

## Civil society calls on the UN Human Rights Council to address Cambodia's human rights crisis

September 8, 2017

The undersigned civil society organizations, representing groups working within and outside Cambodia to advance human rights, rule of law, and democracy, are writing to alert your government to an unfolding human rights crisis in Cambodia.

As detailed below, there has been a marked deterioration in the civil and political rights environment over the last two years, culminating in recent weeks in the closure of several independent media outlets and the arrest of Kem Sokha, the leader of Cambodia's main political opposition party, the Cambodia National Rescue Party (CNRP). (Another key opposition leader, Sam Rainsy, is in exile because of a spurious legal case against him, and would be arrested if he were to return.)

As you may know, national elections in Cambodia have been scheduled for July 29, 2018. During the upcoming 36<sup>th</sup> session of the United Nations Human Rights Council in Geneva, a new resolution on Cambodia will be under consideration.

We call on you to support a resolution that directly addresses the human rights crisis in Cambodia, urges the Cambodian government to curb its rights violations, and take steps to create a more enabling environment for free and fair elections.

A new resolution at the Human Rights Council, when tabled, is expected to renew the mandate of the UN Special Rapporteur on the Situation of Human Rights in Cambodia for two years. Given the gravity of the situation, we are recommending that the resolution **request a report by the UN High Commissioner for Human Rights that will, in consultation with the Special Rapporteur, assess the civil and political rights situation in Cambodia in the pre-election period, and identify concrete actions that the Cambodian government and international community need to take to ensure that the conditions in which the election takes place accord with international human rights standards.** We have included specific draft language in an appendix below.

Since the last Council resolution, adopted on October 2, 2015, the environment for civil and political rights in Cambodia has worsened significantly. Developments include:

- The severe beating of two opposition parliamentarians on October 26, 2015, which human rights groups and later court hearings [demonstrated](#) was carried out by forces in Prime Minister Hun Sen's bodyguard unit. The attack took place after Cambodian diaspora in France held anti-government protests during a visit to Paris by Prime Minister Hun Sen, after which Hun Sen warned of retaliatory violence. Only three of several identified perpetrators ever stood trial for the attack, all of whom received partially suspended sentences and were later promoted to more senior positions upon release from prison.

- The resurrection of an arrest warrant for opposition leader Sam Rainsy, connected to an old, politically motivated criminal case against him. The arrest warrant led to Rainsy's decision in 2015 to remain outside of Cambodia, and was followed by additional convictions on [spurious legal charges](#). If he returns to Cambodia, Sam Rainsy will face [immediate arrest and imprisonment](#) for these trumped-up charges. In addition, the government in 2017 passed two amendments to the 1997 Law on Political Parties that were clearly motivated by partisan interests against the opposition (see sections below), and that have compelled Rainsy to step down as CNRP leader.
- The government's arrest on September 3 of CNRP's other leader, Kem Sokha, on charges of treason. Kem Sokha, who had taken sole leadership of the party after Sam Rainsy's exile and resignation, had already faced [de facto house arrest](#) and an *in absentia* criminal conviction in 2016 that was accompanied by a prison sentence of five months, for "refusing to appear as a witness" following his non-compliance with a subpoena in a [politically motivated](#) criminal investigation. Kem Sokha faced threat of arrest for much of 2016 and for many months was unable to leave his office at CNRP's headquarters, which on several occasions was [surrounded by armed forces](#), including military helicopters and convoys of bodyguard unit troops.
- The earlier politically motivated prosecutions of several other elected opposition leaders, including [MP Um Sam An](#), [Senator Hong Sok Hour](#), [Senator Thak Lany](#), [Commune Councilor Seang Chet](#), as well as other opposition party organizers and activists. These cases appear to be part of an unprecedented [surge](#) in the detention of opposition supporters and civil society activists, with at least [35 documented cases](#) since July 2015. At least 19 [remain in detention](#) as of this writing, 14 of whom were convicted of insurrection offenses following their peaceful participation in an opposition-led demonstration in 2014 that turned violent following state-instigated crackdowns.
- Cambodian authorities' use in August and September of Cambodia's General Department of Taxation to [intimidate](#)—and shut down—civil society groups and independent media outlets, including the independent *Cambodia Daily* newspaper, which was forced to cease its operations on September 4, 2017.
- The authorities' campaign against independent radio, including August orders to close and revoke the license of Mohanokor Radio and its affiliates, which broadcast Voice of America (VOA) and Radio Free Asia (RFA), and the closing of the independent radio station Voice of Democracy (VOD). Several other radio stations broadcasting programming from VOA or RFA have come under pressure from the government, and stopped broadcasting this month. Almost all domestically-broadcast media in Cambodia is now under government control, with an already entirely government controlled television media and now near elimination of independent radio.

