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Cambodian Center for Human Rights

CCHR Briefing Note – September 2013

Recommendations for reform for the new Royal Government of Cambodia

Executive summary

This Briefing Note calls on the new Royal Government of Cambodia (“RGC”) to address a number of pressing concerns related to the situation of human rights and democracy in the Kingdom of Cambodia (“Cambodia”). It aims to encourage the new RGC to address these important issues as a priority at the start of the Fifth Mandate National Assembly.

This Briefing Note recommends ten key areas of reform:

1. Establishing an independent National Human Rights Institution, in accordance with the Paris Principles;
2. Guaranteeing freedom of expression and protecting non-governmental organization (“NGO”) workers and human rights defenders (“HRDs”) from harassment;
3. Supporting the establishment an independent media by removing restrictive content-based legislation, opening up media licenses and creating an independent media body;
4. Reforming the electoral process by improving procedures and ensuring transparency and independence in order to restore confidence in the National Election Committee (“NEC”);
5. Implementing key parliamentary and governance reforms to strengthen democracy;
6. Increasing women’s political representation by introducing a quota system for elections and undertaking leadership capacity-building measures for women;
7. Undertaking judicial reform by enacting and amending legislation codifying judicial systems and procedures, evaluating the use of pre-trial detention and Judicial Supervision Orders, and, implementing guidelines for dealing with juveniles;
8. Implementing legislation to prohibit discrimination on the grounds of sexual orientation and gender identity;
9. Protecting land rights by enforcing the Land Law, prohibiting the forced eviction of people from their land, and eliminating harassment of land rights activists; and
10. Clarifying and enforcing immigration laws, without resorting to racist dogma, in order to ease racial tensions.

By undertaking reform in these areas, the RGC can instill confidence in the mechanisms that are available to maintain a free and fair democracy in Cambodia where protection of human rights is prioritized. This Briefing Note is written by the Cambodian Center for Human Rights (“CCHR”), a non-aligned, independent, NGO that works to promote and protect democracy and respect for human rights – primarily civil and political rights – throughout Cambodia.

Introduction

Article 31 of the Constitution of the Kingdom of Cambodia (the “Constitution”) recognizes and respects the Universal Declaration of Human Rights (the “UDHR”) and the covenants and conventions related to human rights. Cambodia ratified the International Covenant on Civil and Political Rights (the “ICCPR”) and the International Covenant on Economic, Social and Cultural Rights (the “ICESCR”) in 1992 making the provisions within the two legally binding upon Cambodia. The fact that the ICCPR and ICESCR are incorporated into Cambodian domestic law was confirmed by a decision of the Constitutional Council dated 10 July 2007, which stated that “*international conventions that Cambodia has recognized*” form part of Cambodian law.¹

Generally speaking, the legislative and policy framework in Cambodia is relatively strong: there exist a significant number of laws which seek to protect and promote human rights and the RGC has introduced several strategic plans and policies aimed at mainstreaming human rights. However, there is a noticeable lack of both willingness and capacity on the part of the government to implement these laws and policies.

Although there currently exists several national human rights bodies² – the National Assembly Commission on Human Rights, the Senate Commission on Human Rights and the Cambodian Human Rights Committee – these institutions have failed to demonstrate that they are sufficiently autonomous to hold the RGC to account when it comes to its human rights record. In September 2006, Prime Minister Hun committed his government to the creation of an National Human Rights Institution (“NHRI”) based on the Paris Principles – a set of principles which have been adopted by the United Nations and which relate to the status and functioning of national institutions for the promotion and protection of human rights. However, there has been little development in this regard. As such, CCHR recommends – in addition to the more specific recommendations outlined throughout the remainder of this Briefing Note – the following:

1. Establish an independent NHRI, in accordance with the Paris Principles, which:
 - a. Includes a fair and transparent system for selecting membership based on the principle of pluralism so that membership represents all sections of Cambodian society;
 - b. Incorporates a broad mandate covering the protection and promotion of human rights, with clear powers and sufficient resources for dealing with human rights abuses and discharging its duties effectively;
 - c. Protects the role of civil society; and
 - d. Provides a means of complaint for civil society actors who have had their rights to freedom of expression, association and/or assembly violated.

Freedom of expression³

Although freedom of expression and freedom of the press are guaranteed under Article 41 of the Constitution, journalists, NGO workers and HRDs are frequently subjected to legal and physical

¹ Constitutional Council of the Kingdom of Cambodia, Decision No. 092/003/2007, 10 July 2007.

