

Summary

The human rights situation has steadily worsened since the last review of Cambodia, with a surge in violent incidents in 2012 as the ruling Cambodian People's Party (CPP) prepared for national elections scheduled for July 2013. A social crisis has developed as the result of systematic land expropriations by the government, the ruling party and private actors with official support and protection. Massive official corruption continues to deprive many Cambodians of their economic and social rights. Activists, labor union members, journalists and opposition party members have been the targets of extrajudicial killings, criminal convictions on trumped-up charges, and regular harassment and intimidation.

Despite the façade of multi-party elections, Cambodia is moving towards the restoration of a de facto one-party state. In June 2013, all opposition party members were expelled from the parliament by the CPP. In office since 1985 and now 61, Prime Minister Hun Sen has said he wants to remain head of government until he is 90.

Human Rights Defenders and Protesters

Cambodia failed to implement the recommendation accepted during the previous UPR 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.” Harassment of human rights defenders – sometimes in the form of spurious criminal charges, arbitrary arrests, or sentencing on false or exaggerated charges for the peaceful exercise of internationally recognized human rights – stymies and deters their work to the severe detriment of human rights protection and promotion.

On April 26, 2012, noted environmental activist Chhut Wutthy was shot dead after gendarmes and company security guards stopped him from documenting illegal logging activities in Koh Kong province, southwestern Cambodia. Government and judicial investigations into his killing appeared designed to shield those most responsible and further conceal their unlawful economic activities. The killing had a chilling effect on efforts by others to uncover similar activities. On May 16, 2012, security forces gunned down Heng Chantha, a 14-year-old girl, during a government military operation against villagers in Kratie province, eastern Cambodia, who were protesting the allegedly illegal seizure of their land by a foreign concessionaire. Instead of launching a criminal investigation into police conduct, Hun Sen accused protesters of organizing an armed “secessionist movement” and then ordered the arrest of its leaders.

The government also imprisoned Mom Sonando—the 71-year-old owner of Cambodia's main independent radio station and an outspoken critic of the government—of being the ringleader of the supposed secession. Sonando was arrested in July 2012 and later sentenced to 20 years of imprisonment during a trial in which no credible evidence against him was presented. After an international outcry, he was later released on appeal, though a conviction remains on the books. At the same time, land campaigner Yorm Bopha is still serving a prison term, after Hun Sen reacted to her appeal filings by publicly condemning her as a common criminal.

Opposition leader Sam Rainsy remains in exile at the time of writing after being convicted and sentenced to 12 years in prison on politically motivated charges.

Freedom of Assembly and Association and Labor Rights

Contrary to a recommendation accepted during the previous UPR to “ensure that the trade union rights of workers in Cambodia are fully respected and that trade unionists are able to exercise their activities in a climate free of intimidation,” a restrictive law on demonstrations is still used to reduce freedom of assembly

and association, especially by the political party opposition, organized labor and land protesters. Attempts to exercise these rights, including strikes, are often broken up violently by the security forces.

Physical and psychological conditions in factories have resulted in frequent mass fainting of workers. Two factories collapsed in May 2013, killing two workers and injuring 44 others, but no criminal charges were initiated against factory builders, owners or operators. Instead, labor leaders, such as Cambodian Federation of Unions President Rong Chhun, have been repeatedly subject to legal harassment.

Attacks on and Control of the Media

Cambodian journalists have long suffered violent repression. No killings of journalists have resulted in conviction of the perpetrators or those who authorized the attacks. The most recent killing, in early September 2012, was of Hang Serei Oudom, whose bludgeoned body was found in the trunk of a car. As of this writing, no one has been convicted of this murder.

As a result of the suppression of the pluralistic media that re-emerged in the 1990s, all state and private television stations and almost all print media, domestic radio stations, and news websites are now controlled by or loyal to the CPP. The imprisonment of Mom Sonando, owner of the independent Beehive Radio, resulted in a toning down of the station's criticism of the government. The taming of Beehive extended the widespread practice of self-censorship on the part of an oppressed media, long also threatened by misuse of legislation against "defamation," "disinformation" and "incitement" to criminalize truthful reporting.

Politically Controlled Judiciary

Cambodia failed to implement the recommendations on the independence of the judiciary, including "ensur[ing] the independence of the judiciary, without any political intervention." In fact, the judiciary continues to be controlled by the CPP. The chief justice of the Supreme Court is a member of the standing committee of the Central Committee of the CPP. Judges and prosecutors are summoned to party meetings to carry out party work. While some judges occasionally act independently of the wishes of powerful CPP figures, this exceptional behavior is negated by the overall political subservience of the judicial system. The courts are regularly used for political purposes to convict and intimidate critics. Fair trial standards are routinely ignored, even after 20 years of donor assistance in judicial training.

