

# **HUMAN RIGHTS IN CAMBODIA**

## **A COUNTRY REPORT**

### **Introduction**

The Cambodian constitution provides for separation of power and judicial independence, but the political dominance and influence of the ruling Cambodian People's Party (CCP) over all branches of government poses a serious challenge to democratisation and human rights protection and promotion. Prime Minister Hun Sen has been in power since 1985. Human rights violations in Cambodia include excessive use of force against and arrests of protesters; threats, intimidation, and judicial actions targeting human rights defenders, journalists, trade unionists, opposition groups, and politicians; hate speech directed at people of Vietnamese origin; trafficking in persons; corruption; and mass violations of land and housing rights. Cambodia is a State party to most international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention against Torture (CAT). Chapter III of the 1993 Constitution enshrines and protects human rights. However, some laws fall short of international standards and may undermine human rights. The mandate for an independent United Nations human rights expert focusing on Cambodia has been in place since 1993. The Office of the UN High Commissioner for Human Rights (OHCHR) also maintains a country office.

In mid-2013, elections were held amidst allegations of widespread electoral fraud, which led to a political deadline. The main opposition party – the Cambodia National Rescue Party (CNRP) won an unprecedented number of seats but refused to take their seats in the National Assembly. CNRP demanded political changes and so did hundreds of thousands of ordinary Cambodians who came out in mass protests, particularly in the capital Phnom Penh. Protests escalated and were subsequently met by a crackdown with wide-reaching restrictions on the right to freedom of assembly. The mass protests also fuelled Cambodian factory workers' demands for a living wage. The peaceful protests were repeatedly met with disproportionate use of force by security forces, resulting in several deaths and leaving many injured.

While struggling to reform, Cambodia also has to deal with its past. In August 2014, the UN-backed Khmer Rouge Tribunal sentenced the two most senior Khmer Rouge leaders still alive

to life for crimes against humanity. However, the work and legacy of the Tribunal is threatened by political interference, allegations of corruption, and lack of funding.

### **The Situation for Human Rights Defenders in Cambodia**

Cambodian civil society is robust but operates under an often restrictive and hostile environment. Civil society organisations focusing on service delivery – particularly with regards to health care – generally face fewer obstacles than human rights and advocacy organisations. State security forces, as well as anonymous state-employed thugs, routinely crack down on demonstrations with excessive force. There have been cases of killings of human rights defenders, including prominent leaders such as Chut Wutty and Chea Vichea. Independent trade unions exist, but they have limited resources and face harassment, including by non-independent unions, whose representation of workers is dubious. Amid global demand for low-price goods, independent unions face difficulties to promote decent working conditions and fair wages. Human rights defenders protecting labour rights risk being fired, harassed, or arrested for organising industrial action.

In January 2014, the Ministry of Interior imposed a ban on assemblies, demonstrations and marches, in response to large-scale protests against the flawed elections, increase in garment worker wages and autocratic rule.

A draft ‘Cybercrime Law’ with provisions that would introduce restrictions on freedom of speech on the Internet is currently being considered in Cambodia’s parliament. These, and other legal measures, effectively hamper the work of human rights defenders in Cambodia.

Human rights groups continue to be vocal and creative in their response to threats against human rights defenders. They engage with and are supported by international and regional human rights groups, the OHCHR country office, the UN Special Rapporteur, donors, and other stakeholders.

Increasingly they support parts of wider social and grassroots movements involving workers, women, farmers, and democracy advocates, which have become vibrant and increasingly visible through protests and other peaceful actions.

### **Rights in Focus**

#### ***The Right to Life and Physical Integrity***

The 1993 Constitution prohibits the death penalty. Cambodia acceded to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1992. Nonetheless, cases of torture are still reported, particularly in police custody, and mostly to extract confessions and for money. Detainees and prisoners are reportedly subjected to physical abuse including beatings, electric shocks, whippings and suffocation. Cambodian

authorities have repeatedly condemned the use of torture, however, there is still no feasible judicial recourse for victims. A reason why acts of torture still prevail is that courts rely on forced confessions as evidence in convictions. This in turn is made possible since the authorities seldom allow independent monitoring of the treatment of detainees and prisoner.

Human trafficking is also a serious problem in Cambodia. Marginalised Cambodians are trafficked to countries in the region – like Thailand and Malaysia – often as migrant workers for construction businesses or to work on Thai fishing boats under slave like conditions. Reportedly, they are held on the boats against their will, forced to work for no or little pay, and often under threat of violence. Cambodians are also trafficked to neighbouring countries as domestic workers or to work in the sex industry. Women from neighbouring countries – e.g. Vietnam – are also trafficked to Cambodia, often for sexual exploitation.

### ***The Right to Liberty and Security of Person***

Cambodian law, particularly the Criminal Procedure Code, provides for due process rights for detainees and other persons deprived of their liberty. Pre-trial detention is allowed for up to six months with possible extension by permission from a judge. However, detainees are reportedly held without trial for longer periods than the law prescribes.

There are also so-called correction centres across Cambodia, in which drug users, homeless people, and sex workers are incarcerated in clear violation of international law. Estimated 2 000 people a year are detained without due process and with no means to get the legitimacy of their detention examined. Moreover, forced labour, physical and sexual assaults, and demeaning treatment of detainees are also reported, both as punishment and as part of the corrective measures.

