

Cambodia: Spurious “treason” charges against opposition leader Kem Sokha must be dropped

Today, following the commencement of the trial of political opposition leader Kem Sokha, the International Commission of Jurists (ICJ) condemned his continuing legal harassment and called on the Government of Cambodia to drop the ill-founded and apparently politically-motivated charges of treason against him.

“The trial hearing today marks and extends more than two years of legal harassment of one of Cambodia’s most prominent leaders of the political opposition,” said Frederick Rawski, ICJ’s Asia Pacific Director.

“The charges against Kem Sokha are wholly unsubstantiated – They should be dropped, and the trial discontinued in the accordance with his right to fair trial.”

In September 2017, Kem Sokha, leader of the now-defunct main opposition Cambodia National Rescue Party (CNRP), was arrested without warrant by more than 100 police officers in a midnight raid on his home. His arrest, in violation of his parliamentary immunity, was reportedly made on the basis that he had allegedly committed a crime *in flagrante delicto* – the Prosecution Office of Phnom Penh Municipal Court argued that he had been caught “red-handed” in an act of treason despite the fact that the alleged act was a speech he had made four years earlier in Australia in 2013. In the speech, Sokha had alluded to receiving foreign assistance in advocating for democratic change in Cambodia.

Kem Sokha was thereafter charged with alleged “conspiracy with a foreign power” under article 443 of the Criminal Code, and detained in the remote Trapeang Thlong prison in Tboung Khmum Province near the Vietnamese border. His applications for bail were rejected multiple times before he was released from prison after one year in pre-trial detention. During this period, Sokha was also denied access to independent doctors and medical treatment, despite his suffering from serious medical conditions. In 2017, the courts in Phnom Penh ruled that his pre-trial detention was legal under Cambodian law and refused him bail, even though Sokha had been barred from attending the proceedings, which his lawyers also boycotted in protest.

Kem Sokha’s arrest occurred in the midst of an intense crackdown on political opposition, civil society and independent media in the lead-up to the 2018 general elections. Two months after his arrest, Cambodia’s Supreme Court dissolved the CNRP and banned 118 CNRP officials from political activities for five years. In July 2018, the ruling Cambodian People’s Party won the elections by a landslide.

Following the elections, the Cambodian government has continued to systematically repress and persecute perceived critics of the regime through abuse of legal and judicial processes. In 2019, Cambodian authorities brought apparently politically-motivated charges against more than 100 members of the political opposition, more than half of whom were detained.

“There is an ongoing human rights and rule of law crisis in Cambodia, which needs to be urgently addressed,” said Rawski.

“The dissolution of the CNRP and imprisonment of its leader were crucial indicators that the Cambodian government had crossed a red-line a long time ago.”

The ICJ has called on the Cambodian authorities to fulfill the State's obligations to protect people's rights guaranteed under international law, including the rights to free expression, political participation and freedom of association, as well as the right to a fair trial and freedom from arbitrary detention.

Background

Today, on 15 January 2020, the trial of Kem Sokha's case began, following a ruling by Phnom Penh Municipal Court in December 2019 that pre-trial investigations had found sufficient evidence for the case to be heard at trial.

The head of the Municipal Court has reportedly indicated that the trial will take around three months to complete, with two hearings scheduled per week during this period. A second hearing is scheduled to take place tomorrow afternoon.

Today it was [reported](#) that most journalists and members of civil society had been refused access to monitor the trial, with only a few granted permission to enter the court, and others banned from standing outside the court. Under international fair trial standards, including article 14 of the International Covenant on Civil and Political Rights (ICCPR) to which Cambodia is a party, trials must be open to the public save in exceptional circumstances not apparently applicable here.

Sokha faces up to 30 years' imprisonment under charges of treason. Even as he was released from court-imposed conditions amounting to house arrest in November 2019, Sokha remains banned from participating in political activities and from leaving Cambodia, and must report to authorities whenever summoned.

In 2018, the UN Working Group on Arbitrary Detention (UN WGAD) determined that his detention was arbitrary on the bases that: (i) it was clearly impossible to invoke a legitimate legal basis justifying his deprivation of liberty; (ii) his deprivation of liberty was in violation of his rights to non-discrimination, liberty and security, fair trial, freedom of expression, public participation and equality before the law; (iii) the breach of his fair trial rights had been so grave as to give his deprivation of liberty an arbitrary character; and (iv) his deprivation of liberty had been on discriminatory grounds, namely his political and other opinion.

The UN WGAD also noted that the provision under article 443 of the Criminal Code – namely the “act of entering into secret agreement with a foreign state or with its agents in order to create hostilities or aggression” – was “so vague and imprecise” that it constituted a violation of international law, and called upon the Cambodian government to amend the law in line with its obligations under the ICCPR.

In a [report](#) released in October 2017, the ICJ concluded that the Cambodian government had been “weaponizing” the law and relying on judges and prosecutors who lack independence to silence dissent and dismantle democracy. It highlighted that the lack of an independent and impartial judiciary is the “single largest problem facing the Cambodian justice system”, including “an endemic system of political interference in high-profile cases and an equally entrenched system of corruption in all others”.

Contact

Frederick Rawski, ICJ Asia and Pacific Regional Director, frederick.rawski@icj.org

See also

ICJ, [‘Cambodia: Charges against Kem Sokha must be dropped and respect for fundamental freedoms restored’](#), 14 November 2019

ICJ, [‘Misuse of law will do long-term damage to Cambodia’](#), 26 July 2018

ICJ, [‘Cambodia: the ICJ condemns dissolution of main opposition party’](#), 16 November 2017