



CAMBODIA

Compliance with the International Covenant on Economic, Social and Cultural Rights Alternative report related to restrictions on civil society

Submitted by The Advocates for Human Rights,
a non-governmental organization in special consultative status since 1996,

with **The Committee for Paris Peace Accords on Cambodia, Minnesota (CPPAC-MN)**

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Founded in 1983, **The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. Since 1990, The Advocates has collaborated with the Cambodian diaspora in Minnesota on projects to promote human rights and accountability in Cambodia.

The Committee for Paris Peace Accords on Cambodia, Minnesota, (CPPAC -MN) is created to promote, monitor, and advocate for the successful implementation of the Agreements and the Declaration of the 1991 Paris Peace Accords on Cambodia.

EXECUTIVE SUMMARY

1. Since Cambodia's initial report to the UN Committee on Economic, Social and Cultural Rights (Committee), the country's human rights situation has worsened significantly. Under the leadership of Prime Minister Hun Sen and his Cambodian People's Party (CPP), the government continues to infringe on the basic rights of political and intellectual dissidents. The July 2018 elections included no organized opposition to challenge the CPP after a November 2017 Supreme Court decision dissolved the leading political opposition party, the Cambodian National Rescue Party (CNRP).¹ Indeed, Sen's decades-long rule may continue indefinitely as he continues to consolidate power and deny perceived opponents their rights to assembly and speech. The government has also cracked down on the functions of human rights groups and independent media organizations, passing restrictive laws and issuing fabricated charges.² In addition, detention conditions in the country remain dangerous as overcrowding, infrastructure problems, and lengthy pretrial detention are commonplace.³
2. The Advocates has received direct information about the human rights violations detailed in this stakeholder report from Cambodian civil society organizations, human rights defenders, and diaspora members in the United States. Credible information from secondary sources supplements their first-hand accounts. This stakeholder report addresses Cambodia's failure to comply with its international human rights obligations and makes recommendations to address and improve the human rights situation in Cambodia.

Cambodia fails to uphold its obligations under the International Covenant for Economic, Social and Cultural Rights (ICESCR)

I. Restrictions on Civil Society Organizations (List of Issues para. 3)

3. In its List of Issues, the Committee requested that the government provide information on steps taken to ensure that civil society organizations, in particular those working on economic, social and cultural rights, are able to operate freely and without undue restrictions.⁴ The Committee also asked Cambodia to explain how the registration procedures under the 2015 Law on Associations and Non-governmental Organizations and the requirement that civil society organizations give advance notification of certain activities may affect their capacity to operate freely.⁵ The Committee also asked the government to "respond to reports of extrajudicial killings, imprisonment, harassment and intimidation of human rights defenders, particularly those working on economic, social and cultural rights, including on land and environmental issues, and indicate the number of

¹Human Rights Watch, *Cambodia: Supreme Court Dissolves Democracy*, Nov. 17, 2017, <https://www.hrw.org/news/2017/11/17/cambodia-supreme-court-dissolves-democracy> (last visited 11 July 2018).

² Human Rights Watch, *Cambodia: Rights Crackdown Intensifies*, Jan. 12, 2023, <https://www.hrw.org/news/2023/01/12/cambodia-rights-crackdown-intensifies> (last visited 12 January 2023).

³UN Human Rights Council, *Report of the Special Rapporteur on the situation of human rights in Cambodia*, July 27, 2017, A/HRC/36/61, available at: <http://www.refworld.org/docid/59b811ce4.html> (last visited 10 July 2018).

⁴ Committee on Economic, Social and Cultural Rights, *List of Issues in Relation to the second periodic report of Cambodia*, 12 April 2021, U.N. Doc. E/C.12/KHM/Q/2, ¶3.

