



## **CAMBODIA**

### **Alternative report related to restrictions on civil society and political participation**

**Submitted by The Advocates for Human Rights,**  
a non-governmental organization in special consultative status,

with **The Committee for Paris Peace Accords on Cambodia, Minnesota (CPPAC-MN)**  
**134th session of the Human Rights Committee**  
**28 February to 25 March 2022**

**Submitted 31 January 2022**

Founded in 1983, **The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. Since 1990, The Advocates has collaborated with the Cambodian diaspora in Minnesota on projects to promote human rights and accountability in Cambodia.

**The Committee for Paris Peace Accords on Cambodia, Minnesota, (CPPAC -MN)** is created to promote, monitor, and advocate for the successful implementation of the Agreements and the Declaration of the 1991 Paris Peace Accords on Cambodia.

## EXECUTIVE SUMMARY

1. Since Cambodia's second periodic report to the UN Human Rights Committee (Committee) in 2015, the country's human rights situation has worsened significantly. Under the leadership of Prime Minister Hun Sen and his Cambodian People's Party (CPP), the government continues to infringe on the basic rights of political and intellectual dissidents. The July 2018 elections included no organized opposition to challenge the CPP after a November 2017 Supreme Court decision dissolved the leading political opposition party, the Cambodian National Rescue Party (CNRP).<sup>1</sup> Indeed, Sen's decades-long rule may continue indefinitely as he continues to consolidate power and deny perceived opponents their rights to assembly and speech. The government has also cracked down on the functions of human rights groups and independent media organizations, passing restrictive laws and issuing fabricated charges. In addition, detention conditions in the country remain dangerous as overcrowding, infrastructure problems, and lengthy pretrial detention are commonplace.<sup>2</sup>
2. The Advocates has received direct information about the human rights violations detailed in this stakeholder report from Cambodian human rights defenders and diaspora members in the United States. Credible information from secondary sources supplements their first-hand accounts. This stakeholder report addresses Cambodia's failure to comply with its international human rights obligations and makes recommendations to address and improve the human rights situation in Cambodia.

### **Cambodia fails to uphold its obligations under the International Covenant for Civil and Political Rights (ICCPR)**

#### **I. Freedom of expression, association and assembly (List of Issues paras. 18-22)**

##### *A. Systemic violation of the right to freedom of expression (List of Issues para. 18)*

3. In its April 2015 Concluding Observations, the Committee expressed grave concern about restrictions on the right of freedom of expression, as well as reports of killings, intimidation, and harassment of journalists, human rights defenders and other civil society actors, and recommended that the government take specific actions to improve the situation.<sup>3</sup> In its List of Issues, the Committee requested that the government respond to reports of systemic violation of the right to freedom of expression in Cambodia.<sup>4</sup>
4. The government failed to respond adequately in its Replies, instead providing information about several journalists and media outlets "...who claim to exercise their freedom of expression in violation of criminal and civil laws, as opposed to the exercise of freedom of expression..."<sup>5</sup> The government also stated, "In the Kingdom of Cambodia, there is no

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<sup>1</sup> Human Rights Watch, *Cambodia: Supreme Court Dissolves Democracy*, Nov. 17, 2017, <https://www.hrw.org/news/2017/11/17/cambodia-supreme-court-dissolves-democracy> (last visited 11 July 2018).

<sup>2</sup> UN Human Rights Council, *Report of the Special Rapporteur on the situation of human rights in Cambodia*, July 27, 2017, A/HRC/36/61, available at: <http://www.refworld.org/docid/59b811ce4.html> (last visited 10 July 2018).

<sup>3</sup> Human Rights Committee, *Concluding Observations on the second periodic report of Cambodia*, U.N. Doc. CCPR/C/KHM/CO/2 (27 April 2015), ¶ 21.

<sup>4</sup> Human Rights Committee, *List of Issues in Relation to the third periodic report of Cambodia*, 28 August 2020, U.N. Doc. CCPR/C/KHM/Q/3, ¶18.

