



The Kingdom of Cambodia

Submission to the UN Universal Periodic Review

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Submission by CIVICUS: World Alliance for Citizen Participation, NGO in General Consultative Status with ECOSOC

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1. (A) Introduction

1.1 CIVICUS: World Alliance for Citizen Participation is an international movement with members in more than 100 countries. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action worldwide, especially in areas where participatory democracy and citizens' freedom of association are threatened.

1.2 In this document, CIVICUS outlines concerns related to the environment in which civil society and human rights defenders operate in Cambodia, and discusses threats they face in the exercise of the freedoms of expression, association and assembly.

1.3 CIVICUS is alarmed by the failure of the Cambodian Government to protect those citizens voicing their right to freedom of expression, association and assembly. In many instances, government officials and the police are directly responsible for, and complicit in, the violations.

- In section B, CIVICUS highlights concerns relating to the practical protection of the freedom of expression, association and assembly.
- In section C, CIVICUS highlights concerns over detentions, disappearances and attacks against civil society members and rights defenders.
- In section D, CIVICUS highlights concerns over detentions, disappearances and attacks against journalists.
- In section E, CIVICUS makes recommendations in the areas of concerns listed.

2. (B) Background

2.1 Cambodia acceded to the International Covenant on Civil and Political Rights (ICCPR) in 1992. Articles 19, and 22 of the ICCPR guarantee the freedoms of expression, the right to hold opinions without interference and the right of association. Restriction of such rights is possible if "necessary in a free and democratic society" and "in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others."

2.2 However, these freedoms are frequently violated in practice with the government demonstrating a lack of willingness to implement the Special Rapporteur on the Situation of Human Rights in Cambodia's advice, nor to seriously collaborate with him.

2.3 The National Assembly, the Senate and the Government all have a Human Rights Committee that receive complaints and conduct investigations. Unfortunately, their lack of independence prevents them from protecting and affording redress to the victims of human rights abuses. The establishment of

an independent National Human Rights Commission as required by article 14 of the ASEAN charter has yet to materialize.

3 Concerns regarding freedom of expression

- 3.1 Article 19 of the ICCPR provides that *“everyone shall have the right to hold opinions without interference”*, that *“everyone shall have the right to freedom of expression”* and that *“this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”*
- 3.2 Article 41 of the Cambodian Constitution guarantees the freedoms of expression, press, publication and assembly with the limitation that no one shall exercise these rights to infringe upon the rights of others or to violate public law and order and national security.
- 3.3 Unfortunately, in practice, these rights and freedoms are frequently violated in the Kingdom. In the last four-and-a-half years, the use of the legislative and the judiciary by the government to curtail civil society’s capacity to diffuse information and express critical opinion has surged.
- 3.4 The 1995 Press Law adds additional constraints to freedom of expression when voiced or published by journalists, imposing content restrictions in Article 11 in relation to anything which “may affect the public order by inciting directly one or more persons to commit violence” or in Article 12 which “may cause harm to the national security and political stability”. The Council of Ministers has stated that Cambodia allows for a free press, but has stipulated that reporters have a duty to act ‘responsibly’ and ‘professionally’.
- 3.5 The 2010 Penal Code extends the scope of defamation beyond natural persons – to criminalize comments that are held to undermine the honour or reputation of institutions. Along with defamation, the Penal Code criminalises public insult, incitement and malicious denunciation applying hefty monetary penalties to all. Article 502 provides for the imprisonment of individuals whose actions undermine the dignity of a public official, while Article 523 criminalizes any criticism of court decisions which is said to be aimed at “disturbing public order” or “endangering an institution”.
- 3.6 With the application of these overbroad provisions, publishers and editors are prohibited from disseminating stories that insult or defame government leaders and institutions. The government has a record of using these provisions to imprison journalists, particularly those allied with the political opposition. All major Khmer-language newspapers receive financial support from individuals closely associated with a political party and are politically aligned, and while there are an estimated 20 Khmer-language newspapers, there are only two pro-opposition newspapers, Rasmei Kampuchea Daily and Moneaksekar Khmer, publishing regularly. Two newspapers critical of the

Cambodian ruling party - The Water & Fire News and The World News had their licenses revoked on 3 August 2011.

3.7 In recent months, the government and bar association have started to prohibit lawyers from giving media interviews without permission. In February 2013, the Information Ministry made an instruction to radio and television stations not to invite lawyers to appear on programs without the approval of the Cambodian Bar Association. The Cambodian bar association's order effectively prevents lawyers from making any statement through the print media as well as broadcast media without the bar's approval thereby violating their freedom of expression.

3.8 Worryingly, tighter restrictions are also being placed on internet use in cafes. A circular from the Ministry of Telecommunications on 16 November 2012 contains a number of vague provisions banning the visiting of websites that threaten national security or "traditions".