Torture and Other Ill-Treatment

Torture continues to be frequently used by police and gendarmes to extract "confessions" from those accused of crimes. Courts routinely rely on such coerced evidence to convict suspects, often in the absence of any other evidence. Beatings are the main method, while whipping, caning, electric shock and suffocation with plastic bags are also used. Conditions in many prisons are so substandard as to constitute cruel, inhuman or degrading treatment.

Arbitrary Detention, Torture and Ill-treatment of Drug Users

Cambodia failed to implement the recommendation accepted during the previous UPR to "close the so-called rehabilitation centres." Cambodian law permits arbitrary "administrative detention" without trial in locked detention centers for up to two years, ostensibly for "treatment" or "rehabilitation." Former detainees report that instead of receiving proper treatment, they have been held without due process and subjected to physical and sexual violence, including electric shocks, beatings with electrical wire, forced labor, and harsh military drills.

Land Grabbing

Cambodia's land crisis is the result of the government granting enormous economic and other concessions to foreign and domestic companies. Many of the owners are high-ranking CPP officials and financiers of the party, including its election campaign in 2013. Others are senior members of the country's national armed forces and police. These policies are estimated to have adversely affected some 700,000 Cambodians. Resistance to land takings had led to large numbers of protests. In 2012, the government arrested more than two hundred land activists and defenders.

On May 7, 2012, Hun Sen issued Order 01BB, temporarily halting the granting of concessions and inaugurating a program of providing ownership titles to some people allegedly living illegally on concession or other state-owned land. He created a corps of CPP-recruited youths to measure the land alongside government officials and presided over the subsequent distribution of land titles. He also ordered the exclusion of anyone other than the youth squads and authorized officials from involvement in or monitoring of the land titling program. Although the program has benefitted many poor villagers, other victims of land-grabbing remain excluded from titling processes, evidently to punish them for having long protested their ill-treatment. There is also evidence that the program is being used to compel indigenous minorities to give up their right to communal ownership of traditional land-holdings, to pressure supporters of the opposition to switch to the CPP, and to give ownership of land to CPP officials and their business associates not entitled to it. Meanwhile, people from many other rural and urban communities continue to live under constant threat of forced eviction without due process and just compensation.

Lack of Accountability for Khmer Rouge Crimes, 1975-79

Despite high hopes, the United Nations-assisted Extraordinary Chambers in the Courts of Cambodia (ECCC, or the Khmer Rouge Tribunal) has done little to address Cambodia's fundamental problems of impunity. Indeed, its failure to investigate significant numbers of individuals credibly alleged to have been responsible for the most serious international crimes has sent a clear message to Cambodians that powerful or connected individuals are above the law.

Having spent more than US\$ 200 million, the ECCC has so far only convicted Kaing Guek Eav alias Duch, who confessed to mass murder and torture at the infamous Tuel Sleng detention center. Due to delays arising largely from active obstruction and passive non-cooperation by the government, one of the four persons indicted for trial as Khmer Rouge senior leaders has died, a second has been declared too ill to be tried, and the two remaining in the dock are being prosecuted in a "mini-trial" covering only one of the multiple charges against them.

Government non-cooperation with investigations into four additional suspects means there is no prospect they can be tried. Government opposition has also either prevented investigations that might implicate current CPP figures in Khmer Rouge crimes or ensured that evidence of this discovered or known by ECCC investigators does not become public.

Impunity for Other Crimes, 1979 to Present

The shielding of Khmer Rouge-era criminals is replicated in consistent failures since 1979 to prosecute government, military, and police authorities against whom there is credible evidence of involvement in serious post-Khmer Rouge human rights violations, including torture of political prisoners as well as murder and attempted murder of opposition politicians, other political and social activists, journalists and protesters.

The victims include more than 300 people who were killed in politically motivated attacks between 1991 and 2012. In many cases, as with members of the death squads formed to violently sabotage the implementation of the 1991 Paris Agreements to hold free and fair elections in Cambodia, the perpetrators are not only known, but have been promoted to high positions in the current government, armed forces and police. This is true of Cambodian military officers who carried out a campaign of killings after the July 1997 coup orchestrated by Hun Sen and CPP elements most loyal to him. Nor has anyone been prosecuted for the attempted 1997 assassination of the then newly emerging opposition leader Sam Rainsy, despite compelling evidence implicating elements of Hun Sen's personal bodyguard unit.

Cooperation with UN Human Rights Mechanisms

The CPP and the government, and in particular Hun Sen, have responded to the reports by UN special representatives and rapporteurs with personal attacks, publicly insulting them, often refusing to meet them, or calling for their dismissal. In 2011, similar treatment was applied to the head of the Cambodia office of the UN High Commissioner for Human Rights (OHCHR), who departed after the government threatened to close the office if he did not leave. In May 2013, the current special rapporteur on human rights in Cambodia

was subjected to orchestrated public attacks spearheaded by a prominent Hun Sen youth land titling operative, demanding an end to such UN human rights work.