<sup>5</sup> Human Rights Committee, *Replies of Cambodia to the list of issues in relation to its third periodic report*, 16 April 2021, U.N. Doc. CCPR/C/KHM/RQ/3, ¶ 55.

violation of freedom of expression on the Internet. The websites operating online were blocked because they violated the law – not the exercise of freedom of expression.”<sup>6</sup>

5. The Cambodian government wields influence over a growing majority of media sources in the country, as independent sources are targeted and weakened. In September 2017, the government forced *The Cambodia Daily*, an independent English-language newspaper, to close after alleging the paper had not paid millions of dollars in taxes, even though Cambodian tax authorities refused to present detailed information about the charges.<sup>7</sup> The paper’s editor-in-chief said the allegations were merely a pretext to stifle independent press in the country.<sup>8</sup>
6. In May 2018, the English-language *Phnom Penh Post*, viewed by many as one of the last independent press sources in Cambodia, was sold to a Malaysian investor with ties to the Prime Minister. Almost immediately, the new ownership intervened in editorial writing and fired several editors for refusing to remove a story about the relationship between the paper’s new owner and the Cambodian government.<sup>9</sup>
7. The government regularly restricts online criticism, and the majority of domestic radio and television stations operate under the influence of the CPP. In August 2017, the government closed a CNRP-aligned radio station, as well as all stations broadcasting content from the Voice of America (VOA) and Voice of Democracy (VOD), alleging they had committed tax evasion and had lacked permission to air new content.<sup>10</sup>
8. The government also targets individual journalists who engage in reporting that is critical of the government, often accusing them of crimes under the Penal Code with little evidence. In November 2017, former Radio Free Asia journalists Uon Chhin and Yeang Sothearin were arrested<sup>11</sup> and held under suspicion of violating Article 445 of Cambodia’s Criminal Code.<sup>12</sup> In March 2018, the men were also charged with producing pornography under Cambodia’s Law on the Suppression of Human Trafficking and Sexual Exploitation, once again with flimsy evidence.<sup>13</sup> In April 2018, Aun Pheap and Zsombor Peter, former

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<sup>6</sup> Human Rights Committee, *Replies of Cambodia to the list of issues in relation to its third periodic report*, 16 April 2021, U.N. Doc. CCPR/C/KHM/RQ/3, ¶ 56.

<sup>7</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2017: Cambodia* (2018), <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2017&dclid=277071> (last visited 11 July 2018).

<sup>8</sup> Richard C. Paddock, *The Cambodia Daily to Close (After Chasing One Last Big Story)*, New York Times, Sept. 3, 2017, <https://www.nytimes.com/2017/09/03/world/asia/cambodia-daily-newspaper.html>.

<sup>9</sup> Julia Wallace and Mike Ives, *A Newspaper is Sold, and Cambodians Fear the End of Press Freedom*, New York Times, May 7, 2018, <https://www.nytimes.com/2018/05/07/world/asia/cambodia-phnom-penh-post-sale.html?rref=collection%2Ftimestopic%2FCambodia>.

<sup>10</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2017: Cambodia* (2018), <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2017&dclid=277071> (last visited 11 July 2018).

<sup>11</sup> Human Rights Watch, *Cambodia: Release Ex-Radio Free Asia Journalists*, May 12, 2018, <https://www.hrw.org/news/2018/05/12/cambodia-release-ex-radio-free-asia-journalists> (last visited July 11, 2018).

<sup>12</sup> Article 445 holds that one has provided “information that is destructive to national defense to a foreign state,” and it carries a prison term of up to 15 years.

<sup>13</sup> Human Rights Watch, *Cambodia: Release Ex-Radio Free Asia Journalists*, May 12, 2018, <https://www.hrw.org/news/2018/05/12/cambodia-release-ex-radio-free-asia-journalists> (last visited July 11, 2018).

reporters for *The Cambodia Daily*, were charged in absentia with “incitement to commit a felony” after conducting an interview with former opposition members.<sup>14</sup>

9. In January 2021, the government announced a ban on livestreaming, filming, or otherwise recording police actions.<sup>15</sup> The government has also targeted users of social media, including those outside of Cambodia.<sup>16</sup> In August 2021, the government sent representatives to Bangkok to ask the Thai government to stop members of the Cambodian opposition living in Thailand from making critical social media posts.<sup>17</sup>

*B. Further derogation from obligations regarding freedom of expression in the context of COVID-19 (List of Issues para. 19)*

10. Prime Minister Hun Sen enacted a state of emergency law in April 2020 that severely restricted freedom of expression.<sup>18</sup> The state of emergency granted the prime minister complete control over the media, including banning the dissemination of information and widespread surveillance of telecommunications. Violations of the state of emergency laws included disproportionate penalties and fines. In March 2021, the Cambodian government adopted new legislation that allowed for prison sentences up to 20 years for violations of COVID-19 measures.<sup>19</sup> The law prohibits gatherings and gives the State broad powers to take “administrative and other measures that are necessary to respond and prevent the spread of Covid-19 [sic],” which may allow for restrictions on protests against the government.<sup>20</sup> The State has also used the pandemic to label independent reporting as “fake news” and threatened to bring legal action against journalists.<sup>21</sup> Reporting on COVID-19 is limited to state media or media that the Ministry of Information has invited to report on the pandemic. The government has restricted other reporting, warning journalists not to report information that could “provoke turmoil in society.”

