

## Compilation of Recent UN Human Rights Mechanisms’ Observations and Recommendations on Human Rights Defenders and Civil Society in Cambodia (5 May 2016)

### UN Human Rights Committee’s 2015 Review of Cambodia’s Compliance with the International Covenant on Civil and Political Rights (ICCPR)<sup>1</sup>

The Committee’s Concerns	Highlights of the Committee’s Recommendations
<p>The Committee is “concerned about reports of harassment and intimidation of journalists, human rights defenders, trade union workers, land and environmental activists, and other civil society actors, as well as members of the political opposition, who continue to be prosecuted for their activities, in particular through the criminalization of defamation and other vaguely formulated offences.” (para. 21)</p>	<ul style="list-style-type: none"> <li>(a) Take immediate action to investigate complaints of killings and provide effective protection to journalists, human rights defenders and other civil society actors who are subjected to intimidation and attacks owing to their professional activities;</li> <li>(b) Refrain from prosecuting journalists, human rights defenders and other civil society actors as a means of deterring or discouraging them from freely expressing their opinions;</li> <li>(c) Consider decriminalizing defamation and bring any other relevant provisions of the Criminal Code into line with article 19 of the Covenant;</li> <li>(d) Review its current and pending legislation, including the draft laws on cybercrimes and on associations and NGOs, to avoid the use of vague terminology and overly broad restrictions, to ensure that any restrictions on the exercise of freedom of expression and association comply with the strict requirements of articles 19 (3) and 22 of the Covenant. (para. 21)</li> </ul>

<sup>1</sup> Full text of the UN Human Rights Committee’s concluding observations is available at: <http://bit.ly/1GSf3BT>.

## UN Universal Periodic Review (UPR) Recommendations Accepted/Noted by Cambodia in 2014<sup>2</sup>

Recommendations Concerning Human Rights Defenders and Civil Society	Recommending State	Status
118.19 Take action to ensure that Cambodian legislation enables all political parties, labour unions and other civil society groups to exercise their rights to freedom of expression, association and peaceful assembly; and that peaceful demonstrations can occur safely and without fear of intimidation or excessive use of force on the part of the Cambodian authorities	Canada	Accepted
118.20 Revise the Penal Code as well as other laws so that they comply with international freedom of expression standards and prevent the harassment of human rights defenders, journalists and NGOs	Czech Republic	Accepted
118.104 Promote a safe and favourable environment that allows individuals and groups to exercise the freedoms of expression, association and peaceful assembly and put an end to harassment, intimidation, arbitrary arrests and physical attacks, particularly in the context of peaceful demonstrations	Switzerland	Accepted
118.105 Respect and protect the rights of human rights defenders and journalists to conduct their work without hindrance, intimidation or harassment	Austria	Accepted
118.110 Ensure freedom of assembly and association and recognize the importance of trade unions and a diverse civil society in a democracy	Netherlands	Accepted
118.112 Ensure that the rights of human rights defenders are respected, in line with the recommendations accepted by Cambodia during the first UPR cycle	Belgium	Accepted
118.113 Adopt the necessary measures to respect and protect human rights defenders	Chile	Accepted
118.114 Take all necessary measures for the protection of human rights defenders, particularly by prosecuting the perpetrators of violence against, or intimidation of, them	France	Accepted
118.115 Protect the rights of human rights defenders	Germany	Accepted
118.116 Ensure that the right of human rights defenders to conduct their work without hindrance, intimidation or harassment is respected and protected, as recommended in the previous cycle and accepted by Cambodia	Ireland	Accepted
119.18 Systematically consult with civil society and NGOs on the implementation of UPR, United Nations treaty bodies and United Nations special procedures' recommendations	Austria	Noted
119.23 Ensure a favourable climate for the activities of human rights defenders, journalists and other	Tunisia	Noted

<sup>2</sup> The outcome report of Cambodia's 2014 UPR is available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KHSession18.aspx>.

civil society actors		
119.24 Protect opposition party members, journalists and human rights defenders from harassment and arbitrary arrest and lift all restrictions to peaceful demonstrations	Portugal	Noted
119.26 Develop an action plan ensuring that Internet laws comply with Cambodia's commitment to guarantee freedom of expression and information, so as to ensure free access to electronic media, liberalize electronic media ownership rules and allow national bloggers, journalists, other Internet users and NGOs to play a full and active role in promoting and protecting human rights	Netherlands	Noted