² CCHR, ‘Institution Series: National Human Rights Bodies in Cambodia’ (Factsheet) (March 2012) <http://cchrcambodia.org/index_old.php?url=media/media.php&p=factsheet_detail.php&fsid=38&id=5>.

³ CCHR, ‘Freedom of Expression’ (Briefing Note) (February 2013) <www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&anid=30&id=5>

threats and to actions that have instilled a sense of fear and created a climate of self-censorship. A culture of impunity has developed in Cambodia whereby those guilty of harassment are rarely prosecuted or otherwise called to account for their actions.

Attempts to introduce a Law on Associations and Non-Governmental Organizations (“LANGO”) have further threatened freedom of expression and freedom of assembly and association. Previous drafts of this law have included onerous requirements on NGOs which would undermine their ability to operate freely and effectively. Finally, despite commitments by the RGC to implement a Freedom of Information Law in 2007, to date no law has been implemented and civil society has thus far been excluded from the drafting process.

Freedom of expression in Cambodia requires better protection. As such, CCHR recommends the following with regards to the reform in this area:

1. Amend articles of the Penal Code which currently restrict freedom of expression by:
 - a. Decriminalizing defamation under Article 305;
 - b. Decriminalizing insult of public officials under Article 502 and discrediting of judicial decisions under Article 523; and
 - c. Clarifying the offense of incitement to commit a felony under Article 495.
2. Stop the harassment of journalists, NGOs and HRDs by
 - a. Training law enforcement officials in human rights and international principles of proportionality in the use of force; and
 - b. Making a strong commitment to thoroughly investigate violence or intimidation carried out against civil society actors and to bring perpetrators to justice.
3. Enact a Freedom of Information law which complies with international standards by:
 - a. Seeking civil society input on the drafting of the law; and
 - b. Releasing important information in a timely manner whereby public bodies abide by the principle of maximum of disclosure;
4. Guarantee freedom of assembly and association by:
 - a. Ensuring that, if the LANGO returns to the legislative agenda, civil society is appropriately consulted and that civil society recommendations are incorporated into the draft law; and
 - b. Providing training to local authorities to ensure that they are aware of the provisions of the Law on Peaceful Assembly and that they do not continue to request letters of permission from civil society organizations that are not necessary under the law.

Media freedom⁴

All 11 Cambodian television stations, most radio stations, and the foremost Cambodian newspapers are either owned or controlled by the Cambodian People’s Party (“CPP”). Licenses for traditional forms of media (radio, print and broadcast) are issued on a yearly basis and are subject to stringent

⁴ CCHR, ‘Freedom of Expression’ (Briefing Note) (February 2013)
<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&aid=30&id=5>

levels of control and censorship. The press is subject to unnecessary content-based restrictions imposed by the outdated Press Law 1995, which includes content that “*may cause harm to national security and political stability*” (Article 12) or that affects “*the good custom of society*” (Article 14). These are broad concepts, open to a wide number of interpretations that do not form a legitimate basis for restricting the right to freedom of expression under international law. These laws lead to self-censorship and, coupled with concerns over renewal of licenses, encourage many to only report news perceived as favorable to the CPP.

In contrast, internet access in Cambodia has been relatively free. However, in 2012, the RGC announced it wished to introduce a Cyber Law to prevent “*ill-willed people...from spreading false information.*”⁵ There are serious concerns that efforts will be made to restrict and control the cyber sphere and particularly social media, as internet usage across the country increases.

Steps must be taken to establish an independent media which is free to engage in open discussions and analysis without fear of reprisals. As such, CCHR recommends the following:

1. Stop harassment of journalists and tackle impunity in such cases by:
 - a. Ensuring that legal cases involving journalists refer to the Press Law and not the more restrictive Penal Code;
 - b. Repealing content-based offenses in the Press Law and otherwise amending the Press Law to ensure that it upholds press freedom as stipulated in the Constitution;
 - c. Ensuring that cases of harassment against journalists are duly investigated and that perpetrators are brought to justice

2. Ensure independence of the media by:
 - a. Ensuring equal access to media for all political parties to ensure free and fair elections take place; and
 - b. Establishing an independent broadcasting governing body, responsible for licensing and ensuring that media outlets operate freely.

