastors -- and I am not so sure that we are going to be able to move them.

The military thing almost sounds like an East Timor revisited almost. I will also do a letter to Secretary Gates asking Secretary Gates to make this a priority for our military liaison as they do to make sure that, as we should have done in East Timor but did too late, work with the Indonesian Government to, as we should have and didn't, but with the Cambodian Government that they learn the values of human rights and religious freedom and that also there is a danger that this will be reduced.

I would hope that Jim would offer an amendment with me, Mr. Moran, in the appropriations process --

Mr. MORAN. Yes.

Mr. **Wolf**. -- when the bill comes up next year to zero this out.

Mr. MORAN. They are appropriators and I am on rules, so we are all covered.

Mr. **Wolf**. So with that, one, we will ask the Embassy to meet you as you land. We will do a letter to the Ambassador to ask that they sort of watch over you.

That doesn't mean that we have to agree with everything as you may have some differences obviously, but to meet with you and let the Cambodian Government know how your security is very, very important to our government. Lastly, we will contact Secretary Gates with regard to that aid.

It would be my hope that perhaps some day a couple of us could visit there, but there would be a reception at the American Embassy where all of you who are dissidents and everything could come in and the Embassy would feel like it is an island of freedom that you see. When you see that American flag you know that there will be somebody in there advocating for you as has been the history of this country.

So I thank Mr. McGovern and I thank Mr. Moran for asking for the hearing. With that, I yield back.

Mr. McGOVERN. Thank you very much. Don't mess around with Frank. That is the message here.

Do you want to respond? Yes?

Ms. SOCHUA. Yes. Again, I wish to thank the Members of Congress. Congressman Wolf, I am a U.S. citizen, and Ambassador Carol Rodley has provided me with an escort when I leave the country and so I am grateful for that.

But for those of my compatriots who are not U.S. citizens, I don't think the U.S. Embassy has been -- it can be -- their asylum because in the past it has been that Cambodians are not quite welcome when they seek asylum.

I wish to bring the attention of my colleague, a member of Parliament, Honorable Ho Van, who is now in Denver. His case is like my case. His immunity was lifted the same day as mine for speaking against -- just making a comment about the military. His trial was on the 9th of September, which is two days ago, and very likely he is going to be found guilty. He is now in Denver. He came as a visitor. His visa will expire very soon.

But we as members of Parliament, we are elected by the people of Cambodia. We want to go back to serve our people. We are not here to seek asylum. We are here to say to you please, you are elected by the people as well. Can you imagine if you could not go to this constituency, your own constituents who are crying for help? You cannot imagine that.

For me, for my colleagues who are in Parliament who are in opposition, we put our lives out there. For my own case I would not pay the fine. I would rather go to jail. That is not because I do not respect the rule of law. If there were a rule of law my case would not even come up. I want to go to jail just to give hope to my people, to the people of Cambodia who now live in total fear of prosecution. Thank you.

Mr. McGOVERN. Thank you very much. Yes?

Mr. TOLA. Thank you for giving me another chance. I am learning that the U.S. is going to discuss about trade, a new trade policy.

As I mentioned earlier that Cambodian economics is mainly based on the garment and textile industries, so why should the U.S. include Cambodia in the trade policies with a duty status as I mentioned with the condition, so it could be another influence for the Cambodians.

Most of the product from the textile and garment industry is imported to the U.S. and EU. It is not to China.

Mr. McGOVERN. All right.

Mr. TOLA. Yes. So this is one.

Mr. McGOVERN. I think that is a very good point. I just want to stress the point of this Commission is to try to raise the issue of human rights in all of our policy discussions, not just in terms of military aid, but also in terms of economic aid and our trade agreements. What we are trying to emphasize here is that human rights matters and that it is an important part of our foreign policy.

You know, in this hearing today what we want to stress is that we want a good and strong and productive relationship with the Government of Cambodia, but it becomes much more difficult and complicated if a standard of human rights is not upheld. It becomes difficult when there is a culture of impunity. It becomes difficult when the judicial system doesn't work and people are arbitrarily thrown in jail or people can't express what is on their mind.

You know, what we want to do here ultimately is to persuade the leaders of Cambodia to actually understand that human rights is important, and by respecting human rights there are benefits that come from the United States as a result of that.