*C. Legal Framework on freedom of expression (List of Issues para. 20)*

11. The 1993 Constitution of the Kingdom of Cambodia recognizes fundamental human rights, including: the right to political participation (Art. 35); the rights to strike and participate in peaceful demonstrations (Art. 37); the right to be free from physical abuse and arbitrary detention (Art. 38); the rights to freedom of expression, free press, and assembly (Art. 41);

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<sup>14</sup>Prak Chan Thul, *Cambodian journalist charged with incitement flees amid crackdown*, Reuters, Apr. 24, 2018, <https://www.reuters.com/article/us-cambodia-politics-media/cambodian-journalist-charged-with-incitement-flees-amid-crackdown-idUSKBN1HV1NH> (last visited 11 July 2018).

<sup>15</sup> Human Rights Watch, “World Report 2022: Cambodia,” accessed Jan. 27, 2022, <https://www.hrw.org/world-report/2022/country-chapters/cambodia#>.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> Human Rights Watch, *Cambodia: Scrap Abusive Covid-19 Prevention Bill*, accessed Jan. 27, 2022, <https://www.hrw.org/news/2021/03/05/cambodia-scrap-abusive-covid-19-prevention-bill>.

<sup>19</sup> Human Rights Watch, “World Report 2022: Cambodia,” accessed Jan. 27, 2022, <https://www.hrw.org/world-report/2022/country-chapters/cambodia#>. Human Rights Watch, “Cambodia: Scrap Abusive Covid-19 Prevention Bill,” accessed Jan. 27, 2022, <https://www.hrw.org/news/2021/03/05/cambodia-scrap-abusive-covid-19-prevention-bill>.

<sup>20</sup> Human Rights Watch, *Cambodia: Scrap Abusive Covid-19 Prevention Bill*, accessed Jan. 27, 2022, <https://www.hrw.org/news/2021/03/05/cambodia-scrap-abusive-covid-19-prevention-bill>.

<sup>21</sup> Human Rights Watch, World Report 2022: Cambodia, <https://www.hrw.org/world-report/2022/country-chapters/cambodia#>, (accessed Jan. 27, 2022).#.

and the right to freedom of association and political party (Art 42).<sup>22</sup> The Constitution calls for legislation to give effect to these rights.<sup>23</sup> However, the rights to freedom of expression and assembly may be limited when they affect “national security.”<sup>24</sup> This vaguely worded exception can constrain the exercise of both rights.

12. The 2009 Penal Code contains nine provisions that threaten the expressive rights of people in Cambodia.<sup>25</sup> These provisions criminalize public defamation (Article 305), public insult (Article 307), malicious denunciation (Article 311), incitement to commit a felony (Article 495), incitement to discriminate (Article 496), insult of a public official or holder of public office (Article 502), publication of comments intended to influence a court (Article 522), discrediting a judicial decision (Article 523), and false denunciation to judicial authority (Article 524).<sup>26</sup> The 2009 Penal Code also uses vague terms to describe offenses’ elements, such as “serious turmoil in society” (Article 495),<sup>27</sup> “dignity of a person” (Article 502),<sup>28</sup> or “endanger Cambodian institutions” (Article 523).<sup>29</sup> These vague terms threaten the rights to freedom of expression, as the government can use them as a pretext to prosecute the legitimate exercise of freedom of speech.
13. The 1995 Law on the Press prohibits the press from publishing or reproducing “false information that humiliates or contempts national institutions” (Article 13).<sup>30</sup> While there are reports of an upcoming update, it is unclear when the law will be published and what it will contain.
14. Since the Committee’s last review of Cambodia, the government has continued to pass legislation and amend laws that contain provisions restricting freedom of expression. Non-governmental organizations and civil society groups are prohibited from criticizing political parties during the election campaign period and barred from participating in the

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<sup>22</sup>THE CONSTITUTION OF THE KINGDOM OF CAMBODIA arts. 35, 37, 38, 41, and 42 (Cambodia). Available at: [http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/Constitution\\_ENG.pdf](http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/Constitution_ENG.pdf).