⁵ Committee on Economic, Social and Cultural Rights, *List of Issues in Relation to the second periodic report of Cambodia*, 12 April 2021, U.N. Doc. E/C.12/KHM/Q/2, ¶3.

such cases that have been investigated and the alleged perpetrators prosecuted, the remedial measures available to victims and the penalties imposed on perpetrator.”⁶

4. The government failed to respond adequately in its Replies, instead stating that “the RGC has taken steps, including establishing national and sub-national mechanisms, to deal with anything inactive and abnormal”⁷ and “in no way do the registration procedures under this law [Law on Associations and NGOs] affect their capacity to operate”.⁸ In its Replies, the government provided information about investigation and prosecution of several incidents of extrajudicial killings but failed to provide data on extrajudicial killings, imprisonment, harassment and intimidation of human rights defenders.⁹ The government also failed to address the widespread restrictions on civil society organizations in Cambodia, stating, “In the past, some land and environmental activists, and civil society actors were sentenced to prison and fined according to the law because they had used their professions as a means to commit crimes.”¹⁰
 - A. *Legal Framework, including 2015 Law on Associations and Non-governmental Organizations*
5. After several years of delaying the adoption of the Law on Associations and Non-governmental Organizations, in 2015 the Cambodian government enacted the law to restrict the activities of civil society organizations engaging in human rights work. The Law specifically contains a provision that requires domestic and foreign non-governmental organizations to maintain their “neutrality” toward political parties in Cambodia.¹¹ In addition, the law’s vaguely worded guidelines leave many Cambodian organizations unsure how to comply with the law and avoid arbitrary shut-down by the state.¹²
6. The 1993 Constitution of the Kingdom of Cambodia recognizes fundamental human rights, including: the right to political participation (Art. 35); the rights to strike and participate in peaceful demonstrations (Art. 37); the right to be free from physical abuse and arbitrary detention (Art. 38); the rights to freedom of expression, free press, and assembly (Art. 41); and the right to freedom of association and political party (Art 42).¹³ The Constitution calls for legislation to give effect to these rights.¹⁴ However, the rights to freedom of expression

⁶ Committee on Economic, Social and Cultural Rights, *List of Issues in Relation to the second periodic report of Cambodia*, 12 April 2021, U.N. Doc. E/C.12/KHM/Q/2, ¶3.

⁷ Committee on Economic, Social and Cultural Rights, *Replies of Cambodia to the list of issues in relation to its second periodic report*, 6 October 2022, U.N. Doc. E/C.12/KHM/RQ/23, ¶5.

⁸ Committee on Economic, Social and Cultural Rights, *Replies of Cambodia to the list of issues in relation to its second periodic report*, 6 October 2022, U.N. Doc. E/C.12/KHM/RQ/23, ¶6.

⁹ Committee on Economic, Social and Cultural Rights, *Replies of Cambodia to the list of issues in relation to its second periodic report*, 6 October 2022, U.N. Doc. E/C.12/KHM/RQ/23, ¶7-9.

¹⁰ Committee on Economic, Social and Cultural Rights, *Replies of Cambodia to the list of issues in relation to its second periodic report*, 6 October 2022, U.N. Doc. E/C.12/KHM/RQ/23, ¶8.

¹¹ LAW ON ASSOCIATIONS AND NON-GOVERNMENTAL ORGANIZATIONS art. 24 (Cambodia). Available at: http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/Unofficial_Translation_of_5th_LANGO_ENG.pdf.

¹² Janelle Retka, *Two Years on, NGO Law Remains ‘Ambiguous,’* Cambodia Daily, July 13, 2017, <https://www.cambodiadaily.com/news/two-years-on-ngo-law-remains-ambiguous-132456/>.

¹³ THE CONSTITUTION OF THE KINGDOM OF CAMBODIA arts. 35, 37, 38, 41, and 42 (Cambodia). Available at: http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/Constitution_ENG.pdf.

¹⁴ For example: “The right to strike and to non-violent demonstration shall be implemented in the framework of a law.” (Art. 37); “The regime of the media shall be determined by law.” (Art. 41); “Khmer Citizens shall have the right to establish associations and political parties. These rights shall be determined by law.” (Art. 42).

and assembly may be limited when they affect “national security.”¹⁵ This vaguely worded exception can constrain the exercise of both rights.