So at this point I want to yield to again the inspiration for this hearing today, my colleague, Jim Moran.

Mr. MORAN. Thank you very much, Mr. Chairman. I appreciate your genuine commitment.

I am glad you chair this caucus, and again I will mention it was Ms. Alita Black that brought Mu Sochua to me and made a compelling case, but it didn't take much convincing for you to hold a hearing, Mr. McGovern, and that is typically the case. Again, this is appropriate for the Congressional Human Rights Caucus to address.

Cambodia is an interesting situation because it is not Burma. It is not Sudan. It is not as bad as many other countries where human rights are clearly trampled every day. It is a country that has made progress certainly in the last 20 years.

But something has happened in the last year or two where a series of these defamation prosecutions have occurred which are clearly politically inspired, really

trumped up charges that would be laughable if they did not entail serious consequences. There is little question that the fact that the government controls the courts is too easy an opportunity to abuse civil rights, and the courts of course seem to have a history of corruption.

So I want to ask you a little about how this occurred, why you think this is the case, because I understand that despite some irregularities Hun Sen probably would have been elected if there had been no irregularities whatsoever, if it had been a completely democratic process. He still nevertheless would have been elected because I think people sense that there has been improvement, that the living conditions in Cambodia have improved.

So we want to find those aspects of the government that we can work with to improve, but we have got to condemn the attitude that has led to the necessity of having such a human rights hearing. Mr. Wolf and Mr. McGovern have suggested the leverage that Dr. Richardson proposed, and it would seem to be quite appropriate. We ought not be facilitating that.

There is another point of leverage perhaps, and that is the ASEAN organization, the coalition of basically Southeast Asian countries. They have gained some credibility, and I think it is important to recognize that and the fact that they recently identified some criteria for acceptance and for basically conduct, if you will, within the country and they made it clear that Burma is not acting lawfully, acting within any acceptable parameters.

They didn't cite Cambodia, but perhaps they should consider this because this is a group to which I think all of the participating nations want to be not only included, but respected within that group, and there is clear violations of the principles that the ASEAN countries identified.

Now, I appreciate the Vice Chair Mr. Wolf's passionate prioritization of human rights. Unfortunately, it was not shared by the last Administration. I think we are going

to see a whole new approach to human rights, and in fact I know Secretary of State Clinton has made this a priority.

In fact, I am not surprised if you are working with Ms. Black that you are probably going to be meeting with the Secretary of State. Is that the case, Ms. Mu?

Ms. SOCHUA. I have met with her staff at the highest level at the State Department already yesterday. Thank you.

Mr. MORAN. Good. Now, what did the State Department say they would do to pursue these concerns that you have raised to our attention?

Ms. SOCHUA. They have not expressed any action, made any commitment to action yet. I still have two more appointments tomorrow with the Asia Bureau and then the Human Rights and Labor and Democracy officer.

Mr. MORAN. Okay. Well, I know that Chairman McGovern shares our interest in making sure we coordinate what we do, and including the International Relations Committee. I know Mr. Faleomavaega, who chairs the subcommittee dealing with this part of the world, is concerned as well.

So we want to coordinate what we are doing particularly with the State Department and empower the State Department to use leverage. So Mr. West, who has the desk responsible for Cambodia who is in attendance today, they may want to come up with some recommendations. It would be helpful if the State Department agrees with whatever actions are taken.

Now, of course, we want to give Hun Sen, the Prime Minister, every opportunity to correct the situation, to change some of this policy. Maybe he is getting just really bad advice and he can sack whatever Minister is giving him that advice.

I mean, I don't want to suggest how he might want to deal with this, but things need to turn around and I think that is the point of this hearing. It is unacceptable what is going on.

So you have dual citizenship?

Ms. SOCHUA. Yes.

Mr. MORAN. You are a powerful lady.

Ms. SOCHUA. I am not using my U.S. passport. I use it, but I don't want to abuse it.

Mr. MORAN. That is well put. I wish some of us were as eloquent as that.

I know Mr. McGovern is very much aware, as I am, of Cambodia's history. Horrible destruction, the killing fields of Pol Pot, two million people were executed in a most horrendous manner. I have actually been sympathetic to Prince Sihanouk, but I understand the situation that has evolved.

