



# FACTSHEET – UPR 2018 – Cambodia

## 3rd CYCLE UNIVERSAL PERIODIC REVIEW

### Civic Space and Fundamental Freedoms



Joint-Submission by CIVICUS: World alliance for Citizen Participation, the Cambodian Center for Human Rights (CCHR), the Cambodian Human Rights and Development Association (ADHOC), IFEX, and Solidarity Center.



Since the 2<sup>nd</sup> UPR cycle, the Royal Government of Cambodia (RGC) has enacted legislation that excessively restricts fundamental freedoms, and misapplied laws to undermine civil society, leaving civic space severely curtailed.

#### SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES

During the 2<sup>nd</sup> UPR cycle, Cambodia received 35 recommendations relating to civic space. Of these, 25 were accepted and 10 were noted. Cambodia has **not implemented 24 accepted recommendations** and **partially implemented one accepted recommendation relating to civic space**. The received recommendations included eight on freedom of association, 10 on the protection of human rights defenders (HRDs), activists and journalists, 23 on freedom of expression, and 11 on freedom of peaceful assembly. The government committed, for example, to “Promote a safe and favorable environment that allows individuals and groups to exercise the freedoms of expression, association and peaceful assembly and put an end to harassment, intimidation, arbitrary arrests and physical attacks...”.

#### GUARANTEES OF FUNDAMENTAL FREEDOMS

The **International Covenant on Civil and Political Rights (ICCPR)** (Articles 22, 21 and 19), to which Cambodia is a party, and the **Constitution of the Kingdom of Cambodia** (Articles 41 and 42) guarantee **freedoms of association, peaceful assembly and expression**. Further, Cambodia’s Constitutional Council authoritatively interpreted Article 31 of the Constitution to mean that the provisions of the ICCPR are directly applicable in domestic law.

**FREEDOM OF ASSOCIATION**

**The government has enacted legislation that excessively restricts the freedom of association, and misapplied these laws to undermine civil society, including trade unions, as well as opposition political parties.**

- The Law on Associations and Non-Governmental Organisations (LANGO, 2015), Ministry of Interior letter on prior notification for associations activities (2017), Trade Union Law (TUL, 2016), amendments to the Law on Political Parties (LPP, 2017) and amendment to the Constitution (2018) violate international standards for freedom of association.
- From April 2017 to March 2018, 184 incidents\* of government oversight of CSOs that violated international standards were recorded, with frequent extra-legal interruptions of activities. Surveillance of CSOs accused of participating in an alleged ‘colour revolution’ increased, which has led to further monitoring and harassment.
- Provisions of the LANGO were invoked to close or suspend number of critical CSOs (such as NDI, EC & FCIS). Many CSOs are unable to meet the onerous activity and financial reporting requirements (LANGO).
- Amendments to LPP were used to dissolve 10 political parties (including the main opposition party CNRP), and deregister 22 parties. 118 senior CNRP officials were banned from participating in political activity for five years.

**HUMAN RIGHTS DEFENDERS**

**HRDs, civil society activists, journalists, and trade union leaders have faced judicial harassment and extra-legal violence, threats and surveillance, severely undermining their ability to exercise their fundamental freedoms.**

- The Criminal Code and other legislation is regularly used to criminalise the work of HRDs. From March 2017 to April 2018, legal action was taken against at least 36 HRDs as a result of exercising their fundamental freedoms.
- HRDs’ communications and activities are subject to surveillance. In December 2017, 44 per cent of CSO and trade union leaders surveyed believed that their communications had been monitored.
- Harassment of HRDs is widely met with impunity, whilst others face threats in an attempt to restrict their activism. This creates a fear of engaging in legitimate activities, with many HRDs fleeing Cambodia due to perceived threats.
- Whilst some HRDs have been released from prison in the post-election climate, charges or convictions against them have not been overturned, and this is not indicative of the broader space for HRDs to undertake their work.

\* Numbers of incidents and percentages cited in this factsheet rely on the Fundamental Freedoms Monitoring Project (FFMP), ‘Cambodia Fundamental Freedoms Monitor, Second Annual Report, April 2017-March 2018’, CCHR, SC/ACILS and ADHOC, available at: <https://bit.ly/2liVDvK>

The government enacted several laws that violate freedom of expression and utilised the legal framework to suppress and criminalise the legitimate expression of dissent and political speech, amidst a crackdown against the political opposition, the media and dissenting voices, increasingly in relation to online speech.

