



CAMBODIA

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**Joint submission prepared by FIDH (International Federation for
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Defense of Human Rights (LICADHO)**

FIDH

The International Federation for Human Rights, known by its French acronym FIDH, is an international human rights NGO representing 184 organizations from 112 countries. Since 1922, FIDH has been defending all civil, political, economic, social, and cultural rights as set out in the Universal Declaration for Human Rights.

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LICADHO

Founded in 1992, the LICADHO is one of the leading human rights NGOs in Cambodia. LICADHO has been at the forefront of efforts to protect civil, political, economic, and social rights in Cambodia and to promote respect for them by the Cambodian government and institutions. Building on its past achievements, LICADHO continues to be an advocate for the Cambodian people and a monitor of the government through wide ranging human rights programs from its main office in Phnom Penh and 13 provincial offices.

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1. Since the previous UPR cycle in 2014, the human rights situation in Cambodia has deteriorated significantly, arguably reaching its worst position in two decades. Human rights defenders (HRDs) face increased legal harassment, detention, and physical violence within a context of narrowing civic space. This has been achieved through the enactment of a swathe of harmful legislation specifically designed to curtail and punish the exercise of human rights and fundamental freedoms.
2. The activities of HRDs, trade union activists, and civil society organizations are increasingly criminalized. Civil society actors are portrayed as threats to national security as part of the government's false narrative that Cambodia is currently experiencing a "color revolution," a term used to misrepresent legitimate and lawful activities conducted by civil society as an attempt to overthrow the government. In the run-up to the 2018 general election, free expression and dissent is no longer tolerated. Public debate has been stifled and independent media silenced through increased surveillance, harassment, and politically motivated arrests.

Human rights defenders under attack

3. HRDs are under increasing threat of unlawful detention and politically-motivated legal proceedings carried out by compromised courts, following procedures that do not meet the fair trial standards guaranteed by both domestic and international law. The courts are commonly used to silence activism and to punish those whom the ruling party deems a threat to its interests and grip on power. In 2014, the Cambodian government accepted six recommendations that called for the protection of HRDs and 12 recommendations to strengthen the judiciary in order to secure its independence. However, over the past four years there has been an increase in the persecution and judicial harassment of HRDs. No steps have been taken to ensure the fair trial rights of the individuals facing such judicial proceedings.
4. Voices critical towards government policies and actions that conflict with human rights are increasingly silenced through the widespread use of legal action, threats, harassment, and violence. Peaceful demonstrations, once a common method of dissent in Cambodia, are increasingly rare as the government has tightened its control over all public spaces, especially in Phnom Penh. HRDs often face violence at the hands of state forces and para-police, who are deployed in a disproportionate and unnecessary manner to crack down on peaceful assemblies. These groups operate with impunity and there have been multiple cases where the para-police perpetrators of state-sanctioned violence have brought successful criminal and civil complaints against the same HRDs they attacked.
5. Activists, human rights workers, and NGO offices are under constant physical and digital surveillance. On 15 November 2017, the evening before the dissolution of the Cambodia National Rescue Party (CNRP), the country's main opposition party, large numbers of police were deployed at the premises of human rights and labor rights organizations across Phnom Penh. Police entered the offices of some organizations. In addition, individuals are regularly followed by plainclothes police and unencrypted communication carries significant risk as the government makes no secret of its widespread and unchecked use of wiretaps.
6. On 10 July 2016, prominent political analyst and human rights advocate Kem Ley was assassinated in broad daylight in central Phnom Penh. The killing came days after Kem Ley had participated in a radio program discussing a critical report by the NGO *Global Witness*, which detailed how Prime Minister Hun Sen's family has taken control of large sectors of

Cambodia's economy. On 23 March 2017, a former soldier, Oueth Ang, was convicted of Kem Ley's murder after a trial that left many unanswered questions over credible evidence suggesting the involvement of accomplices in the killing. Kem Ley's family successfully relocated to Australia after receiving a humanitarian visa from Canberra. Australian police have subsequently investigated death threats made against Kem Ley's widow after she spoke out while Prime Minister Hun Sen was attending a summit in Australia in March 2018.

