

HUMAN
RIGHTS
WATCH

**Human Rights Watch Submission
to the UN Human Rights Committee
in advance of its review of Cambodia**

January 2022

This memorandum provides an overview of Human Rights Watch's main concerns with respect to the human rights situation in Cambodia, submitted to the United Nations Human Rights Committee in advance of its third periodic review of Cambodia at the Committee's 134th session (February 28 to March 25, 2022). We hope it will inform the Human Rights Committee's preparation for its upcoming review of the Cambodia's compliance with its obligations under the International Covenant on Civil and Political Rights (hereinafter "the Covenant").

For additional information, please see Human Rights Watch's country page on Cambodia:
<http://www.hrw.org/asia/cambodia>.

States of emergency (article 4)

The Cambodian government used the Covid-19 pandemic as a pretext to further clamp down on civil and political rights as enshrined in the Covenant. In the guise of alleged measures to combat the pandemic, the government adopted the draconian Law on the Management of the Nation in a State of Emergency (hereinafter "the State of Emergency Law").¹ The State of Emergency Law empowers Prime Minister Hun Sen with sweeping and undefined powers without necessary checks and balances or procedural safeguards. Similar to the adoption process of other rights-restricting legislation, the government did not openly and widely consult civil society and other stakeholders affected by the law or who have expertise on the issue. The government instead rushed the draft law through the national assembly, where it currently holds all 125 seats.²

The State of Emergency Law infringes on the right to privacy and restricts the rights to freedoms of expression, association, and peaceful assembly, as enshrined in the Covenant.

The law contains many overly broad and vague provisions that violate fundamental rights without specifying why these measures are necessary and proportionate to address a public health emergency.

Under article 5 of the law, the government can:

¹ Human Rights Watch, *Cambodia: Emergency Bill Recipe for Dictatorship – COVID-19 Crisis Pretext for Hun Sen to Seek Unlimited Powers, Go After Critics*, April 2, 2020, <https://www.hrw.org/news/2020/04/02/cambodia-emergency-bill-recipe-dictatorship>

² Voice of America, "State of Emergency" Draft Law Gives Gov't Sweeping Powers; Permits Human Rights Restrictions, March 31, 2020, <https://www.voacambodia.com/a/state-of-emergency-draft-law-gives-gov-t-sweeping-powers-permits-human-rights-restrictions-/5353728.html>

- Conduct unlimited surveillance of telecommunications (art. 5(10));
- Control media and social media (art. 5(10) and (11));
- Put in place “other measures that are deemed appropriate for and necessary to responding to the state of emergency” (art. 5(12)) – a catch-all provision providing unfettered powers.

Article 5 also gives the government complete authority to restrict freedom of movement and assembly.

Articles 1 and 4 of the State of Emergency Law allows the law to be used even after the end of the acute phase of the Covid-19 pandemic, with reference to very vaguely formulated purposes and requirements. Article 3 also makes it clear that a state of emergency can be declared for a specific or unlimited period of time, without specifying the basis for making decisions about the length. Finally, the State of Emergency Law creates a permanent opportunity for the government to declare martial law (art. 5).

Notably, the law fails to provide any oversight for the use of these sweeping executive powers. On April 1, 2020, a Council of Ministers statement said that a state of emergency would not be declared for longer than three months – but added that the government would have discretion to extend it as it deems appropriate.³

This broad and vaguely formulated law could be easily misused against individuals and organizations critical of the government. The law includes disproportionate fines and prison sentences for vague criminal offenses. Article 7 creates the “crime of obstructing operations during a state of emergency,” punishable by one to five years in prison or five to ten years if the obstruction “leads to public unrest or adversely affects national security.” Article 8 creates the “crime of not respecting measures” required by the government, with punishments of up to five years in prison if the act “leads to public unrest.” These provisions can easily be used against critics of the government’s handling of the Covid-19 crisis, or any other situation in which a state of emergency is declared.

Article 9 creates a serious risk for civil society organizations or independent media outlets by providing for criminal responsibility for violations of the law by legal entities. The Cambodian government has long targeted independent media as well as organizations that promote human rights and democracy. Fines provided by the law of up to US\$250,000 would bankrupt most Cambodian organizations.

Since the law’s adoption in 2020, the Cambodian government has not invoked it. The Covenant requires that measures adopted in times of public emergency that threaten the life of the nation are only those “strictly required by the exigencies of the situation.” The Human Rights Committee clarified that states parties are required to “provide careful justification not only for their decision to proclaim a state of emergency but also for any specific measures based on such a proclamation,”⁴ stressing that such measures “are of an exceptional and temporary nature and may only last as long as the life of the nation concerned is threatened.” The law’s vague language and the overall human rights context in Cambodia indicate there are real risks of arbitrary

³ Voice of America, *Skepticism Rife Following Introduction of “State of Emergency” Draft Law*, April 1, 2020, <https://www.voacambodia.com/a/skepticism-rife-following-introduction-of-state-of-emergency-draft-law/5355113.html>

⁴ UN Human Rights Committee, General Comment No. 29: States of emergency (article 4): International Covenant on Civil and Political Rights, CCPR_C_21_Rev.1_Add.11, August 31, 2001, <https://digitallibrary.un.org/record/451555?ln=en>

pronouncements of states of emergency, for prolonged states of emergency or for any other misapplications of the law by the Cambodian government in violation of the Covenant.

The Human Rights Committee should recommend that the Cambodian government:

- *Repeal the Law on the Management of the Nation in a State of Emergency, which violates a number of civil and political rights, lacks independent oversight and procedural safeguards, as enshrined in the Covenant, or significantly amend it to address public health crises while protecting basic human rights. Any amendments to the law should be subject to open consultations of a wide range of stakeholders, including civil society groups.*

The Human Rights Committee should pose the following questions to the government of Cambodia:

- *How will the Cambodian government ensure that the freedom of expression, peaceful assembly, and association as well as the right to privacy as enshrined in the Covenant be protected to the fullest extent possible during a state of emergency?*
- *How will the Cambodian government guarantee that a state of emergency will be limited to a period that is absolutely necessary?*

Right to life (articles 6 and 24)

The Cambodian government has a history of extrajudicial killings of political opponents, human rights defenders, journalists, and other critics of the government, and these killings have been met with impunity that symbolizes a continuing failure to protect the right to life.⁵

The extrajudicial killing of prominent political commentator and human rights defender Kem Ley sent shockwaves through the country and illustrated the culture of impunity of those responsible for such heinous crimes. On July 10, 2016, against a backdrop of harassment of civil society and the political opposition, Kem Ley was shot in a café in broad daylight at a petrol station in central Phnom Penh. This killing came days after Kem Ley had discussed a Global Witness report, “Hostile Takeover,”⁶ that detailed the business links of Cambodian Prime Minister Hun Sen’s family.⁷

Five and a half years after the brutal killing, the Cambodian authorities have still not conducted an effective and impartial investigation into the murder.⁸ Instead, the authorities arrested Oeuth Ang, who identified himself as “Chuob Samlab” (meaning “Meet to Kill” in Khmer), who

⁵ Human Rights Watch, “Tell Them That I Want to Kill Them” – Two Decades of Impunity in Hun Sen’s Cambodia, Report, November 4, 2012, https://www.hrw.org/sites/default/files/reports/cambodia1112webwcover_1.pdf

⁶ Global Witness, *Hostile Takeover*, July 7, 2016, <https://www.globalwitness.org/en/reports/hostile-takeover/>

⁷ Global Witness, *One year since Kem Ley’s assassination, we’re left with more questions than answers*, July 10, 2017, <https://www.globalwitness.org/en/blog/one-year-kem-leys-assassination-were-left-more-questions-answers/>; Voice of America, *Q&A With Kem Ley: Transparency on Hun Sen Family’s Business Interests is Vital*, July 12, 2016, <https://www.voanews.com/a/cambodia-kemley-transparency-prime-minister-business-interests-vital/3416106.html>

⁸ Human Rights Watch, *Cambodia: No Justice At 5-Year Anniversary of Kem Ley’s Death*, Joint Statement, July 9, 2021, <https://www.hrw.org/news/2021/07/09/cambodia-no-justice-5-year-anniversary-kem-leys-death>

“confessed” to the killing.⁹ Following a half-day trial on March 23, 2017, which was widely criticized for failure to meet international fair trial standards, the Phnom Penh court found Oeuth Ang guilty of murder and sentenced him to life imprisonment.¹⁰ On May 24, 2019, the Supreme Court upheld his sentence.

International and domestic human rights organizations have repeatedly called on the Cambodian government to set up an independent commission of inquiry¹¹ to conduct a prompt, impartial, and effective investigation into this killing, with emphasis on examining the potential criminal responsibility of persons other than the direct perpetrator, in line with international standards set out in the Covenant.¹² The Cambodian government has not taken any steps towards the establishment of such an independent and impartial investigative body.