3. Ensure freedom on the internet is upheld by:⁶
 - a. Seeking civil society input on the proposed Cyber Crimes Law;
 - b. Ensuring that the proposed Cyber Crimes Law does not contain any provisions or vague terms that could be used to stifle freedom of expression online;
 - c. Refraining from blocking websites unless there are exceptional circumstances and where a court order has first been obtained; and
 - d. Ensuring internet service providers are not held liable for content generated by others and divulged using those services.

⁵ The ill-willed” spark cyber law: officials’ *The Phnom Penh Post* (24 May 2012)
<www.phnompenhpost.com/2012052456372/National/the-ill-willed-spark-cyber-law-officials.html>

⁶ CCHR, ‘Freedom of Expression and Internet Censorship in Cambodia’ (Briefing Note) (April 2013)
<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&anid=34&id=5>

Electoral reform⁷

The National Assembly Elections held on 28 July 2013 have been marred by widespread complaints of irregularities, including a voter registry that duplicated and omitted names, allowing some people to vote multiple times and some people not to vote at all, and many reports of people whose names were on the lists only to have been used by someone else by the time they arrived to vote. The NEC lacks independence and this undermines its credibility as a referee of elections. Members of the NEC often have connections with the ruling party or move into jobs within the CPP on leaving. There are no fixed terms for members of the NEC and no safeguards against arbitrary removal so members can easily be dismissed if they do not act in the interests of the CPP.

There are also significant gaps in the financial capacities of political parties to campaign. The Committee for Free and Fair Elections in Cambodia (“COMFREL”) noted that the CPP’s campaign spending for the 2012 commune elections vastly outweighed that of other political parties, with the CPP spending approximately US\$9,000 per local campaign, compared to US\$1,500 by the Sam Rainsy Party, US\$300 by the Human Rights Party, US\$200 by the Norodom Ranariddh Party and less than US\$200 by FUNCINPEC.⁸ This gap in resources between parties is exacerbated by the CPP’s misuse of state resources to carry out political activities in support of the CPP, such as the use of state property and officials for CPP campaigning activities.⁹

Thousands of reports of voting irregularities in the 2013 National Assembly Elections highlight the need to establish a voting system which is accepted as credible and results in free and fair elections. As such, CCHR recommends the following:

1. Establish an independent NEC that instills confidence in voters by:
 - a. Creating an open selection process to procure diversity of membership within the NEC and local electoral administration;
 - b. Ensuring security of tenure of members of the NEC and the absence of arbitrary removal;
 - c. Amending the rules of the NEC so that members cannot work for a political party immediately after leaving the NEC;
 - d. Creating an independent, legally-mandated budget to fund the NEC; and
 - e. Revising the deadlines and the procedure for the submission of complaints following an election, so as to allow those looking to file complaints adequate time to gather evidence in support of their complaint.

2. Incorporate civic education in the national educational system, including in the national curriculum, with the aim of encouraging future generations of voters to become more engaged in politics

3. Regulate political campaign financing by:

⁷ CCHR, ‘Political and Electoral Reform in Cambodia’ (Briefing Note) (February 2013)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&anid=28&id=5>

⁸ COMFREL, ‘Press Statement on Final Assessment and Findings of 2012 Commune Council Elections’ (2012)

<www.comfrel.org/eng/components/com_mypublications/files/340543Press_Statement_Final_Assessment_Eng_Final.pdf

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⁹ *ibid.*

- a. Amending the Law on Political Parties 1995 to require political parties to publically disclose party revenues and expenditures;
- b. Establishing an independent agency to enforce financial disclosure by political parties and to make available the information publically; and
- c. Enforcing laws regulating the use of public state resources for campaigning by political parties.

Parliamentary and governance reform

Despite significant progress over the past decades regarding institution building in Cambodia, there remain many areas where processes regarding governance and legislation-making can be improved. The Internal Rules of Procedure of the National Assembly, which were revised in 2008 after the elections, significantly limit the scope of participation of members of the National Assembly, particularly in relation to parliamentary debates. New laws are regularly passed with little constructive debate being undertaken and with no input from civil society. National policies are often left unimplemented due to a lack of appropriate budget, political will or both. In the 2012 Open Budget Initiative Survey Cambodia was scored 15% for overall levels of transparency, was categorized as providing scant or no information to the public and ranked 81st of 100 countries assessed for budget transparency.¹⁰

The Anti-Corruption Law (“ACL”) 2010 has failed to live up to its full potential and the independence of anti-corruption bodies has been questioned. Despite recent increases, the basic salary for public servants remains very low, which will continue to result in lower-ranked officials and civil servants resorting to bribery and extortion from those more vulnerable than themselves. This in turn negatively impacts the full implementation of national laws and policies.

