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**CAMBODIA**

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**ICCPR Article 3 – Women discriminated against**

Discriminatory gender stereotypes are perpetuated at all levels of society and deter women from reporting human rights violations. While domestic violence and rape are prolific, police and the judiciary systematically fail to properly investigate allegations of abuses and deliver justice. Many complaints are settled by out of court mediation, reconciliation, and/or financial compensation. Corruption and poor understanding and application of the law by judges routinely result in flawed convictions. The government has also repressed women’s bodily autonomy and entrenched a culture of victim-blaming. In February 2020, Prime Minister Hun Sen called for investigations into female online sellers whose clothing choices allegedly affected undefined concepts of morality and culture and claimed that revealing clothing provoked sexual violence and trafficking. In April 2020, Facebook seller Ven Rachna (also called Thai Srey Neang) was convicted of offenses related to pornography and indecent exposure and sentenced to six months in prison for wearing clothing that was too “revealing.”

**Questions**

- Will the government enact an anti-discrimination law that comprehensively defines and addresses direct and indirect gender discrimination?
- What steps have been taken to increase gender sensitivity in the legal and judicial systems and reduce negatives attitudes towards women who seek justice?
- What steps is the government taking to amend the Law on the Prevention of Domestic Violence and the Protection of Victims to comprehensively define and criminalize domestic violence and remove provisions that encourage mediation of cases?
- What action has been taken to ensure that rape cases are criminally prosecuted rather than settled through out-of-court mediation and/or financial compensation?

**ICCPR Article 4 – State of Emergency enables human rights violations**

In response to the novel coronavirus (COVID-19) pandemic, Cambodia’s Law on the Management of the Nation in a State of Emergency was officially promulgated on 29 April 2020. The law bestows sweeping and undefined powers upon the government with no meaningful checks or balances. Vague and ambiguous language can be broadly interpreted to justify a State of Emergency in almost any scenario. While the duration of a State of Emergency can last up to three months, it can be prolonged indefinitely. The law suppresses fundamental freedoms of

speech and assembly as well as access to information, allows control of technology “by any means necessary,” and imposes draconian penalties, including long jail terms, property confiscation, and dissolution of legal entities for poorly defined violations of the State of Emergency.

#### Questions

- If a State of Emergency is declared, will the Cambodian government notify the Secretary-General of the United Nations under Article 4(3) of the ICCPR and what derogations from rights enshrined in the ICCPR will it envision?
- As a result of a declaration of a State of Emergency, will actions of officials exercising emergency powers be subject to judicial review?
- As a result of a declaration of a State of Emergency, what measures will be enacted to protect the right to freedom of opinion and expression?
- As a result of a declaration of a State of Emergency, what measures and protections will be enacted to respect the right to privacy to the fullest extent possible?

#### **ICCPR Article 6 – Journalists and human rights defenders killed with impunity**

A history of assassinations of journalists and human rights defenders has been met with impunity and represents a failure to protect the right to life. In 2016, political commentator Kem Ley was shot and killed days after discussing a Global Witness report that detailed the business links of Cambodian Prime Minister Hun Sen’s family. Kem Ley’s murder was not an isolated incident. In 2012, environmental activist Chhut Vuthy was shot dead while attempting to expose illegal logging. In 2007, union leader Hy Vuthy was shot and killed. In 2004, union leaders Ros Sovannarith and Chea Vichea were similarly killed. Between 1994 and 2014, 13 journalists were killed under suspicious circumstances after reporting on instances of government and military corruption. Despite years passing since these deaths, Cambodia has failed to fully conduct credible, independent, and impartial investigations.

#### Questions

- Will independent investigations be re-opened into any of these high-profile killings?
- Will the government re-investigate the killing of Chea Vichea, considering claims by the former Phnom Penh police chief that the two men convicted of his murder were innocent scapegoats?
- Will the government seek and accept technical assistance from states and international organizations to conduct these investigations?
- Since 2015, how many investigations into reported death threats against human rights defenders or journalists have the authorities conducted?

#### **ICCPR Articles 7 and 10 – Prison conditions and custodial deaths violate the right to a humane and dignified treatment and the right to freedom from torture**

Cambodia’s prisons are severely overcrowded and characterized by sub-standard conditions. In March 2020, Cambodia’s prisons held 34,245 inmates, including 2,313 women, despite an official capacity of 26,593. Nearly 75% of the inmates (23,732 adults and 1,585 children) were pre-trial detainees. Inadequate nutrition and poor sanitation leave prisoners vulnerable to diseases. Detainees are routinely denied access to adequate food, clean water, and time outside

their cells. Prisons are run on a culture of corruption and everything must be paid for. Detention facilities also face consistent allegations of torture, forced labor, and sexual violence. It is impossible to determine the causes of custodial deaths as independent autopsies and investigations are not allowed. In 2019, there were 33 deaths in custody, including three women. In January 2020, Tuy Sros, a land dispute protestor, died after repeated beatings by military police during his detention in a gendarmerie headquarters in Banteay Meanchey Province. In October 2019, Sam Bopha, an activist of the dissolved opposition Cambodia National Rescue Party (CNRP), was arrested without a warrant in Svay Rieng Province and died when she fell from an officer's motorbike en route to the police station. In April 2019, Tith Rorn, the son of a former political opposition commune councilor, died in Kampong Cham provincial prison with visible marks of beating over his body.