- Several provisions of the legal framework criminalize legitimate speech and excessively restrict the right to freedom of expression, such as the Criminal Code (Arts. 305, 307, 495, 496, 522, 523) including a 'lèse-majesté' amendment (Art. 437-bis, Feb. 2018), Law on Telecommunications (2016), amendment to the Constitution (Arts. 42 & 49, Feb. 2018); Inter-ministerial Prakas on Website and Social Media Control (May 2018) and the National Election Committee Code of Conduct for the Media (May 2018).
- 187 violations of freedom of expression were recorded from April 2017 to March 2018. A surge in criminal charges were brought against individuals for critical social media commentary which corresponded with an increase in self-censorship. Three individuals arrested and charged under the 'lèse-majesté' offense in May and June 2018.
- A severe crackdown against media perceived as critical towards the government was seen throughout 2017-2018, severely curtailing citizens' access to information.

Whilst the legal framework governing assemblies largely complies with international standards, the RGC consistently misapplies it and arbitrarily restricts the right to freedom of assembly, including through the arbitrary prohibition of planned assemblies and excessive state use of force.

- 111 violations of the freedom of peaceful assembly were recorded from April 2017 to March 2018. Notably, 33% of protests concerning land disputes and 22% of strikes resulted in violations of fundamental freedoms.
- In practice assembly organisers are often required to obtain permission for assemblies. From April 2017 to March 2018, 26 prohibitions of assemblies were recorded, including blanket bans imposed with no basis in law. Time and location restrictions were frequently imposed, subduing assemblies' impact. Restrictions on the freedom of movement were also utilized to undermine the freedom of peaceful assembly.
- The use of force by state-sanctioned authorities, including soldiers and government-contracted private security guards, violated international standards. Threats of violence and legal action were also utilized to deter assemblies.

## RECOMMENDATIONS

1. Take measures to foster a **safe, respectful and enabling environment for civil society**, including by removing legal and policy measures that unjustifiably limit the right to freedom of association.
2. **Amend the LANGO** (including Arts. 6, 8, 24, 25 and 30), **TUL** and related secondary legislation (including Arts. 15 and 17 and Prakas 249), and **LPP** (including Arts. 6, 18 and 45) to bring them into line with Cambodia's obligations under the ICCPR.
3. **Repeal the Ministry of Interior letter of October 2017** and clarify that **CSOs do not need to notify authorities** prior to conducting activities.
4. **Cease judicial harassment of and drop charges against all HRDs**, including journalists, for exercising their fundamental freedoms.
5. **Ensure that HRDs are able to carry out their legitimate activities** without fear or undue hindrance, obstruction or harassment.
6. **Conduct impartial, thorough and effective investigations** into all cases of attacks on and harassment and intimidation against HRDs, and **bring the perpetrators to justice**.
7. **Amend the Criminal Code**, including articles 437-bis (Insulting the King), 305 (Defamation), 307 (Insult), 495 & 496 (Incitement), 522 (Unlawful Coercion of Judicial Authorities) and 523 (Discrediting Judicial Decisions) to bring them in line with Cambodia's obligations under the ICCPR.
8. Ensure an enabling environment for freedom of expression online, including by immediately **revoking the inter-ministerial Prakas (No. 170 Br.K) on website and social media control** of 28 May 2018.
9. **Amend the Law on Telecommunications** (including Arts. 80 and 97) to ensure that all provisions are in accordance with international standards.
10. **Re-create an enabling environment for a free and pluralistic media**, including by ceasing judicial harassment against journalists, and abuse of tax regulations to harass media outlets and associations.
11. Ensure that all **restrictions or prohibitions on assemblies are prescribed by law**, pursue a legitimate aim, are necessary and proportionate, and are provided with timely and fulsome reasoning, in accordance with the Law on Peaceful Assembly.
12. Ensure that the **use of force at assemblies is exceptional and strictly complies with principles of legality**, precaution, necessity, proportionality and accountability, and provide comprehensive and periodic training to security forces charged with policing assemblies.

- Please refer to the full joint-submission on Civic Space and Fundamental Freedoms for comprehensive recommendations. -