

November 2, 2001

Mr. Thomas Rumbaugh
Asia and Pacific Department
International Monetary Fund
700 19th Street NW
Washington DC 20431

Dear Mr. Rumbaugh:

The Lawyers Committee for Human Rights writes in connection with your upcoming trip to Cambodia to assess the Cambodian Government's progress towards meeting the objectives of the IMF's 1999 Poverty Reduction and Growth Facility ("PRGF") Agreement.

The PRGF seeks to address, amongst other things, a weak governance structure and high poverty levels in Cambodia. When conducting your review, we urge your team to consider the concerns described in this letter in order to ensure that the Cambodian Government's promises to take steps to address those issues are matched by real action and long-term, sustainable, results. We address three issues of particular importance in designing and implementing a poverty alleviation strategy:

- (1) Workers rights enforcement in the manufacturing industry
- (2) Strengthening the rule of law
- (3) Increasing NGO participation in reform

1. Poverty alleviation through a rights-respecting manufacturing industry

Many international companies find comparative economic advantage by manufacturing products in Cambodia, particularly in the garment industry. In recent years, Cambodia has taken steps to establish an economy increasingly reliant on market forces, increased foreign investment and the encouragement of privatization. One of the successes highlighted by both the Cambodian Government in its Interim Poverty Reduction Strategy Paper ("I-PRSP") and the IMF in its most recent report under the PRGF, is the vital contribution of the garment manufacturing sector towards Cambodia's economic growth.

However, the boom in the Cambodian apparel industry and the benefits enjoyed by international and local corporations must not be at the expense of fundamental rights such as those protecting the health, safety and freedom of workers. In particular, the provision of fair wages and the freedom to exercise the right to organize must be an essential part of any strategy aimed at poverty alleviation. For the manufacturing sector to constructively contribute to a sustained poverty alleviation strategy, the IMF must ensure that the expansion of the industry as a whole is not at the expense of those very people whose poverty the PRGF aims to relieve. Human rights and workers' rights abuses must not be accepted as a cost of economic growth. Indeed, empowerment of the powerless through the free exercise of fundamental rights, like the right to organize, is a necessary prerequisite to long term poverty alleviation.

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With the development of the 1997 Labour Code, Cambodia now has a comprehensive legal framework for protecting the rights of workers. However, the Government has been slow to implement those laws by enforcing rights included therein or prosecuting offenders. While we commend the Cambodian Government's willingness to participate in the International Labor Organization's Garment Sector Monitoring Project - which aims to improve working conditions - we are concerned that some of the underlying causes of the problem remain unaddressed. In particular, we are concerned about corruption and the capacity of labor inspectors to address workplace abuses.

We are also concerned about the lack of any effective procedures for administrative hearings regarding violations of unfair labor practices, or effective dispute resolution procedures for contract and rights violations. The Labour Code also calls for the establishment of a separate labor court and there appears to have been little progress toward this goal. If Cambodia is to attract increased investment in the newly globalized economy it must take concrete steps towards ensuring a stable, rights respecting, industrial relations system that provides reliable dispute mechanisms for all stakeholders.

The IMF should send a clear message to the Cambodian Government that the fundamental rights of workers cannot be sacrificed in the growing Cambodian economy. It should encourage the Government to enforce its labor laws, develop fair and effective dispute resolution mechanisms, build the capacity of labor inspectors, conciliators, mediators and judges, and eliminate corruption.

2. Importance of the rule of law

As the PRGF recognizes, the long term stability of the Cambodian economic and democratic structure is at least partly dependent on the efficacy, fairness and independence of its legal system. Without just accountability for criminal and civil wrongs, no Cambodian citizen and no foreign investor can be secure in their decisions. We therefore commend the Cambodian Government for making judicial reform one of its four primary goals in its I-PRSP. Unfortunately, we have seen little real progress towards achieving that goal. The recent trials of members of an alleged terrorist group – the Cambodian Freedom Fighters (CFF) – demonstrates the persistent weaknesses in the Cambodian judicial system.

In June and October of this year prosecutions were brought against alleged members of the CFF regarding armed attacks on the Ministry of Defense that took place on November 24, 2000. The arrest and trial of the suspects have fallen far short of the standards that characterize a fair and independent judicial system. Some of the problematic aspects of the legal procedures include:

- Illegal arrests
- Restricted access to lawyers
- Failure to inform defendants of charges
- Prolonged illegal detention
- Denial of the right to a public hearing
- Threats to lawyers
- Denial of medical attention.

We urge the IMF to encourage the Government to implement its stated goal of judicial reform by realizing, amongst other measures, the following recommendations:

1. Strengthening and depoliticizing of the Supreme Council of the Magistracy – an institution designed to be the judicial “watchdog”;
2. Expedient adoption of criminal procedure and penal codes that comply with the Cambodian Constitution and international law;

3. Creation of a national program to build capacity of judges and prosecutors;
4. Support for the Cambodian Bar Association to build the capacity and number of lawyers qualified to practise law.

These recommendations have been made repeatedly by local Cambodian NGOs in various fora, including the World Bank's Consultative Group Meeting in June 2001.

3. Participation of local NGOs

It is well-recognized that the most successful poverty alleviation strategies are those that have buy-in from the constituents whose lives the programs are trying to affect. Cambodia has a burgeoning civil society, including approximately 185 international and 385 Cambodian-run NGOs. Most of those NGOs work directly with the poor and disenfranchised of Cambodia and are therefore in a prime position to understand their concerns and the most effective means of addressing them.

We appreciate that the IMF and Cambodian Government have made efforts to consult the NGO community in its planning process. We would encourage the IMF team to further develop NGO contact by meeting with NGO groups while in Cambodia. We also urge further in-depth consultation in circumstances that allow for the most constructive dialogue possible. For instance, the IMF should ensure that the NGOs being consulted are given sufficient time and resources to prepare their comments.

Furthermore, we would urge the IMF to ensure that the final PRSP specifically recognize the work that NGOs have done in empowering and providing services to Cambodia's poor and disenfranchised. We recommend that the PRSP expressly incorporate the involvement of Cambodian civil society into the long term strategy for poverty alleviation – for example by supporting NGO efforts to empower the poor through rights education.

Finally, we are pleased to note that the Cambodian Government recognizes the importance of fostering an enabling environment for NGOs in its I-PRSP. However, we have become aware of some recent examples where human rights defenders have been intimidated or prevented from carrying out their work. We urge the IMF to request that the Cambodian Government set out in its PRSP the concrete steps it intends to take in order to ensure a strong civil society.

We thank you for your attention to these concerns. Should you have any queries please feel free to contact Vanessa Lesnie at lesniev@lchr.org or +1 212 845 5255.

Sincerely

Justine Nolan
Director
Workers Rights Program

Vanessa Lesnie
Program Coordinator
Workers Rights Program

cc: Mr. Mario de Zamaroczy, Resident Representative in Cambodia