<sup>23</sup>For example: “The right to strike and to non-violent demonstration shall be implemented in the framework of a law.” (Art. 37); “The regime of the media shall be determined by law.” (Art. 41); “Khmer Citizens shall have the right to establish associations and political parties. These rights shall be determined by law.” (Art. 42).

<sup>24</sup>THE CONSTITUTION OF THE KINGDOM OF CAMBODIA art. 41 (Cambodia). Available at: [http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/Constitution\\_ENG.pdf](http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/Constitution_ENG.pdf).

<sup>25</sup>Cambodian League for the Promotion and Defense of Human Rights (LICADHO), *New Penal Code a Setback for Freedom of Expression Issues*, Dec. 9, 2010, [www.licadho-cambodia.org/pressrelease.php?perm=233](http://www.licadho-cambodia.org/pressrelease.php?perm=233) (last visited July 11, 2018).

<sup>26</sup>Cambodian League for the Promotion and Defense of Human Rights (LICADHO), *ANNEX II: New Penal Code Provisions which May be Used to Limit Expressive Freedoms*, Dec. 9, 2010, <http://www.licadho-cambodia.org/press/files/LICADHO-FoE+2010PenalCode.pdf> (last visited July 11, 2018).

<sup>27</sup>GENERAL PROVISIONS FOR THE IMPLEMENTATION OF CRIMINAL LAW art. 495 (Cambodia). Available at:

[https://www.unodc.org/res/cld/document/khm/criminal\\_code\\_of\\_the\\_kingdom\\_of\\_cambodia\\_html/Cambodia\\_Criminal-Code-of-the-Kingdom-of-Cambodia-30-Nov-2009-Eng.pdf](https://www.unodc.org/res/cld/document/khm/criminal_code_of_the_kingdom_of_cambodia_html/Cambodia_Criminal-Code-of-the-Kingdom-of-Cambodia-30-Nov-2009-Eng.pdf).

<sup>28</sup>GENERAL PROVISIONS FOR THE IMPLEMENTATION OF CRIMINAL LAW art. 502 (Cambodia). Available at:

[https://www.unodc.org/res/cld/document/khm/criminal\\_code\\_of\\_the\\_kingdom\\_of\\_cambodia\\_html/Cambodia\\_Criminal-Code-of-the-Kingdom-of-Cambodia-30-Nov-2009-Eng.pdf](https://www.unodc.org/res/cld/document/khm/criminal_code_of_the_kingdom_of_cambodia_html/Cambodia_Criminal-Code-of-the-Kingdom-of-Cambodia-30-Nov-2009-Eng.pdf).

<sup>29</sup>GENERAL PROVISIONS FOR THE IMPLEMENTATION OF CRIMINAL LAW art. 523 (Cambodia). Available at:

[https://www.unodc.org/res/cld/document/khm/criminal\\_code\\_of\\_the\\_kingdom\\_of\\_cambodia\\_html/Cambodia\\_Criminal-Code-of-the-Kingdom-of-Cambodia-30-Nov-2009-Eng.pdf](https://www.unodc.org/res/cld/document/khm/criminal_code_of_the_kingdom_of_cambodia_html/Cambodia_Criminal-Code-of-the-Kingdom-of-Cambodia-30-Nov-2009-Eng.pdf).

<sup>30</sup>LAW ON THE PRESS art. 13 (Cambodia).

process of national and local elections.<sup>31</sup> In 2016, the government passed the Law on Telecommunications, which authorizes government monitoring of telecommunications without the consent of communicators. Specifically, the law includes penalties of up to 15 years in prison for the use of telecommunications equipment to cause “national insecurity.”<sup>32</sup> According to the Cambodian League for the Promotion and Defense of Human Rights (LICADHO), the government has used the law to restrict political freedom by, for example, arresting perceived opposition members for their online expression.<sup>33</sup>

15. On 14 February 2018, the National Assembly approved draft amendments to the Constitution.<sup>34</sup> Five proposed amendments affect Article 34 (enabling suspensions or withholding of the right to vote), Article 42 (limiting the right to freedom of association by requiring political parties to “put the interest of the nation first”), Article 49 (restricting freedom of association and other political rights by prohibiting people from engaging in “any activities” that directly or indirectly “affect the interests” of Cambodia or its citizens), Article 53 (prohibiting “any form” of foreign interference in internal affairs in Cambodia), and Article 118 (removing secretaries of states from the Council of Ministers (Article 118)).<sup>35</sup>
16. The National Assembly also amended the Penal Code in 2018 that made “insulting the King” (also known as *lèse-majesté*) a new crime, punished by up to 5-year imprisonment and a fine of up to US\$2,500 for individuals, and \$12,500 for legal entities (Article 437).<sup>36</sup>
17. Because these amendments are vague, the government could use them to justify “wide-ranging sanctions” punishing the legitimate exercise of fundamental political rights.<sup>37</sup>

