

# Lawyers' Rights Watch Canada

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

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Your Excellencies:

## **Re: Killing & Attacks on Demonstrators; Violations of rights to freedoms of assembly and expression**

I am writing on behalf of Lawyers Rights Watch Canada (LRWC), a committee of Canadian lawyers who promote human rights and the rule of law internationally. LRWC also provides support to lawyers and other human rights defenders in danger because of their advocacy.

LRWC is gravely concerned about serious violations of human rights by government authorities since the 28 July national elections, including violent attacks on demonstrators, bystanders, human rights observers and journalists. From 7-22 September, a number of large and small demonstrations have been organized by the Cambodian National Rescue Party (CNRP) or by community activists to protest reported widespread election irregularities and the alleged failure of your government to provide official tribunals that are independent and properly empowered to impartially investigate and resolve election complaints. Government officials have suppressed citizens' rights to participate in peaceful demonstrations by means of:

- an intimidating military build up of armoured vehicles, police and gendarmes with televised security force preparations including live-fire shooting practice;

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- attempts to limit the size, scope and duration of demonstrations through official orders, threats to organizers, police roadblocks, razor-wire barricades, and reported orders to police and gendarmes to prevent marches and parading;
- arbitrary and excessive use of force on demonstrators, human rights defenders and journalists, with resulting injuries to several people;
- unnecessary and disproportionate use of firearms by law enforcement officials for crowd control, including indiscriminant firing live ammunition at citizens, killing one person and injuring several others.

### **15 September 2013: Undue restrictions on freedom of assembly at Phnom Penh demonstrations and excessive use of force and firearms at Monivong Bridge overpass**

On 15 September 2013, government authorities blocked public roads with razor-wire and other barricades and military checkpoints to limit access to Phnom Penh and hinder people's participation in a nonviolent protest of irregularities in the 28 July National Assembly Elections. Despite these hindrances, tens of thousands of people attended peaceful protests on 15 September in Phnom Penh. During the day, several young men attempted to remove some street barricades; police responded by using smoke bombs and water cannons against demonstrators, injuring at least one individual who was pushed against razor wire by the force of water from a water cannon. At approximately 9:30 pm, police blockades caused a large traffic jam several kilometres from the protest site at Kbal Thnal (Monivong Bridge overpass). Approximately 25 frustrated young men and teenagers began throwing stones and debris at security forces. Eye witnesses reported that government authorities responded with "extreme brutality," beating people with truncheons and firing live ammunition from automatic assault rifles into the traffic-jam crowd. Witnesses observed police kicking and beating already-restrained people with batons. One passerby, Mr. Mao Sok Chan, was shot dead, and several suffered gunshot injuries. At least 24 persons required treatment for injuries in hospital or clinics.

*The Phnom Penh Post* quoted Military Police spokesman Brigadier General Kheng Tito as denying that police had behaved improperly in the Kbal Thnal incident. BG Khen Tito is quoted as stating: "If they are good protesters, they wouldn't be protesting [at night]. If someone is protesting at this time, they're not a clean protester, so authorities have the right to crack down." LRWC disagrees with BG Kheng Tito's analysis, which indicates a misunderstanding of Cambodia's Constitutional and international human rights obligations to protect the right to life and other fundamental human rights, and a lack of knowledge of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. These principles state the "duty of law enforcement officials to protect the right to life, liberty and security of the person" and "their responsibility to maintain public safety and social peace..." These rights are guaranteed in the Universal Declaration of Human Rights and affirmed in the International Covenant on Civil and Political Rights (ICCPR) which Cambodia ratified in 1992. Where there is a threat to public safety, law enforcement officials are to use nonviolent means before resorting to force or firearms, and may use force or firearms only if nonviolent means are ineffective. The UN Principles stipulate that, "intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life." (Article 9). There is no indication that the incident at Kbal Thnal involved any threat to life other than from police abuse of force and firearms.

### **20 September 2013: forcible ejection of peaceful hunger striker from Wat Phnom**

On 20 September 2013, approximately 30 persons including opposition party member, Prince Sisowath Thomico, accompanied by a number of monks, engaged in a peaceful hunger-strike protest at a public park near the Wat Phnom temple. They were forcibly ejected from Wat Phnom by a force of more than 100 military police in riot gear. The Prince then left the site voluntarily to avoid conflict, and no one was injured.

