

Congress of the United States

Washington, DC 20515

September 18, 2009

The Honorable Robert M. Gates
Secretary of Defense
The Pentagon Room 3E 880
Washington DC 20301

Dear Secretary Gates:

We write today to bring to your attention concerns regarding U.S. assistance in the form of Foreign Military Financing (FMF) to the Kingdom of Cambodia.

As you know, the United States has provided approximately \$4.5 million in FMF used for training and material assistance to Cambodian military, police, and counter-terror units since 2006. According to testimony from Human Rights Watch at a Tom Lantos Human Rights Commission hearing on September 10, such training and assistance “has 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 bodyguard unit which has been implicated in countless rights abuses including a political massacre, under the cover of a newly created special anti-terrorism unit.”

While the United States should work with foreign governments to professionalize and train security forces to respect human rights and the rule of law, we must ensure that such assistance and training is not awarded to members of the security forces that have committed serious human rights violations and continue to operate with impunity.

Enclosed please find the testimony of Human Rights Watch which was submitted for the record and details serious abuses by members of the Prime Minister’s Bodyguard Unit, Brigade 70, Special Airborne Brigade 911 and Brigade 31 of the Royal Cambodian Armed Forces (RCAF).

Given the nature of the abuses detailed in the enclosed testimony, we ask that the Department of Defense please provide answers to the following questions:

- What U.S.-funded training has been provided to RCAF’s Special Airborne 911, RCAF’s Brigade 70 and the Prime Minister’s Bodyguard Unit?
- Have members of RCAF’s Special Airborne Brigade 911, Brigade 70, or members of the Prime Minister’s Bodyguard Unit traveled to the United States to receive U.S.-government funded training or on other official business? If so, what was the purpose of the travel? What vetting procedures were used before they traveled?
- What equipment or other material support has been provided by the U.S. government to Special Airborne Brigade 911, Brigade 70, the Counter-Terrorism Task Force, the Prime Minister’s Bodyguard Unit, or any other security services?

- What U.S.-funded training has been provided to Cambodia's National Counter-Terrorism Committee, the National Counter Terrorism Task Force and the Counter-Terrorism Special Forces Unit?
- How many members of the Counter-Terrorism Special Forces unit come from the Prime Minister's Bodyguard Unit? Do they retain their positions at the Bodyguard unit?
- What actions have been taken to establish the identities of the Bodyguard unit personnel who were present during the March 30, 1997, grenade attack against the opposition Khmer Nation Party, and to ensure that these individuals are not included in any U.S.-sponsored training of RCAP forces?

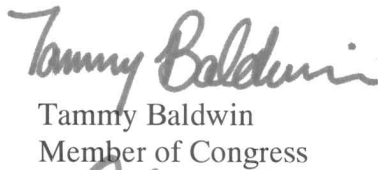
Thank you for your attention to this important matter. We look forward to receiving your response.

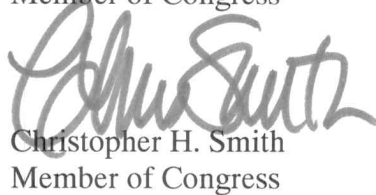
Best wishes.

Sincerely,

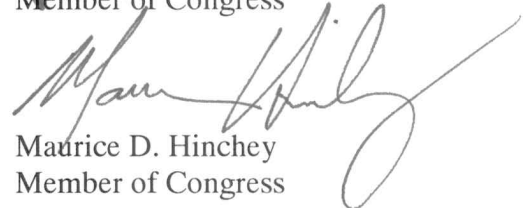

Frank R. Wolf
Member of Congress

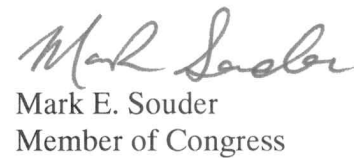

Edward R. Royce
Member of Congress


Tammy Baldwin
Member of Congress


Christopher H. Smith
Member of Congress

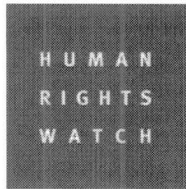

James P. Moran
Member of Congress


Maurice D. Hinchey
Member of Congress


Mark E. Souder
Member of Congress


Niki Tsongas
Member of Congress

Enclosure



I. Summary

Relations between the US and Cambodia have warmed considerably since the US withdrew direct aid to the Cambodian government in 1997, after a coup by the Cambodian People's Party (CPP) of Prime Minister Hun Sen against their coalition government partner, the FUNCINPEC party.

