

# Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations

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## **Cambodia: International Law Duties to Investigate Serious Human Rights Violations**

### **LRWC calls for an independent commission of inquiry into the murder of Dr. Kem Ley and other unsolved murders**

18 August 2016<sup>1</sup>

*Lawyers' Rights Watch Canada (LRWC) is a committee of lawyers and others who promote human rights and the rule of law internationally. LRWC produces legal analyses of international law and standards relevant to human rights violations against human rights defenders.*

#### **Introduction**

On 10 July 2016, a Cambodian researcher and commentator, Dr. Kem Ley, was assassinated two days after giving an interview<sup>2</sup> about a recently released report on the business interests of Prime Minister Hun Sen's family,<sup>3</sup> and a day after a government spokesperson threatened news media for writing about the report.<sup>4</sup> The assassination of Kem Ley has led to mass public outcry, widespread allegations of suspected government involvement in the murder,<sup>5</sup> alleged threats against Kem Ley's associates<sup>6</sup> and concern about lack of adequate investigation.<sup>7</sup> On 13 July

<sup>1</sup> This summary was prepared by Catherine Morris drawing on Matthew Stacey, "The duty of the Philippines government to investigate extra-judicial killings," Lawyers' Rights Watch Canada (LRWC) 2007, [www.lrwc.org/?p=906](http://www.lrwc.org/?p=906); and "Re: Judge Baltasar Garzón: Formal Complaint for Consideration and Action from LRWC, ECCHR, ALRC, LWBC, CCR, FIDH, NLG, IADL & OMCT," 2010, [www.lrwc.org/?p=1148](http://www.lrwc.org/?p=1148).

<sup>2</sup> Sok Khemara, "Q&A With Kem Ley: Transparency on Hun Sen Family's Business Interests is Vital," VOA, 12 July 2016 (transcription of translated interview with Kem Ley on 8 July 2016), <http://www.voanews.com/content/cambodia-kemley-transparency-prime-minister-business-interests-vital/3416106.html>.

<sup>3</sup> Global Witness, "Hostile takeover: How Cambodia's ruling family are pulling the strings on the economy and amassing vast personal fortunes with extreme consequences for the population", 7 July 2016, <https://www.globalwitness.org/en/reports/hostile-takeover/>.

<sup>4</sup> Reporters Without Borders, "RSF worried by Hun Sen regime's repeated attacks on media freedom," 18 July 2016, <https://rsf.org/en/news/rsf-worried-hun-sen-regimes-repeated-attacks-media-freedom>; Ben Paviour and Van Roenun, "Government backs letter denouncing foreign press", Cambodia Daily, 9 July 2016, <https://www.cambodiadaily.com/news/government-backs-letter-denouncing-foreign-press-115222/>.

<sup>5</sup> Phorn Bopha, "Meet the alleged killer of Cambodia's Kem Ley," VOA, 25 July 2016, <http://www.voanews.com/content/cambodia-kem-ley-killer-oeuth-ang-/3433936.html>.

<sup>6</sup> Lay Samean, and Shaun Turton, "Kem Ley funeral committee dogged by 'threats'," Cambodia Daily, 1 August 2016, <http://www.phnompenhpost.com/national/kem-ley-funeral-committee-dogged-threats>; [Kuch Naren](#) and [Zsombor Peter](#), "Twins Get Temporary Asylum in Thailand," Cambodia Daily 29 July 2016, <https://www.cambodiadaily.com/archives/twins-get-temporary-asylum-in-thailand-116029/>.