*D. Violations of the rights to freedom of assembly and association (List of Issues para. 21)*

18. In its List of Issues, the Committee requested that the government provide information about the right to freedom of assembly and association in Cambodia, including restrictions on civil society and on peaceful assemblies.<sup>38</sup> In its Replies, the government provided

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<sup>31</sup>Cambodian League for the Promotion and Defense of Human Rights, *The Dangers of Dissent: Attacks on Human Rights Defenders*, (Phnom Penh: LICADHO, July 2017), 12. Also available online at [https://www.licadho-cambodia.org/reports/files/2232017\\_HRD\\_ENG\[finalWeb\].pdf](https://www.licadho-cambodia.org/reports/files/2232017_HRD_ENG[finalWeb].pdf).

<sup>32</sup>LAW ON TELECOMMUNICATIONS art. 80 (Cambodia).

<sup>33</sup>Cambodian League for the Promotion and Defense of Human Rights, *The Dangers of Dissent: Attacks on Human Rights Defenders*, (Phnom Penh: LICADHO, July 2017), 6. Also available online at [https://www.licadho-cambodia.org/reports/files/2232017\\_HRD\\_ENG\[finalWeb\].pdf](https://www.licadho-cambodia.org/reports/files/2232017_HRD_ENG[finalWeb].pdf).

<sup>34</sup>Human Rights Watch, *Cambodia: Reject Draft Amendments to the Constitution and Criminal Code*, Feb. 21, 2018, <https://www.hrw.org/news/2018/02/21/cambodia-reject-draft-amendments-constitution-and-criminal-code> (last visited July 11, 2018).

<sup>35</sup>Human Rights Watch, *Cambodia: Reject Draft Amendments to the Constitution and Criminal Code*, Feb. 21, 2018, <https://www.hrw.org/news/2018/02/21/cambodia-reject-draft-amendments-constitution-and-criminal-code> (last visited July 11, 2018).

<sup>36</sup>Human Rights Watch, *Cambodia: Reject Draft Amendments to the Constitution and Criminal Code*, Feb. 21, 2018, <https://www.hrw.org/news/2018/02/21/cambodia-reject-draft-amendments-constitution-and-criminal-code> (last visited July 11, 2018).

<sup>37</sup>Human Rights Watch, *Cambodia: Reject Draft Amendments to the Constitution and Criminal Code*, Feb. 21, 2018, <https://www.hrw.org/news/2018/02/21/cambodia-reject-draft-amendments-constitution-and-criminal-code> (last visited July 10, 2018).

<sup>38</sup>Human Rights Committee, *List of Issues in Relation to the third periodic report of Cambodia*, 28 August 2020, U.N. Doc. CCPR/C/KHM/Q/3, ¶21-22.

information about several specific events but failed to address the widespread restrictions on these rights in Cambodia.<sup>39</sup>

19. Cambodian NGOs and human rights activists continue to express concern to The Advocates about government actions targeting their work and limiting their rights to freedom of assembly and association. Several NGO staff members have been arrested or physically attacked. On October 10, 2016, Am Sam Ath, Monitoring Manager of LICADHO, was attacked by para-police while overseeing a nonviolent World Habitat Day march, and he and another man were left injured and bloodied. No charges were brought against the assailants; instead, both men were summoned to appear before a city prosecutor as suspects of “intentional violence,” an offence that carries 1 to 3 years of jail time.<sup>40</sup> In September 2017, authorities arrested Dem Kundy and Hun Vannak of Mother Nature, another NGO, for incitement to commit a felony and for violation of privacy for filming sand-dredging operations in the Koh Kong Province.<sup>41</sup> And in November 2017, Prime Minister Hun Sen announced his intent to dissolve the Cambodian Centre for Human Rights (CCHR), founded by CNRP leader Kem Sokha.<sup>42</sup>
20. According to LICADHO, in April 2017, authorities used the pretext of allegations of bribery to jail and charge five human rights defenders. Ny Sokha, Lim Mony, Nay Vanda, and Yi Soksans from the Cambodian Human Rights and Development Association (ADHOC), and National Election Committee (NEC) deputy secretary-general Ny Chakrya were interrogated and detained after an investigation by the government’s Anti-Corruption Unit into opposition leader Kem Sokha. After more than a year in detention, the five were released in June 2017 and await trial on charges condemned by local and international groups, including the United Nations.
21. On 7 February 2018, the Supreme Court upheld the conviction and prison sentence of human rights defender Tep Vanny, charged with “intentional violence with aggravating circumstances.”<sup>43</sup> Human rights groups report that the convictions against Vanny and other human rights defenders are unfounded, and illustrate Cambodia’s compromised criminal justice system.<sup>44</sup>

