



FIDH – International Federation for Human Rights

United Nations Committee on Economic, Social, and Cultural Rights (CESCR)

**68th Session
(Pre-Sessional Working Group)**

Submission for the adoption of the List of Issues

CAMBODIA

18 December 2020

Article 1(1) – Dissolution of the only viable opposition disenfranchises millions and violates the rights of individuals to freely determine their political status

The opposition Cambodia National Rescue Party (CNRP) was dissolved in 2017 at the hands of the Supreme Court at the request of the Interior Ministry. The dissolution was made possible by 2017 amendments to the Law on Political Parties (LPP), which allowed for wide discretion to dissolve political parties or ban party leaders from political activities indefinitely without due process. The CNRP’s co-founders, Sam Rainsy and Kem Sokha, along with more than 100 veteran politicians were barred from politics. Over 5,000 opposition officials who were elected at the local level in 2017 were stripped of their positions, which were then given to the ruling Cambodian People’s Party (CPP) members. Many have faced harassment or spurious legal charges over their alleged continued support for the now-dissolved party. The government is pursuing two mass show trials, which will be held 14 January and 4 March 2021. These trials involve over 130 activists, leaders, and former lawmakers. Virtually all of the defendants have been charged with “plotting” under Article 453 and “incitement to commit felony” under Article 495 of the Criminal Code, charges which are punishable by up to 12 years in prison.

Question

- Will the government reinstate 118 banned senior CNRP officials and 5,007 commune councilors who were undemocratically stripped of their elected positions?

Article 6 – Proposed law arbitrarily interferes with the right to work

In July 2020, a draft Law on Public Order was leaked. The text contained vaguely worded provisions that criminalize many legitimate occupational activities. The draft law would regulate and criminalize certain business activities which are mainly carried out by the country’s poor, the working classes, and those in the informal sector.¹ Under the draft law, it would be

¹ <https://www.amnesty.org/en/latest/news/2020/08/cambodia-repressive-draft-public-order-law-targets-the-most-vulnerable-in-society/>

prohibited for citizens to sell roadside goods,² fix automobiles on the pavement³, or sell “unhygienic food.”⁴ It would also be illegal to visibly hang or dry clothes⁵, which many laundry shops commonly do. Begging⁶ would also be illegal, punishing poor citizens who may not have any other economic opportunity.

Questions

- Please detail how the draft Law on Public Order is consistent with Article 6 of the Covenant.
- Please detail what revisions have been made to the draft Law on Public Order in order to bring it into line with the government’s obligations under the Covenant.

Article 7 – Vulnerable groups continue to experience unjust and unfavorable conditions at work

The 2018 Law on Minimum Wage formalized a new minimum wage determination process and instituted a national minimum wage of US\$190 across formal labor sectors covered by the Labor Law⁷. While the minimum wage applies to the garment and footwear sector, Cambodia’s largest source of employment, it excludes vulnerable informal sector workers.

In May 2019 the Ministry of Labor moved to authorize the unrestricted use of short-term employment contracts. The Labor Law prohibits use of fixed-duration contracts for periods over two years. In May 2019, the Ministry of Labor issued an instruction, which allows the use of fixed-duration contracts for up to four continuous years. These short-term contracts, which often span just two months, plague Cambodia’s garment and footwear industry, discouraging the creation of trade unions and dissolving worker’ protections. The indefinite use of fixed-duration contracts permanently strips workers of some of their rights even if they have fulfilled the same role for years. These contracts are often discontinued without cause or notice in response to workers’ union activities. They also allow employers to sidestep certain obligations for female workers, such as seniority benefits and paid maternity leave, by discontinuing pregnant workers’ contracts.

Construction workers continue to work in dangerous and sometimes lethal conditions. They mostly remain excluded from basic protections. In June 2019, 28 construction workers and family members were killed when a building under construction collapsed in Sihanoukville. Six months later, in January 2020, another building crumbled in Kep, killing 36 workers and their relatives—including six children.

Fewer than one in 10 workers are believed to receive insurance from their employers. Less than 5% are registered with the National Social Security Fund (NSSF), leaving thousands of construction workers across the country in danger of poverty, disability, and death.

