

Media Briefing: the Khmer Five and the current political context in Cambodia

- **In the run-up to municipal elections on 4 June 2017 and national elections on 29 July 2018, conditions for those working to promote and defend human rights in Cambodia have become increasingly hostile, as civil society and democratic space have been increasingly restricted.** Over the last 18 months, the Royal Government of Cambodia (RGC) has increasingly limited freedoms of expression, freedom of association and freedom of assembly.¹ Human rights defenders like the five, as well as political analysts and opposition parliamentarians and supporters, have been subject to judicial harassment, arbitrary detention, and violence,² while a raft of repressive legislation, including the Law on Associations and Non-governmental Organisations, has increasingly restricted the ability of civil society to carry out its work.
- **Since the end of January 2017 the political situation has further deteriorated,** with menacing rhetoric from leading figures in the ruling party, threatening the work of civil society, human rights defenders, political analysts and independent media.³ The recent adoption of **amendments to the Law on Political Parties represent a systematic attempt to undermine, if not entirely eliminate, the main political opposition party, the Cambodia National Rescue Party (CNRP), and threaten the very existence of multi-party democracy in Cambodia.** On the basis of vague and undefined concepts such as “security of the state” and “national unity”, which open floodgates to abuse, the Supreme Court, upon request by the Ministry of Interior, is provided with the power to dissolve political parties and ban any political leaders from any political activity for five years. While there is no resort to appeals against such a dissolution or ban, individuals facing a conviction with non-suspended prison sentences will be blacklisted from holding any positions within a political party. The law also bans funding of political parties sourced from abroad.⁴
- **The crackdown on civil society and the political opposition and the general increasingly shrinking democratic space in Cambodia was met with international condemnation.** In September 2016, 39 States on the United Nations (UN) Human Rights Council released a statement that they are “*deeply concerned about the current escalation of political tensions in Cambodia, which threatens legitimate activities by opposition parties and human rights NGOs.*”⁵ On 25 January 2017, the UN Special Rapporteur on the Situation of Human Rights in Cambodia, Rhona Smith, and the head of the UN Working Group on Arbitrary Detention released a joint statement calling for the immediate release of the five and noting that “*as long as Black Monday protests are banned, protesters arrested and convicted, and threats against them condoned, any claims that Cambodia respects human rights will be severely compromised.*”⁶ Most recently, in his report to the UN Human Rights Council on 8 March 2017, UN High Commissioner for Human Rights explicitly referred to the detention of the five and stressed “*that credible elections must be grounded in guarantees that courts will be independent and impartial, and that the freedoms of expression, peaceful assembly and association will be protected.*”⁷

¹ CCHR, Factsheet “Recent Official Interference with Freedoms of Assembly and Expression” (August 2016) <http://bit.ly/2e7oW4G>

² IFEX, “Cambodia failing to protect human rights defenders ahead of elections” (4 March 2017) <http://bit.ly/2nCdEt9>

³ See Touch Sokha and Leonie Kijewski, “PM files lawsuit against analyst” (14 February 2017) *The Phnom Penh Post* <http://bit.ly/2l05lna>

⁴ See Office of the UN High Commissioner for Human Rights in Cambodia, “A Human Rights Analysis of the Amended Law on Political Parties 2017” (28 March 2017) <http://bit.ly/2nxRx8M>

⁵ “Joint Statement on Human Rights Situation in Cambodia” (14 September 2016) <https://kh.usembassy.gov/human-rights-situation-cambodia-joint-statement/>

⁶ UN Office of the High Commissioner for Human Rights, “Cambodia: UN experts call for the immediate release of five human rights defenders” (25 January 2017) <http://bit.ly/2k2bdIH>

⁷ UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, “Annual Report and Oral Update to the 34th session of the Human Rights Council” (8 March 2017) <http://bit.ly/2mWWUkh>