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<sup>39</sup>Human Rights Committee, *Replies of Cambodia to the list of issues in relation to its third periodic report*, 16 April 2021, U.N. Doc. CCPR/C/KHM/RQ/3, ¶¶65-67.

<sup>40</sup>Cambodian League for the Promotion and Defense of Human Rights, *The Dangers of Dissent: Attacks on Human Rights Defenders*, (Phnom Penh: LICADHO, July 2017), 6. Also available online at [https://www.licadho-cambodia.org/reports/files/2232017\\_HRD\\_ENG\[finalWeb\].pdf](https://www.licadho-cambodia.org/reports/files/2232017_HRD_ENG[finalWeb].pdf).

<sup>41</sup>U.S. Department of State, *Country Reports on Human Rights Practices for 2017: Cambodia* (2018), <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2017&dldid=277071> (last visited 11 July 2018).

<sup>42</sup>Liam Cochrane, *Cambodia’s Prime Minister Hun Sen Launches attack on Cambodian Centre for Human Rights*, ABC Australia, Nov. 27, 2017, <http://www.abc.net.au/news/2017-11-27/cambodia-leader-continues-anti-foreign-attack/9198018>.

<sup>43</sup>Front Line Defenders, *Tep Vanny Sentenced to Prison*, Feb. 7, 2018, <https://www.frontlinedefenders.org/en/case/tep-vanny-sentenced-prison> (last visited July 11, 2018).

<sup>44</sup>Amnesty International, *Supreme Court verdict against Tep Vanny and other activists exposes Cambodia’s courts of injustice*, Dec. 8, 2017, <https://www.amnesty.org/en/latest/news/2017/12/supreme-court-verdict-against-tep-vanny-and-other-activists-exposes-cambodias-courts-of-injustice/>. (last visited July 10, 2018).

22. Since the 2018 elections, the government has continued to arrest and detain human rights defenders.<sup>45</sup> Rong Chhun was arrested on July 31, 2020 after taking up the case of farmers in Tbong Khmom province who had their land taken in connection with a border demarcation between Cambodia and Vietnam. Subsequently, several other human rights defenders who demonstrated against his detention were also arrested and detained.<sup>46</sup>
23. Members of Cambodian civil society who are outside of the country have expressed to The Advocates their fear of arrest upon returning to Cambodia.<sup>47</sup>
24. The Special Rapporteur on Cambodia notes that government officials have restricted the right to peaceful assembly, in particular refusing groups' the permission to organize gatherings or marches in public areas on public holidays such as International Women's Day and International Human Rights Day.<sup>48</sup> Local officials told the Special Rapporteur that the permissions were denied because they would affect traffic, yet the Law on Peaceful Demonstration states that the risk of a traffic jam does not necessarily cause a risk to safety, security, or public order.
25. Governmental authorities also have prevented NGOs from organizing private human rights meetings or events because the NGOs failed to apply for and receive permits for the meetings.<sup>49</sup> The law, however, does not require NGOs to seek out preapproval for these kinds of events. The government has also broken up meetings and trainings it viewed as hostile to the government.
26. Local NGOs recorded between 71 and 99 violations of the right to freedom of assembly between April 2018 and June 2019;<sup>50</sup> there were between 62 and 185 violations between April 2019 and July 2020, the majority of which related to land rights.<sup>51</sup> According to a survey by the Fundamental Freedoms Monitoring Project released in July 2020, only 40 percent of those surveyed said they felt they could peacefully assemble, down from 65 percent in 2016.<sup>52</sup>

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<sup>45</sup>UN Office of the High Commissioner on Human Rights, *Cambodia: UN experts alarmed by civil society crackdown, attacks on human rights defenders*, November 16, 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26505&LangID=E> (last visited January 29, 2022).

<sup>46</sup>UN Office of the High Commissioner on Human Rights, *Cambodia: UN experts alarmed by civil society crackdown, attacks on human rights defenders*, November 15, 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26505&LangID=E> (last visited January 29, 2022).