² Article 11(c) – Draft Law on Public Order

³ Article 11(j) – Draft Law on Public Order

⁴ Article 12(a) – Draft Law on Public Order

⁵ Article 11(a) – Draft Law on Public Order

⁶ Article 37(i) – Draft Law on Public Order

⁷ Article 2 – Law on Minimum Wage

Female workers, including entertainment workers, sex workers, and those on short-term contracts in garment and footwear factories, continue to endure gender-based violence at work. A 2019 survey of garment workers⁸ found that:

- 48% of respondents self-identified as targets of gender-based violence at work.
- 87% experienced verbal harassment or unwanted touching
- 46% had a supervisor or manager who force them to become their mistress or “second wife” with the understanding they would have to have sex whenever asked in order to improve working conditions.
- 28% stated that someone at work had forced them to have sex in order to extend their contract, fix their sewing machine or obtain a bonus.

Questions

- What measures is the government considering to ensure that fixed-duration contracts are not indefinitely and improperly used? How are the rights of those on fixed-duration contracts protected?
- What steps has the government undertaken to revise national legislation in order to decriminalize sex work?

Article 8 – Criminal charges, intimidation, and surveillance violate the rights of trade unionists

The government uses bureaucratic legislative processes and the threat of criminal charges to restrict the right to form and join trade unions as well as the right of trade unions to function freely.

The 2016 Law on Trade Unions imposes an excessive registration process which deters worker organization. The mandatory registration form—which is nearly a dozen pages—requires extensive information, including family information of executive officers, union leaders’ biographies, social security ID and labor book registration information. Pro-worker unions routinely face rejection of their applications, often on flimsy grounds such as spelling errors. Unions report that registration processes have sometimes taken more than a year, stifling their ability to represent their members.

In April 2020, local union president Soy Sros was arrested and charged for a Facebook post that exposed the termination of workers’ contracts, including that of a pregnant worker, by the Superl Cambodia Co. Ltd. Factory.⁹ While Sros was released on bail in late May,¹⁰ the charges against her have not been dropped.

In late July 2020, Cambodian Confederation of Unions president Rong Chhun was arrested by police after the government’s Cambodia Border Affairs Committee publicly called on authorities to take action against the unionist for his comments following a visit to the Cambodia-Vietnam border. Charged with incitement, and currently in pretrial detention, Chhun has been repeatedly denied bail. Chhun’s criminal trial, originally scheduled for 2 December 2020, has been delayed due to COVID-19. In early July before his arrest, Chhun publicly supported thousands of Violet

⁸ <https://www.solidaritycenter.org/wp-content/uploads/2019/06/Gender.Cambodia-report.6.19.pdf>

⁹ <https://cleanclothes.org/news/2020/trade-union-leader-spends-55-days-in-jail-for-facebook-post-brands-do-nothing>

¹⁰ <http://www.industrialunion.org/cambodian-unionist-released-from-jail>

Apparel (Cambodia) Co., Ltd. garment workers in their struggle to secure unpaid benefits after the factory closed operations¹¹.

COVID-19 has also provided an excuse for gross violations of labor rights. Unions have accused a number of garment factories of targeting dozens of unionists for termination, using wider layoffs as a cover for a purge of union representatives.

Questions

- When will the government conclude its civil and criminal cases against trade union leaders?
- What measures does the government envision to amend the Law on Trade Unions to bring it into line with international standards?

Article 9 – Not everyone has the right to social security

A vast majority of vulnerable workers earn their living in the informal sector. The National Social Security Fund (NSSF) only covers formal workers whose employers have registered the company and its employees with the NSSF. Workers in hazardous and dangerous industries, such as construction, risk injury, disability or death without NSSF coverage.

Cambodia's ID Poor program, launched in four communes in 2007 and expanded nationwide in 2019, is intended to provide cash subsidies and healthcare access to the elderly and vulnerable workers, such as rubbish scavengers, tuk tuk drivers, and street sellers. Under the "COVID-19 Cash Transfer Program for ID Poor Households,"¹² which began in June 2020, vulnerable households affected by COVID-19 should receive a monthly subsidy of up to U\$30 per person¹³. However, a July 2020 research report suggested that less than 20% of respondents had access to the ID Poor Program.¹⁴

Question

- What measures are being considered to provide workers from the informal sector with social safety net services?