#### Questions

- What concrete steps is the government taking to reduce overcrowding in prisons?
- What specific efforts is the government making to grant bail and expedite trials for vulnerable prisoners, such as pregnant women, mothers with young children, and children?
- How can Cambodia's torture prevention committee operate independently when committee members are also members of the ruling Cambodian People's Party (CPP)?
- Were investigations into the custodial deaths of Tith Rorn, Sam Bopha, or Tuy Sros conducted? If so, what were the results and when will the findings be made public?
- When will the government allow independent autopsies and investigations into custodial deaths?

#### **ICCPR Article 9 – Arbitrary arrests and detentions violate the right to liberty**

Since 2015, an escalating government crackdown on civil society, independent media, and members of the political opposition has been marked by over a hundred groundless criminal prosecutions and dozens of politically motivated arrests. Community representatives and activists have been arrested and remain in prison due to speaking out against long-standing land disputes. From 2015 to 2017, five activists from the environmental NGO Mother Nature were arrested and imprisoned for exposing illegal sand dredging. In April 2016, the Anti-Corruption Unit detained five senior staff members of the NGO Cambodian Human Rights and Development Association (ADHOC) for allegedly bribing a witness in a frivolous case against CNRP President Kem Sokha. The five were held in pre-trial detention until June 2017 and convicted in September 2018, when they were handed five-year suspended sentences. From August to November 2019, at least 125 former CNRP members or activists were targeted with politically motivated charges such as "plotting" and "attack" against the state. Seventy-eight were imprisoned and eventually released on bail. However, charges remain against them. The recent arrests of at least 11 former CNRP members raise serious concerns that the COVID-19 pandemic is being used as a pretext to justify political attacks against people affiliated with the dissolved opposition party and enact State of Emergency legislation in order for the CPP to tighten its grip on power.

#### Questions

- What measures does the government plan to undertake to compensate persons who have been arbitrarily detained as determined by the UN Working Group on Arbitrary? These persons include the five ADHOC senior staff members – Ny Sokha, Lim Mony, Yi Sok

San, Nay Vanda, and Ny Chakriya; land rights defender Tep Vanny; former *Radio Free Asia (RFA)* journalists Uon Chhin and Yeang Sothearin; and opposition leader Kem Sokha.

- How will the government ensure that all individuals who have been subjected to arbitrary detention are fairly compensated?

### **ICCPR Article 12 – Cambodia arbitrarily restricts the right to freedom of movement**

In November 2019, the Cambodian government mobilized its military and lobbied the member states in the Association of Southeast Asian Nations (ASEAN) to block the purported return of former CNRP President and Cambodian national Sam Rainsy. Shortly thereafter, former CNRP president Kem Sokha was released after being held in *de facto*, indefinite house arrest for over one year. His movements and personal interactions were severely restricted and he remains banned from leaving the country. Between November 2019 and January 2020, the Ministry of Foreign Affairs and International Cooperation declared at least 560 Cambodian passports “null and void.” Many of the revoked passports belonged to former CNRP members and activists who fled the country to avoid government persecution. Such measure raises serious concern about arbitrarily depriving opposition-affiliated individuals from the right to re-enter their own country and/or putting these individuals in further jeopardy abroad.

#### Questions

- Is there a review process that relevant authorities apply before revoking a citizen’s passport? If so, what does the review process entail?
- How does the government reconcile the revocation of passports belonging to opposition-affiliated individuals between November 2019 and January 2020 with Article 12 of the ICCPR?
- What redress mechanisms or appeal procedures are available for individuals who have had their passport revoked to have their passport reinstated in order to be able to re-enter Cambodia in accordance with Article 12 of the ICCPR?

### **ICCPR Article 14 – Fair trial rights denied by courts that lack independent and impartiality**

The rule of law is virtually absent from Cambodia’s justice system. Access to justice is undermined by a lack of independent and impartial judges, pervasive political interference in high-profile cases, and an entrenched system of corruption. There is a widespread lack of trust in the judiciary. Three laws on the judiciary — the Law on the Organization and Functioning of the Courts; the Law on the Organization and Functioning of the Supreme Council of the Magistracy; and the Law on the Status of Judges and Prosecutors — essentially formalize the lack of independence from the executive. As a result, the judiciary is regularly used as a political tool to silence dissenting voices, including political opponents, journalists, human rights defenders, unionists, and activists. In criminal cases, most judges routinely resort to pre-trial detention of defendants, thus rejecting their constitutionally protected right to the presumption of innocence. In March 2020, pre-trial detainees accounted for nearly 75% of the Cambodia’s prison population.

#### Questions

- Could the government clarify the current status of the re-investigation into the espionage charges against former *RFA* reporters Uon Chhin and Yeang Sothearin?