7. Since the Committee’s last review of Cambodia, the government has also continued to pass legislation and amend laws that contain provisions restricting freedom of expression. Non-governmental organizations and civil society groups are prohibited from criticizing political parties during the election campaign period and barred from participating in the process of national and local elections.¹⁶ In 2016, the government passed the Law on Telecommunications, which authorizes government monitoring of telecommunications without the consent of communicators. Specifically, the law includes penalties of up to 15 years in prison for the use of telecommunications equipment to cause “national insecurity.”¹⁷ According to the Cambodian League for the Promotion and Defense of Human Rights (LICADHO), the government has used the law to restrict political freedom by, for example, arresting perceived opposition members for their online expression.¹⁸
8. On 14 February 2018, the National Assembly approved draft amendments to the Constitution.¹⁹ Five proposed amendments affect Article 34 (enabling suspensions or withholding of the right to vote), Article 42 (limiting the right to freedom of association by requiring political parties to “put the interest of the nation first”), Article 49 (restricting freedom of association and other political rights by prohibiting people from engaging in “any activities” that directly or indirectly “affect the interests” of Cambodia or its citizens), Article 53 (prohibiting “any form” of foreign interference in internal affairs in Cambodia), and Article 118 (removing secretaries of states from the Council of Ministers (Article 118)).²⁰
9. The National Assembly also amended the Penal Code in 2018 that made “insulting the King” (also known as lèse-majesté) a new crime, punished by up to 5-year imprisonment and a fine of up to US\$2,500 for individuals, and \$12,500 for legal entities (Article 437).²¹

¹⁵THE CONSTITUTION OF THE KINGDOM OF CAMBODIA art. 41 (Cambodia). Available at: http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/Constitution_ENG.pdf.

¹⁶Cambodian League for the Promotion and Defense of Human Rights, *The Dangers of Dissent: Attacks on Human Rights Defenders*, (Phnom Penh: LICADHO, July 2017), 12. Also available online at [https://www.licadho-cambodia.org/reports/files/2232017_HRD_ENG\[finalWeb\].pdf](https://www.licadho-cambodia.org/reports/files/2232017_HRD_ENG[finalWeb].pdf).

¹⁷ LAW ON TELECOMMUNICATIONS art. 80 (Cambodia).

¹⁸Cambodian League for the Promotion and Defense of Human Rights, *The Dangers of Dissent: Attacks on Human Rights Defenders*, (Phnom Penh: LICADHO, July 2017), 6. Also available online at [https://www.licadho-cambodia.org/reports/files/2232017_HRD_ENG\[finalWeb\].pdf](https://www.licadho-cambodia.org/reports/files/2232017_HRD_ENG[finalWeb].pdf).

¹⁹Human Rights Watch, *Cambodia: Reject Draft Amendments to the Constitution and Criminal Code*, Feb. 21, 2018, <https://www.hrw.org/news/2018/02/21/cambodia-reject-draft-amendments-constitution-and-criminal-code> (last visited July 11, 2018).

²⁰Human Rights Watch, *Cambodia: Reject Draft Amendments to the Constitution and Criminal Code*, Feb. 21, 2018, <https://www.hrw.org/news/2018/02/21/cambodia-reject-draft-amendments-constitution-and-criminal-code> (last visited July 11, 2018).

²¹Human Rights Watch, *Cambodia: Reject Draft Amendments to the Constitution and Criminal Code*, Feb. 21, 2018, <https://www.hrw.org/news/2018/02/21/cambodia-reject-draft-amendments-constitution-and-criminal-code> (last visited July 11, 2018).