Article 10 – Domestic violence and nonconsensual marriages disrupts protection of the family

In cases involving domestic and intimate partner violence, women are often pushed toward mediation in accordance with the Law on the Prevention of Domestic Violence and the Protection of Victims. This makes it more difficult for victims to leave abusive relationships or obtain a divorce.¹⁵ When rapes occur, marriage between a victim and a suspect, or a known perpetrator, is seen by some as an acceptable outcome to solve the problem of a girl's perceived suitability for marriage.¹⁶

¹¹ <https://vodenglish.news/labor-ministry-warns-union-leader-over-incitement-of-workers/>

¹² <https://www.unicef.org/cambodia/stories/covid-19-cash-transfer-programme-helping-families-most-basic-needs#:~:text=UNICEF%20has%20been%20supporting%20the,560%2C000%20households%20living%20in%20poverty>

¹³ <https://www.voacambodia.com/a/govt-launches-new-cash-transfer-scheme-to-assist-id-poor-families-during-covid-19/5477022.html>

¹⁴ Pg. 23 at https://www.licadho-cambodia.org/reports/files/231Smoke%20on%20the%20Water_Eng_Final..pdf

¹⁵ https://wpmcambodia.org/wp-content/uploads/2020/12/Preserving-Harmony-or-Preventing-Justice_EN_2020.pdf

¹⁶ Pg. 13 at <https://www.licadho-cambodia.org/reports/files/210LICADHOREport-GettingAwayWithRape2015English.pdf>

Anti-trafficking organizations have reported that the economic impact of coronavirus on Cambodia's garment, hospitality, and tourism sectors has led to greater unemployment in these sectors and fueled a spike in bride trafficking to China.¹⁷ More young women and girls are going abroad to support their families, and trafficked women are targeted by criminal networks promising lucrative jobs, only to be sold as brides—some to abusive men.

Questions

- What steps is the government taking to amend the Law on the Prevention of Domestic Violence and the Protection of Victims to remove provisions that normalize mediation of cases involving misdemeanors?
- What efforts have been made to vigorously investigate and prosecute trafficking offenses, and convict and adequately penalize sex and labor traffickers, including complicit officials?

Articles 11, 12, and 13 – Sub-standard prison conditions violate the rights to food, adequate housing, health, and education

Cambodia's prison system is characterized by severe overcrowding, squalid conditions, and widespread corruption, with levels of pre-trial detention particularly high. For most inmates, cash from family or friends dictates conditions of detention, treatment, family visits and access to basic needs such as food, water, daylight, and fresh air. Those without money are in the worst situation, often sleeping on bare concrete floors, forced into the lowliest jobs, and in some cases, denied out-of cell time.

As of November 2020, there were a total of 32,514 prisoners incarcerated in 18 of the 28 of prisons in Cambodia. Of those incarcerated, 1,497 were children. While they are in prison, their education is interrupted and relationships with their families and communities are damaged.¹⁸ Child prisoners have reported to the Cambodian League for the Promotion and Defense of Human Rights (LICADHO) that they are not allowed to access training classes or the library to borrow reading materials unless they pay bribes to prison officials. Child prisoners who do not have money for bribes are then unable to access classes and materials.

Pregnant women and mothers imprisoned alongside their infant children face harrowing prison conditions that severely impact their physical and mental well-being, including the health of their children.¹⁹ Women often suffer from little to no pre-natal checks and a complete lack of post-natal care including lack of access to clean water and sanitary products. Mothers reported that their children received inadequate food from the prison, and that they received no additional food when breastfeeding. On returning to prison, mothers and newborn babies routinely sleep on crowded cell floors. Prisons do not provide nappies, clothes or hygiene materials for babies. Medical needs for mothers and children are routinely neglected in violation of international standards²⁰ and Cambodia's own Prison Law, which states that infants held with their mothers must be provided with food, clothing, and healthcare.