Strengthening democratic processes is crucial to the long-term protection and promotion of human rights. As such, CCHR recommends the following:

1. Reform parliamentary procedures by:

- a. Ensuring all political parties with seats in the National Assembly are represented in parliamentary commissions, including at the leadership level;
- b. Amending Articles 48 and 55 of the internal rules of the National Assembly to eliminate requirements that members of the National Assembly sit in groups of ten and that prohibit individual members from speaking;
- c. Putting in place safeguards against the arbitrary removal of parliamentary immunity and ensuring that any such action does not violate freedom of expression;
- d. Amending Article 120 of the Law on the Elections of Members to the National Assembly to clarify procedures to be taken when a Member of Parliament loses his or her seat within six months of the next elections; and
- e. Ensuring civil society is appropriately consulted at every stage of the legislative process.

2. Strengthen national policy and budget decision-making and implementation by:

¹⁰ International Budget Partnerships, ‘Open Budget Survey 2012: Open Budgets. Transform Lives.’ (2012)

- a. Prioritizing and facilitating civil society input on draft national policy documents, including through the organizing of workshops and consultations;
 - b. Enacting a Freedom of Information law which guarantees access to budget information;
 - c. Making available publically – including online – all budget proposals by the Executive Branch, mid-year budget reviews and yearly audits; and
 - d. Publishing a yearly “Citizen’s Budget” which is a simplified, non-technical version of the national budget aimed at increasing budget literacy and public engagement.
3. Combat corruption at all levels of governance by:
- a. Amending the ACL and ensuring that the bodies created under the ACL are accountable to the judiciary and not the Prime Minister;
 - a. Ensuring the responsibility for the regulation of these bodies rests with an independent judicial body and not with the executive;
 - b. Removing the provision within Article 41 of the ACL which states that defamation or disinformation leading to a useless inquiry will result in a fine and/or prison sentence;
 - c. Increasing salaries of public officials and ensure that salaries are paid on time; and
 - d. Enacting the Village Commune Safety Policy in law, so that the positive impact it has made can legitimately be continued, and including provisions within any such legislation to tackle any incidences of corruption.¹¹

Women’s political representation¹²

Despite commitments to achieving 25% women’s representation at commune/sangkat level and 30% women’s representation at the national level by 2015, in accordance with the Cambodian Millennium Development Goals (“CMDGs”), women remain greatly under-represented in Cambodian politics. During the June 2012 Commune/Sangkat Council Elections, only 17.79% of councilors elected were women. Although women constituted 22% of the previous mandate of the National Assembly, that percentage has dropped with the fifth mandate to 20.33%, thereby ensuring that the CMDG targets will not be met.

In order to increase women’s representation at both the commune/sangkat and national levels as soon as possible, positive action needs to be taken. As such, CCHR recommends the following:

1. Commit to the following affirmative action mechanisms:¹³
 - a. A mandatory gender quota of a minimum of 30% of women on candidate lists, reinforced with an additional mechanism that stipulates a certain rank order requiring political parties to alternate the names of male and female candidates on lists; and
 - b. A mandatory reservation of at least one third of Senate seats for women.
2. Promote gender equality by:

¹¹ CCHR, ‘Briefing Note on Security Reform’ (Briefing Note) (November 2012)
<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&anid=25&id=5>

¹² CCHR, ‘Politics in the Kingdom: Increasing Female Representation’ (Report) (March 2013)
<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=88&id=5>

¹³ CCHR, ‘Female Political Representation and Electoral Gender Quota Systems’ (Briefing Note) (September 2012)
<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&anid=22&id=5>

- a. Reviewing internal procedures within government institutions to ensure inclusion of gender-sensitive policies;
- b. Introducing comprehensive legislation to address indirect and direct gender-based discrimination,¹⁴ sanctions for perpetrators of discrimination and mechanisms for redress of victims;
- c. Cooperating with all stakeholders, including the media, to raise awareness of women's rights and capabilities as leaders and take a proactive approach to promoting women's participation in politics¹⁵; and
- d. Invest in women's education to ensure quality education at all levels of schooling and provide training programs to improve women's capacity for roles of political leadership.

Judicial reform¹⁶

There is a widening gap between the constitutional guarantees of fair trials and the way the judiciary operates in practice. Courts are increasingly used as a means to silence political dissent, while immunity is granted to elites. This has resulted in a climate in which rule of law is absent and courts are more likely to be viewed with suspicion and fear than as a means to peacefully resolve disputes.