General Recommendations:

- Establish a professional and independent police and gendarmerie whose leadership is appointed by independent commissions, which also have the power to audit the police and gendarmerie, investigate complaints, and dismiss officers who violate a professional code of conduct.
- Create a wholly professional and independent judiciary and prosecution service. Judges and prosecutors should be appointed by an independent judicial commission, which also has the power to investigate complaints and discipline judges and prosecutors who violate a professional code of conduct.
- Ban senior military and police officials, state civil servants, judges, and prosecutors holding official or unofficial positions of leadership in political parties and engaging in politically partisan campaigning activities.
- Revise legislation in force to make it a crime to obstruct the administration of justice, including by instructing or putting undue pressure on police officials, judges, or prosecutors to act or not act in a particular manner.
- Revise legislation to abolish compulsory detention for “treatment” of drug users and to create voluntary, evidence-based health and social services in the community that respect human rights of drug users.
- Revise legislation in force to decriminalize defamation and lift restrictions on assembly that effectively negate the right to freedom of assembly.
- Fulfill a set of benchmarks demonstrating the government’s willingness to respond in a professional and impartial manner to allegations of human rights abuses brought by victims and their families, human rights organizations and other civil society groups, the UN human rights office and other UN agencies, the media, and others who bring concerns to the government’s attention.
- Establish a genuinely independent National Human Rights Commission in accordance with the standards set out in the Paris Principles.
- Establish a genuinely independent national torture preventive mechanism with the necessary mandate and resources to fulfil Cambodia’s obligations under the Optional Protocol to the Convention against Torture.
- Urgently review all cases of people who may be detained or under criminal or judicial investigation on account of their exercise of basic human rights and the immediate release or dropping of proceedings against all for whom this is the case.

Impunity:

- Investigate and appropriately prosecute longstanding cases of human rights violations such as the 1997 grenade attack on an opposition rally and summary executions committed after the 1997 coup, as well as more recent rights violations, such as excessive use of force by the military and police in forced evictions and the assassinations of labor leaders and journalists.
- Cease all active and passive obstruction of ECCC investigations and judicial processes, allowing the tribunal to proceed with further warranted prosecutions of any suspects within its personal jurisdiction and ending cover-up of evidence being kept secret on political grounds.

Freedom of Expression, Assembly, and Association:

- Cease the harassment, arbitrary arrest, and physical attacks on human rights defenders, journalists, labor organizers, civil society activists, and opposition party members; and investigate and prosecute the perpetrators of such attacks.

- Ensure that the rights of individuals and organizations to defend and promote human rights are protected, including the right to peacefully criticize and protest government policies via public protest assemblies and strikes.
- Liberalize media ownership rules, including allowing transmitters of private, critical media to broadcast on a par with pro-CPP stations.

Forced Evictions and Land Titling:

- Immediately enact a complete moratorium on forced evictions and granting of land concessions until the government has properly adopted and implemented a strict legislative framework on evictions and resettlement consistent with UN standards as well on land and housing rights.
- Develop alternate strategies to assist those being displaced and ensure them adequate housing and access to basic services, health care and employment.
- Formulate and implement all land titling programs in accordance with the UN Food and Agriculture Organization 2012 Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, which stress the need for transparency in general and for consultation with and monitoring by communities and civil society in particular.

Prison Conditions:

- Ensure that Cambodian prison conditions meet the UN Standard Minimum Rules for the Treatment of Prisoners.

Human Rights Mechanisms:

- Engage seriously and constructively with the UN special rapporteur for human rights in Cambodia, the OHCHR, and all UN special procedures, to whom standing invitations should be issued.

Elections:

- Reconstitute the national and all local election committees to ensure their complete political independence.
- Immediately review voter registration lists to correct any irregularities or other serious problems.
- Immediately allow the return of opposition leader Sam Rainsy to participate fully in the elections.
- Disallow candidates who have abused their military, police or civil service positions to do political party organizing or campaigning and take effective steps to end political partisanship in the armed forces, police and state bureaucracy.
- Halt the distribution of largesse originating from state sources for campaign purposes.
- Provide equality of access to state media for all recognized political parties to do policy and other campaign information dissemination.

Arbitrary Detention, Torture and Ill-treatment of Drug Users:

- Immediately release current detainees in Cambodia's drug detention centers.
- Permanently close Cambodia's drug detention centers.
- Investigate and prosecute all cases of torture, cruel, inhuman or degrading treatment or punishment, and other human rights abuses and criminal acts in Cambodia's drug detention centers.
- Create voluntary, evidence-based health and social services in the community that respect human rights of drug users and fully comport with international standards.