¹⁷ <https://www.reuters.com/article/cambodia-china-trafficking/pandemic-seen-fuelling-cambodian-bride-trafficking-to-china-idU5L8N2IQ2MF>

¹⁸ Pg. 5 at https://www.licadho-cambodia.org/reports/files/227Time%20for%20Bail_Ending%20Needless%20Mass%20Detention_fin.pdf

¹⁹ Pg. 50-54 at <https://www.amnesty.org/download/Documents/ASA2322202020ENGLISH.PDF>

²⁰ United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)

In November 2020, prison officials including General Department of Prisons Director-General Chhem Savuth tested positive for COVID-19. These officials visited prisons at a time when they might have already contracted the virus, resulting in significant risk of transmission to prisoners. However, while the government tested more than 250 prison officials at Correctional Centre 1 (CC1), it did not take proactive steps to test prisoners for COVID-19.²¹

Questions

- Please provide regular, up-to-date statistics regarding the imprisonment and release of detainees.
- Besides measures to clear a backlog of court cases, what other concrete steps is the government taking to reduce overcrowding in prisons?
- What specific efforts is the government making to expedite trials grant bail for vulnerable prisoners, such as pregnant women, mothers with young children, and children?
- What steps has the government taken to implement a comprehensive education program for children of school age incarcerated with mothers?
- What measures is the government taking to ensure child prisoners have access training classes and the library?
- What measures does the government take to ensure that children behind bars receive adequate nutrition and healthcare?
- What steps is the government taking to conduct comprehensive COVID-19 testing and contact tracing at all prisons that had potential exposure to anyone who has tested positive?

Article 10 – Bonded labor harms children leading to economic and social exploitation

Child labor in brick kilns continues to be a systemic problem despite government assurance of inspections and preventative measures. In July 2019, a survey found that almost 4,000 minors lived in compounds of 464 operational kilns in the country, and that 638 children worked in them.²² Families, often indebted to microfinance lenders [See Articles 11 and 13 below], enter debt bondage with kiln owners who pay them based on their productivity. Children contribute by working in the kilns alongside their parents.²³ In 2020, Cambodia ranked 28th in the world - and first in Southeast Asia - for the use of underage workers.²⁴

Questions

- What meaningful steps has the government taken to eliminate child labor in brick factories?
- Please provide statistics and information concerning legal actions taken against kiln owners who employed children.

²¹ <https://www.amnesty.org/download/Documents/ASA2334422020ENGLISH.pdf>

²² <https://www.voanews.com/east-asia-pacific/100s-children-cambodia-work-brick-factories-report-finds>

²³ <https://southeastasiaglobe.com/cambodian-brick-kiln-child-labour-continues/>

²⁴ <https://southeastasiaglobe.com/child-labour-index-southeast-asia/>

Articles 11 and 13 – Microfinance loans, COVID-19 negatively impact the rights to an adequate standard of living and education

In the last two decades, land grabbing and forced evictions have affected around half a million people across Cambodia. These land grabs have left countless communities struggling to survive, locked in ongoing land disputes, or the lingering conflicts connected to evictions that regularly flare up. In 2019 alone, more than 5,000 families were documented as newly impacted by land conflicts. So far in 2020, more than 2,325 additional families have been similarly affected.

These communities' struggles often set them against powerful business tycoons, backed by state and law enforcement officials sometimes acting as private security for powerful corporations. Many people struggling to keep their land face intense intimidation as well as widespread judicial harassment and arbitrary imprisonment. Following the 2018 general election, authorities stepped up surveillance of land activists and have continued to physically obstruct communities from protesting in their provinces. Despite widespread job loss due to the COVID-19 pandemic, local land rights organizations have continued to witness forced evictions of poor communities, leaving them vulnerable to illness and deepening poverty amid the economic crisis.