<sup>7</sup> International Commission of Jurists, "Cambodia: Kem Ley's killing demands immediate credible and impartial

2016, five UN independent human rights experts called for a “prompt, thorough and impartial investigation into the crime” conducted by “an independent body with no ties to the government.”<sup>8</sup>

The assassination of Kem Ley and its aftermath are alarming reminders of Cambodia’s longstanding pattern of impunity<sup>9</sup> for assassinations of human rights defenders, labour leaders, environmental activists, monks, journalists, political activists and other government critics since the 1991 Paris Peace Accords.<sup>10</sup> Examples of the many murders remaining unsolved are the 1997 murders of 16 people in a grenade attack against peaceful demonstrators, and the high-profile assassinations of activist monk Sam Bunthoeun in 2003, opposition politician Om Radsady in 2003, labour leader Chea Vichea in 2004 and environmental activist Chut Wutty in 2012. Rarely are perpetrators of murders or other serious crimes brought to justice when it is suspected that those involved may have connections to military, police or the ruling political party. Cambodian government responses to murders are marked by a lack of effective, impartial and independent investigations. The Cambodian legal system as a whole is characterized by its lack of independence of judges, the legal profession, police and other officials.

Over the past two decades, continual concerns have been raised about Cambodia’s failure to meet its obligations to investigate violations of the right to life established both by international law binding on Cambodia and by the *Constitution of the Kingdom of Cambodia* (Constitution).<sup>11</sup> This paper provides a brief overview of State duties under international law to investigate and punish unlawful killings as those duties apply to Cambodia.<sup>12</sup> Governments are required by international law to ensure thorough, impartial, independent and effective investigations of all violent deaths. When a government is unable to conduct an effective investigation that accords with international principles, it has an obligation to establish an independent commission of inquiry capable of conducting such an inquiry.

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investigation,” 13 July 2016, <http://www.icj.org/cambodia-kem-leys-killing-demands-immediate-credible-and-impartial-investigation/>.

<sup>8</sup> United Nations (UN) Office of the High Commissioner for Human Rights, “UN rights experts condemn killing of Cambodian political analyst and activist Kem Ley,” 13 July 2016, <https://www.protecting-defenders.org/en/news/un-rights-experts-condemn-killing-cambodian-political-analyst-and-activist-kem-le-y>.

<sup>9</sup> Human Rights Watch, *Two Decades of Impunity in Hun Sen’s Cambodia*, 2012, <https://www.hrw.org/report/2012/11/13/tell-them-i-want-kill-them/two-decades-impunity-hun-sens-cambodia>; LICADHO et al, “CSOs call for an End to Impunity in Cambodia,” 2 November 2015, <http://www.licadho-cambodia.org/pressrelease.php?perm=393>; UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in Cambodia, Surya P. Subedi, A/HRC/27/70, 15 August 2014, [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A-HRC-27-70\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A-HRC-27-70_en.doc).

<sup>10</sup> *Agreements on a Comprehensive Political Settlement of the Cambodia Conflict (Paris, 23 October 1991)*, <http://peacemaker.un.org/cambodiaparisagreement91>

<sup>11</sup> *Constitution of the Kingdom of Cambodia*, 21 September 1993, as amended. Unofficial translation version supervised by Constitutional Council, October 2015, [http://www.ccc.gov.kh/english/basic\\_text/Constitution%20of%20the%20Kingdom%20of%20Cambodia.pdf](http://www.ccc.gov.kh/english/basic_text/Constitution%20of%20the%20Kingdom%20of%20Cambodia.pdf).

<sup>12</sup> The Inter-American and European human rights systems have substantial bodies of law on the duty to investigate, but these bodies of law are not included in this paper. For more detail on the European jurisprudence, see *ibid*. For a summary of some law on duty to investigate in the Inter-American human rights system, see LRWC, “Honduras: International Law Duties to Investigate Serious Human Rights Violations,” June 2016, <http://www.lrwc.org/honduras-international-law-duties-to-investigate-serious-human-rights-violations-report/>.