I do think there is potential here, but I do wonder, and this is kind of a personal thing, whether there was adequate justice rendered in the case of those who committed those atrocities and whether that might have had some effect.

Are you aware of whether people who were involved in Pol Pot's army have still been allowed to function? Is there any relationship with regard to the military's activities, their attitude toward the people and the impunity with which they act and the past history? I know what occurred has been condemned, but not particularly punished. Could you address that just briefly?

Ms. SOCHUA. Yes, Congressman Moran. There was an agreement with their government of the Khmer Rouge -- the former Khmer Rouge -- Army to join as a part of the reconciliation process, and many of these high ranking officials are with the Army today of the Khmer Rouge.

Mr. MORAN. So some of the Army, and I assume they would be officers because they have to be relatively old if they were members of the Khmer Rouge. So they are still functioning in the Army today?

Ms. SOCHUA. Yes.

Mr. MORAN. Are these some of the people who are particularly likely to be abusive toward the Cambodian people?

Ms. SOCHUA. You are talking about, as Sophie Richardson just said, the records of these Army officials, high ranking officials on human rights, so I don't need to say more than that.

Mr. MORAN. Yes.

Ms. SOCHUA. Now, what I can say is that because of the level of impunity, the culture of impunity, it is very unlikely that these people would be touched by the rule of law.

On top of that, the agreement between the government and the U.N. on the Khmer Rouge trial is that a certain top number of top leaders in the Khmer Rouge regime would go to the Khmer Rouge trial, so unlikely these people will be facing the Khmer Rouge court.

Mr. MORAN. Thank you, Ms. Mu.

Dr. Richardson, it just occurs to me that if we were to proceed with coming off I assume it is foreign military financing that they are getting, FMF funds. Is that correct?

Ms. RICHARDSON. At the moment it is FMF.

Mr. MORAN. Well, if we were to proceed cutting off those funds that might be one explanation.

If there are still Khmer Rouge elements in that military, the U.S. has no business providing any resources whatsoever to that military. Now, is that the case, Dr. Richardson?

Mr. **Wolf**. Certainly there are former Khmer Rouge in the current military, but there are also dozens of them in the government.

Mr. MORAN. Yes.

Ms. RICHARDSON. I mean, Secretary Clinton will in 10 days go to New York in UNGA and presumably will meet with Cambodia's Foreign Minister, who is himself a former member of the Khmer Rouge. So is the Prime Minister. I mean, they are shot through the government and the whole power establishment.

I want to be very clear on my concern about FMF and whether it should be cut. I think there are a lot of tough questions that require some very clear answers, but if the evidence or the answers are as damning as I think they could be then, yes, that is an appropriate response.

May I respond really quickly to a couple of the points that you made a few minutes ago? First of all about the 2008 elections, I think from a human rights perspective the way you would think about an election is not just a question of the technical aspects of it and whether everyone who should have been able to vote was able to cast a ballot, but I think it is also the element of uncertainty. You have to be able to conceive that the ruling power, that the ruling party could lose and would step aside.

That was inconceivable going into the 2008 elections partly because of what had come before in other elections. I mean, it is hypothetically possible that the Cambodian People's Party enjoyed genuine and noncoerced political support of such a magnitude that it could have won, but even that security was not enough to prevent there being serious problems and so I think it can't just be viewed sort of in that slice of 2008 itself.

But also with respect to the Cambodia isn't Burma, in some ways I think the CPP has benefitted enormously from its neighbors because they are not quite as bad as some of them, but that is not good enough and two of the historical precedents that I think are very important to recall are not just the 1991 Paris Peace Agreements which set out a Cambodia that remains so distant from where we are now many, many, many years later, but also entails obligations on the part of the United States and other signatories.

I think it is well worth revisiting that document and assessing why we aren't further down the track, but also in terms of where Cambodia is historically. I mean, one of the problems that has been referred to today about land grabbing and the scale of this possession in a predominantly agricultural society, the orders of magnitude have not been seen since the late 1960s or the early 1970s and that ought to worry people.

We are talking about hundreds of thousands of people who can't feed themselves, and we all know that historically that doesn't tend to end too well.