Rising over-indebtedness among poor and rural Cambodians—much of it in the form of micro-loans collateralized with borrowers' land titles—has raised fears that tens of thousands of people will be forced to sell off land that they depend upon for their livelihood in order to repay increasingly unmanageable debts.²⁵ At the end of 2019, more than 2.6 million Cambodians held more than US\$10 billion in microloans with borrowers holding an average debt of US\$3,804—the highest average microloan size in the world, and far exceeds the annual per capita income. A speech in late June 2020 by Prime Minister Hun Sen urging financial institutions to seize the property of borrowers refusing to repay their debts reinforces concerns that COVID-19 could drive widespread dispossession as hard-hit families are pressured into selling their land.²⁶

A September 2020 report highlighted the negative impacts that COVID-19 has had on farmers, sex workers, garment workers, and students.²⁷ Mass cancellations of orders within the garment and footwear industries forced hundreds of factories to suspend operations and caused over 100,000 workers to lose their jobs. Mass layoffs and the return of tens of thousands of Cambodian migrant workers from Thailand placed additional burdens on already struggling families, including water shortages, growing indebtedness, and disrupted access to food. Nearly 60% of farmers surveyed in the report said they did not have enough to eat. Over 70% of farmers were already in debt before the pandemic, and 29% took out new microfinance loans, sometimes to repay another institution. Half of the sex workers surveyed reported health problems and 95% reported feeling extremely scared because they do not have the necessary documents to access social protection and government services or support.

Microloans also had a negative impact on the enjoyment of the right to education. Research showed that borrowers took numerous actions to repay their microloan debt, including taking

²⁵ <https://www.hrw.org/news/2020/12/14/world-bank-investigate-cambodias-micro-loans>

²⁶ <https://asia.nikkei.com/Politics/Hun-Sen-to-Cambodian-banks-Seize-property-if-borrowers-won-t-pay>

²⁷ <https://focusweb.org/new-report-surveys-covid-impact-on-vulnerable-cambodians/>

children out from schools in order to save money and have another income earner to help repay the debts.²⁸

Questions

- What measures is the government taking to end the misuse of the judiciary as a weapon against land activists and grassroots activism?
- Please provide information and statistics about prosecutions of state actors involved in physically assaulting or using lethal violence against villagers protesting land rights.
- What measures is the government considering to prevent financial institutions from requiring land titles as collateral for all new microloans and loans targeting poor Cambodians?
- Please clarify whether the government is considering to undertake measures, such as loan forgiveness or suspend loan repayments, to provide immediate debt relief for microfinance borrowers.
- Please clarify whether the government plans to put a price cap on essential goods and services, such as water, food, and electricity.

Article 15 – Censorship violates the right to take part in cultural life

The authorities' use of incitement charges to take action against artists who used forms of cultural expression is inconsistent with Cambodia's obligations under Article 15.

In May 2019, rapper Chhun Dymey was pressured by Siem Reap authorities to delete his song "This Society", after it went viral and was shared on social media platforms, including opposition leader Sam Rainsy's Facebook page and YouTube channel. Dymey's song touched on a range of social and political issues that officials believed were critical of the government.²⁹

In September 2020, police arrested two young hip-hop artists for their lyrical content. Kea Sokun, 22, was arrested in Siem Reap and charged with incitement in connection with a four-month-old song "Dey Khmer"—Khmer Land. The song, which had more than 1.5 million views on YouTube at the time of Sokun's arrest, spoke about corruption and inequality in Cambodian society as well as fears of loss of sovereign land.³⁰ Long Putheara was arrested in Siem Reap after releasing songs suggesting that Prime Minister Hun Sen's lack of leadership had led to the country's economic decline.³¹ Both artists were charged with incitement and stood trial on 26 November. The court's judgment is expected on 22 December.³²

Question

- Please clarify how the use of incitement charges against artists who use forms of cultural expression is consistent with Article 15 of the Covenant.

²⁸ Pg. 6 at https://www.licadho-cambodia.org/reports/files/230Worked%20to%20Debt%20Joint%20Briefing%20Paper_ENG_30062020.pdf

²⁹ <https://www.scmp.com/lifestyle/entertainment/article/3011667/i-dont-have-choice-hip-hop-artist-cambodia-deletes-song>

³⁰ <https://www.vice.com/en/article/m7jdjy/cambodian-rapper-among-those-arrested-in-crackdown-on-youth-critics>

³¹ <https://www.rfa.org/english/news/cambodia/rapper-09152020145758.html>

³² <https://vodenglish.news/court-reviews-jailed-rappers-nationalist-bravery-to-stand-up-lyrics/>