## The State Duty to Investigate: Essential to Protect the Right to Life

The duty to investigate violations of the right to life is essential to protect the right to life, a non-derogable, *jus cogens* norm guaranteed by “international and regional treaties, customary international law, and by domestic legal systems globally.”<sup>13</sup> As required by the Paris Peace Accords to which Cambodia became a Party in 1991, Cambodia has incorporated into its Constitution the obligation to guarantee rights recognized in the *Universal Declaration of Human Rights* (UDHR), including the right to life.<sup>14</sup> Cambodia is bound to apply in good faith all international treaties and agreements to which it is a party, including the *Charter of the United Nations* (UN Charter),<sup>15</sup> to which Cambodia has been Party since becoming a member of the UN on 14 December 1955, as well as the Paris Peace Accords.

Included among the international human rights treaties to which Cambodia is a State Party is the *UN International Covenant on Civil and Political Rights* (ICCPR),<sup>16</sup> to which Cambodia acceded on 26 May 1992. As a State Party to the ICCPR, Cambodia has accepted the twin legal obligations to protect the right to life of all persons within its territory and to prevent, punish and remedy violations. The duty to conduct thorough, prompt, and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions is an essential component of the duty to protect the right to life. Such investigations must be effective to identify and apprehend all persons involved in and responsible for the death and to bring all suspected perpetrators before a competent court established by law<sup>17</sup> for prosecution and punishment in accordance with fair trial standards. The UN Human Rights Committee<sup>18</sup> (HR Committee) has noted that impunity may be “an important contributing element in the recurrence of ... violations,” and has emphasized that the State obligation to provide an effective remedy

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<sup>13</sup> Minnesota Protocol on the Investigation of Potentially Unlawful Deaths: Revised UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, A/HRC/32/39/Add.4, June 2016, para. 11, <http://www.ohchr.org/Documents/Issues/Executions/UNManual2015/A.HRC.32.39.Add.4.docx>. Also see UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, A/HRC/26/36, 1 April 2014, para. 42, [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A-HRC-26-36\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A-HRC-26-36_en.doc).

<sup>14</sup> The principles contained in the *Universal Declaration of Human Rights* (UDHR) are increasingly accepted as rules of customary international law, and to that extent are binding on Cambodia. Article 15 of the Paris Peace Accords, to which Cambodia became a party in 1991, also stipulates that “[a]ll persons in Cambodia and all Cambodian refugees and displaced persons shall enjoy the rights and freedoms embodied in the Universal Declaration of Human Rights and other relevant international human rights instruments.” Accordingly, Cambodia’s Constitution, Article 31, affirms that “[t]he Kingdom of Cambodia recognizes and respects human rights as stipulated in the United Nations Charter, the Universal Declaration of Human rights and the covenants and conventions related to human rights, women’s rights and children’s rights.” *Constitution of the Kingdom of Cambodia* (Constitution), 21 September 1993, <http://www.refworld.org/docid/3ae6b5428.html>. The Constitution also specifically incorporates the right to live in Article 32.

<sup>15</sup> *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, <http://www.un.org/en/sections/un-charter/un-charter-full-text/index.html>.

<sup>16</sup> UN General Assembly, *International Covenant on Civil and Political Rights* (ICCPR), 16 December 1966, United Nations, Treaty Series, vol. 999, p 171, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

<sup>17</sup> Minnesota Protocol, *infra* note 21, Section B.

<sup>18</sup> The UN Human Rights Committee (HR Committee) is the body of independent experts established by the ICCPR and mandated to monitor States Parties’ implementation of the ICCPR. The interpretations of the HR Committee and other treaty monitoring bodies (including through general comments, recommendations to states parties following examination of their periodic reports, and jurisprudence) are authoritative. See Judgment of the International Court of Justice, 30 November 2010, paras. 66-68, available at <http://www.icj-cij.org/docket/files/103/16244.pdf>.

pursuant to Article 2(3) of the ICCPR may in appropriate cases require guarantees of non-repetition and changes in relevant laws and practices.<sup>19</sup>

The ICCPR imposes on each State Party the duty to investigate violations of the right to life as an integral part of the duty to protect the right to life guaranteed by Article 6.1.