Demonstrating the government’s unwillingness to hold those accountable for the grave crime and instead protecting the persons who planned and ordered Kem Ley’s killing, the Cambodian authorities have continually monitored, harassed, and ultimately disrupted and prohibited planned annual anniversary memorials since Kem Ley’s death, in violation of the rights to freedom of expression and peaceful assembly as enshrined in the Covenant.

The Human Rights Committee should recommend that the Cambodian government:

- *Upon seeking and accepting technical assistance from states and international organizations, establish an independent commission of inquiry to conduct a prompt, impartial, and effective investigation into the killing of Kem Ley, to examine the criminal responsibility of persons other than the direct perpetrator, in line with the Covenant.*

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and treatment of persons deprived of their liberty (articles 6, 7, 9 and 10)

Cambodia’s prisons and detention centers are notoriously overcrowded. Prisoners face poor conditions, and torture and other ill-treatment. There is a lack of transparency on deaths in custody. The Cambodian government has failed to implement the Human Rights Committee’s previous recommendations to improve conditions within the prison system, including lack of access to food, clean water and medical care. While the Ministry of Justice lauded its campaign to reduce prison overcrowding in 2020,¹³ prisons remained seriously overcapacity throughout the pandemic.¹⁴ Despite the government’s claims, incarceration rates continued to keep pace with the number of prisoners released, resulting in continued severe overcrowding. Infamously

⁹ International Commission of Jurists, *Cambodia: Kem Ley’s killing demands immediate credible and impartial investigation*, July 13, 2016, <https://www.icj.org/cambodia-kem-leys-killing-demands-immediate-credible-and-impartial-investigation/>

¹⁰ Human Rights Watch, *Cambodia: Continue to Investigate Kem Ley Killing – Significant Questions Remain After Guilty Verdict*, March 23, 2017, <https://www.hrw.org/news/2017/03/23/cambodia-continue-investigate-kem-leys-killing>

¹¹ Human Rights Watch, *Joint Letter on Investigation Into Killing of Kem Ley – Request for Cambodian Government to Create a Commission of Inquiry*, July 7, 2017, <https://www.hrw.org/news/2017/07/07/joint-letter-investigation-killing-kem-leys>

¹² Human Rights Watch, *Cambodia: No Justice At 5-Year Anniversary of Kem Ley’s Death*, Joint statement, July 9, 2021, <https://www.hrw.org/news/2021/07/09/cambodia-no-justice-5-year-anniversary-kem-leys-death>

¹³ Human Rights Watch and Amnesty International, *Cambodia’s Proposed Criminal Justice Reforms Should Go Further*, Joint Statement, June 3, 2020, <https://www.hrw.org/news/2020/06/03/cambodias-proposed-criminal-justice-reforms-should-go-further>

¹⁴ Human Rights Watch, *Cambodia: Prisons Potential COVID-19 Epicenters - Reduce Overcrowding by Releasing Low-Risk and Vulnerable Prisoners*, April 5, 2020, <https://www.hrw.org/news/2020/04/05/cambodia-prisons-potential-covid-19-epicenters>

overcrowded prisons like Phnom Penh's Correctional Center 1 were at an occupancy rate of 363 percent over capacity mid-2021, housing approximately 7,466 prisoners in a facility with an official capacity of 2,050.¹⁵ In May 2021, Cambodian prison authorities revealed rising case numbers of prisoners who had tested positive for Covid-19, and were incarcerated in some of Cambodia's most overcrowded prisons.¹⁶ However, the government's response was slow or entirely absent in light of the pressing need to protect at-risk prisoners by, for instance, ordering early, temporary or conditional releases.¹⁷

Due to restricted prison access and a lack of transparency regarding prison data, exact numbers of deaths in detention remain unclear, and investigations into known deaths in custody have systematically lacked independence, transparency or access by independent monitors from civil society. However, civil society organizations have still learned about a number of deaths in detention and police custody that violate Cambodia's obligations under the Covenant.

On April 18, 2019, Tith Rorn, an opposition activist and son of a former opposition politician in Kampong Cham province, died in police custody. Visible bruises on his body suggest he was severely beaten.¹⁸ Police had arrested him on April 15, 2019, related to a 13-year-old assault charge even though the statute of limitations for the offense had expired. The Cambodian authorities claimed Tith Rorn fell in the jail's bathroom. Family members refuted these allegations.¹⁹ The authorities failed to conduct an independent or impartial investigation into the death. His family dismissed as false and dubious the edited video footage released by *The Phnom Penh Post*²⁰ that the newspaper stated came from Kampong Cham provincial police headquarters and supported allegations that the death was an accident.

On December 28, 2019, more than 30 Banteay Meanchey gendarmerie police arrested land rights activist, Tuoy Sros, and four other activists, at a land protest in front of the Banteay Meanchey provincial hall.²¹ The authorities held the five men in a cell at the Banteay Meanchey headquarters of the gendarmerie. Upon arrest and thereafter in detention, the provincial gendarmerie officers allegedly beat and kicked the five men, inflicting serious injuries. On December 31, 2019, the prosecutor of the Banteay Meanchey provincial court charged all five men with intentional acts of violence on private property (articles 248 and 253 of Cambodia's 2001 Land Law), and sent them to pre-trial detention at Banteay Meanchey provincial prison.

On January 1, 2020, due to Sros' deteriorating medical condition, authorities transported him from the jail to the Japan-Cambodia Friendship Hospital in Banteay Meanchey province. On the way to the hospital, Sros died. On that same day, the authorities claimed that Sros had suffered from alcoholism withdrawal, while also denying that they had inflicted any ill-treatment on the detainee,

¹⁵ Human Rights Watch and Amnesty International, *Cambodia: Urgently Address Covid-19 Outbreak in Prisons*, Joint Statement, May 23, 2021, <https://www.hrw.org/news/2021/05/23/cambodia-urgently-address-covid-19-outbreak-prisons>

¹⁶ Cambodianess, *COVID-19 Outbreaks Highlight Urgency of Prison Reforms in Cambodia*, May 31, 2021, <https://cambodianess.com/article/covid-19-outbreaks-highlight-urgency-of-prison-reforms-in-cambodia>

¹⁷ Human Rights Watch and Amnesty International, *Cambodia: Urgently Address Covid-19 Outbreak in Prisons*, Joint Statement, May 23, 2021, <https://www.hrw.org/news/2021/05/23/cambodia-urgently-address-covid-19-outbreak-prisons>

¹⁸ Human Rights Watch, *Cambodia: Over 145 Opposition Members Summoned – End Renewed Crackdown on Dissolved Party*, June 2, 2019, <https://www.hrw.org/news/2019/06/02/cambodia-over-145-opposition-members-summoned>

¹⁹ Radio Free Asia, CNRP, *Cambodian Rights Groups Call For Investigation Into Death in Custody*, May 6, 2019, <https://www.rfa.org/english/news/cambodia/investigation-05062019155435.html>

²⁰ Phnom Penh Post, *Inside the cell the moment Tith Rorn collapsed*, May 2, 2019, <https://www.phnompenhpost.com/video/inside-cell-moment-tith-rorn-collapsed>

²¹ CambodJA, *Hun Sen orders arrests of officers who beat land activists*, January 15, 2020, <https://cambojanews.com/hun-sen-orders-arrests-of-officers-who-beat-land-activists/>

despite physical evidence to the contrary.²² Sros' wife denied that her husband was an alcoholic or had any health issues. When she last visited her husband in prison on December 31, she noticed he was very weak and barely conscious due to the injuries he had suffered.²³ An Ruon, one of the other detained protesters, said that Sros had been handcuffed and kicked in the ribs "until he screamed for mercy."²⁴ He said that Sros had "screamed all through the night, and they [the police] finally took him to another place, but they [the police] kept beating him until he lost his memory."²⁵ Radio Free Asia had reported that authorities donated 10 million Cambodian riels (US\$2,500) to Sros' wife for funeral expenses and financial support for her children's school fees.²⁶

The three other protesters, Nov Noeun, Him Kiri and An Ruon, also sought medical examinations at the Japan-Cambodia Friendship Hospital for the ailments they suffered due to ill-treatment while in custody. They filed a complaint against the Banteay Meanchey military police about ill-treatment. According to An Ruon, "Sar Bunsoeung hit the victim [Sros] and pointed a pistol at his temple, threatening to kill him, saying, 'I took 11 bodies out of this place, do you want to be the 12th?'"²⁷ Public outcries around the events led Prime Minister Hun Sen to call for the arrest of those responsible for the ill-treatment of the activists and Sros' death. On January 18, 2020, the authorities arrested two military police officials, Col. Sar Bunsoeung, and First Lt. Chhoy Rathana, an officer working with the provincial anti-drug office, based on charges of "intentional violence and aggravating circumstances" (articles 218 and 224 of Cambodia's Criminal Code) after they confessed to being "negligent in their duty."²⁸ On January 13, 2021, the Battambang court convicted Sar Bunsoeung and Chhoy Rathana and sentenced them to four years and seven years in prison, respectively, and fined them 140 million riels (US\$34,500) in compensation to the complainants. Upon appeal of the verdict by the complainants, on May 26, 2021, the Battambang appeals court upheld the verdict against Chhoy Rathana, but reduced the prison sentence to be served by Sar Bunsoeung to one year and six months jail time, with the rest of the sentence suspended.