- **Cambodia's judiciary and courts continue to suffer from a troubling lack of independence from the executive.** Especially in cases involving opposition figures or human rights defenders, basic procedures are not followed (e.g. rules on evidence) and trials often violate fair trial rights. Verdicts also seem to lack proper deliberation, and suggest to derive from foregone conclusions.⁸
- **Impunity for crimes against human rights defenders, land and community activists, opposition members and journalists remains a serious challenge to the rule of law in Cambodia.**⁹ The murder of popular political commentator and government critic Dr. Kem Ley on 10 July 2016, who was shot dead in a café in central Phnom Penh in an attack reminiscent of the political violence that plagued Cambodia in the 90s and early 2000s, has had a chilling effect on civil society and those critical of the current regime. The inadequacies of the investigation and trial that led to the conviction of the only suspect in the case have raised questions about whether the true motives for the killing, and all those involved in the crime, have been identified.¹⁰
- **Cambodia is counting currently 27 political prisoners,¹¹ including land rights activist Tep Vanny,** who was arrested on 15 August 2016 while protesting for the five's release. She and a fellow community activist, Bov Sophea, were convicted of incitement and sentenced to six days imprisonment, which they served in pre-trial detention. While Bov Sophea was released, Tep Vanny was transported back to prison, on the basis of a re-activated case, stemming from a protest in 2013; she has been in pre-trial detention ever since. On 23 February 2017, Vanny was convicted of intentional violence with aggravated circumstances and sentenced to 30 months in prison and ordered to pay a fine of five million riel as well as compensation of four million and five million riel to the two plaintiffs – the two security force officials that had brutally beaten the community members during that protest in front of Prime Minister Hun Sen's house in 2013 where they peacefully called for the release of a fellow imprisoned community activists.¹² During the hearing, a group of Tep Vanny's supporters had peacefully gathered outside the court building; the protesters were violently dispersed by police and security forces, leaving some in need of hospital treatment.¹³ One CNRP activist who also showed support was chased by para-police to a neighbouring shopping mall and brutally beaten and kicked. Tep Vanny was also judicially pursued in relation to a re-activated case stemming from 2011, for which she, and three other community members, were convicted of insult and obstruction of a public official and sentenced to six months imprisonment. Appeals are still pending. Thus none of the other community members, expect Tep Vanny in relation to her 2013 case, have been faced with enforcement of the prison sentence.
- In Cambodian society, men and women continue to be prescribed gender-specific roles in accordance with deeply ingrained cultural beliefs and traditions. Nevertheless, **a large proportion of Cambodia's activists and HRDs are women, and as community leaders and civil society activists they play a vital role in the promotion, strengthening, and protection of human rights.** However, they frequently face threats, harassment and insecurity while carrying out their work, as is clearly demonstrated by the cases of Lim Mony and Tep Vanny.¹⁴
- Reform of the electoral administrator, the National Election Commission (NEC), was a key element of the July 2014 agreement between the ruling CPP and the opposition party CNRP.

⁸ See CCHR, Factsheet "Fair Trial Rights in Cambodia" (March 2017) <http://bit.ly/2nZwRtk>

⁹ See Sebastian Strangio, "Meet Kill" *Mekong Review*, Issue 4 <https://mekongreview.com/meet-kill/>

¹⁰ "Joint statement: After Conviction, Civil Society Demands Independent Inquiry into Murder of Kem Ley" (23 March 2017) <http://bit.ly/2nHQdzt>

¹¹ http://www.licadho-cambodia.org/political_prisoners/

¹² "Cambodia: Sentencing of land rights defender Ms. Tep Vanny" (OMCT, 27 February 2017) <http://www.omct.org/human-rights-defenders/urgent-interventions/cambodia/2017/02/d24223/>

¹³ See Joint Statement "Tep Vanny Convicted Again as Para-Police Attack Supporters" (23 February 2017) <http://bit.ly/2lcS2TL>

¹⁴ See CCHR, Report, "Women on the Frontline: The Situation of Women Human Rights Defenders in Cambodia in 2015" (December 2015) <http://bit.ly/2cxJJP8>

Whereas previously all nine NEC members were effectively chosen by the RGC, four are now recruited by the ruling party, with four recruited by opposition parties in the National Assembly, and the ninth supposedly neutral member agreed by consensus.¹⁵ **However, Ny Chakrya's current role as the only non-partisan member of the NEC and his position as the Deputy Secretary-General of the body, strongly suggests that his conviction of public defamation, acts of slanderous denunciation and publication of any commentaries to put pressure on jurisdiction and the ensuing six-month prison sentence (in addition to the trumped-up charges against the five human rights defenders, on the basis of which he is currently in pre-trial detention) is an attempt to undermine the independence of the NEC.** If Ny Chakrya's defamation conviction becomes final (i.e. subject to no further appeals), he will be removed from his position at the NEC, a development that would seriously call into question the independence and impartiality of the body.¹⁶ Ny Chakrya is responsible for the conduct of internal audits into election fraud/irregularities and monitor the elections.

¹⁵ See Cambodian Center for Human Rights (CCHR), Briefing Note, "Democracy Under Threat 2016" (September 2016) <http://bit.ly/2dInJAE>

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