6.1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

In addition to guaranteeing that no one shall be arbitrarily deprived of life, the ICCPR, in Articles 2 and 3, requires ratifying States to take effective measures carried out by competent authorities to remedy violations:

#### Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

#### Article 3

Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

The HR Committee has affirmed that Article 2.1 creates binding obligations on States to exercise due diligence to prevent, investigate, punish and redress violations of protected rights committed by State and/or private actors. Failure to take such measures can constitute violations by the State of the ICCPR. The HR Committee stated in General Comment 31:

There may be circumstances in which a failure to ensure Covenant rights as required by Article 2 would give rise to violations by States Parties of those rights, as a result of States Parties' permitting or failing to take appropriate measures or to exercise due

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<sup>19</sup> HR Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/74/CRP.4/Rev.6, 21 April 2004, paras. 16, 18, <http://www.refworld.org/docid/478b26ae2.html>.

diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities.<sup>20</sup>

### **Standards for an Effective Investigation of Serious Human Rights Violations**

The UN has developed detailed standards for investigation of unlawful killing, including:

- *UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions* (UN Investigation Principles);<sup>21</sup> and
- *Model Protocol for a Legal Investigation of Extra-Legal, Arbitrary and Summary Executions* (Minnesota Protocol).<sup>22</sup>

The UN Investigation Principles, adopted by UN Economic and Social Council (ECOSOC) and welcomed by the UN General Assembly in 1989, reflect a global consensus on the standards for investigations:

- thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary, and summary executions;
- an independent commission of inquiry for those cases in which the established investigative procedures are ineffective because of lack of expertise or impartiality, and for cases in which there are complaints from the family of the victim about these inadequacies or other substantial reasons;
- protection from violence or intimidation for complainants, witnesses, families, and investigators;
- removal from power or control over complainants, witnesses, families, or investigators of anyone potentially implicated in extra-legal, summary or arbitrary executions;
- access by families and their legal representatives to any hearing and to all relevant information, and the right to present other evidence;
- a detailed written report on the methods and findings of the investigation, made public within a reasonable time;

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<sup>20</sup> HR Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/74/CRP.4/Rev.6, 21 April 2004, para. 8.

<sup>21</sup> United Nations, *Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*, 24 May 1989, recommended by Economic and Social Council (ECOSOC) resolution 1989/65 of 24 May 1989, welcomed by the General Assembly in Resolution A/RES/44/159, 15 December 1989, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ArbitraryAndSummaryExecutions.aspx>.

<sup>22</sup> Part III of UN Department of Political Affairs, *United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*, U.N. DOC. E/ST/CSDHA/1.12 (1991) (Minnesota Protocol),

[https://tavaana.org/sites/default/files/UN\\_Manual\\_on\\_the\\_Effective\\_Prevention\\_and\\_Investigation%5B1%5D.pdf](https://tavaana.org/sites/default/files/UN_Manual_on_the_Effective_Prevention_and_Investigation%5B1%5D.pdf).

Note that a revision of the Minnesota Protocol is currently underway in consultation with States, academia, civil society, and other interested parties. See UN Office of the High Commissioner for Human Rights, Revision of the UN Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol),

<http://www.ohchr.org/EN/Issues/Executions/Pages/RevisionoftheUNManualPreventionExtraLegalArbitrary.aspx>.

See the draft revision at:

<http://www.ohchr.org/Documents/Issues/Executions/UNManual2015/A.HRC.32.39.Add.4.docx>.

- government action to bring to justice persons identified by the investigation as having taken part in extra-legal, arbitrary and summary executions, through prosecutions and trials;
- responsibility of superiors, officers or other public officials for acts committed under their authority if they had a reasonable opportunity to prevent such acts; and
- fair and effective compensation for the families and dependents of victims of extra-legal, arbitrary and summary executions within a reasonable period of time.