On October 30, 2019, Sam Bopha, a vocal opposition activist in Svay Rieng province and the daughter of a former opposition politician, died in police custody. While under arrest and being transported to the police station, she fell from a police officer's motorbike.²⁹ More than a dozen police officers had previously arrived at her house to arrest her without a warrant. Despite Bopha telling the police officers arresting her that she was not feeling well, and family members proposing to drive her instead with their car to the police station, the arresting officers refused and put her

²² Radio Free Asia, *Cambodian Protester Dies in Custody, Police Deny Abuse*, January 10, 2020, <https://www.rfa.org/english/news/cambodia/abuse-01102020161816.html>

²³ Radio Free Asia, *Cambodian Protester Dies in Custody, Police Deny Abuse*, January 10, 2020, <https://www.rfa.org/english/news/cambodia/abuse-01102020161816.html>

²⁴ Radio Free Asia, *Cambodian Protester Dies in Custody, Police Deny Abuse*, January 10, 2020, <https://www.rfa.org/english/news/cambodia/abuse-01102020161816.html>

²⁵ Radio Free Asia, *Cambodian Protester Dies in Custody, Police Deny Abuse*, January 10, 2020, <https://www.rfa.org/english/news/cambodia/abuse-01102020161816.html>

²⁶ Radio Free Asia, *Cambodian Protester Dies in Custody, Police Deny Abuse*, January 10, 2020, <https://www.rfa.org/english/news/cambodia/abuse-01102020161816.html>

²⁷ Radio Free Asia, *Authorities in Cambodia Arrest Police Officials Over Role in Alleged Torture Case*, January 21, 2020, <https://www.rfa.org/english/news/cambodia/torture-01212020170057.html>

²⁸ Radio Free Asia, *Authorities in Cambodia Arrest Police Officials Over Role in Alleged Torture Case*, January 21, 2020, <https://www.rfa.org/english/news/cambodia/torture-01212020170057.html>

²⁹ Radio Free Asia, "Cambodia Opposition Activist Dies in Fall From Police Motorbike During Arrest," October 30, 2019, <https://www.rfa.org/english/news/cambodia/fall-10302019175411.html>

on a police motorcycle.³⁰ A video posted on Facebook, which has since been removed, showed her unconscious after she fell off the moving motorbike.³¹ Authorities claimed they investigated the incident, but there has been no progress and no one has been held accountable for her death.

The Human Rights Committee should recommend that the Cambodian government:

- *Take urgent measures, consistent with the Covenant, to reduce overcrowding at all of Cambodia's detention centers and prisons by, among others, introducing alternatives to detention, including non-custodial sentences for non-violent crimes, and releasing persons in vulnerable groups of prisoners, such as pregnant women and children.*
- *Improve poor conditions within the prison system, including lack of access to nutritious food, clean water and adequate medical care.*
- *Systematically conduct thorough, independent and impartial investigations into the deaths and injuries of persons in the authorities' custody:*
 - *Investigate effectively the deaths of Tith Rorn, Sam Bopha and Tuoy Sros as well as the allegations of ill-treatment of Nov Noeun, Him Kiri and An Ruon, and hold the perpetrators to account.*

Deprivation of liberty (articles 9, 10 and 14)

Since 2015, the government has stepped up its crackdown on opposition politicians, members of civil society and independent journalists, which has resulted in hundreds of criminal prosecutions on vague, unsubstantiated, and fabricated charges. The immediate result has been an unprecedented increase in the numbers of political prisoners.³² Prosecutors, magistrates and judges, controlled by the ruling party, have authorized pre-trial detention for these individuals. By mid-November 2019, the number of political prisoners in pre-trial detention or serving prison sentences reached around 90; though this figure slightly dropped ahead of Cambodia's chairmanship of the 13th Asia-Europe Meeting (ASEM) Summit taking place on November 25 and 26, 2021, when 26 activists were released after having spent months in prison.³³

In Cambodia, persons held in pre-trial detention, including pregnant women and children, are detained together with convicted detainees.³⁴ Human Rights Watch documented numerous cases in which the Cambodian authorities violated due process rights by arresting people without arrest warrants, failed to inform persons arrested of the charges against them, or refused to grant them immediate access to their lawyers.³⁵

³⁰ Radio Free Asia, "Cambodia Opposition Activist Dies in Fall From Police Motorbike During Arrest," October 30, 2019, <https://www.rfa.org/english/news/cambodia/fall-10302019175411.html>

³¹ Previous link to the video before its removal: <https://www.facebook.com/100003556663825/posts/2345975875530945?sfns=mo>

³² Human Rights Watch, *Cambodia: Opposition Party Threatened with Dissolution – Would Gut Democratic Process Ahead of 2018 Elections*, October 10, 2017, <https://www.hrw.org/news/2017/10/10/cambodia-opposition-party-threatened-dissolution>

³³ Human Rights Watch, *World Report Cambodia – Events of 2019*, January 2020, <https://www.hrw.org/world-report/2020/country-chapters/cambodia#>

³⁴ Human Rights Watch, *Political Prisoners Cambodia*, <https://www.hrw.org/video-photos/interactive/2021/10/18/political-prisoners-cambodia>; Human Rights Watch, *Cambodia: Political Prisoner Releases Just a Start – EU Should Press for Freeing All Activists Ahead of ASEM Summit*, November 16, 2021, <https://www.hrw.org/news/2021/11/16/cambodia-political-prisoner-releases-just-start>

³⁵ Human Rights Watch, *Political Prisoners Cambodia*, <https://www.hrw.org/video-photos/interactive/2021/10/18/political-prisoners-cambodia>

In the absence of accessible and adequate mental health services in Cambodia, people with real or perceived psychosocial disabilities (mental health conditions) can be arbitrarily detained and chained in drug detention centers or prisons in Cambodia,³⁶ often after being detained as part of sporadic crackdowns to “clean the streets” ahead of high-profile international meetings or visits by foreign dignitaries.³⁷ In June 2020, the Ministry of Interior proposed a draft Public Order Law, which could further entrench discrimination against at-risk groups in society such as people with psychosocial disabilities. The bill would provide the authorities with unfettered powers to arbitrarily strip people with mental health conditions of their civil liberties.³⁸ For example, draft article 25 states that a “caregiver or a guardian of a person with a mental disorder shall not allow that person to walk freely in public places.” In a country where people with psychosocial disabilities are stigmatized and subjected to abuse, such broad discretion given to authorities to restrict the liberties of a person with mental health conditions could facilitate further abuse and entrenchment of the problem.

The Cambodian authorities have resorted to prolonged pre-trial detention of some detainees awaiting trial, especially in cases involving political opponents.³⁹ This practice was exemplified by the so-called “ADHOC 5” case. On April 28, 2016, the Anti-Corruption Unit arrested five former and current senior staff members of the Cambodian Human Rights and Development Association (ADHOC), based on fabricated allegations that they had committed “bribery of a witness.”⁴⁰ The charges focused on their human rights and legal protection work in a case that was tied to ongoing persecution against opposition leader Kem Sokha.⁴¹ On June 29, 2017, the authorities released all five human rights defenders on bail, with their charges still pending, after they had all spent 427 days in pre-trial detention.⁴² On September 26, 2018, the Phnom Penh court convicted them and sentenced them to five-year suspended sentences.⁴³

In other cases involving critics of the government, activists faced multiple dormant and new charges at the same time. On August 20, 2018, Cambodia’s king pardoned longtime land rights activist Tep Vanny after two years in prison for publicly protesting in a land dispute involving a company granted a concession in Phnom Penh’s Boeung Kak Lake community.⁴⁴ The authorities

³⁶ Human Rights Watch, *Living in Chains – Shackling of People with Psychosocial Disabilities Worldwide*, October 6, 2020, https://www.hrw.org/report/2020/10/06/living-chains/shackling-people-psychosocial-disabilities-worldwide#_ftn86

³⁷ Human Rights Watch, *They Treat Us Like Animals: Mistreatment of Drug Users and “Undesirables” in Cambodia’s Drug Detention Centers*, December 2013, https://www.hrw.org/sites/default/files/reports/cambodia1213_ForUpload_1.pdf

³⁸ Human Rights Watch, *Civil Society Organizations Call for the Draft Law on Public Order to be Immediately Discarded*, Joint statement, August 13, 2020, <https://www.hrw.org/news/2020/08/13/civil-society-organizations-call-draft-law-public-order-be-immediately-discarded>