10. Because these amendments are vague, the government could use them to justify “wide-ranging sanctions” punishing the legitimate exercise of fundamental political rights.²²
- B. *Human Rights Violations Against Civil Society Organizations and Human Rights Defenders*
11. Cambodian NGOs and human rights activists continue to express concern to The Advocates about government actions targeting their work and limiting their ability to operate freely and without undue restrictions. NGO staff members have been arrested or physically attacked. On October 10, 2016, Am Sam Ath, Monitoring Manager of LICADHO, was attacked by para-police while overseeing a nonviolent World Habitat Day march, and he and another man were left injured and bloodied. No charges were brought against the assailants; instead, both men were summoned to appear before a city prosecutor as suspects of “intentional violence,” an offence that carries 1 to 3 years of jail time.²³ In September 2017, authorities arrested Dem Kundy and Hun Vannak of Mother Nature, another NGO, for incitement to commit a felony and for violation of privacy for filming sand-dredging operations in the Koh Kong Province.²⁴ And in November 2017, Prime Minister Hun Sen announced his intent to dissolve the Cambodian Centre for Human Rights (CCHR), founded by CNRP leader Kem Sokha.²⁵
12. According to LICADHO, in April 2017, authorities used the pretext of allegations of bribery to jail and charge five human rights defenders. Ny Sokha, Lim Mony, Nay Vanda, and Yi Soksan from the Cambodian Human Rights and Development Association (ADHOC), and National Election Committee (NEC) deputy secretary-general Ny Chakrya were interrogated and detained after an investigation by the government’s Anti-Corruption Unit into opposition leader Kem Sokha. After more than a year in detention, the five were released in June 2017 and await trial on charges condemned by local and international groups, including the United Nations.
13. On 7 February 2018, the Supreme Court upheld the conviction and prison sentence of human rights defender Tep Vanny, charged with “intentional violence with aggravating circumstances.”²⁶ Human rights groups report that the convictions against Vanny and other

²²Human Rights Watch, *Cambodia: Reject Draft Amendments to the Constitution and Criminal Code*, Feb. 21, 2018, <https://www.hrw.org/news/2018/02/21/cambodia-reject-draft-amendments-constitution-and-criminal-code> (last visited July 10, 2018).

²³Cambodian League for the Promotion and Defense of Human Rights, *The Dangers of Dissent: Attacks on Human Rights Defenders*, (Phnom Penh: LICADHO, July 2017), 6. Also available online at [https://www.licadho-cambodia.org/reports/files/2232017_HRD_ENG\[finalWeb\].pdf](https://www.licadho-cambodia.org/reports/files/2232017_HRD_ENG[finalWeb].pdf).

²⁴U.S. Department of State, *Country Reports on Human Rights Practices for 2017: Cambodia* (2018), <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2017&dliid=277071> (last visited 11 July 2018).

²⁵Liam Cochrane, *Cambodia’s Prime Minister Hun Sen Launches attack on Cambodian Centre for Human Rights*, ABC Australia, Nov. 27, 2017, <http://www.abc.net.au/news/2017-11-27/cambodia-leader-continues-anti-foreign-attack/9198018>.

²⁶Front Line Defenders, *Tep Vanny Sentenced to Prison*, Feb. 7, 2018, <https://www.frontlinedefenders.org/en/case/tep-vanny-sentenced-prison> (last visited July 11, 2018).

human rights defenders are unfounded, and illustrate Cambodia's compromised criminal justice system.²⁷

14. Since the 2018 elections, the government has continued to arrest and detain human rights defenders.²⁸ Rong Chhun was arrested on July 31, 2020 after taking up the case of farmers in Tbong Khmom province who had their land taken in connection with a border demarcation between Cambodia and Vietnam. Subsequently, several other human rights defenders who demonstrated against his detention were also arrested and detained.²⁹
15. Members of Cambodian civil society who are outside of the country have expressed to The Advocates their fear of arrest upon returning to Cambodia.³⁰
16. The Special Rapporteur on Cambodia notes that government officials have restricted the right to peaceful assembly, in particular refusing groups' the permission to organize gatherings or marches in public areas on public holidays such as International Women's Day and International Human Rights Day.³¹ Local officials told the Special Rapporteur that the permissions were denied because they would affect traffic, yet the Law on Peaceful Demonstration states that the risk of a traffic jam does not necessarily cause a risk to safety, security, or public order.
17. Governmental authorities also have prevented NGOs from organizing private human rights meetings or events because the NGOs failed to apply for and receive permits for the meetings.³² The law, however, does not require NGOs to seek out preapproval for these kinds of events. The government has also broken up meetings and trainings it viewed as hostile to the government.
18. Local NGOs recorded between 71 and 99 violations of the right to freedom of assembly between April 2018 and June 2019;³³ there were between 62 and 185 violations between April 2019 and July 2020, the majority of which related to land rights.³⁴ According to a survey by the Fundamental Freedoms Monitoring Project released in July 2020, only 40

