

## **Cambodia: Escalating concern about judicial harassment of human rights defenders and dissidents**

22 December 2021

Lawyers' Rights Watch Canada (LRWC) is alarmed by Cambodia's escalating judicial harassment of human rights defenders and government critics despite numerous recommendations from UN experts and the UN Human Rights Council (HRC). Currently, more than 130 persons are being prosecuted in mass trials as a result of advocacy of their right to political participation guaranteed by international law binding on Cambodia. They were charged in 2019 with conspiracy to commit treason and incitement to create social disorder under Cambodia's *Criminal Code*.<sup>1</sup>

LRWC calls on the Cambodian government to halt all prosecutions and dismiss all charges against human rights defenders and political activists and release all those arbitrarily detained.

### **Weaponization of laws and courts in mass trials of political opponents and rights advocates**

During 2020 and 2021 UN experts have continually expressed concern about Cambodia's judicial harassment of at least 150 people since 2019 on charges related to their association with the former Cambodia National Rescue Party (CNRP).<sup>2</sup> The CNRP was dissolved by Cambodia's government on spurious grounds<sup>3</sup> prior to the 2018 national election. The banning of the CNRP has resulted in de facto one-party rule by the Cambodia People's Party (CPP). The CPP, led by Prime Minister Hun Sen, has been in power in Cambodia for decades. The charges against those subjected to the mass trials are linked to a failed attempt by the exiled former CNRP president, Mr. Sam Rainsy, to return to Cambodia in 2019. In December 2021, hearings resumed in the mass trials after delays attributed to COVID-19 restrictions. Hearings are expected to continue until March 2022. The defendants face lengthy prison sentences if convicted.

Cambodian human rights defenders are also under attack. In November 2021, UN independent experts expressed alarm about the "weaponization" of Cambodia's courts "to silence any form of dissent, including peaceful activism that is protected under the right to freedom of expression."<sup>4</sup> The UN experts' 1 November 2021 statement was issued in response to the convictions of 15 human rights defenders and political activists who were subjected to unfair trials and sentenced to 20 months in prison for advocating for human rights or environmental protection.

Among those charged in the mass trials is a Cambodian-American human rights lawyer, **Ms. Theary Seng**. LRWC is concerned that Ms. Seng has been singled out for a separate hearing on 28 December 2021 for reasons that are unknown. A report of independent trial monitors in June 2021 found as follows:

The proceedings against Ms. Seng to date have entailed significant violations of her right to a fair trial and right to freedom of expression. In light of the lack of evidence of criminal wrongdoing, the incitement and conspiracy charges appear to be a pretext for retaliation against Ms. Seng. The Cambodian authorities must stop targeting dissenting voices with criminal proceedings and must repeal or revise Article 495 of the Criminal Code, the vague language of which has facilitated numerous prosecutions of government critics.<sup>5</sup> These concerns apply to all those charged in the trials of defenders and political activists. The subsequent hearings in the two mass trials continue to lack fair trial standards.

The charges have every appearance of being politically motivated,<sup>6</sup> and the defendants have been denied fair trial rights guaranteed by the *Universal Declaration of Human Rights*<sup>7</sup> and the *International Covenant on Civil and Political Rights*,<sup>8</sup> which Cambodia ratified in 1992.

In addition to the current mass trials, on 1 March 2021 a number of former-CNRP officials, currently in exile, were charged, tried, convicted and sentenced to lengthy prison sentences after in absentia proceedings described by UN experts as “tainted with irregularities and clear breaches of international law.” The UN experts said they were “appalled by the defendants’ lengthy and disproportionate prison terms which lack clear legal grounds” with no credible evidence against them.<sup>9</sup> Former-CNRP President **Sam Rainsy** received a prison term of 25 years. Deputy Leaders **Mu Sochua** and **Eng Chhay Enang** received sentences of 22 years. Other senior leaders, **Tiulong Saumura**, **Men Sothavarin**, **Ou Chantih**, **Ho Vann**, **Long Ry**, and **Nuth Romduoul**, received sentences of 20 years.<sup>10</sup>