4 **Freedom of Association & Assembly**

4.1 Article 21 of the ICCPR guarantees that *"the right of peaceful assembly shall be recognized"* while article 22 provides that *"[e]veryone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests."*

4.2 Article 42 of the Constitution of Cambodia guarantees the right to establish associations and political parties and the taking part in mass organizations to protect national achievement and social order.

4.3 Freedom of association remains relatively protected in Cambodia with the government having experienced domestic and international pressure in delaying the adoption of a restrictive NGO bill until 2014. The bill seeks to force all organisations to register while giving the government wide discretionary powers to deny registration of NGOs.

4.4 The Cambodian Civil Code adopted in 2011 already restricts civil society's activities. Articles 46-118 include a comprehensive registration scheme and specific requirements for the creation and registration of local and international NGOs in Cambodia, as well as dispositions regarding their dissolution and management.

4.5 Workers are free to form and join trade unions under the 1997 Labour Act, however civil servants and domestic staff are excluded from the law. Yellow unions or unions close to the government have no difficulty registering their organisations, unlike independent unions who often have to wait over a year to be registered. Workers are often placed under heavy pressure to join yellow unions.

4.6 Although constitutionally protected, freedom of assembly is frequently under fire in practice. Cambodian law requires a permit be obtained in advance of a protest march or demonstration, with provincial or municipal governments

holding the authority to issue demonstration permits at their discretion. Five days' notice is required for most peaceful protests, while another requires 12 hours' notice for impromptu gatherings on private property or at the designated peaceful protest venue and limits gatherings to 200 persons.

- 4.7 Protests by communities over land and housing rights and by trade union activists have been met with increasing violence and increasing paranoia in the last 18 months. In May 2013, supporters of the ruling Cambodian People's Party (CPP) disrupted a public meeting by the acting Cambodian National Rescue Party (CNRP) President in Pailin province, shouting and shoving participants.
- 4.8 In the lead up to the ASEAN summit in Cambodia in November 2012, authorities threatened to arrest anyone holding public protests and disrupted several events held by NGOs. More than 1000 people affiliated with different civil society organizations were forced to hold meetings in a park in Phnom Penh to discuss issues for the summit as local authorities warned building owners against allowing their premises to be used.
- 4.9 On 18 January 2012, military personnel acting as security guards opened fire on peaceful protesters who had gathered to prevent clearing of their farmland in Kratie province, injuring four people.

5. (C) Concerns involving harassment, threats and attacks against civil society activists and human rights defenders

Article 12 of the UN Declaration on Human Rights Defenders mandates all UN member states, including Cambodia, to take all necessary measures to ensure protection of human rights defenders.

However the regressive treatment of civil society since Cambodia's 2009 Universal Periodic Review, demonstrate that this has still not equated to substantive practice, particularly when it is the state that is waging campaigns of judicial harassment against activists, and intimidating human rights defenders.

(Targeting of government critics, human rights organisations and human rights defenders)

- 5.1 Increasing numbers of Cambodian human rights defenders, in particular land rights activists and opposition figures, have faced harassment, vexatious legal action and violence over the past year.
- 5.2 On 24 May 2013 a senior Buddhist monk with ties to a political party challenging Prime Minister Hun Sen's party was beaten to death in what has been called a politically motivated killing. The son of the monk was Keo Romanea, a member of the CNRP party who had recently been promoted to a senior position in the party.

- 5.3 The Boeung Kak Lake community has also faced violence. In May 2013, 13 women from their community in Phnom Penh were arrested and sentenced to two and a half years in prison after peacefully protesting to support local families whose homes were destroyed in forced evictions.
- 5.4 Land rights activist Yorm Bopha was imprisoned on 27 December 2012 after what is perceived to be an unfair trial. She was sentenced to three years' imprisonment for "intentional violence with aggravating circumstances" following her defence of her community's right to housing at Boeung Kak Lake, where thousands of people were forcibly evicted. On 13 March 2013, security forces again launched an attack on a peaceful protest by the community as they demonstrated in support of Yorm Bopha near the Cambodian Prime Minister's house. Two protestors sustained injuries.
- 5.5 In November 2012 in Phnom Penh, authorities detained eight eviction protesters who had painted "SOS" and posted photos of President Obama on their rooftops ahead of his visit to Cambodia for the ASEAN meetings.
- 5.6 On 26 April 2012, Chut Wutty, the Founder of the National Resources Protection Group (NRPG) in Koh Kong province, was fatally shot by military police while accompanying two journalists to investigate alleged illegal logging and land grabs in Koh Kong province. At the time of writing there had been a significant lack of progress into his murder.