<sup>47</sup>Interviews conducted by The Advocates (2017–2018).

<sup>48</sup>Human Rights Council, Report of the Special Rapporteur on the situation of human rights in Cambodia, (27 Aug. 2019), U.N. DOC. A/HRC/42/60, ¶56.

<sup>49</sup>U.S. Department of State, *Country Reports on Human Rights Practices for 2019: Cambodia*, (Washington, D.C.: United States Government Printing Office, 2020), 14.

<sup>50</sup>*Ibid.* at 15.

<sup>51</sup>U.S. Department of State, *Country Reports on Human Rights Practices for 2020: Cambodia*, (Washington, D.C.: United States Government Printing Office, 2021), 17.

<sup>52</sup>*Ibid.* at 16.



27. A local NGO also noted 333 violations of the freedom of association between April 2019 and March 2020.<sup>53</sup> Victims included NGOs, members of the former opposition party, informal community groups, and workers' unions.

*E. 2015 Law on Associations and Non-governmental Organisations (List of Issues para. 22)*

28. After several years of delaying the adoption of the Law on Associations and Non-governmental Organisations, in 2015 the Cambodian government enacted the law to restrict the activities of civil society organizations engaging in human rights work. The Law specifically contains a provision that requires domestic and foreign non-governmental organizations to maintain their "neutrality" toward political parties in Cambodia.<sup>54</sup> In addition, the law's vaguely worded guidelines leave many Cambodian organizations unsure how to comply with the law and avoid arbitrary shut-down by the state.<sup>55</sup>

**II. Right to vote and take part in public life (List of Issues paras. 23-24)**

29. In its List of Issues, the Committee asked the Cambodian government to respond to "reports alleging the suppression of the right of Cambodian citizens to vote, and the lack of free and fair elections in 2018."<sup>56</sup> The Committee also requested that the government respond to "reports alleging persecution of members of the Cambodia National Rescue Party (CNRP) and its supporters by the ruling party."<sup>57</sup>

30. The government responded in its Replies that, "The Supreme Court of the Kingdom of Cambodia has jurisdiction to decide on the dissolution of a political party in accordance with the 2017 Amended Law on Political Parties,"<sup>58</sup> and the National Election Committee (NEC) has authority to reallocate seats to the Cambodian People's Party.<sup>59</sup> The government did not respond with specific information about reports of persecution of individual members of the CNRP.

31. One of the most troubling developments since Cambodia's last periodic report to the Committee is the November 2017 Supreme Court decision to dissolve the leading opposition party, the CNRP. By eliminating the most viable challenge to Hun Sen's party in the July 2018 elections, the decision cements indefinite single-party rule for the CNP.<sup>60</sup>

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<sup>53</sup> Ibid. at 18.

<sup>54</sup> LAW ON ASSOCIATIONS AND NON-GOVERNMENTAL ORGANIZATIONS art. 24 (Cambodia). Available at: [http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/Unofficial\\_Translation\\_of\\_5th\\_LANGO\\_ENG.pdf](http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/Unofficial_Translation_of_5th_LANGO_ENG.pdf).

<sup>55</sup> Janelle Retka, *Two Years on, NGO Law Remains 'Ambiguous,'* Cambodia Daily, July 13, 2017, <https://www.cambodiadaily.com/news/two-years-on-ngo-law-remains-ambiguous-132456/>.

<sup>56</sup> Human Rights Committee, *List of Issues in Relation to the third periodic report of Cambodia*, 28 August 2020, U.N. Doc. CCPR/C/KHM/Q/3, ¶23.

<sup>57</sup> Human Rights Committee, *List of Issues in Relation to the third periodic report of Cambodia*, 28 August 2020, U.N. Doc. CCPR/C/KHM/Q/3, ¶24.

<sup>58</sup> Human Rights Committee, *Replies of Cambodia to the list of issues in relation to its third periodic report*, 16 April 2021, U.N. Doc. CCPR/C/KHM/RQ/3, ¶71.

<sup>59</sup> Human Rights Committee, *Replies of Cambodia to the list of issues in relation to its third periodic report*, 16 April 2021, U.N. Doc. CCPR/C/KHM/RQ/3, ¶74.

<sup>60</sup> Human Rights Watch, *Cambodia: Supreme Court Dissolves Democracy*, Nov. 17, 2017, <https://www.hrw.org/news/2017/11/17/cambodia-supreme-court-dissolves-democracy> (last visited July 11, 2018).