7. Prominent land rights activist and woman human rights defender (WHRD) Tep Vanny of the Boeung Kak Lake community has been imprisoned since mid-August 2016. She is currently serving a two-and-a-half-year sentence on trumped-up charges of "intentional violence with aggravating circumstances" relating to a land rights protest. Since her arrest in 2016 she has faced four separate legal proceedings, three of which were years-old cases that were punitively reactivated against her and a number of fellow Boeung Kak Lake activists following their participation in the 'Black Monday' campaign for the release of arbitrarily detained HRDs in 2016 [see below, *para.* 9]. All four cases against her are politically motivated and relate to her peaceful expression and participation in demonstrations. All of the hearings have been marred by severe fair trial rights violations, such as lack of evidence against her, denial of defense witnesses, and prevention of cross-examination. During a February 2017 trial hearing, para-police violently dispersed a group of about 35 women and children who were sitting peacefully outside the court in solidarity with Tep Vanny.
8. In 2016, four staff members of human rights NGO the *Cambodian Human Rights and Development Association (ADHOC)* (Ny Sokha, Nay Vanda, Yi Soksan, and Lim Mony), and National Election Committee Deputy-Secretary and former *ADHOC* staff member Ny Chakrya were imprisoned on politically motivated bribery charges from May 2016 until their release on bail in June 2017. They remain on bail under these charges and could still potentially face trial and a possible five to 10-year sentence if convicted. Ny Chakrya was also convicted and sentenced to an as yet un-served six-month prison sentence after speaking out against flawed judicial proceedings related to a land dispute, in what was a clear attempt by the Cambodian government to silence legitimate criticism. This case is also subject to an ongoing and unresolved appeal.
9. On 9 May 2016, the first day of the 'Black Monday' campaign, in which individuals wore black clothing to protest the detention of the five *ADHOC*-affiliated HRDs, eight people (four land rights activists and four human rights workers) were arbitrarily detained and subjected to hours of questioning before being released that evening. Over subsequent weeks, there were at least 38 arbitrary arrests during peaceful 'Black Monday' events – mostly of women activists from communities affected by land grabbing – simply for wearing black clothing. HRDs participating in the 'Black Monday' campaign have been detained for hours at a time and forced to sign documents stating they would not protest again. During this period peaceful assemblies were monitored and often violently dispersed by para-police.
10. On 10 October 2016, para-police from Phnom Penh's Daun Penh District brutally beat three people in an unprovoked attack on an otherwise peaceful march to celebrate World Habitat Day. Human rights activist Chan Puthisak, who was filming para-police as they blocked the marchers and forcefully confiscated the marchers' campaign materials, was singled out and beaten by para-police forces. Para-police launched a similarly unprovoked attack against senior human rights worker Am Sam Ath, *LICADHO's* Monitoring Manager, who attempted to peacefully de-escalate the situation and prevent further beatings. Both HRD victims were subsequently interviewed by the prosecutor as suspects after spurious criminal complaints were lodged against them by their attackers.

