



CCHR Briefing Note – 01 April 2015

The situation of Human Rights Defenders in Cambodia in 2014

EXECUTIVE SUMMARY

Despite protecting human rights defenders (“HRDs”) falling under the protection of legally binding international instruments, such as the International Covenant on Civil and Political Rights (“ICCPR”), many HRDs in the Kingdom of Cambodia (“Cambodia”) remain at high risk of a plethora of threats including arbitrary arrest and detention, physical violence and murder, and threats and intimidation and harassment. The reluctance of the Royal Government of Cambodia (the “RGC”) in protecting HRDs, but moreover its active role in restricting their rights represents a breach of the state’s obligations to respect, protect and fulfill human rights and dangerously restricts the environment in which HRDs operate.

This Briefing Note assesses the situation of HRDs in Cambodia in 2014, including restrictions on freedom of assembly and expression and other forms of harassment. The information presented in the Briefing Note is based on data collected by the Cambodian Centre for Human Rights (“CCHR”) in the implementation of its ‘HRDs Project’, now evolved to the Protecting Fundamental Freedoms Project¹ which has provided support to HRDs under threat and promoted the rights of HRDs, seeking positive change in government policies and the observance and implementation of international human rights standards.

The first section outlines the legal framework for the protection of HRDs, at the international, regional and national levels, and highlights the obligations on the RGC to protect HRDs. The next section profiles the trends and patterns that emerged in 2014, and includes analysis and case studies on the excessive use of force by security forces, the blanket ban on protests, arbitrary arrests of protesters and the practice of pressurizing activists to sign written statements agreeing not to engage in further protests, judicial harassment, and the targeting of environmental and land rights defenders. Finally, the last section offers conclusions and recommendations to the RGC and the judiciary for improving the situation of HRDs in Cambodia. These include:

- Only deploy military personnel in matters of grave national security and cease involving district security guards in the policing of demonstrations;

¹ The Protecting Fundamental Freedoms Project (“the Project”) seek to address the ongoing limitations of fundamental freedoms – freedom of association, freedom of assembly, and freedom of expression - experienced in the Kingdom of Cambodia (“Cambodia”), especially by human rights defenders (“HRDs”), union leaders and workers, community/online/political activists, journalists and peaceful protesters.

- Ensure that all law enforcement officials involved in the policing of demonstrations receive human rights training and adhere to the UN Basic Principles on the Use of Force and Firearms and the Code of Conduct for Law Enforcement Officials;
- Ensure prompt, thorough, and effective investigations and prosecutions of alleged perpetrators by independent and impartial bodies, into all reports of excessive use of force by law enforcement officials and private security guards hired by local authorities and make the results public;
- Guarantee effective remedy to victims, and ensure that cases of abuses and violations against journalists, political activists, opposition politicians, NGO workers, union members and other human rights defenders are duly investigated and all perpetrators are brought to justice irrespective of their status;
- Ensure respect for the right to freedom of assembly, and put a formal end to arbitrary or sweeping bans on the holding of public gatherings;
- Put an end to the practice of forcing human rights defenders and citizens exercising their fundamental rights to freedom of expression and assembly from signing statements that restrict their rights in order to be released or avoid charges, and to annul such letters previously signed;
- Take immediate steps to establish a National Human Rights Institution (“NHRI”) in line with the Paris Principles;
- Stop the judicial harassment of human rights defenders, political activists and opposition politicians, and immediately and unconditionally release of those currently detained for politically-motivated charges or convictions;
- Respond positively to the request of the Special Rapporteur on the situation of human rights defenders to visit the country (In 2012 the Special Rapporteur wrote to the RGC to request that an invitation be extended for a country visit to Cambodia²).

This Briefing Note is written by CCHR, a leading, non-aligned, independent, non-governmental organization (“NGO”) that works to promote and protect democracy and the respect for human rights – primarily civil and political rights – in Cambodia.