32. The Special Rapporteur on Cambodia has reported that “...the human rights situation in Cambodia remains dominated by the repression of political rights.”<sup>61</sup> Dozens of former CNRP members have fled the country, while one of its co-founders, Kem Sokha, is on trial for treason for allegedly collaborating with U.S. officials to overthrow the government.<sup>62</sup> The CNRP’s former acting President Sam Rainsy has been charged under the lèse-majesté provision of the Criminal Code. Numerous human rights organizations and governments, including the U.S. State Department, consider the charges against both leaders to be politically motivated.<sup>63</sup> The Special Rapporteur on Cambodia has also reported receiving “information on actions taken by the police or the courts against over 140 former members and elected officials of the party at the subnational level.”<sup>64</sup>
33. On July 10, 2016, political commentator Kem Ley was shot and killed at a petrol station where he regularly interviewed Cambodians about their political views. Ley was known for vocalizing his criticisms of the government as a prominent political commentator. Cambodian officials have not conducted a thorough investigation of the murder and who ordered it.<sup>65</sup>
34. The Advocates and CPPAC-MN have received reports from people affiliated with the CNRP who are abroad that they fear that they will be targeted for violence and arrest if they return to Cambodia. One CNRP member said that when he returned to Cambodia, he was attacked in front of the National Assembly building and beaten up by multiple men, while nearby police failed to intervene.<sup>66</sup> Threats have also been made against family members of diaspora activists who remain in Cambodia.<sup>67</sup>

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<sup>61</sup>Human Rights Council, Report of the Special Rapporteur on the situation of human rights in Cambodia, (27 Aug. 2019), U.N. DOC. A/HRC/42/60, ¶71.

<sup>62</sup> Prak Chan Thul, *Cambodia resumes treason trial of opposition leader Kem Sokha*, Reuters, January 18, 2022, <https://www.reuters.com/world/asia-pacific/cambodia-resume-treason-trial-opposition-leader-2022-01-18/> (last visited January 29, 2022).

<sup>63</sup>Human Rights Watch, *Cambodia: Drop Case Against Opposition Leader*, Sept. 7, 2017, <https://www.hrw.org/news/2017/09/06/cambodia-drop-case-against-opposition-leader> (last visited July 11, 2018); U.S. Department of State, *Country Reports on Human Rights Practices for 2017: Cambodia* (2018), <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2017&dliid=277071> (last visited 11 July 2018).

<sup>64</sup>Human Rights Council, Report of the Special Rapporteur on the situation of human rights in Cambodia, (27 Aug. 2019), U.N. DOC. A/HRC/42/60, ¶9.

<sup>65</sup>Cambodian League for the Promotion and Defense of Human Rights, *The Dangers of Dissent: Attacks on Human Rights Defenders*, (Phnom Penh: LICADHO, July 2017), 13. Also available online at [https://www.licadho-cambodia.org/reports/files/2232017\\_HRD\\_ENG\[finalWeb\].pdf](https://www.licadho-cambodia.org/reports/files/2232017_HRD_ENG[finalWeb].pdf).

<sup>66</sup>Interviews conducted by The Advocates (2017–2018).

<sup>67</sup>Human Rights Watch, *Cambodia: Hun Sen Threatens Families of Activists*, October 28, 2020, <https://www.hrw.org/news/2020/10/28/cambodia-hun-sen-threatens-families-activists> (last visited January 29, 2022).

### **III. Suggested Recommendations for the Government of Cambodia**

35. The Advocates and CPPAC-MN respectfully request that the Committee recommend that the State party:

- Protect opposition-party members, human rights defenders, and journalists from harassment and arbitrary arrest by adopting legislative measures that prevent the harassment of such persons while exercising their rights to expression and association.
- Commit to a free and open political environment so that all political parties can legally campaign and participate in elections.
- Take necessary measures to ensure a free and independent media, including through the revocation of Article 13 of the Press Law and article 305 of the Penal Code.
- Thoroughly and impartially investigate and prosecute crimes committed against opposition members and human rights defenders and hold offenders accountable.
- Take the necessary steps to repeal or amend all laws that limit the legitimate exercise of freedom of expression, assembly, and association, bringing Cambodia's domestic laws into in full compliance with international human rights standards.
- Take concrete action to ensure that conditions of arrest and pretrial detention meet international standards, including by reducing the length of time detainees spend in pretrial detention.
- Bring conditions of detention into compliance with the Nelson Mandela Rules, particularly with respect to air-quality standards, access to water, and access to electricity.