³⁹ CCHR, *Legal Analysis of the Pre-trial Detention of Mr. Ny Sokha, Mr. Yi Soksan, Mr. Nay Vanda, Ms. Lim Mony and Mr. Ny Chakrya*, November 14, 2016, https://cchrcambodia.org/admin/media/analysis/analysis/english/2016_11_21_JLA_of_Pre-trial_Detention_of_the_5_ENG.pdf

⁴⁰ Human Rights Watch, *Cambodia: Free ‘ADHOC Five’ Rights Defenders – Campaign Against Rights Monitoring Includes Threat to Expel UN Rights Office*, December 1, 2016, <https://www.hrw.org/news/2016/12/01/cambodia-free-adhoc-five-rights-defenders>

⁴¹ Human Rights Watch, *Cambodia: Drop Fabricated Charges Against “ADHOC 5,”* August 26, 2018, [https://www.hrw.org/news?keyword=adhoc&country\[\]=9544](https://www.hrw.org/news?keyword=adhoc&country[]=9544)

⁴² Phnom Penh Post, *BREAKING: Adhoc 5 released from pre-trial detention*, June 29, 2017, <https://www.phnompenhpost.com/national/breaking-adhoc-5-released-pre-trial-detention>

⁴³ Human Rights Watch, *Cambodia – Events of 2018*, January 2019, <https://www.hrw.org/world-report/2019/country-chapters/cambodia#>

⁴⁴ Human Rights Watch, *Cambodia: Civil Society Groups Call for the Release of Tep Vanny – Joint Statement on the Second Anniversary of Land Rights Activist’s Imprisonment*, August 15, 2018, <https://www.hrw.org/news/2018/08/15/cambodia-civil-society-groups-call-release-tep-vanny>; Amnesty International, *Cambodia: Land rights activist Tep Vanny released from prison following royal pardon*, August 20, 2018, <https://www.amnesty.org/en/latest/news/2018/08/cambodia-land-rights-activist-tep-vanny-released-from-prison-following-royal-pardon/>

arrested Tep Vanny on August 15, 2016, during a peaceful protest that called for the release of the “ADHOC 5.” On August 22, 2016, the court convicted her of “insulting a public official,” and sentenced her to six days in prison. Instead of releasing her based on time served, the authorities reactivated dormant charges dating back to a 2013 peaceful protest, later sentencing her to two and half years of imprisonment and a fine of 14 million riels (US\$3,500).⁴⁵ Subsequent to her royal pardon, a court convicted her of making death threats in what started out as an internal community dispute in 2012. While the complainant had dropped her lawsuit, the prosecutor decided to pursue it on his own accord, leading to Tep Vanny and five other Boeung Kak Lake community members being sentenced to six months’ imprisonment; the judge suspended the sentence for five years.⁴⁶

The authorities also arbitrarily detained children and people with disabilities, and failed or refused to conduct medical assessments of the accused before the case went to trial. On June 24, 2021, around 30 police officers arrested Kak Sovann Chhay, a 16-year-old boy with autism and a son of a detained member of the dissolved opposition Cambodia National Rescue Party (CNRP).⁴⁷ The officers did not have an arrest warrant, and did not explain the reasons for his arrest. An hour before his arrest, an unidentified person contacted him on the mobile Telegram app, asking Sovann Chhay who he was, calling his father “a traitor” and telling Sovann Chhay that he will be jailed too.⁴⁸ On June 25, 2021, the Phnom Penh municipal court imposed trumped-up charges of “incitement to commit a felony” and “public insult” (articles 494, 495 and 502 of Cambodia’s penal code) and ordered his pre-trial detention.⁴⁹ In their handling of the case, the authorities did not take into account that Sovann Chhay is a person with a disability and that he is a child under age 18. At trial, Sovann Chhay’s defense lawyer twice requested that Sovann Chhay’s disability and support needs be evaluated. However, the court refused both requests. The prosecution argued that Sovann Chhay no longer had a disability. Human Rights Watch received reports that no reasonable accommodations were made for Sovann Chhay, either during police custody and questioning, or while he was in prison. On November 1, 2021, the court convicted him and sentenced him to eight months in prison. Sovann Chhay’s sentence was partially suspended, but he still had spent four and half months in prison in pre-trial detention.⁵⁰

The Human Rights Committee should recommend that the Cambodian government:

- *End its systematic use of pre-trial detention as a default action, and render such detention as a last resort to only be used in cases where absolutely necessary.*
- *Promote alternative measures to detention in line with international human rights law. In cases of children, resort should always be made to alternatives to detention, such as non-custodial measures. Where children are detained, they should be detained only as a last resort and for the shortest appropriate period. Equally, convictions of children should focus on reintegration and rehabilitation.*
- *Ban chaining of people with psychosocial disabilities in law and in policy.*

⁴⁵ Human Rights Watch, *Cambodia: Civil Society Groups Call for the Release of Tep Vanny – Joint Statement on the Second Anniversary of Land Rights Activist’s Imprisonment*, August 15, 2018, <https://www.hrw.org/news/2018/08/15/cambodia-civil-society-groups-call-release-tep-vanny>

⁴⁶ LICADHO, *Boeung Kak Lake Activists Get Suspended Sentences*, August 24, 2018, <https://www.licadho-cambodia.org/flashnews.php?perm=253>

⁴⁷ Human Rights Watch, *Political Prisoners Cambodia*, <https://www.hrw.org/video-photos/interactive/2021/10/18/political-prisoners-cambodia>

⁴⁸ BBC, *Cambodia: The autistic teenager jailed over a Telegram post*, September 21, 2021, <https://www.bbc.com/news/world-asia-58588022>

⁴⁹ BBC, *Cambodia: The autistic teenager jailed over a Telegram post*, September 21, 2021, <https://www.bbc.com/news/world-asia-58588022>

⁵⁰ Upon release, the authorities placed him under judicial supervision for two years, during which he will be required to report to the prosecutor if he changes his address or wishes to travel abroad. He must also appear before the court whenever summoned.

- *Ensure that due process rights of the accused are respected, including access to a lawyer, interpreter, and medical assessments, as well as access to reasonable accommodation for persons with disabilities.*
- *Stop harassment, arbitrary arrest and politically motivated prosecutions of human rights defenders, opposition politicians, and journalists.*
- *Discard the draft Public Order Law, which seeks to control people's daily lives by prohibiting a vast array of public and private actions, while discriminating against vulnerable groups in society such as persons with disabilities by allowing arbitrary restrictions on their freedom of movement.*

Freedom of expression (article 19)

Since 2015, the Cambodian government has adopted an array of repressive laws or amended existing legislation to restrict the right to freedom of expression – online and offline – while also seeking to stifle independent media. These new laws complement preexisting laws that authorities have long used to silence activists and independent voices, such as criminal defamation and “incitement” in the penal code, which, as the Human Rights Committee has reiterated, violate Cambodia’s obligations under the Covenant.⁵¹

Stifling Media Freedom

The government has drastically curtailed media freedom, online and offline, leading to the shuttering of independent news outlets, arbitrary revocations of media licenses, and harassment of journalists.

Ahead of the 2018 elections, the government ramped up its efforts to shut down independent media outlets. In August 2017, Cambodian authorities ordered the closure of 32 FM radio frequencies, primarily targeting stations relaying Khmer-language news content produced by Radio Free Asia (RFA) and Voice of America.⁵² The local Voice of Democracy radio was also forced to go off the air. In September 2017, *The Cambodia Daily*, one of the country’s few independent newspapers, was forced to close down after being handed a dubious tax bill of US\$6.3 million.⁵³ In September 2017, RFA closed its operations in Cambodia, citing systematic harassment by the government. In May 2018, the government coerced the sale of the last independent local newspaper, the *Phnom Penh Post*, to a Malaysian businessman with reported ties to the Cambodian government by hitting the newspaper with a questionable tax bill of US\$3.9 million.⁵⁴

Cambodian authorities also targeted individual journalists based on their independent reporting on social and political issues. On November 14, 2017, authorities arbitrarily detained two RFA

⁵¹ OHCHR, *Human Rights Committee considers Report of Cambodia*, March 18, 2015,

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=15715&LangID=E>

⁵² Human Rights Watch, *Cambodia: Holding a Media Summit Without Media Freedom – Participants Should Call for Free Expression, Press Freedom*, June 9, 2019, <https://www.hrw.org/news/2019/06/09/cambodia-holding-media-summit-without-media-freedom>

⁵³ Human Rights Watch, *Cambodia: Leading Paper Threatened with Closure – Arbitrary Tax on Cambodia Daily an Assault on Independent Media*, September 2, 2017, <https://www.hrw.org/news/2017/09/03/cambodia-leading-paper-threatened-closure>

⁵⁴ Human Rights Watch, *Cambodia: Coerced Sale of Last Independent Newspaper – Phnom Penh Post Sold to Hun Sen-Linked Company Ahead of July Elections*, May 8, 2018, <https://www.hrw.org/news/2018/05/08/cambodia-coerced-sale-last-independent-newspaper>

journalists, Yeang Sothearin and Uon Chhin, on fabricated charges of “espionage” for simply having continued to report for RFA after the closure of RFA’s Cambodia office.⁵⁵ While the authorities released the two reporters on bail after nine months in pre-trial detention, the charges against them were not dropped. In October 2020, the Supreme Court allowed for continued investigations into the case, instead of dismissing it based on lack of credible evidence against them.⁵⁶ The government’s tactic to leave dormant charges hanging over news reporters’ heads creates fear and self-censorship.