- The [detention](#), prosecution, and harassment of four senior staff members of the Cambodian Human Rights and Development Association (ADHOC) in 2016 and 2017: Ny Sokha, Nay Vanda, Yi Soksan and Lim Mony, as well as a former ADHOC staff member who is now the Deputy Secretary-General of the National Election Committee (NEC), Ny Chakrya. This group of human rights defenders, commonly referred to as the “ADHOC Five,” were held in pre-trial [detention](#) for 427 days until released on bail, in the wake of [sustained international pressure](#), on June 29. While their release on bail was a welcome step (especially considering some of detainees’ seriously deteriorating [health conditions](#) in prison), authorities are proceeding with their prosecution and the five still face 5 to 10 years in prison, and their freedom of movement and ability to carry out human rights work remains hindered.
- The continuing [imprisonment](#) of Boeung Kak Lake activist and women’s rights defender [Tep Vanny](#), who has spent over [one year in prison](#). Tep Vanny was arrested on August 15, 2016 during a “Black Monday” protest, a non-violent campaign that called for the release of the ADHOC Five. She and a fellow community member, Bov Sophea, were convicted and sentenced to six days’ imprisonment; while Bov Sophea was released upon having served her sentence in pre-trial detention, authorities transferred Tep Vanny back to prison and reactivated a case against her stemming from 2013, when she engaged in a protest calling for the release of another human rights activist, and continue to prosecute several other spurious legal cases against her.
- The assassination of prominent political commentator Dr. [Kem Ley](#) on July 10, 2016, a killing that came five days after a senior Cambodian general publicly called on Cambodian armed forces to “eliminate and dispose of” anyone “fomenting social turmoil” in [Cambodia](#). Kem Ley had been a frequent critic of Hun Sen and in the weeks before his killing had given several media interviews about a groundbreaking [report](#) by Global Witness outlining the vast wealth of Hun Sen’s family, fueling [concerns](#) that the killing was ordered by higher authorities. A [deeply flawed investigation](#) saw merely the identification of one suspect, [Oeuth Ang](#), also known as “Chuob Samlab” (“Meet to Kill”). In March 2017, Oeuth Ang was tried and sentenced to life imprisonment in proceedings that ignored improbabilities and inconsistencies in his confession and shortcomings in the investigation. A month before the Oeuth Ang trial, Hun Sen brought a civil charge of defamation against a political commentator, Kim Sok, who had suggested publicly that the Cambodia People’s Party was behind the killing, and authorities also filed a criminal charge of incitement against him. In August, Kim Sok was [sentenced](#) to a year and a half in prison and ordered to pay Hun Sen US\$200,000 in the civil case. Opposition Senator Thak Lany has also been convicted *in absentia* for similar offenses after commenting on this case.
- Government para-police [attacks](#) on protesters and human rights observers during an October 10, 2016 peaceful celebration of World Habitat Day. Two human rights defender victims of this attack, Chan Puthisak and Am Sam Ath, were subject to spurious criminal investigations.