**Mu Sochua**, Deputy Leader of the former CNRP, has a decades-long reputation for upholding human rights, including women’s rights.<sup>11</sup>

Another leader of the former-CRNP, **Kem Sokha**, also long-known for his advocacy of human rights,<sup>12</sup> is currently awaiting trial for treason in proceedings that UN experts described as “beset by irregularities,” indicating that there are “strong grounds to believe that the treason charge against Mr. [Kem] Sokha is politically motivated and forms part of a larger pattern of the misapplication of laws to target political opponents and critics of the Government.”<sup>13</sup> Kem Sokha was arrested in 2017 in a raid on his home by 100 police officers armed with automatic assault rifles who showed no arrest warrant and threatened Kem Sokha’s guards that they would be “destroyed” if they failed to open the door.

Kem Sokha was held<sup>14</sup> in arbitrary pre-trial detention until 10 September 2018 when he was granted conditional release in house arrest. He was denied access to lawyers during the early days of detention. He was released from house arrest on 10 November 2019 but remains under court supervision and is banned from political activities and travel outside Cambodia. He was “denied access to a lawyer in the early stages of his detention, and was ultimately held in pre-trial detention for a period that exceeded the maximum period permissible under Cambodian law.”<sup>15</sup> On 13 December 2021, a Cambodian court set a date of 19 January 2022 for Kem Sokha’s trial.<sup>16</sup>

In August 2021 the UN Special Rapporteur on human rights in Cambodia reiterated the March 2021 concerns that the results of mass trials of political opponents could “deprive those on trial of their right to engage in public affairs” and urged the government of Cambodia to “end investigations and prosecutions of members of the opposition and of human rights defenders, civil society activists and journalists, bearing in mind international human rights standards, due process of law and fair trial guarantees...”<sup>17</sup> The Special Rapporteur’s 6 October 2021 oral report to the UN HRC was more blunt, urging Cambodia to “[s]uspend draconian laws and reform them... Drop court cases and end the detention of those who disagree with the authorities. Restore political rights to members of the political opposition...”<sup>18</sup> The UN HRC resolution of 11 October 2021<sup>19</sup> expressed serious concern about deterioration of freedom of expression, association and assembly in Cambodia.

### **Conclusions and recommendations: Concerns have been escalating**

The Cambodian government has demonstrated a longstanding pattern of disregarding warnings and recommendations from UN bodies and experts.<sup>20</sup> Since the mid-1990s, successive UN Special Representatives and Special Rapporteurs on the situation of human rights in Cambodia have expressed concern about the continual shrinkage of space for dissent in Cambodia.<sup>21</sup> Politically motivated judicial harassment is routinely used to intimidate and silence human rights defenders, independent media, and political opposition figures. Cambodia’s courts are not independent from the executive. Laws and decrees are “routinely deployed for judicial or administrative harassment of dissenters – human rights defenders, civil society organizations, independent media, and opposition politicians.”<sup>22</sup>

Cambodia has disregarded its commitments to fulfill a number of recommendations accepted in its 2019 Universal Periodic Review by the HRC. Among the Cambodian government’s promises yet to be implemented is a pledge to create conditions where "civil society, including human rights defenders, can freely carry out their work without interference or hindrance."

LRWC calls on Cambodia to:

- Halt all prosecutions against human rights defenders and political activists and dismiss all politically motivated criminal charges against them;
- Unconditionally release all those arbitrarily detained;
- Implement the recommendations of all UN treaty bodies, HRC Special Procedures, and all recommendations accepted during its 2019 Universal Periodic Review;
- Review all laws and decrees and abolish or amend them to ensure they are consistent with Cambodia’s international human rights law obligations;
- Take immediate steps to ensure that Cambodian courts operate with independence and integrity and in accordance with international human rights law and standards.

*Lawyers’ Rights Watch Canada (LRWC) is a committee of lawyers and human rights defenders who promote international human rights, the independence and security of human rights defenders, the integrity of legal systems, and the rule of law through advocacy, education and legal research. LRWC has Special Consultative Status with the UN Economic and Social Council of the United Nations.*

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## References

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