In this incident, military police failed to adhere to Cambodia's obligations to respect the rights to freedoms of assembly and expression articulated in the ICCPR, Articles 19 and 22. Freedom of assembly is not to be restricted except as necessary "in a democratic society in the interests of national security or public safety, public order..." None of these concerns was presented by this protest. An unnamed military police officer was

quoted by The Cambodia Daily as saying he was upset at the treatment of the Prince, because he “was not bothering anyone.”

## **22 September 2013: Violent attacks on peaceful protesters, human rights observers & journalists at Wat Phnom**

On 22 September 2013, land rights activists from the Boeung Kak and Borei Keila communities held a peaceful protest vigil at Wat Phnom. The vigil began at approximately 2 pm with approximately 50 mostly-female community members and around 40 monks. Wat Phnom is normally illuminated at night, but at approximately 8:30 pm all lighting around Wat Phnom was shut off. At approximately 10 pm, around 20 remaining peaceful demonstrators were preparing to leave the park when a group of military police arrived with approximately 20 or 30 masked civilians in plain clothes. The civilians attacked the demonstrators with sticks, electric prods and slingshots under cover of darkness. Police and plain clothes attackers appeared to be working in cooperation; police did nothing to prevent or stop the attacks. A number of demonstrators, including persons in their 60s and 70s, were injured in the attack and required treatment in hospital or clinics.

During the attack, at least one clearly-designated human rights observer and several journalists received minor injuries from slingshots and electric prods, including reporters from The Cambodia Daily, The Phnom Penh Post, Agence France-Presse and Voice of America. Witnesses observed that attacks on journalists seemed deliberate, and are believed to have been an attempt to prevent journalists from reporting and photographing the official suppression of the protest. Police confiscated or smashed some journalists’ equipment. Military police spokesman Brigadier General Kheng Tito was quoted in The Phnom Penh Post on 23 September as defending the actions saying, “the people wanted to do something, but our force stopped [them], would not allow them to do anything.” The Cambodia Daily reported on 25 September that officials from relevant district offices at Daun Penh denied any involvement in the violent attack.

This incident also suggests that police officials are not aware of, or fail to adhere to, Cambodia’s Constitutional and international legal obligations to protect citizens’ freedoms of expression and peaceful assembly, the rights of human rights defenders pursuant to the UN Declaration on Human Rights Defenders, and the right of journalists to freedom of expression pursuant to the ICCPR. Both human rights defenders and journalists are to be protected from assaults, harassment or any other interference with their responsibilities.

Human rights defenders have the right and duty to promote and ensure the protection of human rights, including by acting as independent observers at demonstrations. The UN Declaration on Human Rights Defenders, adopted by the UN General Assembly of the United Nations in 1998, provides in Article 12.2 that the State shall “take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of his or her rights.”

Freedom of the press is guaranteed by Article 41 of Cambodia’s Constitution and the 1995 Law on the Regime of the Press (Press Law). Article 4 of the Press Law gives journalists the duty to report the truth; on-the-ground reporting of demonstrations, political events and human rights issues falls clearly within journalists’ professional responsibilities to conduct accurate reporting. Article 3 of the Press Law guarantees independence of the press and prohibits pre-publication censorship such as destruction or confiscation of recording or photography equipment.

LRWC urges your government to:

- conduct immediate, thorough, independent and impartial investigations to identify and prosecute in fair proceedings all those responsible for violent attacks on demonstrators, human rights observers and journalists;
- give immediate, clear directions to all police, gendarmes and other security forces to adhere to the United Nations (UN) Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- ensure respect for and protection of the rights and duties of human rights defenders pursuant to the UN Declaration on Human Rights Defenders;
- ensure respect for and protection of rights and responsibilities of journalists to investigate and report the truth without harassment or attack, guaranteeing respect for press freedom and independence;
- respect and implement the ICCPR, including all citizens' rights to freedoms of peaceful assembly and expression regardless of their political affiliation;
- halt immediately all forms of intimidation and harassment of peaceful demonstrators, human rights defenders, journalists and others calling for adherence to Cambodia's international law obligations.

We would appreciate a response to this letter.

Yours sincerely,



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