In addition to deeply entrenched impunity for human rights violators, other key human rights issues include the lack of integrity and independence within Cambodia's court system, attacks on freedom of expression and pluralism, and the government's chronic inaction on legal reform. Those who speak out to defend their homes, their jobs, and their rights increasingly face threats and physical attacks, including trade union leaders, opposition party members, journalists, activist Buddhist monks, and community activists defending their land and natural resources.

In addition, the gap has widened between wealthy city dwellers and impoverished farmers in the countryside, exacerbated by large-scale forced evictions of tens of thousands of urban poor, illegal confiscation of farmers' land, and pillaging of the natural resources on which people in the countryside depend for their livelihood. Military units are often wrongfully deployed to carry out forced and violent evictions of villagers whose ownership claims to the land have never been properly or fairly dealt with by a court.

To make matters worse, the Cambodian government announced this week that it is terminating the World Bank's \$24 million land titling program after the Bank and key donors, including the United States, called on the government to stop forced evictions until fair and transparent land dispute and resettlement policies are in place.

While Cambodia has experienced significant economic growth during the past 16 years, the government has rejected a rights-based approach to development. Economic growth would have been much greater if the rule of law would have been established and voracious corruption by Prime Minister Hun Sen and those around him had not drained so many resources from the country.

In October 2008 the US announced that it would be making its first financial contribution (US\$1.8 million) to the hybrid trial of former Khmer Rouge leaders (the Extraordinary Chambers in the Courts of Cambodia), which has been plagued by credible reports of corruption and government interference and manipulation. Ongoing statements by Prime Minister Hun Sen calling for the court not to engage in additional prosecutions seriously undermine the court's integrity, independence, and credibility. In helping Cambodia to address legacy issues lingering from the Indochinese wars, the US should be at the forefront of advocacy with the UN, other donors, and the Cambodian government itself in insisting that Cambodians deserve the highest standards of justice for the crimes committed by the Khmer Rouge.

With the resumption of direct government aid, the US has begun to send mixed signals as to how seriously it takes Cambodia's legacy of impunity, political violence, and high-level involvement of government officials in human trafficking and other rights violations. US funding currently includes training and material assistance to members and units of the Royal Cambodian Armed Forces that have been implicated in gross human rights abuses. It has strong counter-terror cooperation with some of the same individuals. The FBI has even given awards to some of the most notorious human rights abusers in the country, making many Cambodians wonder which side the US is on.

As one of the signatories to the 1991 Paris Peace Accords, one of Cambodia's biggest donors, and with great influence in Cambodia, the US should play a consistent role in insisting that Cambodia address its poor human rights record. The US government has to remember that its first priority is to stand with the Cambodian people. Good relations with the Cambodian government are a secondary priority.

II. The US and the Cambodian Security Forces – Impunity and Vetting

The US has provided training, material assistance and even awards to military, police, counter-terror units or related individuals with track records of serious human rights abuses. Since 2006, the US has provided approximately US \$4.5 million worth of military equipment and training to Cambodia through the Foreign Military Financing program.

Training has been offered to elite units that are notorious for the impunity enjoyed by their members, as well as to personnel from Prime Minister's Hun Sen's bodyguard unit, which has been implicated in countless rights abuses including a political massacre, under the cover of a newly-created special anti-terrorist unit. The US 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 US may have policy reasons to work with the Cambodian security forces on subjects such as counter-terror, 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 services and those close to Hun Sen.

a) Prime Minister's Bodyguard Unit /Brigade 70 and New Counter-Terrorism Special Forces
Hun Sen's Bodyguard Unit, also known as Brigade 70, has a long history of impunity for its personnel who commit crimes, and well-documented involvement in smuggling and environmental crimes. Soldiers from Hun Sen's Bodyguard Unit, Brigade 70, were implicated in the March 30, 1997 grenade attack against the opposition Khmer Nation Party (now the Sam Rainsy Party), protecting the grenade throwers and allowing them to escape. At least 16 people were killed and more than 100 others (including an American) were wounded. The results of an FBI investigation into the attack found that the Bodyguard Unit was complicit in it, but the full results of the investigation have never been made public.