### **Access to Information by Families: The Right to Truth**

A current project to revise the Minnesota Protocol articulates the right of victims, including family members of deceased persons, to participate in the process of investigation. According to the draft revision:

The relatives of a deceased person must be sought and informed of the investigation. Family members should be granted legal standing and investigative mechanisms or authorities should communicate with family members in a timely manner during all phases of the investigation. Families should be invited by the investigating authorities to make suggestions and arguments, provide evidence, and assert their interests and rights throughout the process. They should be informed of, and have access to, any hearing relevant to the investigation, and they should be provided with information relevant to the investigation. In certain circumstances — for example, where family members are suspected perpetrators — these rights may be subject to restrictions, but only where, and to the extent, strictly necessary to ensure the integrity of the investigation [citations omitted].<sup>23</sup>

The right of victims and family members to participate in and be informed about the process of investigations is rooted in the right to the truth, which is included in the right to information protected by Article 19 of the ICCPR. The right to truth includes the right of victims and their families “to know the truth about the events that led to serious violations of human rights, and the right to know the identity of those who played a role in the violations.”<sup>24</sup> In addition, society as a whole has the “inalienable right to know the truth about past events, as well as the motives and circumstances in which aberrant crimes came to be committed, in order to prevent recurrence of such acts in the future.”<sup>25</sup>

### **Independent Commissions of Inquiry**

The UN Investigation Principles require an independent commission of inquiry in cases where established investigative procedures are ineffective because of lack of expertise or impartiality, and for cases in which there are complaints from the family of the victim about these

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<sup>23</sup> UN Office of the High Commissioner for Human Rights, Revision of the UN Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol), para. 41, <http://www.ohchr.org/Documents/Issues/Executions/UNManual2015/A.HRC.32.39.Add.4.docx>, citing UN Human Rights Council, *Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence*, 9 August 2012, A/HRC/21/46, para. 54, <http://www.refworld.org/docid/5051ba982.html>; Minnesota Protocols, Article 15.

<sup>24</sup> *Ibid*, para. 14.

<sup>25</sup> *Ibid*, para. 15. UN, Commission on Human Rights, Report of the Office of the UN High Commissioner for Human Rights, Study on the right to the truth, E/CN.4/2006/91, January 9, 2006.

inadequacies or other substantial reasons. The Minnesota Protocol<sup>26</sup> provides additional guidance.

While States have the primary international law responsibility to exercise jurisdiction over serious crimes, in some circumstances it is recognized that “an international investigation mechanism with the expertise and capacity to conduct an independent and objective investigation may be appropriate.”<sup>27</sup> An international investigation mechanism does not replace the State’s duty to investigate, prosecute and punish.<sup>28</sup> Cases where the State may consent to a commission of investigation under international auspices include situations where the mechanisms of the state are in such disrepute that there is a profound lack of public confidence in the ability of the State to conduct an independent, impartial or thorough investigation.<sup>29</sup>

### **Application of the Duty to Investigate in Cambodia**

Cambodia is obliged by its domestic law to respect and ensure the right to life of every person within its jurisdiction. The Constitution, Article 32, affirms that “[e]veryone has the right to life, liberty and security of person.” In addition, Article 31 of the Constitution requires Cambodia to recognize and respect human rights “as stipulated in the UN Charter, the Universal Declaration of Human Rights (UDHR) and the covenants and conventions related to human rights, women’s rights and children’s rights.”

Cambodia is also obliged by international law to prevent and punish violations of the right to life. An integral part of these twin duties is to conduct thorough, impartial and independent investigations of unlawful killings. Such investigations must be capable of determining the cause and particulars of death, identifying the perpetrator(s) and enabling the prosecutions, trials and imposition of the punishment(s) required by law. These international law duties arise from Cambodia’s membership in the United Nations and the UN Charter, ratification of the ICCPR and from customary international law.