Mr. MORAN. A very good point. It is important if we have the opportunity to professionalize the military we should be doing that, but on the other hand --

Ms. RICHARDSON. I concur entirely.

Mr. MORAN. -- if we are complicity providing any kind of material support for a military that is taking over this land, extrajudicially allowing people to suffer as was clear on the video, when they do so that is wholly unacceptable, and clearly it is the military that has been doing this.

As the Chairman suggested, it is something we ought to look at. As you suggest, there is leverage here. We want to talk with the Embassy. We want to talk with the State Department and with the International Relations Committee, but I trust that the Cambodian Government is on notice that this Caucus and I think this Congress is aware that we are going to have to respond to some of these massive human rights violations and lack of any kind of reasonable judicial process.

Thank you, Mr. McGovern.

Mr. McGOVERN. Before I yield to Congressman Tsongas, I just want to follow up on this Khmer Rouge issue.

You know, I mentioned in my opening statement that the international co-prosecutor, William Smith of Australia, submitted his recommendations to the co-investigating judges that five more suspects be investigated for crimes against humanity and other offenses dating back to the reign of terror.

Now, the Prime Minister's response was that more arrests could trigger a civil war, so I am assuming that that is the response that we will get. Really quick, I mean, can you respond to that?

Ms. RICHARDSON. Come on.

Mr. McGOVERN. All right. Good. That is a good answer. Do you have anything to add to come on? Okay.

I assume the consensus is that it won't. I mean, my view has always been that justice does not result in more chaos; that actually it helps people have more confidence in the system, and I think that is important.

Ms. SOCCHUA. It is a tactic that works as for the Prime Minister. Every time the court has to make a decision the Prime Minister goes to the public and decides what he has to say, what the court has to order, has to follow at the end. It is a tactic, and I think the international community has bought into it, but luckily on this situation with the ECCC it seems that the court, the Khmer Rouge court, will not listen and will pursue with it.

I think we have to be very aware that the Prime Minister is very skillful at putting out his messages and that the U.S., as well as other donors, must stand on their principles of human rights. I am very, very grateful and hopeful that after this hearing there will be some kind of changes.

Mr. McGOVERN. Thank you. Thank you.

Ms. SOCHUA. One last thing.

Mr. McGOVERN. Go ahead.

Ms. SOCHUA. Congressman McGovern, to respond to you, Congressman Moran, in this room you can see more than half of the people attending here at Cambodians living here who are mainly mostly U.S. citizens now. They are here because they are concerned about Cambodia, as Congresswoman Tsongas just brought up.

You challenged me and I challenge them that you are here as U.S. citizens. You knock on your lawmakers' doors, and here they are. They are from your states.

The last point is that on elections it is not a matter of guessing who can be the winner. I am sorry, Congressman Moran. I think the real issue is how can we make the National Election Committee neutral, independent and the playing field as level as

possible. We in opposition believe that we can win, yes, if there is a true environment that brings away and puts aside the culture of fear.

Again, my last point for today is that we in opposition in Parliament, we need to have our rights as the minority in Parliament. We have no rights, and that is not what is going to be helpful for the development of Cambodia. Until we address this issue in Parliament, I think donors' aid to Cambodia will be facing more challenges because there is no representation for people who have no voice and no rights.

Mr. McGOVERN. Thank you.

Did you want to add something?

Mr. TOLA. Yes, I do. Sorry. I just respond back to the concern of the Prime Minister concerning about a civil war could happen again.

It is based on the political will of the government because I put a question. My question is the armed force. Who is controlling the armed force now?

Mr. McGOVERN. The government.

Mr. TOLA. So my question. I think that the people understand.

Mr. McGOVERN. Thank you.

Mr. TOLA. From my perspective, the civil war cannot be happening.

Mr. McGOVERN. Thank you.

Mr. TOLA. Thank you.

Ms. KEK. I hope that the Khmer Rouge Tribunal, the ECCC, will show its independence. The co-prosecutor, international co-prosecutor, would like to indict five more. Six more, but one died already, so there are five. I hope that this tribunal can go on until it is finished because it is very important to show to the Cambodian people that we cannot allow impunity. We cannot tolerate impunity.

