



Canada House of Commons Subcommittee on International Human Rights

Witness Statement

Kingsley Abbott

International Commission of Jurists

Human Rights in Cambodia

27 March 2018 13:00 – 14:00 EDT

Mr. Chairman, members of the Subcommittee, thank you for this opportunity to testify before you today.

And warm greetings from Yangon, Myanmar.

My name is Kingsley Abbott and I am a Senior International Legal Adviser with the International Commission of Jurists, known at the ICJ.

The ICJ - established in 1952 - is an apolitical international human rights organisation composed of 60 eminent judges and lawyers from all regions of the world, including two Canadians: Supreme Court Justice Ian Binnie, and Justice Michèle Rivet.

The ICJ seeks to promote and protect human rights through the Rule of Law by using our unique legal expertise to develop and strengthen national and international justice systems.

I myself have lived and worked in Southeast Asia for nearly ten years, including in Cambodia and am currently based in Bangkok, Thailand where I work at the ICJ's Asia office (and where, I should add, the Canadian Ambassador to Cambodia is based, who has been markedly accessible - as was her predecessor).

I would like to address the Committee on two issues:

1. The misuse of the law in Cambodia under the pretext of the 'Rule of Law'; and
2. The lack of an independent and impartial judiciary.

But before I begin, I would like to add a little context.

Cambodia is currently in the grip of a human rights and rule of law crisis, unprecedented since the signing of the Paris Peace Accords in 1991.

Since the last national election, the Cambodian Government has scaled up its systematic closure of civic space and repression of fundamental freedoms in advance of the next national elections in July.

One of the Government's key tactics in this crackdown has been to "weaponize" the law.

Specifically, the Government has misused the law and legal system to legally harass the political opposition, independent media, civil society, human rights defenders, activists and individuals - in many cases for merely exercising their fundamental freedoms.

Of significance, when justifying its repressive actions and defending itself against both internal and external criticism, it repeatedly claims it is merely implementing the "rule of law".

Recent developments illustrate this point:

Last year, a new law, that was passed in 2015, named the Law on Associations and Non-Governmental Organizations (LANGO), that places onerous registration requirements on NGOs and requires them to be politically neutral, was misused to:

- shut down the US-funded National Democratic Institute (NDI) and expel its international staff; and
- temporarily suspend Equitable Cambodia (EC), a land rights NGO.

These are just two examples of the misuse of this law.

Local authorities all over Cambodia also frequently appeal to the law, demanding associations receive permission from the authorities before conducting activities.

In August 2017, the Cambodia Daily, an independent English-language newspaper, was presented with a tax bill for millions of dollars of allegedly unpaid taxes, which forced it to shut down.

In September 2017, the CNRP's leader, Kem Sokha, was arrested and detained following an early morning raid at his home.

He was later accused of treason in a case that has all the hallmarks of being politically motivated and remains in detention.

In November 2017, Cambodia's Supreme Court dissolved the CNRP and banned 118 of its politicians from political activity for five years in a highly politicized case.

The President of the Court who presided over the hearing is a high-ranking member of the ruling party who sits on both its Standing and Permanent Committees.

The Law on Political Parties was amended shortly before these legal proceedings, allowing for the dissolution of political parties by the Supreme Court.

The decision makes a mockery of both the justice system and the upcoming elections, prompting the European Union to withdraw its support to the electoral process saying it *"does not believe there is a possibility of a credible electoral process."*

Just a few weeks ago, amendments to the Cambodian Constitution were passed which reportedly impose a duty on all Cambodian citizens to:

"Primarily uphold the national interest and not conduct any activities which either directly or indirectly affect the interests of the Kingdom of Cambodia"

Without any definition of what these vague notions mean and or what actions might put someone in legal jeopardy.

The Government has repeatedly defended its actions under the guise of the Rule of Law, both at home and abroad, including before the Human Rights Council.

Hours after the country's Supreme Court dissolved the main opposition party Hun Sen took to the television to announce that the decision was based on the principle of "rule of law".

Last month the Government put out a White Paper justifying its repressive crackdown entitled "*Strengthening the Rule of Law and Liberal Democratic Process*".

Just four days ago, in response to the announcement that the US was suspending funding and calling for the release of political prisoners and the reinstatement of the CNRP, a Government spokesperson was quoted as saying:

"The US is not our boss... We stand very firm to protect what we call rule of law."

Of course, this is not what the Rule of Law means.

The ICJ has been working on defining the Rule of Law and making the link between it and the protection of human rights since the early 1950s.

What I have been describing is precisely the opposite of the Rule of Law, the three pillars of which are equality, accountability and predictability.

It does not just mean passing laws and holding people to them – but rather passing and implementing laws in a way that complies with international human rights law.

The misuse of the law is particularly concerning because of a lack of independent and impartial judges placing checks and balances on the executive and legislature.

In a Baseline Study on Cambodia released by the ICJ in October 2017, the ICJ identified that the lack of independent and impartial judges and prosecutors was the single largest problem facing the Cambodian justice system.

The problem is two-fold:

- an endemic system of political interference in high-profile cases; and
- an equally entrenched system of corruption in others.

Our Study also found that the justice system is plagued by numerous other problems, including:

- Inadequate and unfair judicial investigations, trials and appeals;
- Coerced confessions and the lack of accountability and redress for such abuses; and
- Identification of lawyers with the political agendas of their clients and targeting by the Government, of lawyers, on that basis.

In conclusion, I would like to make four key recommendations to this Committee, that Canada:

1. Send Members of Parliament to visit Cambodia before the July elections;
2. Continue to make strong appeals for the immediate reinstatement of the main political opposition party, the CNRP, and for the immediate release of Kem Sokha and all other political prisoners;
3. Increase its support for Cambodian civil society; and
4. Call upon Cambodia to repeal or amend all laws inconsistent with its international human rights obligations.

Thank you.