²⁷Amnesty International, *Supreme Court verdict against Tep Vanny and other activists exposes Cambodia's courts of injustice*, Dec. 8, 2017, <https://www.amnesty.org/en/latest/news/2017/12/supreme-court-verdict-against-tep-vanny-and-other-activists-exposes-cambodias-courts-of-injustice/>. (last visited July 10, 2018).

²⁸UN Office of the High Commissioner on Human Rights, *Cambodia: UN experts alarmed by civil society crackdown, attacks on human rights defenders*, November 16, 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26505&LangID=E> (last visited January 29, 2022).

²⁹UN Office of the High Commissioner on Human Rights, *Cambodia: UN experts alarmed by civil society crackdown, attacks on human rights defenders*, November 15, 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26505&LangID=E> (last visited January 29, 2022).

³⁰Interviews conducted by The Advocates (2017–2018).

³¹Human Rights Council, Report of the Special Rapporteur on the situation of human rights in Cambodia, (27 Aug. 2019), U.N. DOC. A/HRC/42/60, ¶56.

³²U.S. Department of State, *Country Reports on Human Rights Practices for 2019: Cambodia*, (Washington, D.C.: United States Government Printing Office, 2020), 14.

³³Amnesty International, *Supreme Court verdict against Tep Vanny and other activists exposes Cambodia's courts of injustice*, Dec. 8, 2017, <https://www.amnesty.org/en/latest/news/2017/12/supreme-court-verdict-against-tep-vanny-and-other-activists-exposes-cambodias-courts-of-injustice/>. (last visited July 10, 2018).

³⁴U.S. Department of State, *Country Reports on Human Rights Practices for 2020: Cambodia*, (Washington, D.C.: United States Government Printing Office, 2021), 17.

percent of those surveyed said they felt they could peacefully assemble, down from 65 percent in 2016.³⁵

19. A local NGO also noted 333 violations of the freedom of association between April 2019 and March 2020.³⁶ Victims included NGOs, members of the former opposition party, informal community groups, and workers' unions.
20. One of the most troubling developments since Cambodia's initial report to the Committee is the November 2017 Supreme Court decision to dissolve the leading opposition party, the Cambodia National Rescue Party (CNRP). By eliminating the most viable challenge to Hun Sen's party in the July 2018 elections, the decision cements indefinite single-party rule for the CNP.³⁷
21. The Special Rapporteur on Cambodia has reported that "...the human rights situation in Cambodia remains dominated by the repression of political rights."³⁸ Dozens of former CNRP members have fled the country, while one of its co-founders, Kem Sokha, was put on trial for treason for allegedly collaborating with U.S. officials to overthrow the government.³⁹ The CNRP's former acting President Sam Rainsy has been charged under the *lèse-majesté* provision of the Criminal Code. Numerous human rights organizations and governments, including the U.S. State Department, consider the charges against both leaders to be politically motivated.⁴⁰ The Special Rapporteur on Cambodia has also reported receiving "information on actions taken by the police or the courts against over 140 former members and elected officials of the party at the subnational level."⁴¹
22. On July 10, 2016, political commentator Kem Ley was shot and killed at a petrol station where he regularly interviewed Cambodians about their political views. Ley was known for vocalizing his criticisms of the government as a prominent political commentator. NGOs have criticized Cambodian officials for not conducting a thorough investigation of the murder and who ordered it.⁴² In its Replies, the government stated, "The perpetrator,

³⁵ UN Office of the High Commissioner on Human Rights, *Cambodia: UN experts alarmed by civil society crackdown, attacks on human rights defenders*, November 16, 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26505&LangID=E> (last visited January 29, 2022).

³⁶ Interviews conducted by The Advocates (2017–2018).