11. In January 2018, But Buntenh, an activist monk, Pa Nguon Teang, the Director of the *Cambodian Center for Independent Media (CCIM)*, and Moeun Tola, the Director of the *Center for Alliance of Labor and Human Rights (CENTRAL)*, were charged with 'breach of trust' in connection with the fundraising activities they had conducted for the funeral of assassinated political analyst Kem Ley in 2016 [see above, *para.* 6], a case which is ongoing. Kem Ley's family has rejected the charges against the three as unfounded.
12. Two former *Radio Free Asia (RFA)* journalists – Uon Chhin and Yeang Sothearin – were arrested on 14 November 2017, two months after *RFA* decided to close its operations in Cambodia citing harassment by authorities. Both are long-term reporters who focused on human rights issues. Uon Chhin and Yeang Sothearin were charged with *in flagrante delicto* treason offenses ('providing information to foreign interests detrimental to national security') based on allegations that they continued to provide information to *RFA's* Washington DC bureau after the shutdown of the Phnom Penh office. These charges have not been substantiated and the two journalists remain in pre-trial detention even though the investigating judge has provided no justification for their detention, as is required by law. They face up to 15 years' imprisonment. Following their detention, they were hit with a second wave of trumped-up charges under the Law on the Suppression of Human Trafficking and Sexual Exploitation.
13. Since 2015, five activists, San Mala, Try Sovikea, Sim Samnang, Dem Kundy, and Hun Vannak, from the environmental NGO *Mother Nature* have been jailed for extended periods in relation to their peaceful activism against alleged unlawful sand dredging in Koh Kong Province. All five spent between four and 10 months in pre-trial detention before being released on suspended sentences that could be reactivated should they resume their activism. In September 2017, *Mother Nature* was de-registered at the behest of a co-founder of the organization who had been subjected to campaign of intimidation and subsequently deported from Cambodia in February 2015.
14. Although there has not been a repeat of the January 2014 deadly crackdown on protesting garment factory workers that preceded the previous UPR of Cambodia, labor activists have faced ongoing repression since then. A group of 13 workers who were detained following the January 2014 crackdown after being charged with aggravated intentional violence, aggravated intentional destruction of property, insult, and obstruction of traffic under Articles 218, 411, and 502 of the Criminal Code and Article 78 of the Traffic Law. They saw their convictions upheld after a farcical January 2016 appeal hearing that was permitted to continue *in absentia* despite the absence of both the defendants and the defense counsel. A further 10 activists have had their appeal against their convictions indefinitely postponed. Cambodian authorities also failed to conduct any meaningful investigation into the disproportionate use of force by police, military police, and military in the January 2014 crackdown that resulted in the shooting and killing of four protesters and the enforced disappearance of 16-year-old garment worker Khem Sophath. The government's failure to investigate Khem Sophath's disappearance is a blatant violation of Cambodia's obligations under several international human rights treaties to which the country is a state party, including the International Convention on the Protection of All Persons from Enforced Disappearance (ICPPED).
15. On 1 May 2014, para-police violently dispersed a peaceful International Workers Day rally in Phnom Penh, seriously injuring five people. On 23 May 2014, eight union activists were arrested during a peaceful strike at the JSD Textile Co factory in Takeo Province. The

strikers were demanding better working conditions, including the provision of a stipend to female workers on maternity leave, an end to discrimination against unionized workers, and the provision of sick pay. They were detained for two days, refused access to legal representation, and then charged with ‘instigating a felony’ and ‘incitement to commit a felony.’ They were released on 25 May under restrictive judicial supervision that curtails their activities as defenders.

16. In February 2016, four prominent trade union leaders and HRDs – *Cambodian Labour Confederation (CLC)* President Ath Thorn, *CLC* General-Secretary Kong Athit, *Cambodian Transport Workers Federation* Secretary Ean Kim Hong, and *Independent Democracy of Informal Economy Association (IDEA)* Vice-President Sok Chhun Oeung – were charged with intentional violence with aggravating circumstances, obstructing public officials, and blocking traffic under Articles 218 and 503 of the Criminal Code and Article 78 of the Traffic Law, respectively. The unfounded charges followed a violent attack by pro-government thugs and police on striking bus drivers and their supporters on 6 February, which left at least 14 people injured. The bus drivers went on strike after several drivers were fired by the bus company Capitol Tours for attempting to unionize.

Legislative attacks on rights and freedoms

17. Since 2014, the government has enacted a swathe of new laws and amended existing legislation to create specific provisions designed to close off space for civil society, delegitimize the work of HRDs, and harshly repress the right to freedom of opinion and expression, including the expression of dissent against the government. The Law on Unions of Enterprises (Trade Union Law) [see below, *para. 20*], the Law on Associations and Non-Governmental Organizations (LANGO) [see below, *para. 18*], and the Law on Telecommunications [see below, *para. 21*], enacted in April 2016, September 2015, and December 2015 respectively, all contain vague provisions vulnerable to arbitrary abuse to curtail rights and fundamental freedoms, including the rights to freedom of expression, peaceful assembly, and association.
18. The LANGO has been used to repress the legitimate and lawful activities of groups defending human rights. The informal election monitoring group *Situation Room*, comprised of 40 local organizations, was investigated and banned, without formal procedure, under an extra-legal interpretation of the LANGO at the behest of Prime Minister Hun Sen shortly after the June 2017 commune elections. In August 2017, the government invoked the LANGO to order the *National Democratic Institute*, a US-based NGO, to cease its operations and to expel its foreign staff from Cambodia.
19. Prominent local land rights NGO *Equitable Cambodia* was suspended between September 2017 and February 2018 for allegedly violating the LANGO. The suspension came within the context of *Equitable Cambodia's* advocacy on behalf of families affected by mass land grabbing associated with sugar-producing Economic Land Concessions. In May 2016, *LICADHO* was also threatened with legal action under the LANGO after the publication of a list of political prisoners, including HRDs, which was deemed to be a violation of the law's provisions on “political neutrality.”
20. Workers’ rights to freedom of association and peaceful assembly have long been limited by government threats and harassment and have recently been further restricted by a new Trade Union Law, which was enacted in April 2016. This law has had a negative impact on the registration of unions, including an inability for some workers’ groups to register and