The Cambodian government used the Covid-19 pandemic as a pretext to further stifle independent media by labelling independent reporting as “fake news,”⁵⁷ by, among others, imposing de facto bans on independent reporting,⁵⁸ and harassing dozens of journalists based on their reporting.⁵⁹ Exemplifying the government’s legal action against persons deemed to spread so-called “fake news” is the case against journalist Sovann Rithy,⁶⁰ director of the online news outlet TVFB, who a Phnom Penh municipal court convicted of incitement on October 5, 2020, and sentenced to 18 months in prison.⁶¹ After deducting the five months and 28 days he had spent in pre-trial detention, the court suspended the remainder of the prison sentence and released him on the same day. Phnom Penh police originally arrested Sovann Rithy on April 7, 2020, based on allegations that he had incited chaos by quoting on his Facebook page the following words from Prime Minister Hun Sen’s speech of the same day about the economic impact of Covid-19: “If motorbike-taxi drivers go bankrupt, sell your motorbikes for spending money. The government does not have the ability to help.”⁶²

In the first six months of 2020, the government revoked the following licenses of independent media outlets: online news site *CKV TV Online*; *TVFB* news site; and Rithysen radio station and online news site. The license of *Cheat Khmer* newspaper was under review after the politically motivated arrest of its owner, Ros Sokhet in June 2020.⁶³ Based on critical Facebook posts about Prime Minister Hun Sen, in November 2020, the Phnom Penh court convicted Sokhet of incitement and sentenced him to 18 months in prison.⁶⁴

⁵⁵ Human Rights Watch, *Cambodia: Drop Charges Against 2 Journalists – Bogus Radio Free Asia Case Drags On*, January 19, 2020, <https://www.hrw.org/news/2020/01/19/cambodia-drop-charges-against-2-journalists>

⁵⁶ Voice of Democracy, *Supreme Court Upholds Decision to Reinvestigate RFA Journalists’ Case*, October 27, 2020, <https://vodenglish.news/supreme-court-upholds-decision-to-reinvestigate-rfa-journalists-case/>

⁵⁷ CambodJA, *Government alleges misconduct among journalists, greenlights legal action*, December 8, 2020, <https://cambojanews.com/government-alleges-misconduct-among-journalists-greenlights-legal-action/>

⁵⁸ Human Rights Watch, *Cambodia: Stop Silencing Critical Commentary on Covid-19*, Joint statement, May 25, 2021, <https://www.hrw.org/news/2021/05/25/cambodia-stop-silencing-critical-commentary-covid-19>

⁵⁹ Human Rights Watch, *List of arrests and persons in detention for COVID-19 related offenses*, June 17, 2020, <https://www.hrw.org/video-photos/interactive/2020/03/23/list-arrests-and-persons-detention-covid-19-related-offenses>; Voice of Democracy, *Three Journalists Detained, Educated for Covering Boeng Tompun Dispute*, July 22, 2021, <https://vodenglish.news/three-journalists-detained-educated-for-covering-boeng-tompun-dispute/>

⁶⁰ Phnom Penh Post, *Government warns against spreading fake Covid-19 news*, March 23, 2020, https://www.phnompenhpost.com/national/government-warns-against-spreading-fake-covid-19-news?utm_source=Phnompenh+Post+Main+List&utm_campaign=177985f72a-EMAIL_CAMPAIGN_2020_03_23_04_12&utm_medium=email&utm_term=0_690109a91f-177985f72a-62145801

⁶¹ Human Rights Watch, *Cambodia’s Government Should Stop Silencing Journalists, Media Outlets – Free Arbitrarily Detained Media Workers, Restore Media Licenses*, Joint statement, November 2, 2020, <https://www.hrw.org/news/2020/11/02/cambodias-government-should-stop-silencing-journalists-media-outlets>

⁶² Human Rights Watch, *Cambodia: Reporter Jailed for Quoting Hun Sen on COVID-19 – Free Sovann Rithy, Respect Media Freedom*, April 10, 2020, <https://www.hrw.org/news/2020/04/10/cambodia-reporter-jailed-quoting-hun-sen-covid-19>

⁶³ Human Rights Watch, *Cambodia – Events of 2020*, January 2021, <https://www.hrw.org/world-report/2021/country-chapters/cambodia#>

⁶⁴ Voice of America, *Cambodian Journalist Sentenced to 18 Months for Criticizing Hun Sen*, November 12, 2020, <https://www.voacambodia.com/a/cambodian-journalist-sentenced-to-18-months-for-criticizing-hun-sen/5657206.html>

The Cambodian government also went to great lengths even to silence media workers who fled abroad out of fear of prosecution because of their work. In December 2018, upon the Cambodian government's request, Thai authorities arrested and forcibly returned Rath Rott Mony, a "fixer" for the Russian state media outlet *Russia Today (RT)*, to Cambodia based on allegations that he had committed "incitement to discriminate" (article 496 of Cambodia's penal code). He had worked with *RT* on a documentary "My Mother Sold Me," that featured accounts of poverty-stricken families sending their daughters to engage in child sex trafficking.⁶⁵ In June 2019, a court convicted Mony and sentenced him to two years in prison. Following the completion of his sentence, Mony again fled Cambodia, fearing further persecution.

Freedom of Speech Online

Since 2015 and increasingly during the pandemic, free speech online, particularly commentary critical of the government or its leaders that is expressed on social media platforms, has come under attack from increased government digital surveillance and interference, and often resulted in arrests. The tightening of free expression online has been enabled by laws adopted by the government that seek to monitor and control information and communication technologies while imposing censorship on criticism of the government.

In December 2015, the government adopted the Telecommunications Law,⁶⁶ which permits undeclared monitoring of "any private speech via telecommunications" by the authorities, without any procedural safeguards and judicial oversight. The law established an enforcement body of "telecommunications inspection officials" to investigate alleged offenses under the Telecommunications Law, with the authority to call in support from the armed forces "to join in cracking down on alleged crimes."

This law was followed by the Inter-Ministerial *Prakas* (proclamation) on Website and Social Media Control, adopted on May 28, 2018, which allows the Ministries of Interior, Information, and Posts and Telecommunications⁶⁷ to take down content on social media outlets and websites that the government deems to be "incitement, breaking solidarity, discrimination and willfully creating turmoil leading to undermining national security, public interest and social order." This overly broad regulation, which restricts the rights to freedom of expression, press and publication, empowers the government to police social media networks to uncover and silence online dissent in Cambodia.

In February 2021, the authorities enacted the Sub-Decree on the Establishment of the National Internet Gateway (NIG),⁶⁸ which is scheduled to come into effect in February 2022. The Sub-Decree requires internet service providers in Cambodia to re-route their services through the government controlled National Internet Gateway. The NIG will allow the government to further

⁶⁵ Human Rights Watch, *Thailand: Don't Return Cambodian Dissident – Activist at Risk of Bogus Prosecution, Mistreatment in Cambodia*, December 11, 2018, <https://www.hrw.org/news/2018/12/11/thailand-dont-return-cambodian-dissident>

⁶⁶ Law on Telecommunications, NS/RKM/1215/017, December 17, 2015, https://data.opendevlopmentmekong.net/laws_record/law-on-telecommunications/resource/6716c7ab-7ae0-4a7c-91c5-6cb02035054c

⁶⁷ Inter-Ministerial *Prakas* No. 170 on publication controls of website and social media processing via internet in the Kingdom of Cambodia, May 28, 2018, https://data.opendevlopmentmekong.net/laws_record/inter-ministerial-prakas-no-170-on-publication-controls-of-website-and-social-media-processing-via-

⁶⁸ Human Rights Watch, *Cambodia: Internet Censorship, Control Expanded – Reverse Newly Decried National Internet Gateway*, February 18, 2021, <https://www.hrw.org/news/2021/02/18/cambodia-internet-censorship-control-expanded>

control the digital space and give the authorities broader powers to block and disconnect internet connections based on overbroad and undefined grounds. The NIG is likely to have a chilling effect on online communications and could generate self-censorship online among critical voices and independent media outlets already facing harassment, arbitrary administrative penalties or even arrest and prosecution based on their exercise of free speech. The NIG also risks internet shutdowns ordered by the government.

