

## HUMAN RIGHTS WATCH

350 Fifth Avenue, 34<sup>th</sup> Floor  
New York, NY 10118-3299  
Tel: 212-290-4700  
Fax: 212-736-1300  
Fax: 917-591-3452

### ASIA DIVISION

Brad Adams, *Executive Director*  
Elaine Pearson, *Australia Director*  
Sophie Richardson, *China Director*  
John Sifton, *Advocacy Director*  
Phil Robertson, *Deputy Director*  
Phelim Kine, *Deputy Director, acting*  
Kanae Doi, *Japan Director*  
Meenakshi Ganguly, *South Asia Director*  
Ali Dayan Hasan, *Pakistan Director*  
Mickey Spiegel, *Special Advisor*  
Nicholas Bequelin, *Senior Researcher*  
David Mathieson, *Senior Researcher*  
Sunai Phasuk, *Senior Researcher*  
Heather Barr, *Researcher*  
Tejshree Thapa, *Researcher*  
Kriti Sharma, *Coordinator*  
Riyo Yoshioka, *Senior Associate*  
Julia Bleckner, *Associate*  
Storm Tiv, *Associate*  
Shaivalini Parmar, *Associate*

### ADVISORY COMMITTEE

David Lakhdhir, *Chair*  
Orville Schell, *Vice Chair*

Maureen Aung-Thwin  
Edward J. Baker  
Harry Barnes  
Robbie Barnett  
Robert L. Bernstein  
Jagdish Bhagwati  
Jerome Cohen  
John Despres  
Jose Manuel Diokno  
Mallika Dutt  
Merle Goldman  
Jonathan Hecht  
Paul Hoffman  
Sharon Hom  
Rounaq Jahan  
Joanne Leedom-Ackerman  
Perry Link  
Kimberly Marteau-Emerson  
Krishen Mehta

### ANDREW J. Nathan

Yuri Orlov  
Xiao Qiang  
Bruce Rabb  
Balakrishnan Rajagopal  
Victoria Riskin  
Barnett Rubin  
James Scott  
Steve Shapiro  
Frances Seymour  
Mark Sidel  
Eric Stover  
Ko-Yung Tung  
Francesc Vendrell  
Tuong Vu

### HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*  
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*  
Carroll Bogert, *Deputy Executive Director, External Relations*  
Iain Levine, *Deputy Executive Director, Program*  
Chuck Lustig, *Deputy Executive Director, Operations*

Dinah PoKempner, *General Counsel*  
James Ross, *Legal & Policy Director*  
Hassan Elmasry, *Co-Chair*  
Joel Motley, *Co-Chair*

HUMAN  
RIGHTS  
WATCH

[www.hrw.org](http://www.hrw.org)

April 29, 2014

H.E. Ith Sam Heng  
Minister of Labor and Vocational Training  
Ministry of Labor and Vocational Training  
Royal Government of Cambodia  
Phnom Penh, Cambodia  
Via fax: +85523881943

## Re: Decline in union registration and proposed revision of Prakas 21

Dear Excellency:

I am writing on behalf of Human Rights Watch to raise our concerns regarding what appears to be a dramatic decline in the registration of unions, including in garment and footwear factories, and to urge you to immediately intervene and ensure that the responsible officials resume licensing unions. We also write to urge you to ensure that officials from the Ministry of Labor and Vocational Training (the Labor Ministry) engage in transparent and thorough consultations with independent unions, lawyers, and labor rights experts regarding proposed revisions to Prakas 21 (2006) on union registration procedures. Human Rights Watch met with various Labor Ministry officials in March and April 2014 and learned that the ministry is considering revising Prakas 21 pertaining to union registration procedures.

### Dramatic decline in union registrations

Independent union federations in Cambodia have raised concerns that the Labor Ministry has put in place a de facto suspension of union registration even though there is no official written order suspending such registrations. Labor Ministry officials have repeatedly maintained that there is no official suspension of union registration. Nevertheless, the ministry's list of all federation and union licenses issued from January 2011 until the end of 2013, provided to Human Rights Watch, shows a steep decline in December 2013, which seems to have carried over in the first quarter of 2014. The ministry did not have final information for the number of licenses issued in the first quarter of 2014 but told Human Rights Watch that approximately 50 to 60 union applications were pending with the cabinet office of the Ministry of Labor.

The official data lends credence to the concerns of the union federations. The data suggests a precipitous drop-off in registration approvals.

Moreover, Human Rights Watch has learned that since mid-December 2013, Labor Ministry officials have told representatives from various union federations that the ministry will not accept applications for union registration or union leadership changes while the registration procedures are being revised.

For example, representatives from the Cambodian Alliance of Trade Unions (CATU) told Human Rights Watch that they had at least 13 applications that they were still waiting to submit to the Labor Ministry because ministry officials would not accept the applications. Two of the thirteen applications related to changes in union leadership of already licensed unions, which they said the ministry refused to accept for processing.

Similarly, a representative from the Coalition of Cambodian Apparel Workers Democratic Union (CCAWDU) told Human Rights Watch that they have at least four union applications pending with the ministry since the November-December 2013 period, and that in several other cases, officials had refused to accept their applications.

These representatives said that officials refused to accept new applications by orally informing a federation representative that additional information not required in the past had to be submitted with the application— such as a video clipping of the union election held in the factory as well as a “no criminal record” certificate for each of the union leaders issued by the Ministry of Justice, discussed below.

### **Problems with Labor Ministry’s proposed certificate**

Labor Ministry officials have said that those seeking to be union leaders at the time of registering unions should produce certificates from the Ministry of Justice verifying that they have no criminal record. The proposed requirement of presenting a certificate from the Ministry of Justice is supposed to replace an older system of getting self-declarations of no criminal record from elected union leaders at the time of applying for union registration.

The Labor Ministry’s proposed registration requirement would unnecessarily delay the registration process, placing new union leaders at risk. The application for “no criminal record” certificates will cost at least 35,000 riels (US\$ 8.75), which is a considerable sum for poor workers entitled to a minimum monthly wage of US\$ 100. Under the proposal, processing would take a minimum of 12 days and at least 21 days for those independent unions with the least available funds.

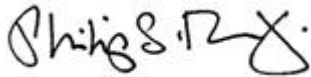
The delay entailed in this process is critical for unions since any increase in time taken for registration gives factories greater opportunities to take retaliatory measures against elected union leaders before they get a license. Previously, many factories have taken retaliatory action against workers after they initiated processes for union registration. For example, a garment worker told Human Rights Watch that in October 2013 factory managers fired him soon after they were notified that workers had formed a union and he was elected president,

before the union even received a license. In another factory where union elections were held in October 2013, the factory management, soon after being notified a union was being formed as required by law, dismissed the workers.

In view of the above, we urge you to halt the process of amending Prakas 21 and instead undertake a transparent and thorough examination of problems with union registration in consultation with all stakeholders, including independent unions, the International Labor Organization, and labor rights experts to ensure that regulations do not unduly obstruct union registration.

We look forward to hearing from you and engaging in a constructive dialogue on the steps you have taken to ensure that Labor Ministry officials continue to provide the best possible support for union registration in a smooth, transparent, and efficient manner.

Best regards,

A handwritten signature in black ink, appearing to read "Phil Robertson". The signature is stylized and cursive.

Phil Robertson  
Deputy Director, Asia Division  
Human Rights Watch

CC: H. E. Heng Sour, Chief of Cabinet, Ministry of Labor and Vocational Training,  
[hengsour@yahoo.com](mailto:hengsour@yahoo.com); fax: +(855) 23822885