Outside of the normal RCAF chain-of-command, Brigade 70 is controlled directly by the Prime Minister. Reportedly comprising some 2,000 or more soldiers, the Bodyguard Unit was long commanded by General Hing Bun Heang, who is now deputy chief of the Prime Minister's Cabinet and reportedly remains in de facto control. The Bodyguard Unit has been implicated in political violence, most notably in a 1997 grenade attack on an opposition party rally. The Bodyguard Unit, mobilized outside of the normal chain-of-command of RCAF, also played a key role in fighting FUNCINPEC troops on the streets of Phnom Penh during CPP's July 1997 coup. In subsequent years, UN and NGO rights workers investigated several cases of individuals being unlawfully detained and tortured at the Bodyguard Unit's headquarters inside the Prime Minister's heavily-fortified residential compound. On or off duty, Brigade 70 personnel enjoy virtually unlimited impunity to commit.

Brigade 70 has an atrocious human rights record. Impunity enjoyed by its members is highlighted in the US State Department's annual human rights reports. In addition to the grenade attack, there are countless examples over recent years. A few examples include:

- In July 2008, Brigade 70 soldier Dy Sothearith, moonlighting as a security guard at a factory, shot an unarmed factory worker over a minor dispute. The victim was paid \$1,000 in compensation, on the condition he not pursue a criminal complaint. Dy Sothearith, who reportedly went into hiding at B-70's HQ, was not prosecuted.
- In April 2006, Brigade 70 members Major Phat Sophal and Captain Sim Ry opened fire and shot a waitress whom they complained had brought them ice too slowly.

Arrested by military police, the two were released hours later when their commander Mao Sophann intervened. The general subsequently said he punished the two officers by shaving their heads. No legal action was taken against them.

- In July 2005, Brigade 70 member Sen Kok Heang, a former in-law to Prime Minister Hun Sen, attempted to kill two forestry activists in Kampong Thom's Sandan district. Brigade 70 soldiers were mobilized in that area to give protection to a Cambodian logging syndicate in the area.

In addition, B-70 has long been implicated in smuggling and the pillaging of Cambodia's environment; there is considerable evidence that cargo trucks belonging to the unit have systematically been used to transport illegally-felled logs and smuggled goods. In 2007, environmental watchdog Global Witness estimated B-70 was making between \$2 million and \$2.7 million from these operations, with a large cut of the proceeds given to Bodyguard Unit commander Hing Bun Heang.

b) Special Airborne Brigade 911

Brigade 911 has been implicated in gross human rights violations (including murder and torture) allegedly committed by brigade soldiers in the past. Paratroopers from 911, under the command of Major-General Chap Pheakdey, have been accused of gross human rights violations. In 1997, 911 personnel were implicated by UN investigators in the executions of FUNCINPEC military commanders captured during the CPP's coup, and the torture of other prisoners. No-one was brought to justice for these crimes. 911 members, disguised in civilian clothes, were also allegedly used to break up peaceful post-election demonstrations by the opposition in 1998. Subsequently, 911's commander Chap Pheakdey has maintained his reputation for acting with impunity. In 2006, he unlawfully detained one of his soldiers for more than a month, allegedly over a property dispute; no prosecution or other sanctions were taken against the general.

c) Brigade 31

Some material assistance has gone to military units with abysmal rights records. The commander of Brigade 31, for example, has confirmed that his unit used US-donated trucks to move villagers forcibly evicted by soldiers under his command in Kampot Province in 2008.

Brigade 31 (formerly known as Division 44 and then Battalion 44), under its long-time commander Brigadier-General Srun Saroeun, has an abysmal rights record. Its soldiers are alleged to have executed FUNCINPEC soldiers during the 1997 coup and fired gunshots over

the heads of UN human rights officials investigating the killings. Headquartered in Kampong Speu province, the brigade has also long been accused of involvement in illegal logging throughout southern Cambodia. In recent years, its commanders have also been implicated in grabbing land from poor villagers. This raises serious questions about the quality of vetting done by the State and Defense Departments.

Brigade 31 assumed a “maritime security” mandate in late 2006 or early 2007 – the same time as an October 2006 joint defence assessment by RCAF and the US Pacific Command which identified maritime security as one of the areas for US support. This raises the question of whether RCAF deliberately gave the brigade a naval mandate in order to obtain US 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 US aid. Although US military aid is intended to improve the professionalism of RCAF forces, there are disturbing signs that RCAF is becoming more politicized and less professional, and that known human rights abusers are gaining increasing power within the RCAF structure. For example, General Huy Piseth, now an Undersecretary of State in the Ministry of Defense, is former commander of Brigade 70. 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 Sao Sokha; and Hing Bunheang, Brigade 70 deputy commander at the time of the 1997 grenade attack. All of these men have clear records as human rights abusers.