In addition, the government has also drafted a vaguely formulated cybercrime law,⁶⁹ which if passed could add to already existing threats to online speech and privacy rights. Article 45 criminalizes intentional false statements that have an “adverse effect” on national security and other undefined grounds. “Unauthorized” access to or transfer of data from computer systems is also criminalized, risking prosecutions of whistleblowers or investigative journalists who leaked materials. The draft law risks abuse by the government as it lacks any independent oversight or procedural safeguards against arbitrary application. All three leaked drafts of the bill have been sharply criticized by civil society groups, which have not been consulted by the government during the drafting process.⁷⁰

As part of the government’s use of the Covid-19 pandemic to further restrict human rights, in February 2021 Human Rights Watch expressed concerns around the government’s so-called “Stop Covid-19” QR Code system,⁷¹ which creates a log of people’s locations and thus information as to their identity, location, behavior, associations, and activities, ostensibly to trace the spread of Covid-19. The government failed to show that there were no measures available that were less intrusive to protect people from Covid-19. The government also failed to inform the public how the data collected through the QR Code system is used, who has access to the data and for what purpose, how data is secured, and the period for which the data is secured. This is particularly concerning in Cambodia, as the government has failed to adopt a data protection law or provide for overall safeguards to ensure official requests for data are necessary and proportionate.⁷²

During the pandemic, the government has increased censorship online, attempting to muzzle critical opinions or fears about the pandemic expressed by the public on social media platforms. This is exemplified by a press release dated May 1, 2021,⁷³ in which the government demanded the immediate cessation of social media posts intended to “provoke and create chaos” in the context of the Covid-19 pandemic, referring to such posts as “acts of attack,” which should be punished by legal action. The extent of the government’s campaign to silence all dissent online is shown by its actions in August 2021 when it sent senior officials to Bangkok to ask Thai authorities to block or otherwise stop the critical social media broadcasts of opposition activists residing in Thailand.⁷⁴

⁶⁹ Human Rights Watch, *Cambodia: Scrap Draft Cybercrime Law – US, Tech Companies Should Speak Out for Privacy, Free Expression*, November 13, 2020, <https://www.hrw.org/news/2020/11/13/cambodia-scrap-draft-cybercrime-law>

⁷⁰ Voice of America, *Cambodia’s Draft Cybercrime Law Worrying, Say Critics*, April 25, 2014, <https://www.voanews.com/a/cambodias-draft-cybercrime-law-worrying-say-critics/1900884.html>; Voice of America, *Civil Society Groups Say Draft Cybercrime Law Risks Free Expression, Privacy*, October 8, 2020, <https://www.voacambodia.com/a/civil-society-groups-say-draft-cybercrime-law-risks-free-expression-privacy/5612542.html>

⁷¹ Human Rights Watch, *Cambodia: “Stop Covid-19” System Raises Privacy Concerns – Use Less-Rights-Intrusive Measures; Adopt Data Protection Law*, April 6, 2021, <https://www.hrw.org/news/2021/04/06/cambodia-stop-covid-19-system-raises-privacy-concerns>

⁷² Human Rights Watch, *Cambodia: Scrap Draft Cybercrime Law – US, Tech Companies Should Speak Out for Privacy, Free Expression*, November 13, 2020, <https://www.hrw.org/news/2020/11/13/cambodia-scrap-draft-cybercrime-law>

⁷³ Fresh News, *Government Spokesperson Calls for Immediate Cessation of Attacks on the Government While Fighting Covid-19*, May 1, 2021, <https://freshnewsasia.com/index.php/en/localnews/196108-2021-05-01-08-27-47.html>

⁷⁴ Radio Free Asia, *Jailed Cambodian Union Leader Rong Chhun Urges Supporters to Carry on Fight For Justice*, August 25, 2021, <https://www.rfa.org/english/news/cambodia/jailed-08252021211919.html>

The Human Rights Committee should recommend that the Cambodian government:

- *Cease harassment, arbitrary arrests, and physical assaults on human rights defenders and protesters based on their exercise of their right to freedom of expression; and investigate and prosecute the perpetrators of such attacks.*
- *Repeal articles 305, 307, 502 and 523 of the Penal Code regarding defamation, public insult, or discrediting of judicial decision that violate freedom of expression.*
- *Repeal the Sub-Decree on the Establishment of the National Internet Gateway, the Telecommunications Law, Inter-Ministerial Prakas (proclamation) on Website and Social Media Control, and discard the draft cybercrime bill.*
- *Adopt a data protection law in line with international standards.*
- *Cease arbitrary interference and surveillance of the online and offline media and use of repressive laws to censor and control the media.*
- *Cease its silencing campaigning on social media by harassing persons based on their critical commentary posted online.*
- *Cease intimidation, surveillance and harassment of journalists, while dropping all charges and immediately and unconditionally releasing all arbitrarily detained journalists.*

Freedom of assembly (article 21)

Since 2015, the Cambodian authorities have also regularly taken measures to arbitrarily deny permission to hold peaceful, public demonstrations, and conducted intensive surveillance and interference of demonstrations that do take place, often using unnecessary or excessive force to disperse them. Sweeping arrests of protesters and arbitrary denials of protests by the authorities have now resulted in a de facto ban on demonstrations throughout Cambodia.⁷⁵

The authorities systematically banned or disrupted peaceful protests, and arrested and prosecuted persons for exercising their right to peaceful assembly.

One example is the annual gatherings to commemorate slain prominent political commentator Kem Ley. In July 2019, authorities detained two youth activists, Kong Raiya and Soung Neakpoan, for peacefully participating in such a gathering.⁷⁶ The authorities charged both with “incitement to commit a felony.”⁷⁷ They arrested seven other people too and disrupted or canceled commemorations around the country.⁷⁸ After releasing Kong Raiya and Soung Neakpoan on bail in November 2019, with charges still pending, the Phnom Penh court convicted Neakpoan of “incitement to commit a felony” (articles 494 and 495 of Cambodia’s Penal Code) on December 4, 2019 and sentenced him to two years in prison, while convicting Raiya *in absentia* of “incitement to commit a felony” (articles 88, 494, and 495 of Cambodia’s Penal Code) on June 19, 2020, and sentencing him to two years in prison, with the remainder of his sentence

⁷⁵ Cambodianess, *It Couldn’t Happen Today: The Right to Protest Has Been Lost in Cambodia*, June 23, 2020, <https://cambodianess.com/article/it-couldnt-happen-today-the-right-to-protest-has-been-lost-in-cambodia>

⁷⁶ OHCHR, *Cambodia: UN experts concerned by arrests around Kem Ley memorial service*, July 26, 2019, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24850&LangID=E>

⁷⁷ Voice of America, *Seven Arrested For Commemorating Kem Ley’s Assassination*, July 11, 2019, <https://www.voacambodia.com/a/seven-arrested-for-commemorating-kem-ley-assassination/4994656.html>; Voice of America, *Youth Activist Kong Raiya Released On Bail, Kept Under Court Supervision*, December 2019, <https://www.voacambodia.com/a/youth-activist-kong-raiya-released-on-bail-kept-under-court-supervision/5188068.html>

⁷⁸ Voice of Democracy, *Kung Raiya Charged Over Kem Ley T-Shirt*, July 11, 2019, <https://vodenglish.news/raiya-provisionally-charged-over-kem-ley-t-shirt/>

suspended due to time served in pre-trial detention.⁷⁹ Raiya was previously sentenced to 18 months' imprisonment in 2015 on spurious incitement charges in relation to a Facebook post that criticized the government.⁸⁰

Restrictions to peaceful assembly and arbitrary arrests of peaceful protesters around the commemorations of Kem Ley's death also continued a year later. On July 8, 2020, police blocked a Buddhist ceremony held by a group of youth activists and monks at the petrol station where the murder had happened. The authorities detained one of the activists, wearing a t-shirt with Kem Ley's face on it, and held him for questioning.⁸¹ The authorities released him after he agreed to sign a "pledge" not to partake in such protest activities again – a common practice used by authorities to threaten activists, while also stifling their free expression and peaceful assembly.