- The government's passage in 2017 of two rounds of [repressive amendments](#) to Cambodia's Law on Political Parties, which allow authorities to dissolve political parties and ban party leaders from political activity without holding hearings and without an appeal process. The amendments contain numerous [restrictions](#) that are tailored to create stumbling blocks for opposition parties, most notably [provisions](#) that compel political parties to distance themselves from members who have been convicted of a criminal charge. This impacts opposition leaders Sam Rainsy and Kem Sokha, effectively allowing the government to dissolve the main opposition party at any time they choose. Many observers suspect that the government will allow the opposition to contest the 2018 elections but has crafted these provisions to weaken the opposition or to use them to dissolve the parties outright in the event that they pose a more significant threat to the ruling party's hold on power.
- Prime Minister Hun Sen's July [orders](#) to the Ministry of Interior to investigate two members of a group of civil society organizations coordinating efforts of election monitoring on an ad hoc basis under the head of the so-called "Situation Room." The government [alleges](#) that the ad hoc group violated the vague and undefined concept of "political neutrality" enshrined in Cambodia's widely criticized [Law on Associations and Non-Government Organizations](#) (LANGO), which allows for the dissolution or denial of registration of NGOs, as well as for [failing to register under LANGO](#).
- Questionable legal investigations into trade unions conducted under Cambodia's [Trade Union Law](#), which has prevented some unions from legally registering and excluded them from collective bargaining and formally advocating for rights and improved working conditions.
- Increasingly threatening political rhetoric, including repeated threats of violence and other forms of [intimidation](#) by government officials directed at dissidents and civil society, including in the lead-up to this year's flawed [commune elections](#) and afterwards. Both Prime Minister Hun Sen and several senior military leaders have repeated claims that any election victory by the political opposition would lead to "[civil war](#)," while making clear threats to use violence against any individuals who "[protest](#)" or seek a "color revolution," a term which authorities disingenuously employ to portray peaceful dissent as an attempted violent overthrow of the state. Before his baseless accusations in September of Kem Sokha's "treason" and "conspiracy," Hun Sen made a number of statements that appear to equate peaceful political opposition and exercise of freedoms of speech and assembly as unlawful acts of violent rebellion. In May 2017, Hun Sen, during campaigning for the country's 2017 commune elections, stated he would be "[willing to eliminate 100 to 200 people](#)" to protect "national security," for the opposition to "[prepare their coffins](#)," or against anyone who, and later repeated this claim and made a transparent reference to Sam Rainsy suggesting that Rainsy knew he would be targeted for violence. On August 2, Minister of Social Affairs Vong Sauth said that protesters who dispute the outcome of the scheduled 2018 elections will be "[hit](#)

with the bottom end of bamboo poles”—a reference to a technique used during the Khmer Rouge regime—and threatened civil servants in his ministry with termination if they do not support the ruling CPP.

- An August 23 Ministry of Foreign Affairs statement [ordering](#) the closure of the US non-governmental organization the National Democratic Institute (NDI), and expulsion of its non-Cambodian staff “within seven days.” The statement cites LANGO and the 1997 Tax Law, both of which the government has cited in [other](#) threats against civil society groups mentioned above.

The Cambodian government’s actions outlined above should be considered together, as a **comprehensive campaign of intimidation, violence, and misuse of legal mechanisms in the lead-up to next year’s national election**, meant to weaken or neutralize political opposition and hamper civil society efforts to monitor the election and freedom of speech, association, and assembly. More broadly, the government’s actions are an open-ended assault on the United Nations-backed democratic process in Cambodia that began with the 1991 Paris Peace Accords.

We strongly urge your government to acknowledge the severity of the situation and the risks these conditions pose to the integrity of Cambodia’s 2018 elections. It is crucial that the international community support a UN Human Rights Council resolution that explicitly condemns the Cambodian government’s attacks on democratic and human rights norms and takes steps to address them.

As noted above, the appendix contains draft language recommending that the resolution **request the UN High Commissioner for Human Rights to prepare a report on the escalating crackdown, and outline actions the government and international community should take to ensure that the conditions in which the elections take place accord with international human right standards**. As outlined in the proposed text in the appendix, we also recommend that the High Commissioner should provide an oral update to the Council at its 37<sup>th</sup> session in March 2018, and present his report at the 38<sup>th</sup> session in June 2018.

We further recommend that your government, during the September session at the Council, speak out clearly and jointly with other governments against the latest abuses, and put the Cambodian government on notice that the Cambodian government’s failure to fully address these concerns will make it impossible to determine that the 2018 elections were free and fair.

We also recommend that the Human Rights Council, at those future sessions, hold an Enhanced Interactive Dialogue including stakeholders such as staff from Cambodia’s OHCHR office, the Special Rapporteur on Cambodia, other relevant UN Special Procedures and members of local and international civil society.

We look forward to discussing this matter with you or your staff in more detail.

Thank you for your attention.

Asian Forum for Human Rights and Development (FORUM-ASIA)

CIVICUS

Human Rights Watch

International Federation for Human Rights (FIDH)

International Commission of Jurists (ICJ)

World Organisation Against Torture (OMCT)

[Appendix below.]

## Appendix:

### Draft language for resolution on Cambodia at the 36<sup>th</sup> session of the Human Rights Council.

**NOTE: Language in bold** reflects new proposed text; non-bolded edited text is derived from the October 2015 resolution on Cambodia.