(Targeting of trade union leaders and members)

- 5.7 As investment in Cambodia's textile industry increases, so has the labour unrest. Strikes and sometimes violent protests by Cambodia's more than 300,000 garment workers nearly quadrupled in 2012 to 134 as unions raised complaints that companies have failed to increase wages sufficiently or improve safety. The reaction by the authorities to these complainants, have themselves spawned further violence.
- 5.8 In July 2012, Cambodian Confederation of Unions representative Rong Panha was savagely beaten during a labor march in Phnom Penh. He and 10 other garment workers marched to the Prime Minister's house to submit a petition. After submitting the petition, the group sat in a nearby park. 60 police officers approached the group and asked them to leave. After the group requested some time to rest, the police began to physically assault them. Although severely injured, Rong Panha was taken away and detained for 48 hours. To be released, he had to thumbprint a statement saying he and his group had initiated the violence.
- 5.9 In November 2010, United Apparel Garment Factory union leader Sous Chantha was arrested on drug trafficking charges. Just hours before his arrest,

he had led the transfer of about a thousand workers from a pro-government union to the Coalition of Cambodian Apparel Workers' Democratic Union. Chantha's arrest and the authorities' version of the events were fraught with inconsistencies and irregularities. No credible evidence supporting the charges was presented at the two-hour trial held in June 24th 2011. Chantha was convicted to 10 months in prison.

- 5.10 In July 2011, four union leaders from the Federation of Cooperation for Cambodia, the Cambodia National Union for Workers Protection, the Cambodian Workers Economic Federation Union and the Independent Workers Spirit Federation Union were arrested for distributing informative leaflets on the need for higher wages.
- 5.11 In February 2011, 72 construction workers including union leader Pen Phalla were fired by their employer TSO Cambodia Railway after they sought to unionize.

6. (D) Concerns involving harassment, threats and attacks against journalists

- 6.1 Local journalists in Cambodia are facing growing threats in connection with their coverage of human rights and environmental issues.
- 6.2 On 11 September 2012, Cambodian journalist Hang Serei Odom, who worked for the Vorakchun Khmer Daily, was murdered by several axe blows to his head and found dead in the boot of his car. In his most recent story, Odom had reported on the smuggling of illegal timber in military vehicles by a military commander's son.
- 6.3 Journalist and owner of Beehive Radio, Mam Sonando was sentenced to 20 years in October 2012 on charges of committing public order crimes including inciting rebellion in Kratie Province. An appeals court reduced his 2012 conviction to a lesser charge and cut his initial 20-year jail term, releasing him from prison in March 2013. It is widely believed that Mam Sonando's charges were in response to independent reporting by Beehive Radio highlighting a complaint to the International Criminal Court arguing that large-scale forced evictions by the Cambodian government amount to Crimes Against Humanity.

7. (E) Recommendations to the Government of Cambodia

CIVICUS calls on the Government of Cambodia to operate in accordance with the rights enshrined in the ICCPR and the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be ensured: freedom of association, freedom of expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made.

7.1 Regarding threats to activists, human rights defenders and journalists:

- Detentions of, and threats against land rights activists, civil society organisers and journalists supporting the opposition should be publicly condemned by senior government officials to ensure protection by law enforcement agencies and to destroy the culture of harassment among the police services and the judiciary responsible for many of the detentions, injuries to and threats against land rights activists.
- Impartial and effective investigations into all cases of attack, harassment, intimidation and disappearance of land rights activists, human rights defenders including trade union activists, and journalists should be conducted and perpetrators should be brought to justice.
- The authorities should cease the use of violence and lethal force against protesters in peaceful demonstrations.

7.2 Regarding legislative restrictions on the freedoms of expression, association and peaceful assembly

- Efforts should be begun to put in place “enabling legislation” for civil society groups to operate in line with international human rights standards with due protections for the freedoms of expression, association and peaceful assembly.
- The secrecy surrounding the Cyber Law should end, and a draft should be released to allow for reviews and comments. Proper discussions and debate should take place between the government and civil society regarding this law.
- The rights of journalists and their work should be protected using the Press Law instead of systematically referring to the Penal Code.
- The Penal Code of Cambodia should be judicially interpreted accordingly with the Constitution and Cambodia’s obligations under international human rights law.
- The ruling party’s monopoly over the media and systematic censorship should cease. Legal protections enacted to ensure those opposing the ruling party are able to continue functioning.
- The licensing requirements for public protests should be revised in accordance with international standards.

7.3 Regarding access to UN Special Procedures and Mandate Holders

- A standing invitation should be extended to all UN Special Procedures, in particular, the Special Rapporteur on Human Rights Defenders, Special Rapporteur on Freedom of Expression, and Special Rapporteur on Freedom of Peaceful Assembly and Association, the Special Rapporteur on the Independence of Judges and Lawyers and their visits and reporting respected.