The authorities have systematically misinterpreted Cambodia's Law on Peaceful Demonstrations, adopted in 2009, to read that organizers must obtain the government's "permission" for protests to occur.⁸² However, the law merely requires organizers of peaceful protests to notify the authorities about protests.⁸³ In August 2020, youth activists organized peaceful protests at the government's designated protest area, called "Freedom Park," on the outskirts of Phnom Penh to call for the release of a detained union leader, Rong Chhun. The authorities rejected the planners' notification of the planned protests and arrested over a dozen activists.⁸⁴ During the same period, regular protests on the streets of Phnom Penh by family members calling for the release of detained opposition activists were frequently met with excessive use of force by city district security forces and plainclothes police officers.⁸⁵ Video footage shows police officers pushing and dragging protesters in an attempt to disperse the protesters.⁸⁶ Between August and October 2020, the authorities detained and charged a dozen protesters based on baseless incitement allegations after they had called for the release of political prisoners and respect for human rights.⁸⁷

The de facto ban on peaceful assembly and prosecutions of protesters also continued in 2021. In August 2021, a Phnom Penh court convicted nine activists and former opposition members of incitement for peacefully protesting near the Chinese Embassy in Phnom Penh as part of a 2020

⁷⁹ Clooney Foundation For Justice, *Statement on the Verdict in the Trial of Kong Raiya in Cambodia*, June 19, 2020, <https://cfj.org/wp-content/uploads/2020/06/Statement-on-the-Conviction-of-Kong-Raiya.pdf>

⁸⁰ CCHR, *Joint Statement: Arrest Of Two Activists Highlights Authorities' Lack Of Respect For Freedom Of Expression And Assembly*, July 12, 2019, https://cchrcambodia.org/media/files/press_release/719_kcase_en.pdf

⁸¹ LICADHO, *Youth Activist Arrested as Authorities Block Monks from Praying for Kem Ley*, July 8, 2020, <http://www.licadho-cambodia.org/flashnews.php?perm=279>

⁸² Article 5 of the Law on Peaceful Demonstration requires mere notification. Section II of the law specifies that a demonstration at "Freedom Park" and demonstrations of fewer than 200 protesters should be allowed unless it threatens public order: the "authorities should use their best efforts to assure that all groups wanting to demonstrate are able to do so and that, to the extent possible, all groups are able to demonstrate in the manner, time, and location they requested."

⁸³ Ministry of Interior, *Implementation Guide to the Law on Peaceful Demonstration*, https://cambodia.ohchr.org/sites/default/files/Implementation_Guide-Rev_Eng.pdf

⁸⁴ Human Rights Watch, *Cambodia: Free Detained Youth, Environmental Activists – End de Facto Ban on Phnom Penh Protests*, September 11, 2020, <https://www.hrw.org/news/2020/09/11/cambodia-free-detained-youth-environmental-activists>

⁸⁵ Human Rights Watch, *Cambodia: End Violence Against Detainees' Families – Allow Peaceful Protests, Release Wrongfully Held Activists*, August 6, 2020, <https://www.hrw.org/news/2020/08/06/cambodia-end-violence-against-detainees-families>

⁸⁶ <https://www.youtube.com/watch?v=8qPDB9U5JTI&feature=youtu.be>;
<https://www.youtube.com/watch?v=9f4KDQ1eGEQ&feature=youtu.be>

⁸⁷ Radio Free Asia, *Cambodia Arrests Another Activist For 'Incitement' as UN, Rights Group Slam Government Repression*, September 11, 2020, <https://www.rfa.org/english/news/cambodia/arrest-09112020144752.html>

campaign to commemorate the Paris Peace Accords anniversary, and sentenced them to between 12 and 20 months in prison.⁸⁸

The Human Rights Committee should recommend that the Cambodian government:

- *Train law enforcement officials in line with the United Nations Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials to ensure that the use of force occurs only in exceptional circumstances and lawfully.*
- *Stop bans of peaceful protests and arbitrary arrests of protesters in violation of the Covenant.*

Freedom of association (article 22)

Since 2015, the Cambodian government has adopted two draconian laws that have severely restricted the right to freedom of association for civil society and independent unions in Cambodia.

Closing Civil Society Space

The Cambodian authorities adopted the Law on Associations and Non-Governmental Organizations (LANGO) in 2015. The LANGO empowers the authorities to shut down organizations or deny them registration based on vaguely, undefined, and broadly formulated concepts such as “political neutrality.” Officials have also imposed burdensome reporting requirements that smaller civil society groups are unable to meet.⁸⁹

In July 2016, the government targeted the “Situation Room,” a consortium of nongovernmental organizations (NGOs) working on human rights protection and monitoring around the elections, based on groundless allegations that the consortium had violated the LANGO by failing to register. The authorities also claimed the “Situation Room” violated the vague and undefined concept of “political neutrality” in the LANGO, an offense that allows authorities to dissolve NGOs or deny them registration.⁹⁰ The government alleged without any credible evidence that the consortium had sought to topple the government.

On August 23, 2017, the Ministry of Foreign Affairs ordered the closure of the US-funded NGO National Democratic Institute (NDI), and the expulsion of its non-Cambodian staff, citing LANGO and the 1997 Tax Law.⁹¹ Since LANGO’s adoption, human rights groups have experienced significant government restrictions. In October 2017, the government also suspended the land rights group Equitable Cambodia on groundless accusations, and prevented it from conducting

⁸⁸ CambodJA, *Activists are convicted for protesting in front of Chinese embassy on the anniversary of the Paris Peace Agreement*, August 3, 2021, <https://cambojanews.com/activists-are-convicted-for-protesting-in-front-of-chinese-embassy-on-the-anniversary-of-the-paris-peace-agreement/>; Human Rights Watch, *Cambodia: Hun Sen Threatens Families of Activists – Peaceful Protesters Demanding Implementation of Paris Agreements Harassed, Arrested*, October 28, 2020, <https://www.hrw.org/news/2020/10/28/cambodia-hun-sen-threatens-families-activists>

⁸⁹ Human Rights Watch, *Cambodia: Joint Letter on the Draft Law on Associations and Non-Governmental Organizations*, June 22, 2015, <https://www.hrw.org/news/2015/06/22/cambodia-joint-letter-draft-law-associations-and-non-governmental-organizations>

⁹⁰ Human Rights Watch, *Cambodia: Repeal of Abusive Associations Rule – Revoke All Laws Violating Basic Rights*, December 7, 2018, <https://www.hrw.org/news/2018/12/07/cambodia-repeal-abusive-associations-rule>

⁹¹ Human Rights Watch, *Cambodia – Events of 2017*, January 2018, <https://www.hrw.org/world-report/2018/country-chapters/cambodia#>

its activities for a period going beyond the legally provided 15-day suspension period under the law. Local authorities routinely misread and misinterpret the LANGO, demanding that NGOs seek permission before conducting activities.⁹² NGOs also often report that local authorities and police interfere with their meetings and training sessions, frequently seeking to shut down events, or sit in the back of rooms, taking photos and requesting attendance lists of meeting participants.

Harassment of Independent Trade Unions

The Law on Trade Unions adopted in 2016 severely curtailed the ability of unions to register, collectively bargain, and represent workers, thus excluding them from collective bargaining to protect their rights and improve working conditions.⁹³ The Trade Union Law has also undercut the work of the Arbitration Council – a dispute resolution body that both employers and unions viewed as working credibly and effectively – by restricting workers' ability to raise collective disputes. In early 2020, the Cambodian government adopted 10 amendments to the Trade Union Law but these were adopted without an inclusive and genuine consultative process with trade unions, workers, or civil society and they failed to address all the serious shortcomings in the law that severely limit the freedom of association and workers' rights to organize and collective bargaining.⁹⁴

The Law on Trade Unions came at a time of increased harassment of independent trade union leaders and labor advocates, which saw dozens of union leaders subjected to persecution based on politically motivated cases. On the evening of July 31, 2020, the authorities arrested trade union leader Rong Chhun following his public comments on rural communities' land loss because of the demarcation of the Cambodia-Vietnam border.⁹⁵ After a year in pre-trial detention, in August 2021, a court convicted him of incitement, together with two other activists, and sentenced him to two years in prison and a large fine of 400 million riel (US\$100,000), which must be paid to the government's Border Affairs Committee.⁹⁶ After more than 15 months in pre-trial detention, on November 12, 2021, the authorities released him with the remainder of his sentence suspended.

The Human Rights Committee should recommend that the Cambodian government:

- *Repeal the LANGO, which allows arbitrary monitoring, interference, and harassment of civil society organizations, violating the rights to freedom of expression and association.*
- *Cease all monitoring and interference with the activities of NGOs.*
- *Amend the Law on Trade Unions in consultation with workers, labor advocates and other stakeholders, to bring it into full compliance with International Labor Organization Conventions No. 87 (Freedom of Association) and No. 98 (Right to Organize and Collectively Bargain), both ratified by Cambodia.*
- *Cease the harassment, arbitrary arrests, and physical attacks on trade unionists and workers, and investigate and appropriately prosecute the perpetrators of such attacks.*

⁹² Human Rights Watch, *Cambodia: Repeal of Abusive Associations Rule – Revoke All Laws Violating Basic Rights*, December 7, 2018, <https://www.hrw.org/news/2018/12/07/cambodia-repeal-abusive-associations-rule>

⁹³ Human Rights Watch, *Cambodia – Events of 2017*, January 2018, <https://www.hrw.org/world-report/2018/country-chapters/cambodia#>

⁹⁴ Human Rights Watch, *Joint Letter to Prime Minister Hun Sen: Cambodia's Law on Trade Unions and Cases Against Union Leaders*, December 18, 2019, <https://www.hrw.org/news/2019/12/18/joint-letter-prime-minister-hun-sen>