The way in which hearings are conducted is indicative of a lack of resources, insufficient quality of training and a lack of awareness of relevant human rights standards. Pre-trial detention is used in an arbitrary manner, and, at rates of 80% of all cases, is being used far more extensively than is warranted. Due to a lack of a separate system of juvenile justice, juveniles accused of an offence and liable to legal proceedings are subject to the same treatment as adults.

The judiciary should work as an effective balance to the executive and the legislative but it cannot fulfill the role it should in a democracy when it lacks independence from the other branches of government. As such, CCHR recommends the following:

1. Guarantee courts will not be misused as political tools to silence dissent and stifle debate
2. Enact and fast-track the following draft laws:
 - a. The Law on the Organization and Functioning of Courts;
 - b. The Law on the Status of Judges and Prosecutors; and
 - c. The Juvenile Justice Law.
3. Amend the Supreme Council of Magistracy Law to exclude any members of the executive or legislative from sitting on this body
4. Increase awareness-raising activities to ensure that citizens are aware of their legal rights by:
 - a. Distributing simple leaflets and/or posters to police stations and prisons where defendants are held on remand; and

¹⁴ In accordance with Article 1 of the UN Convention on the Elimination of All Forms of Discrimination against Women <<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>>

¹⁵ CCHR, 'Policy Brief - Women's Political Representation in Cambodia' (Briefing Note) (July 2013) <http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&anid=38&id=5>

¹⁶ CCHR, 'Judicial Reform' (Briefing Note) (February 2013) <http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&anid=29&id=5>

- b. Making a directory of legal aid lawyers with contact details available to defendants at all courts and prisons.
5. Improve legal training and resources to provide skilled and knowledgeable lawyers
6. Reduce the frequency of use of pre-trial detention by:¹⁷
- a. Amending the CCPC to clarify the evidential grounds that must be met before a judge can be satisfied that pre-trial detention should be imposed;
 - b. Codifying procedures for Judicial Supervision Orders; and
 - c. Eliminating use of pre-trial detention for juvenile accused unless there are exceptional circumstances.

Prohibiting discrimination on the grounds of sexual orientation and gender identity¹⁸

Although lesbian, gay, bisexual and transgender (“LGBT”) Cambodians are subject to the same protection of the law as other Cambodians, the lack of any express legislation prohibiting discrimination on the grounds of a person’s sexual orientation and gender identity (“SOGI”) remains a problem. While homosexuality is legal within Cambodian law, there remains a lack of cultural and social acceptance of LGBT Cambodians. Many LGBT Cambodians face discrimination and abuse on a regular basis but are either unaware of their rights or ashamed to bring formal complaints.

The rights afforded to all Cambodians under the Constitution must be upheld for LGBT Cambodians. As such, CCHR recommends the following:

1. Ensure greater protection for LGBT Cambodians under the law by:
 - a. Amending the Constitution and Labor Law by expressly prohibiting discrimination on the grounds of sexual orientation and gender identity;
 - b. Amending the Constitution and Law on Marriage and the Family to allow same-sex marriage;
 - c. Introducing anti-hate crime legislation which specifically protects LGBT people; and
 - d. Introducing an Anti-Discrimination Law that refers explicitly to LGBT people and has provisions for the creation of an Anti-Discrimination Committee, whose explicit remit would be the protection of human rights of all people.
2. Reduce discrimination in all sectors of society by:
 - a. Introducing education on SOGI into the national curriculum and ensuring that the curriculum takes the lives of LGBT Cambodians into account;
 - b. Introducing guidelines and training for health service workers and conducting awareness-raising campaigns to ensure LGBT people receive medical care; and
 - c. Implementing training and sensitization programs target at law enforcement agencies and securing national funding for community-level anti-violence programs.

¹⁷ CCHR, ‘The Use of Pre-Trial Detention in Cambodian Courts’ (Briefing Note) (July 2013)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&anid=36&id=5>

¹⁸ CCHR: ‘Rainbow Khmer: From Prejudice to Pride’ (Report) (December 2012)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=85&id=5>

Land rights¹⁹

The abolishment of land ownership by the Khmer Rouge led to the destruction of the majority of land ownership records. Although the RGC has since then gradually introduced laws to restore land rights to the people of Cambodia, laws related to land ownership are overly complex and are not well communicated to those affected. Many Cambodians, particularly those that are poor and uneducated, are unaware of their rights and this ignorance has been exploited by unscrupulous investors who are not interested in investing in long-term projects aimed at sustainable development.