- What measures is the government taking to ensure that pre-trial detention is not routinely used by judicial authorities against defendants?
- What steps is the government taking to amend the three laws on the judiciary in order to ensure the independence and impartiality of judges?

### **ICCPR Article 19 – Cambodian laws criminalize the right to freedom of opinion and expression**

A number of broad and vaguely worded legal provisions give Cambodian authorities unreasonable discretion to bring criminal charges against individuals for their legitimate exercise of the right to freedom of opinion and expression. These laws include: the 2018 amendments to the Cambodian Constitution; the lèse-majesté clause in the Criminal Code; the Law on the Press; the Electoral Law; the Telecommunications Law; the Law on Associations and Non-Governmental Organizations (LANGO); the Law on Political Parties; the Law on Trade Unions; and *Prakas* No 170 on Publication Controls of Website and Social Media Processing via internet in the Kingdom of Cambodia. Independent media remains shuttered. The recent Law on the Management of the Nation in a State of Emergency will further criminalize freedom of expression and sharing of information, both online and offline. In April 2020, Sovann Rithy, a popular online journalist, was arrested, charged with incitement, and detained for quoting *verbatim* a speech by Prime Minister Hun Sen.

#### Question

- What concrete steps has the government taken to bring its domestic legislation into compliance with Article 19 of the ICCPR?

### **ICCPR Articles 21 and 22 – No freedom of peaceful assembly and association**

The Cambodian government has failed to take effective steps to ensure a free and open civic space. Assemblies are often arbitrarily denied, heavily monitored, or met with unnecessary and disproportionate force by authorities and police. In January 2019, a man was shot in the lower back and paralyzed during a land protest that turned violent in Preah Sihanouk Province. In February 2020, the conservation group Prey Lang Community Network (PLCN) was blocked from holding their annual tree blessing ceremony after authorities claimed the group was not properly registered and failed to obtain permission for the event. In April 2020, the Ministry of Environment threatened the group with legal action if they continued their forest conservation efforts. Cambodia's Law on Associations and Non-Governmental Organizations (LANGO) imposes restrictions on the registration of associations and their activities. The Law on Trade Unions fails to extend protections to all workers and civil servants. Both laws have mechanisms to enforce arbitrary suspension or dissolution, and both laws have been used as a pretext to unlawfully interfere with CSO and union activities. As of February 2020, the Ministry of Interior had held at least four forums that failed to result in any amendments that would bring LANGO into line with relevant international standards. Trade unionists remain threatened with violence or dismissal. In February 2020, three unknown assailants beat Soeurng Sros, Vice President of W&D garment factory union, during his lunch break causing lacerations to his head that required stitches.

#### Questions

- What measures is the government planning to take to amend LANGO and bring it into line with Article 22 of the ICCPR?

- What measures is the government taking to ensure protections for unionists against undue dismissal or violence?

#### **ICCPR Article 24 – Children in prison are not receiving protection from the state**

In Cambodia, children can live with their mother in prison until the age of three. This provision is often implemented at the discretion of the Prison Director and, as a result, it is not uncommon for children to remain behind bars beyond the age of three. Detainees, who give birth in a hospital, are routinely forced to return to prison the next day if they cannot afford to pay a bribe to prison officials. Newborn babies are often forced to sleep on prison cell floors. Conditions for children in prisons are poor, due to severe overcrowding and a lack of appropriate nutrition and healthcare. As of January 2020, 103 children were living with their mothers behind bars. In January 2020, a five-month-old baby incarcerated at Correctional Centre 2 died a week after she sustained a fractured femur. Some child prisoners are housed in adult jails and prisons due to overcrowding and lack of adequate facilities.

#### **Questions**

- What measures does the government take to ensure that children behind bars receive adequate nutrition and healthcare?
- What measures does the government take to ensure all children are fully vaccinated and have their births registered?
- What measures is the government taking to grant bail and/or expedite trial hearings for pregnant women or incarcerated mothers with children?
- What measures is the government taking to ensure that child prisoners are not incarcerated in adult prisons?

#### **ICCPR Article 25 – Dissolution of the only viable opposition disenfranchises millions and violates the right to participation in public affairs**

Since 2017, Cambodia has taken a series of repressive actions against the now-dissolved main opposition party, the CNRP, and curtailed political participation and electoral rights in the country. These actions included: repressive amendments to the Law on Political Parties; the arrest of CNRP President Kem Sokha, whose treason trial is ongoing; the court-ordered dissolution of the CNRP; and the redistribution of commune seats won by the CNRP to unelected members of the ruling CPP. Following non-competitive national elections in 2018, Cambodia became a *de facto* one-party state, where representatives from the ruling CPP occupy all 125 seats in the National Assembly.

#### **Questions**

- Will the government reinstate 118 banned senior CNRP officials and 5,007 commune councilors who were undemocratically stripped of their positions?
- What measures does the government plan to undertake to bring the Law on Political Parties into line with international standards?
- What measure does the government plan to undertake to ensure that the next general election will be a genuine one, in accordance with Article 25 of the ICCPR?