

Lawyers' Rights Watch Canada

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CAMBODIA: Human Rights Report October 2011

by

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LRWC monitor and researcher, Catherine Morris¹, visited Cambodia during the month of October to discuss with human rights workers the priority concerns for protection of human rights defenders there. The main concerns are curbs on freedom of expression and assembly, particularly aimed against human rights defenders and community leaders seeking protection of communities in land rights and forcible eviction cases.

The main forms of abuse of human rights defenders are judicial and administrative harassment and “legislative assaults.”² These abuses are facilitated by a judiciary that is subject to corruption and has continued to lack independence, especially in cases involving wealthy or politically powerful persons. There is a reported continued decline in the numbers of lawyers with integrity and competence who are non-aligned with political parties. Cambodia’s legal aid NGOs are reportedly increasingly weak due to lack of funding and a climate of intimidation.

Even the processes of the Cambodian Extraordinary Chambers in the Courts of Cambodia (ECCC or “Khmer Rouge Tribunal”) have been subject to many reports of [political interference](#). The UN Under-Secretary General for Legal Affairs, Patricia O’Brien, on 21 October 2011 urged the Cambodian government to refrain from interfering with the mixed UN and domestic court. Political interference was cited by Judge Siegfried Blunk, one of the ECCC’s international judges for the ECCC, as the reason for his recent resignation.

Legislation

Cambodia’s recently enacted Penal Code came into effect 10 December 2010. Despite the Cambodian government’s promise to decriminalize defamation, the new Penal Code retains defamation (Article 305) and “Public Insult” (article 307) as criminal offenses subject to fines

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² LICADHO, *Report: The Delusion of Progress: Cambodia's Legislative Assault on Freedom of Expression*, LICADHO, October 2011, <http://www.licadho-cambodia.org/reports.php?perm=162>

from 100,000 to 10 million riels (US\$25-2,487). The Penal Code also contains the crimes of “Incitement to Commit a Crime” (Art. 495) and “Incitement not leading to a Crime” which are subject to prison terms.

The Cambodian government’s draft Law on Associations and Non-Governmental Organisations (“NGO law”) has been roundly criticized for its apparent intention to restrict freedom of association through mandatory registration, failure to set out clear criteria for approval or denial of registration, and creating burdensome registration and reporting requirements. After considerable international criticism, including by LRWC, the NGO law is now being revised by the Ministry of Interior which has recently stated that mandatory registration provisions are to be removed. LRWC plans to continue to monitor the progress of this draft legislation.

LICADHO (Cambodian League for the Promotion and Protection of Human Rights) has recently issued a report on how these and several other laws have been used to curtail freedom of expression.³

Judicial harassment

While offence of defamation continues to be used to suppress freedom of expression, human rights defenders are now subject to threatened or actual charges of the jailable offence of “incitement.”

For example, on 19 September 2011 two staff members of ADHOC, a human rights organization, Mr. Pen Bonna and Chay Thy, along with a journalist from Radio Free Asia, Ratha Visal, were summoned to appear in Ratanakkiri provincial court for investigation of incitement charges as a result of comments made in a 2009 news broadcast. At the time of the summonses, they had been conducting human rights education and advocacy in Ratanakkiri province to assist villagers to understand their legal right to oppose violations of their land rights.

Another disconcerting example is the case of false charges against an employee of LICADHO, Mr. Leang Sokchouen, who was charged in early 2010 under “disinformation” provisions of the old UN Transitional Authority Commission (UNTAC) criminal code for allegedly distributing pamphlets critical of the government. The alleged distribution of pamphlets was not connected to LICADHO’s human rights work, but the charges against a LICADHO employee are suspected to be aimed at intimidating human rights defenders. Even the official investigation report did not appear to indicate that police arrested the correct person. The entire process from arrest to trial was fraught with procedural flaws and violations of the accused’s internationally protected rights. On 14 July 2011, the Appeals Court upheld the jail sentence, as well as modification of the original conviction to “incitement” under Article 495 of the new Penal Code which had not come into effect at the time of the alleged offense. On 30 August 2011, he was sentenced to two years in prison. This conviction has been viewed as an attempt to “send a message” to human rights organizations, thus contributing to the climate of intimidation. Considerable advocacy by human rights organizations and diplomatic communications has so far had no effect. The case is subject to appeal to Cambodia’s Supreme Court.

Community-based activists are particularly vulnerable to violence and threats of criminal

³ *Ibid.*

charges. For example, recently, protestors against forcible eviction at Boeung Kak Lake in Phnom Penh were beaten, and then charged with offences. On 18 October 2011, six Boeung Kak activists took part in a peaceful demonstration outside the Phnom Penh municipal court to show support for community activists taken to court. All six have were summoned by the court and it is reported they may face multiple criminal charges.

Administrative harassment

In August 2011, a registered NGO, Sahmakum Teang Tnaut (STT) had its registration suspended for five months. No legal basis was give for this suspension. STT had the previous month issued a report critical of the government's compensation of householders affected by a government railway project. Also in August, several NGOs including the NGO Forum, the Housing Rights Task Force and Bridges Across Borders were reportedly warned to adjust their methods of working with Cambodians whose land rights are threatened by development. These communications appear to be aimed at discouraging these organizations from drawing attention to violations of land rights.

In September, 2011, two registered NGOs, the Cambodian Centre for Human Rights and the Natural Resource Protection Group (NRPG), were [threatened with suspension](#) of their registration if they went ahead with human rights education events in communities affected by destruction of Prey Lang forest.

LRWC emphasis

LRWC's recent visit was intended to continue to strengthen relationships and build new connections with relevant local, regional and international human rights organizations working on issues affecting people in Cambodia. While the rule of law and legal institutions are very weak, Cambodia has the benefit of well organized domestic human rights and civil society organizations with very strong regional and international human right networks. LRWC's emphasis in Cambodia will continue to be on offering legal analysis and advocacy concerning the NGO law and other laws that affect advocacy rights. LRWC plans to continue its emphasis on issues of judicial independence, independence and competence of the bar, and legal protection of human rights defenders. Increased emphasis will be placed on legal protection of community activists. LRWC plans to continue directing concerns to the government of Cambodia urging compliance with state obligations to implement international human rights norms. Continued attention will be placed on notifications to UN mandate holders. Increased attention will be given to advising relevant ASEAN bodies and international donors of priority concerns. Increased emphasis will also be placed on monitoring of trials by LRWC members visiting Cambodia at relevant times in cooperation with local NGOs. LRWC also plans to consider the potential role of cooperation with selected organizations on human rights education.

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