⁹⁵ Human Rights Watch, *Cambodia: Free Prominent Trade Union Leader – Drop Fabricated Charges Against Rong Chhun*, August 4, 2020, <https://www.hrw.org/news/2020/08/04/cambodia-free-prominent-trade-union-leader>

⁹⁶ Radio Free Asia, *Jailed Cambodian Union Leader Rong Chhun Urges Supporters to Carry on Fight For Justice*, August 25, 2021, <https://www.rfa.org/english/news/cambodia/jailed-082520211919.html>

- *Restore the work of the Arbitration Council to hear all collective disputes of workers, irrespective of whether they are represented by a union.*

Right to vote and take part in public life (article 25)

The Cambodian government seriously violated the right of Cambodians to vote by conducting an election that was neither free nor fair in 2018. The result was a National Assembly that consists entirely of 125 members of the ruling Cambodian People's Party (CPP), solidifying effective single-party rule. In the lead-up to the 2018 national elections, the Cambodian authorities intensified its crackdown on the main opposition Cambodia National Rescue Party (CNRP). The legal and judicial measures used by the Cambodian government resulted in many political opposition members threatened and forced to flee the country. The government spearheaded a politically motivated legal effort to dissolve the CNRP on fabricated grounds that the party had received foreign support to launch a "color revolution" to topple the Cambodian government, which later was endorsed by the CPP-controlled Supreme Court in November 2017.

On September 3, 2017, eight members of Prime Minister Hun Sen's personal bodyguard unit and about 100 police officers arrested CNRP party leader Kem Sokha at his home in Phnom Penh.⁹⁷ An investigating judge charged him with "colluding with foreigners" under article 443 of the Cambodian criminal code, which carries a maximum penalty of 30 years in prison. He was immediately stripped of his parliamentary immunity on the grounds that he was caught in the act of committing a crime, even though the purported evidence against him was a selectively edited video of a speech he gave in 2013.⁹⁸ A three-month-long trial was interrupted in March 2020 due to claimed reasons of Covid-19.⁹⁹ After continued postponement, in January 2021 the court informed Sokha that his case was no longer a "priority" because the authorities were pursuing new cases against hundreds of opposition members.¹⁰⁰ Sokha has spent over two years in arbitrary detention.

On June 5, 2018, the United Nations Working Group on Arbitrary Detention declared Sokha's pre-trial detention "arbitrary" and "politically motivated," and said Cambodian authorities should immediately release him.¹⁰¹ In the face of international pressure and concerns about his deteriorating health, Cambodian authorities released Sokha from the remote Tbong Khmum provincial Correctional Center III in September 2018 and placed him under de facto house arrest imposed through highly restrictive conditions of judicial supervision.¹⁰² After two years of postponement of his trial, the trial resumed on January 19, 2022.

⁹⁷ Human Rights Watch, *Cambodia: Drop Case Against Opposition Leader – Campaign Targeting Opposition, Media, and NGOs*, September 6, 2017, <https://www.hrw.org/news/2017/09/06/cambodia-drop-case-against-opposition-leader>

⁹⁸ Phnom Penh Post, *Sokha's detention upheld*, September 27, 2017, <https://www.phnompenhpost.com/national/sokhas-detention-upheld>

⁹⁹ Voice of Democracy, *Still No Date for Resuming Kem Sokha Trial After Five Months: Lawyer*, September 2, 2020, <https://vodenglish.news/still-no-date-for-resuming-kem-sokha-trial-after-five-months-lawyer/>

¹⁰⁰ Voice of America, *Phnom Penh Court Says Kem Sokha's Trial Not a Priority*, January 12, 2021, <https://www.voacambodia.com/a/phnom-penh-court-says-kem-sokha-trial-not-a-priority-/5734214.html>

¹⁰¹ UN Working Group on Arbitrary Detention, Opinion No. 9/2018 concerning Kem Sokha (Cambodia), A/HRC/WGAD/2018/9, June 5, 2018, https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session81/A_HRC_WGAD_2018_9.pdf

¹⁰² Human Rights Watch, *Cambodia: Free Opposition Leader Kem Sokha – Politically Motivated Solitary Detention Heightens Health Concerns*, August 21, 2018, <https://www.hrw.org/news/2018/08/21/cambodia-free-opposition-leader-kem-sokha>

In 2017, the government passed two rounds of repressive amendments to Cambodia's 1997 Law on Political Parties.¹⁰³ The amendments empower authorities to dissolve political parties and ban party leaders from political activity without holding hearings or an appeal process. The amendments also contain numerous restrictions that appear to have been tailored to use against the CNRP, most notably provisions that compel political parties to distance themselves from members who have been convicted of a criminal charge. On January 6, 2019, the government passed a third round of amendments to the Law on Political Parties, giving Prime Minister Hun Sen unfettered discretion to decide if banned politicians could regain their political rights.¹⁰⁴ Politicians seeking such a judgment would have to file a request to Prime Minister Hun Sen or the Minister of the Interior.

Based on the amendments to the Law on Political Parties, on November 16, 2017, the Supreme Court arbitrarily dissolved the CNRP, and imposed a five-year ban on political activities of 118 senior party members. Many opposition party members have since fled the country out of fear of being arrested.¹⁰⁵

The co-leader of the CNRP, Sam Rainsy, who has been in exile since 2015 due to fear of arrest, faces years in prison based on numerous convictions on bogus, politically manufactured charges if he ever returned to Cambodia.

In the first six months of 2019, the authorities summoned 147 CNRP leaders and activists to court or police stations on spurious charges.¹⁰⁶ In August 2019, Sam Rainsy and other exiled CNRP leaders announced they would return to Cambodia on November 9, 2019. The Cambodian government reacted by cracking down with a wave of arrests of CNRP members and supporters between August and November, which saw at least 78 CNRP activists imprisoned based on groundless charges, such as "conspiracy" and "incitement."¹⁰⁷ By mid-November 2019, Cambodia had jailed nearly 90 people on political grounds.¹⁰⁸ While most were later released on bail, charges were not dropped, risking rearrest at a later time. To prevent the return of the CNRP leadership, the government also adopted restrictive measures, including banning CNRP leaders from returning to Cambodia and coordinating travel restrictions with Thailand and other neighboring countries, which rendered it virtually impossible for them to return.¹⁰⁹

In November 2020, the authorities summoned over 100 opposition figures in mass trials based on their political affiliation and against people engaged in peaceful activism and expression. As part of these mass trials, in March 2021, the authorities convicted nine exiled CNRP leaders, including Sam Rainsy, *in absentia* based on attempted "attack" charges, and sentenced them to

¹⁰³ Human Rights Watch, *Cambodia – Events of 2017*, January 2018, <https://www.hrw.org/world-report/2018/country-chapters/cambodia#>

¹⁰⁴ Phnom Penh Post, *Assembly passes amendment to Political Party Law Article 45*, December 14, 2018, <https://www.phnompenhpost.com/national-politics/king-signs-article-45-amendment-paving-way-opposition-return>

¹⁰⁵ BBC, *Cambodia opposition politician Mu Sochua feared arrest*, October 6, 2017, <https://www.bbc.com/news/world-asia-41518527>

¹⁰⁶ Human Rights Watch, *Cambodia: Over 145 Opposition Members Summoned – End Renewed Crackdown on Dissolved Party*, June 2, 2019, <https://www.hrw.org/news/2019/06/02/cambodia-over-145-opposition-members-summoned>

¹⁰⁷ Human Rights Watch, *Cambodia: Wave of Opposition Arrests – Governments, Donors Should Demand Release of Political Prisoners*, October 20, 2019, <https://www.hrw.org/news/2019/10/20/cambodia-wave-opposition-arrests>

¹⁰⁸ Human Rights Watch, *Political Prisoners Cambodia*, <https://www.hrw.org/video-photos/interactive/2021/10/18/political-prisoners-cambodia>

¹⁰⁹ Voice of Democracy, *Rainsy Fails to Board Flight to Bangkok*, November 7, 2019, <https://vodenglish.news/rainsy-fails-to-board-flight-to-bangkok/>

up to 25 years in prison. The case against them is based on false allegations that the CNRP attempted to stage a coup by announcing their plans to return to Cambodia in November 2019.¹¹⁰

The Human Rights Committee should recommend that the Cambodian government:

- *Drop all charges against and immediately and unconditionally release all detained political opposition activists.*
- *Cease the government's campaign of harassment, arbitrary arrests, and physical attacks on political opposition members and supporters.*
- *Repeal the amendments to the Law on Political Parties that permit the arbitrary dissolution of political parties and that ban party leaders from political activity without due process.*

¹¹⁰ Human Rights Watch, *Cambodia: Quash Conviction of Opposition Leaders – End Mass Criminal Trials of Politicians, Activists*, March 3, 2021, <https://www.hrw.org/news/2021/03/03/cambodia-quash-conviction-opposition-leaders>