³⁷ Human Rights Watch, *Cambodia: Supreme Court Dissolves Democracy*, Nov. 17, 2017, <https://www.hrw.org/news/2017/11/17/cambodia-supreme-court-dissolves-democracy> (last visited July 11, 2018).

³⁸ Human Rights Council, Report of the Special Rapporteur on the situation of human rights in Cambodia, (27 Aug. 2019), U.N. DOC. A/HRC/42/60, ¶71.

³⁹ Prak Chan Thul, *Cambodia resumes treason trial of opposition leader Kem Sokha*, Reuters, January 18, 2022, <https://www.reuters.com/world/asia-pacific/cambodia-resume-treason-trial-opposition-leader-2022-01-18/> (last visited January 29, 2022).

⁴⁰ Human Rights Watch, *Cambodia: Drop Case Against Opposition Leader*, Sept. 7, 2017, <https://www.hrw.org/news/2017/09/06/cambodia-drop-case-against-opposition-leader> (last visited July 11, 2018); U.S. Department of State, *Country Reports on Human Rights Practices for 2017: Cambodia* (2018), <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2017&dldid=277071> (last visited 11 July 2018).

⁴¹ Human Rights Council, Report of the Special Rapporteur on the situation of human rights in Cambodia, (27 Aug. 2019), U.N. DOC. A/HRC/42/60, ¶9.

⁴² Cambodian League for the Promotion and Defense of Human Rights, *The Dangers of Dissent: Attacks on Human Rights Defenders*, (Phnom Penh: LICADHO, July 2017), 13. Also available online at [https://www.licadho-cambodia.org/reports/files/2232017_HRD_ENG\[finalWeb\].pdf](https://www.licadho-cambodia.org/reports/files/2232017_HRD_ENG[finalWeb].pdf).

Oeuth Ang alias Chuop Samlab, who murdered Kem Ley on 10 July 2016 was arrested by the competent authorities and sent to court; and the court sentenced him to life imprisonment according to Judgment No. 89 dated 23 March 2017.”⁴³

23. The Advocates and CPPAC-MN have received reports from people affiliated with the CNRP who are abroad that they fear that they will be targeted for violence and arrest if they return to Cambodia. One CNRP member said that when he returned to Cambodia, he was attacked in front of the National Assembly building and beaten up by multiple men, while nearby police failed to intervene.⁴⁴ Threats have also been made against family members of diaspora activists who remain in Cambodia.⁴⁵

II. Suggested Recommendations for the Government of Cambodia

24. The Advocates and CPPAC-MN respectfully request that the Committee recommend that the State party:
- Protect civil society organizations, human rights defenders, opposition-party members, and journalists from harassment and arbitrary arrest by adopting legislative measures that prevent the harassment of such persons while exercising their rights to expression and association.
 - Thoroughly and impartially investigate and prosecute crimes committed against representatives of civil society organizations and human rights defenders, as well as opposition members and journalists, and hold offenders accountable.
 - Take the necessary steps to repeal or amend all laws that limit the legitimate exercise of freedom of expression, assembly, and association, bringing Cambodia’s domestic laws into in full compliance with international human rights standards.
 - Take concrete action to ensure that conditions of arrest and pretrial detention meet international standards, including by reducing the length of time detainees spend in pretrial detention.
 - Bring conditions of detention into compliance with the Nelson Mandela Rules, particularly with respect to air-quality standards, access to water, and access to electricity.
 - Commit to a free and open political environment so that all political parties can legally campaign and participate in elections.
 - Take necessary measures to ensure a free and independent media, including through the revocation of Article 13 of the Press Law and article 305 of the Penal Code.

⁴³ Committee on Economic, Social and Cultural Rights, *Replies of Cambodia to the list of issues in relation to its second periodic report*, 6 October 2022, U.N. Doc. E/C.12/KHM/RQ/23, ¶7.

⁴⁴Interviews conducted by The Advocates (2017–2018).

⁴⁵Human Rights Watch, *Cambodia: Hun Sen Threatens Families of Activists*, October 28, 2020, <https://www.hrw.org/news/2020/10/28/cambodia-hun-sen-threatens-families-activists> (last visited January 29, 2022).