### UN Universal Periodic Review (UPR) Recommendations Accepted by Cambodia in 2009<sup>3</sup>

Recommendations Concerning Human Rights Defenders and Civil Society	Recommending State	Status
51. Strengthen efforts to protect freedom of expression and the right of all human rights defenders, including those working on land rights issues, to conduct their work without hindrance or intimidation, including by way of safeguarding freedom of assembly and association	Sweden	Accepted
52. Facilitate the work of non-governmental organizations and other relevant civil society groups in the country	Italy	Accepted
53. Develop a policy to protect human rights defenders	Brazil	Accepted
54.(a) In line with a previous recommendation made by the Committee on Economic, Social and Cultural Rights, adopt effective measures to combat the culture of violence and impunity and to better protect human rights defenders, including indigenous leaders and peasant activists	Germany	Accepted
54.(b) publicly speak out on reported cases of intimidation and violence – including murder – of trade unionists, the staff of non-governmental organizations and journalists and to ensure effective investigations and accountability for perpetrators	Austria	Accepted
54.(c) effectively investigate and prosecute crimes and violations against human rights defenders and punish those responsible	Norway	Accepted
54.(d) investigate and prosecute any attacks on – or false allegations in relation to – human rights defenders, in particular those working with communities to protect land, houses and access to natural resources and prevent forced displacement, an issue that has been reported on by the Special Rapporteur and the Committee on Economic, Social and Cultural Rights	Ireland	Accepted

<sup>3</sup> The outcome report of Cambodia 2009 UPR is available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KHsession6.aspx>.

55. Adopt appropriate measures to disseminate widely and ensure full observance of the Declaration on Human Rights Defenders	Norway	Accepted
56. Ensure that the draft law on non-governmental organizations does not make their working conditions more difficult and respect their freedom of expression and association	France	Accepted
90. Continue to cooperate with the United Nations and other international organizations to strengthen human rights in Cambodia	Laos	Accepted

### Recent Observations and Recommendations Issued by the UN Special Rapporteur on the Human Rights Situation in Cambodia<sup>4</sup>

Year	Observations	Recommendations	Source
March 2016	“All laws must be applied equally and fairly to all political parties and their members to ensure protection of the democratic space in the run up to elections. The political situation which includes renewed threats, judicial proceedings and even physical beatings of members of the opposition, is worrying.”		End-of-Mission Statement by Professor Rhona Smith, Phnom Penh <a href="http://bit.ly/1RPFKPo">http://bit.ly/1RPFKPo</a>
August 2014	“[D]evelopments in the areas of judicial reform, the restrictive direction in which the law-making process generally appears to be headed, the continued restrictions on freedom of expression and assembly, and the lack of investigations into the use of excessive force by security forces since last September all cast doubt on the prospect for meaningful reform....” (para. 26)	(l) Protect human rights defenders and especially those defending land rights and workers’ rights, so that they may be able to carry out their work without intimidation or harassment;  (m) Refrain from using the judiciary to intimidate, harass and imprison human rights defenders and trade union representatives; (para. 81)	Report to the 27 <sup>th</sup> session of the Human Rights Council by Professor Surya P. Subedi <a href="http://bit.ly/1tBWmNo">http://bit.ly/1tBWmNo</a>

<sup>4</sup> All previous reports by the Special Rapporteur are available here: <http://cambodia.ohchr.org/EN/PagesFiles/Reports/SR-SRSG-Reports.htm>.