lawfully carry out activities, including collectively bargaining for rights. This has severely curtailed independent labor movements and isolated HRDs and activists on the frontlines of labor rights struggles. The law has established the government as the gatekeeper of the trade union movement through mandatory registration requirements. The law has also been misused to delay union registration on the basis of minor administrative errors, leaving unions at risk of legal action if they operate without registration and also providing opportunities for employers to fire workers attempting to organize before registration is complete. In addition, onerous requirements for unions to achieve “most representative” status within an enterprise or sector have severely limited the pool of unions that are lawfully permitted to advocate for worker rights and conclude collective bargaining agreements. Independent unions have found it extremely difficult to secure this status and, as such, have been marginalized while trying to carry out their activities and advocate for improved working conditions.

21. Under the Law on Telecommunications, which was enacted in December 2015, the government has granted itself virtually unlimited legal authority to eavesdrop. Individual activists and organizations have also been targeted by cyber-attackers. Hackers, believed to be linked to the government, have taken control of activists’ social media accounts to harvest information and to conduct smear campaigns by posting offensive material under the activists’ names intended to discredit them. E-mail accounts of human rights workers and journalists have also been frequently targeted.
22. Shortly after Cambodia’s 2014 UPR, the government passed 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) that impaired judicial independence in a legal system that was already characterized by an absence of rule of law. Combined, these laws establish inappropriate roles for the government within the judicial framework, including a role in appointing and disciplining individual judges. This essentially formalizes the lack of independence from the executive branch that afflicts the Cambodian justice system.
23. Criminal Code amendments passed in February 2018 introduced a *lèse-majesté* offense, which carries a jail term of one to five years and large fines for expression by individuals or legal entities deemed to be offensive to the King of Cambodia. Within months of its enactment, three individuals were arrested and charged with this offense for sharing third-party content related to the King on social media.
24. Constitutional amendments enacted in February 2018 require every citizen to uphold the undefined “national interest” and to not “conduct any activities which either directly or indirectly affect the interests of the Kingdom of Cambodia and of Khmer citizens.” This constitutional ban is almost entirely open-ended through its lack of clear definitions and extension to potentially all peaceful and legitimate activities, including the exercise of fundamental freedoms and constitutional rights, such as the rights to freedom of expression, peaceful assembly, and association. The exercise of such rights could now be considered violations of the Constitution if determined as affecting “interests.”
25. There have also been multiple amendments to electoral laws and the Law on Political Parties that are entirely incompatible with genuine democracy because they place the very existence of political parties effectively under the control of the ruling party.