Many Cambodians have been forcibly evicted from their homes and from lands from which they make their livelihood, which have then been destroyed to clear the way for investors. ELCs are often awarded without consultation of those affected or without due consideration of environmental and social impact, adherence to legal limitations on the size of land transferred or proper classification of the land as being eligible for transfer. Cambodians are powerless to protect their land from being illegally taken where ELCs have been granted without due process and those that have non-violently protested their rights have been subject to harassment, violence and legal proceedings.

Cambodians have a right to feel secure in the property they live in and earn a living from. As such, CCHR recommends the following:

1. Ensure compliance with the Land Law 2001 by:
 - a. Continuing the existing moratorium on awarding any further ELCs to commercial interests;
 - b. Conducting a full and transparent review of ELCs already awarded to determine their compliance with the law; and
 - c. Issuing clear guidelines on how ELCs are awarded and ensure strict adherence to the requirement that social and environmental impact assessments be made in the evaluating and awarding of any ELCs.

2. Protect individuals' land rights by:
 - a. Discontinuing the use of student volunteers to measure land and ensure this is only carried out by properly-trained surveyors;
 - b. Issuing preliminary land titles, with hard titles to follow, to those people who are deemed to have present legal possession of their land, unless there are specific, compelling and transparent reasons to determine otherwise;
 - c. Bringing to an end forced evictions of people from their land by anyone who cannot be held accountable for their actions and/or does not have the proper authority to enact evictions;
 - d. Implementing specific measures to protect indigenous land rights, including amending Sub-Decree no. 83, which provides that indigenous community land is public state property;
 - e. Ensuring the equal representation of women in the resolution of land conflicts; and

¹⁹ CCHR, 'Land Reform' (Briefing Note) (March 2013)
<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&anid=32&id=5>

- f. Releasing from detention and dropping any pending charges against anyone who has been arrested for non-violently protesting government land policies.

Immigration laws²⁰

The Khmer Krom – ethnic Khmer from South Vietnam – have repeatedly been assured they have a right to Cambodian citizenship, however the practical difficulties that they have faced in trying to access the benefits of their Cambodian citizenship has belied these assurances. During the 2013 National Assembly Election campaign, attention was drawn to problems with illegal immigration from Vietnam. However, the distinction was often blurred between legitimate immigration concerns and racism against all Vietnamese, including those with a legitimate right to reside in Cambodia. This resulted in several occurrences on the day of the National Assembly Elections where people were prevented from voting, even though many had a right to do so and are living legally in Cambodia.

Immigration is a legitimate area of concern for many Cambodians. As such, CCHR recommends the following:

1. Ensure the protection of the Khmer Krom in Cambodia by:
 - a. Confirming that the Khmer Krom should be treated as Cambodian nationals;
 - b. Ending the practice of returning people of Khmer Krom to Vietnam, in violation of the UDHR, the Refugee Convention and the Law on Nationality; and
 - c. Issuing permanent identification documents to individuals of Khmer Krom origin that can prove Khmer nationality.
2. Strengthen immigration laws and ensure that these are properly enacted by the judiciary so that Cambodians can be confident that non-ethnic Khmer residents in Cambodia are here legally
3. Ensure that provisions in the Constitution prohibiting discrimination on the grounds of race and ethnicity are upheld

Conclusion

Implementing the policy and legislative recommendations provided throughout this Briefing Note will go a long way towards protecting and promoting the human rights of all people in Cambodia, in addition to ensuring that the legislative, executive and judicial branches of the government operate independently and efficiently. The implementation of these recommendations will enshrine the fundamental importance of human rights in Cambodia and inspire confidence in the abilities of the RGC to uphold these rights. CCHR hopes the RGC will understand the necessity of reform in the areas outlined above and that it will recognize that enacting these reforms will not only strengthen Cambodia as a nation but also go a long way towards building confidence in the RGC.

For more information, please contact CCHR President Ou Virak via telephone at +855 (0) 12 40 40 51 or e-mail at ouvirak@cchrcambodia.org or CCHR Consultant Juliette Rousselot via telephone at +855 (0) 15 35 06 20 or e-mail at juliette.rousselot@cchrcambodia.org.



²⁰ CCHR, 'False Promises: Exploring the Citizenship Rights of the Khmer Krom in Cambodia' (Report) (July 2011) <http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=64&id=5>