I know that there are not many. There are only five now and plus five is 10, so most of the Cambodians are very frustrated and ask us the question why only five --

Mr. McGOVERN. Right.

Ms. KEK. -- because they killed more than almost two million. Why are we going to prosecute only 10, you know, only five at the beginning? But it is better five than nothing.

Mr. McGOVERN. Right.

Ms. KEK. And we have to take this responsibility. We have to go until the end. Otherwise if this tribunal stops now I think that it will be more harmful for the Cambodian people.

So please help this tribunal to finish its work at least for five, but if they can do for 10 it will be better.

Mr. McGOVERN. Thank you.

I would like to yield now to my colleague from Massachusetts, Congresswoman Tsongas.

Ms. TSONGAS. I just wanted to thank you all very much for your testimony. I have to say that it is very telling and obviously has been very important for me to hear firsthand your stories.

As I said at the outset, it is so true that while this is very much about Cambodia it also has such an impact on the many Cambodian-Americans here in this room and throughout this country who have to continue to bring these issues to bear.

But let us just hope that this is a good beginning as you have been so bravely willing to air some of the great differences you have with your government and your great concerns and that it is just the first in a pass, but I wanted to thank you very much.

Mr. McGOVERN. Let me just conclude with a couple of observations.

Again, the fact that this room is packed I think demonstrates that there is a great deal of interest and a great deal of concern, and I think that is an important message for the Government of Cambodia that people here do care and people are watching very, very closely and not in a confrontational or hostile way.

It is that people want the very best for the people who have gone through a lot, but you want a government that is credible, that deals with issues of impunity and that upholds a high standards of human rights.

I will also say that I think people like you who come forward and demand better from your government are patriots. I mean, we criticize our government all the time not because we don't like whoever is in the White House or whoever is in a particular position. We do so because we love our country, because we think it can be better.

We are not perfect. We have had some human rights challenges too in the United States and we are trying to work through them, but I think it is important that people remain committed to this high standard of human rights.

I just want to close by asking that Chairman Faleomavaega's statement be part of the record. He is chairing a hearing in his Asia and Pacific Subcommittee and can't be here. As Congressman Moran pointed out, he is very much interested in this.

[The information is unavailable]

Mr. McGOVERN. You have given us a lot of information. We have a lot of assignments as a result of this hearing. We are going to work with you. We are going to do some follow up.

I have learned a lot. I think we all have, and so I appreciate very much your time and your testimony. Thank you very much.

[Applause.]

[Whereupon, at 2:55 p.m. the Commission was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD



**Tom Lantos Human Rights Commission (TLHRC)
Hearing Notice**

**“Human Rights and the Rule of Law in Cambodia”
Thursday, September 10|
1-3 p.m.
2200 Rayburn HOB**

Please join the Tom Lantos Human Rights Commission at a hearing on the status of human rights and the rule of law in Cambodia. On July 29, *The Washington Post* reported “a heightened crackdown on journalists and opposition activists...has provoked new concern that the government [of Cambodia] is engaging in widespread abuse of the nation’s legal system to muzzle its detractors.” On August 4, the Phnom Penh Municipal Court found opposition parliamentarian Mu Sochua guilty of defaming Prime Minister Hun Sen.

According to the 2008 State Department Human Rights report, current labor law in Cambodia provides only private-sector workers the right to join a trade union without prior authorization, but the government’s enforcement of the law has been selective. Additionally, despite the 2001 law requiring land titling for communal lands of indigenous peoples, little was done to implement this law and there have been several reported incidences of indigenous peoples being forced to leave their land without compensation. These issues are part of a concerning trend in the Cambodian government’s overall human rights record.

To discuss these issues, we will welcome as our witnesses:***

- Mu Sochua, member of Parliament, Sam Rainsy Party
- Pung Kek, founder, LICADHO
- Moeun Tola, head of labor program, Community Legal Education Center
- Sophie Richardson, Asia advocacy director, Human Rights Watch

***Witness list subject to change.

If you have any questions, please contact Elizabeth Hoffman (Rep. Wolf) or Hans Hogrefe (Rep. McGovern) at 202-225-3599.

/s/James P. McGovern, M.C.
Co-Chair, TLHRC

/s/Frank R. Wolf, M.C.
Co-Chair, TLHRC