Free media silenced

26. The crackdown on civil society has been accompanied by unprecedented attacks on the media, aimed at eliminating dissenting voices. Many of these attacks have been pursued through the abuse of administrative measures, including the arbitrary and targeted use of tax and media licensing legislation. Additionally, the government has issued new ministerial decrees and notices that further restrict the remaining space for free expression in Cambodia.
27. Until mid-2017, radio broadcasts from the US-funded *RFA* and *Voice of America (VOA)*, and Cambodian non-profit radio program *Voice of Democracy (VOD)* (funded by international donors) were the only critical sources of Khmer language news for millions of Cambodians and a particularly vital source of information for rural Cambodians. All three broadcasters were taken off the air in a series of administrative measures aimed at silencing critical voices. On 11 August 2017, the Ministry of Economy and Finance issued a letter that alleged that *RFA* and *VOA* were unlicensed and had failed to pay their taxes. On 21 August 2017, the Ministry of Information revoked the licenses of stations that hosted and relayed *RFA* and *VOA* programs, claiming the stations had breached contractual obligations. Two days later, *VOD* was forced off the air when stations relaying its programs withdrew *VOD*'s timeslots. *RFA* closed down its Cambodian operations on 12 September 2017, citing the “government’s relentless crackdown on independent voices.”
28. The bilingual *Cambodia Daily* was one of only two English-language newspapers – along with the *Phnom Penh Post* – which provided an independent and critical perspective on Cambodia’s politics, economy, and society. It was forced to cease publication on 4 September 2017 as a result of an exorbitant and arbitrarily defined US\$6.3 million tax bill that had been imposed one month prior to its closure by the General Department of Taxation (GDT). The newspaper publicly offered full compliance with due process and a formal tax audit, which never occurred. Since then, the GDT has brought criminal complaints for tax evasion and defamation against the newspaper’s owners and its general manager.
29. The *Phnom Penh Post*, the last independent English-language daily newspaper since the closure of the *Cambodia Daily*, was the most recent casualty in this assault on freedom of expression. After it emerged that the paper was facing a massive and arbitrarily determined US\$3.9 million tax bill, the sale of the newspaper to the owner of a Malaysian public relations firm was announced on 5 May 2018. Over the next 48 hours, 13 editors and reporters resigned citing editorial interference by the new management and the editor-in-chief was fired. Subsequently, a former member of the Prime Minister’s Cabinet was appointed as the sole director of the newspaper.
30. While social media provides another avenue for information exchange and public debate, netizens have also been hit by a string of arrests that targeted online expression, mainly Facebook posts critical of the Prime Minister and the King, under newly-added clauses to the Criminal Code [see above, *para.* 23]. On 28 May 2018, the Ministry of Interior, Ministry of Information, and Ministry of Posts and Telecommunications issued an inter-ministerial order that threatens freedom of expression and privacy rights of every single internet and social media user in Cambodia. The order mandates ministries and state forces to implement the controversial Law on Telecommunications [see above, *paras.* 17 and 21] and essentially hands the government unfettered and arbitrary censorship powers. The directive orders multiple ministries to use surveillance and “block or close” websites and social media pages

that contain content “considered as incitement, breaking solidarity, discrimination and wilfully creating turmoil leading to undermining national security, public interest and social order.”

Recommendations

Human rights defenders under attack

Recommendations to the government and relevant judicial authorities:

- Ensure that fundamental basic rights, including rights to freedom of opinion and expression, freedom of peaceful assembly, and freedom of association are guaranteed for all individuals.
- Immediately and unconditionally release all HRDs detained on unsubstantiated charges for exercising their rights to freedom of opinion and expression and freedom of peaceful assembly and ensure effective remedies to all individuals arbitrarily detained.
- Cease all forms of repression, including judicial harassment and all acts of violence against HRDs.
- Fully respect the UN Declaration on Human Rights Defenders, adopted by the UN General Assembly on 9 December 1998.
- Ensure the rights of all civil society organizations, trade unions, and media to conduct their legitimate activities without hindrance.
- Investigate the disappearance of Khem Sophath, and provide appropriate remedies to his family.
- Issue a standing invitation to all UN Special Procedures for a country visit before the next UPR cycle.

Legislative attacks on rights and freedoms

Recommendations to the government:

- Amend the Law on Unions of Enterprises (Trade Union Law), the Law on Associations and Non-Governmental Organizations (LANGO), specifically in relation to mandatory registration requirements and arbitrary restrictions on activities.
- Ensure all legislation is brought into line with international standards.
- Amend the Constitution to remove the requirement of every citizen to uphold the “national interest” and to not “conduct any activities which either directly or indirectly affect the interests of the Kingdom of Cambodia and of Khmer citizens.”
- Amend the 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) to remove provisions compromising judicial independence and commit to reforming the judiciary in order to ensure its independence from the executive branch.
- Repeal the lèse-majesté clause recently added to the Criminal Code.
- Amend the Law on Political Parties to ensure and re-establish safeguards for the existence and functioning of opposition parties, and remove opportunities for the arbitrary and politically motivated dissolution of parties and denial of rights to their members.

Free media silenced

Recommendations to the government:

- Cease the judicial harassment of media outlets through the arbitrary and targeted use of tax and media licensing legislation.
- Cease arbitrary detentions, intimidation, and all acts of harassment against media workers.
- Amend the Law on Telecommunications to remove vague provisions and sweeping surveillance powers that allow the government virtually unlimited legal authority to use wiretaps on its citizens and are vulnerable to abuse.
- Restore recently revoked licenses for independent media outlets and allow for independent entities to apply for new licenses.