<p>August 2013</p>	<p>“The Special Rapporteur is concerned that judges continue to use the provisions of the Criminal Code against human rights defenders and all those who express opinions which are not favourable to the Government. The Special Rapporteur has observed over the last few years that prosecutors have tended to abandon defamation and disinformation charges and use incitement instead (arts. 494-498 of the Criminal Code).” (para. 27)</p> <p>“Tolerance is a bedrock of democracy. However, the degree of tolerance on the part of the Government and the ability to listen to constructive criticism of its policy decisions and shortcomings seems to be decreasing.” (para. 61)</p>	<p>Freedom of expression of all stakeholders in Cambodian society should be respected at all times, including prior to, during and after elections.</p> <p>Human rights defenders and especially those defending land rights should be allowed to carry on with their work without intimidation and harassment. (paras. 68 and 69)</p>	<p>Report to the 24<sup>th</sup> session of the Human Rights Council by Professor Surya P. Subedi <a href="http://bit.ly/1Tts9YK">http://bit.ly/1Tts9YK</a></p>
<p>July 2012</p>	<p>“Many human rights defenders, civil society representatives and journalists in Cambodia have continued to encounter harassment, intimidation and the threat of a defamation or incitement lawsuit. The threats faced by these individuals have taken a serious turn for the worse, with an increase in the use of live ammunition against people defending their rights and protesting against Government policies and practices.” (para. 37)</p>	<p>To hold free and fair elections, the entire political environment should be free and conducive to exercising the rights and freedoms guaranteed in the Constitution and the international human rights treaties ratified by Cambodia. The Government should therefore ensure that all persons are able to exercise their rights to freedom of expression, assembly and association. (para. 77)</p>	<p>Report to the 21<sup>th</sup> session of the Human Rights Council by Professor Surya P. Subedi <a href="http://bit.ly/1SXTvJg">http://bit.ly/1SXTvJg</a></p>

## Recent Communications Sent by UN Special Procedures to the Government of Cambodia<sup>5</sup>

Period (16 March 2012 – 30 November 2015)	Number of Communications Sent and Published	Number of Communications Concerning HRDs and Civil Society	Number of Communications to Which the Government Replied	Percentage of HRDs/Civil Society-related Communications	Government Response Rate
2015	4	4	0	100%	0%
2014	5	4	2	80%	40%
2013	2	2	0	100%	0
2012	7	6	2	86%	29%
<b>Total</b>	<b>18</b>	<b>16</b>	<b>4</b>	<b>89%</b>	<b>22%</b>

## Human Rights Defenders/Civil Society-related Languages in Recent UN Human Rights Council/General Assembly Resolutions on Cambodia

Date of Adoption	Observations and Recommendations	Link to Full Text and Document Number
October 2015	<p><i>Urges</i> the Government of Cambodia to take appropriate measures to encourage and enable civil society, including independent trade unions and the media, to play a constructive role in consolidating democratic development in Cambodia, including by ensuring and promoting their activities [...] (para. 21)</p> <p><i>Also urges</i> the Government of Cambodia to take account of the interests and concerns of all</p>	<a href="http://bit.ly/1WHBK3g">http://bit.ly/1WHBK3g</a> A/HRC/RES/30/23

<sup>5</sup> These statistics are drawn from Special Procedures communications reports published by OHCHR: <http://www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx>.

	stakeholders in implementing the Law on Associations and Non-Governmental Organizations in order to nurture the vibrant civil society, as well as to protect and ensure freedom of speech, association and peaceful assembly, in accordance with the Constitution and the International Covenant on Civil and Political Rights (para. 22)	
September 2013	<p><i>Urges</i> the Government of Cambodia to take appropriate measures to encourage and enable civil society and the media to play a constructive role in consolidating democratic development in Cambodia, including by ensuring and promoting their activities, and in promoting equal access to the media by all parties (para. 19)</p> <p><i>Stresses</i> the need for the Government of Cambodia to continue to take action to promote the rights and dignity of all Cambodians by protecting civil and political rights, including freedom of opinion and expression, and, to this end, to ensure that relevant laws, inter alia, the penal code, are interpreted and applied in a judicious manner so as to promote economic, social and cultural rights, in accordance with the rule of law (para. 20)</p>	<a href="http://bit.ly/1W6FTii">http://bit.ly/1W6FTii</a> A/HRC/RES/24/29
October 2011	<p><i>Expresses its concern</i> about some areas of the human rights situation in Cambodia, and urges the Government of Cambodia:</p> <p>(f) To make continuous efforts to promote an environment conducive to the conduct of legitimate political activity by all political parties so that the forthcoming local and national elections will be held in a free and fair manner;</p> <p>(g) To encourage and enable non-governmental organizations and the media to play a constructive role in consolidating democratic development in Cambodia, including by ensuring and promoting the freedom of association of non-governmental organizations;</p> <p>(i) To take further steps to meet its obligations under international human rights treaties and conventions and, to this end, strengthen further its cooperation with United Nations agencies, including the Office of the High Commissioner, through enhanced dialogue and the development of joint activities;</p> <p>(para. 5)</p>	<a href="http://bit.ly/1rm7MpA">http://bit.ly/1rm7MpA</a> A/HRC/RES/18/25