*[Preamble language:]*

*...Bearing in mind* the report of the Secretary-General on the role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights,

**Recognizing** that the **Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, signed in Paris on 23 October 1991, stipulates that the U.N. system, the international community at large, and all signatories to the agreement, many of which are members of this council, have a positive obligation to protect and promote human rights and democratic norms in Cambodia,**

**Taking note** of deeply disturbing new developments in Cambodia since the adoption of Resolution A/HRC/RES/30/23 of 2 October 2015, including the recent arrest of opposition leader Kem Sokha on spurious charges of “treason,” the exile of another opposition leader, Sam Rainsy whom authorities say will be arrested on an old and politically-motivated arrest warrant if he returns, the August and September closures of several radio stations and the newspaper *Cambodia Daily*, government complicity in a severe beating of two parliamentarians on 26 October 2015, the passage or invocation of restrictive laws on political parties and civil society groups in 2016, the, and in general, the increased use of Cambodia’s courts in 2016 and 2017 to try dozens of human rights defenders and political opposition members in politically-motivated cases, as well as repeated threats of violence and other forms of intimidation directed at peaceful dissidents and civil society groups,

*[Main text language:]*

**Expresses serious concern** at the severe deterioration in the environment for civil and political rights in Cambodia since 2015 including increasing restrictions on freedom of expression, association and peaceful assembly, and calls on the Cambodian government to stop using unfounded charges to unjustly target members of the political opposition, media, and civil society, refrain from misusing laws and legislation for such purposes, and repeal or revise vaguely worded, overbroad laws often used in such prosecutions.

~~Welcomes the commitments made and the progress achieved by the Government of Cambodia in implementing some of its obligations under international human rights treaties and conventions to which it is a party, with regard to its commitment to establish a national human rights institution and to encourage that this be done upon sufficient consultation with relevant stakeholders; and urges the Government to continue to take steps to meet its obligations under~~

those treaties and conventions to which it is a party, and to this end to strengthen its cooperation with United Nations agencies, including the Office of the High Commissioner, through enhanced dialogue and the development of joint activities;

[...]

**Recalls** the agreement between the ruling and opposition parties on 22 July 2014, which led to the participation of the opposition party in the National Assembly and to limited collaboration between the ruling and opposition parties on electoral reform, but notes that since late 2015 cooperation on reform has essentially ended, and urges the Government of Cambodia to strengthen its efforts to collaborate with the opposition and promote an environment conducive to free and fair elections in 2018...

[...]

*Encourages* 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, **especially in the lead-up to the July 2018 elections**, and to this end **further encourages the government** to ensure that ~~relevant~~ **all 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 **and democratic norms**;

**Notes with concern** that since 2015, Cambodian authorities have launched numerous legal proceedings against opposition party members and leaders, including a “treason” charge against CNRP leader Kem Sokha and SRP leader and CNRP co-leader Sam Rainsy; notes also that authorities have advanced changes to Cambodia’s Political Party Law which appear to be tailored to create opportunities to weaken or dissolve Cambodian opposition parties; further notes that these legislative changes and prosecutions appear to be politically motivated and intended to weaken opposition parties or the stage for their dissolution; and urges Cambodian authorities to cease invoking or enforcing Cambodia’s Political Party Law in a partisan way and to drop the unjustified legal cases against opposition party members and leaders.

**Notes further** that Cambodian authorities, misusing or abusing various Cambodian legal provisions including its tax laws, have closed several media outlets and intimidated others, and intimidated civil society groups, primarily those that promote and protect civil and political rights, by invoking over-restrictive provisions in Cambodia’s Law on Associations and Non-Governmental Organizations (LANGO), and urges authorities to refrain from abusing the Cambodian legal system, stop invoking LANGO and work to repeal it, and allow civil society and all Cambodians to enjoy their rights to freedom of speech and opinion, association, and peaceful assembly, in accordance with Cambodia’s Constitution and the International Covenant on Civil and Political Rights;



***Requests*** the U.N. High Commissioner for Human Rights, in consultation with the Special Rapporteur, to prepare a written report on the state of civil and political rights in Cambodia in the lead-up to the July 2018 elections, which the High Commissioner should present to the Council at its 38<sup>th</sup> session in June 2018, and further requests that the High Commissioner and Special Rapporteur brief the Council at its 37th session in March 2018 on the progress of the report and any interim recommendations....