The UN HR Committee affirms that all branches of Cambodia’s State share the obligation to fulfil Cambodia duty to investigate violations of the right to life:

The obligation to respect freedoms of opinion and expression is binding on every State party as a whole. All branches of the State (executive, legislative

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<sup>26</sup> UN Department of Political Affairs, *United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*, U.N. DOC. E/ST/CSDHA/12 (1991), [https://tavaana.org/sites/default/files/UN\\_Manual\\_on\\_the\\_Effective\\_Prevention\\_and\\_Investigation%5B1%5D.pdf](https://tavaana.org/sites/default/files/UN_Manual_on_the_Effective_Prevention_and_Investigation%5B1%5D.pdf). Note that a revision of the Minnesota Protocol is currently underway in consultation with States, academia, civil society, and other interested parties. See draft revision at: <http://www.ohchr.org/Documents/Issues/Executions/UNManual2015/A.HRC.32.39.Add.4.docx>.

<sup>27</sup> UN Office of the High Commissioner for Human Rights, Revision of the UN Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol), para 46, <http://www.ohchr.org/Documents/Issues/Executions/UNManual2015/A.HRC.32.39.Add.4.docx>.

<sup>28</sup> *Ibid*, para. 47.

<sup>29</sup> For example, in the case of enforced disappearances of 43 students in 2014, Mexico consented to the establishment of an international commission of inquiry with international experts appointed under the auspices of the Inter-American Commission of Human Rights. See “IACHR Makes Official Technical Cooperation Agreement about Ayotzinapa Students in Mexico,” IACHR press release, 18 November 2014, [http://www.oas.org/en/iachr/media\\_center/PReleases/2014/136.asp](http://www.oas.org/en/iachr/media_center/PReleases/2014/136.asp).

and judicial) and other public or governmental authorities, at whatever level – national, regional or local –are in a position to engage the responsibility of the State party. Such responsibility may also be incurred by a State party under some circumstances in respect of acts of semi-State entities. The obligation also requires States parties to ensure that persons are protected from any acts by private persons or entities that would impair the enjoyment of the freedoms of opinion and expression to the extent that these Covenant rights are amenable to application between private persons or entities [emphasis added].<sup>30</sup>

In cases where the State is unable or is seen to be unable to conduct a thorough, prompt, impartial and effective investigation, the State—in this case Cambodia—has a duty to appoint an independent commission of inquiry in compliance the standards established by the UN Investigation Principles. Where the State is unable to appoint such a commission of inquiry drawing on its own resources, the duty to investigate is neither abrogated nor abridged. In such a situation, it may be necessary for the State to seek assistance from an appropriate UN body to establish an international commission of inquiry with independent international experts with an adequate mandate to conduct an investigation in accordance with the UN Investigation Principles.<sup>31</sup>

This paper has summarized the international legal framework supporting recommendations that Cambodia establish a commission of inquiry to investigate the assassination of Dr. Kem Ley. Such a commission of inquiry should be composed of qualified individuals with no ties to the government. A similarly independent commission of inquiry should also be established to investigate all other unsolved murders where there have been allegations or evidence of involvement by military, police or government officials. Given widespread public and international mistrust in Cambodia’s legal system and the lack of confidence in the possibility of finding persons in Cambodia with the necessary independence, impartiality and competence, there are sufficient grounds to support a request by the Government of Cambodia that an appropriate body of the UN establish international commission(s) of inquiry with independent experts.

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<sup>30</sup> Committee General comment no. 34, Article 19, Freedoms of opinion and expression, 12 September 2011, CCPR/C/GC/34, para 7, available at: <http://www.refworld.org/docid/4ed34b562.html> .

<sup>31</sup> Academic Platform Switzerland UN, and Geneva Academy of International Humanitarian Law and Human Rights, “The UN Human Rights Council: Commissions of Inquiry Conference brief,” Human Rights Day Conference on the UN Human Rights Council: Commissions of Inquiry, December 2011, <http://www.geneva-academy.ch/docs/news/HR-council-inquiry-conference-brief.pdf>