Prison and detention conditions are poor and sometimes life threatening. Prisons are overcrowded and most prisoners have to survive on less than 1 US dollar a day and the water provided is often scarce and unhygienic. Basic necessities, including food and medical supplies, are scarce and those who do not have the money to pay the guards for supplies or lack trading goods have to endure an even more challenging environment. Children, who are allowed to stay in prison with their mothers until the age of three, also have to live in harsh conditions without proper nutrition or medical care.

### ***The Right to a Fair Trial and an Effective Remedy***

Although attempts have been made to improve fair trial rights, the judiciary remains susceptible to political influence, is permeated by corruption and lacks independence. Actions by Cambodian courts often do not comport with rule of law principles and international fair trial standards. The principle of presumption of innocence, though prescribed by law, is routinely ignored and defendants are often expected to bribe judges. Moreover, confessions often

replace proper investigations and the accused are sometimes forced to sign statements after being subjected to beatings and threats. Defendants and legal representatives have the right to access information relevant to their case, but tend to be denied such access or have too little time to prepare a defence, particularly in politically sensitive cases. The same applies to cases involving high-ranking individuals. The elite are seldom held accountable for unlawful actions.

Human rights defenders and government critics are at times targeted by politically motivated charges. Legal action is repeatedly taken against land rights activists, trade unionists, and journalists to prevent them from carrying out their activities.

Critics lament the delay in the so-called Extraordinary Chambers in the Courts of Cambodia for atrocities committed by the Khmer Rouge. In 2014, two former top leaders were found guilty of having committed the crimes against humanity of murder, political persecution and other inhumane acts, and sentenced to life, nine years after Cambodia and the UN agreed to establish the tribunal.

### ***The Right to Freedom of Expression***

Freedom of expression continues to be restricted in Cambodia, despite constitutional guarantee. The government and its associates strictly control traditional media outlets and run most TV and radio stations in the country. Print outlets and other broadcasting news that criticise the state, or are perceived to be affiliated with the political opposition, are regularly charged with defamation or incitement. Reportedly, state officials have also harassed and threatened journalists, reporters and publishers giving cause to some self-censorship among media professionals. However, new media – including online news, social networks and blogs – faces less government restrictions and together with increasing Internet access it has become possible to share views on different social and political issues. Online activists have also been able to spread information and shed light on matters considered to be sensitive in Cambodia. Nevertheless, the government has taken some restrictive measures and blocked websites and blogs deemed to be immoral or for criticising the state.

Public concern has also been raised about the so-called cybercrime law currently being considered. If adopted in its last published form, freedom of expression on the Internet would be severely restricted. The proposed law contains vaguely worded provisions prohibiting ‘non-factual’ material, material that could be ‘damaging to the moral and cultural values of society’, and material that could lead to ‘insecurity’ and ‘instability’.

Human rights defenders’ work in Cambodia is hampered by the restrictions on freedom of expression. Criticism of the government is not well accepted and journalists, activists, union leaders and human rights workers are routinely targeted with defamation and other politically

motivated charges. They are frequently subjected to harassments, arbitrary arrests, and threats, including threats of legal action and of violence.

### ***The Right to Freedom of Assembly and Association***

In August 2015, the Law on Associations and Non-governmental Organisations was adopted, stoking fear within civil society of a shrinking space, as it codifies restrictions to the right to freely form and run associations.

Mass protests late 2013 and early 2014 mobilised Cambodians who expressed a range of grievances, including the power monopoly of the CPP, land confiscations and poor working conditions for garment workers. In early January 2014, security forces opened fire to disperse factory strikers who demanded higher wages, and killed four people. A blanket ban on assemblies has since been lifted.

Human rights defenders, particularly those seeking to protect labour rights or communities facing forced evictions, endure harassments and threats. Grassroots activists, including those from the Boeung Kak Lake community, are routinely beaten by the police and at times subjected to arbitrary detention as well as prosecution.

Nevertheless, the mobilisation of grassroots networks signals that people now increasingly choose to exercise and claim their rights and freedoms.

### ***The rights to protection against hate speech and war propaganda***

Racist hate speech particularly targets Vietnamese living in Cambodia (approximately 5 % of the population). The former UN Special Rapporteur on the situation of human rights in Cambodia, Surya Subedi, expressed concern in 2014 about the prevalent anti-Vietnamese racism in the country, which occasionally has resulted in attacks on persons believed to be of Vietnamese origin. Some members of the opposition party has aggravated the situation by giving anti-Vietnamese statements claiming political control of the CPP by the Vietnamese government and blaming ethnic Vietnamese as partly the root of other problems in Cambodia.

### ***The Right to Political Rights***

Cambodia has a parliamentary multi-party system with regular elections, but democratic deficiencies are prevalent. Prime Minister Hun Sen has ruled the country for 30 years, which makes him one of the longest serving political leaders in the world. Tolerance for political opposition is limited. The CPP dominates political life in Cambodia. National elections were held in Cambodia in late July 2013. The CPP won a majority of the seats in parliament, but the opposition CNRP won more than 40 % of the seats. A political deadlock ensued, lasting a year, until both parties reached agreement over several contentious issues, such as the reform of the National Election Commission.



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Allegations of election irregularities have been raised in previous elections, which the CPP won. However, since the most recent election, people are voicing discontent with being excluded from meaningful political participation, and are calling for democracy and increased transparency in political decision-making processes.

### **The Role of Civil Rights Defenders in Cambodia**

Since 2011 Civil Rights Defenders has cooperated with human rights defenders in Cambodia's civil society. We have provided financial and technical support to human rights groups, and facilitated their networking them with human rights defenders from across the world to exchange best practices. We have also co-organised lobbying trips for groups of human rights defenders visiting Sweden and supported human rights defenders in emergencies.