THE LEGAL FRAMEWORK

The international legal framework

The protection of HRDs falls within the remit of general human rights standards enshrined in international instruments that are legally binding – such as the International Covenant on Civil and Political Rights. In addition, there are also specialized mechanisms that are designed with the key purpose of providing and protecting the rights of those individuals and organizations who are working to defend human rights.

The United Nations’ (“UN”) Declaration on Human Rights Defenders (the “HRD Declaration”),³ was the first international instrument aimed solely at HRDs. Despite not being a legally binding

² United Nations Human Rights, Office of the High Commissioner for Human Rights, ‘Country visits’, <http://goo.gl/Z1SD0r>.

instrument, the HRD Declaration was adopted by consensus by the UN General Assembly in 1998 on the occasion of the 50th anniversary of the Universal Declaration of Human Rights. The unanimous adoption represented a significant step forward in the international recognition of HRDs' work, and underscored the necessity of protecting HRDs. The HRD Declaration does not create new rights, but reaffirms the right to promote and strive for the protection and realization of human rights and fundamental freedoms,⁴ the right to freedom of expression⁵ and peaceful assembly,⁶ and the right to form, join and participate in non-governmental organizations, associations or groups.⁷ In addition, the HRD Declaration also restates some specific duties of both HRDs and States. Latter resolutions adopted by the UN General Assembly⁸ and the UN Human Rights Council⁹ reiterate the importance of the rights enshrined in the HRD Declaration, and urge States to take concrete protection measures to ensure the safety of HRDs.

The HRD Declaration defines HRDs as all people who, individually or within groups and associations act to eliminate violations of human rights and fundamental freedoms of peoples and individuals.¹⁰ These rights may be civil, political, economic, social and/or cultural and may cover issues ranging from apartheid to forced evictions. HRDs are often human rights professionals, journalists, lawyers or community representatives; however many others qualify as HRDs.¹¹ In order to be categorized as a HRD, individuals must be non-violent and must accept the universality of human rights.¹² HRDs may be undertaking a range of different activities, such as documenting human rights violations, providing education or training about human rights, protesting for the respect of the environment, awareness raising, etc.¹³

In addition to outlining the rights of HRDs, the HRD Declaration also emphasizes the duty of governments to ensure their protection. According to Article 12(2), the relevant authorities must protect HRDs from arrest, violence, threats, retaliation and any discrimination arising from their HRD activities and it emphasizes that HRDs ought to be protected under national law.¹⁴ The Declaration also highlights that HRDs are entitled to oppose actions, including those committed by omission, committed by States that result in violations of human rights and fundamental freedoms.¹⁵

Additional mechanisms contribute to HRDs protection at the international level. In 2000, the then

³ United Nations General Assembly Resolution, 'Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms' (8 March 1999) UN Doc A/RES/53/144, <http://bit.ly/19w8LEm>.

⁴ Ibid, [Art.1].

⁵ Ibid, [Art.6].

⁶ Ibid, [Art 5(a)].

⁷ Ibid, [Art 5(b) and 5(c)].

⁸ United Nations General Assembly Resolution, 'Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms' (19 December 2011) UN Doc A/RES/66/164, <http://bit.ly/1qiUlfU>.

⁹ United Nations Human Rights Council, 'Protection of Human Rights Defenders' (19 March 2010) UN Doc A/HRC/13/L.24, <http://bit.ly/1tXQllo>; United Nations Human Rights Council Resolution, 'Promoting Human Rights and Fundamental Freedoms Through a Better Understanding of Traditional Values of Humankind' (24 March 2011) UN Doc A/HRC/RES/16/3, <http://goo.gl/kfaf8Z>; United Nations Human Rights Council, 'Protecting Human Rights Defenders' (15 March 2013) UN Doc A/HRC/22/L.13, <http://bit.ly/YXSF7Y>.

¹⁰ UNGA Res. (n 1), fourth preambular paragraph.

¹¹ United Nations Office of the High Commissioner for Human Rights (OHCHR), 'Fact Sheet No. 29: Human Rights Defenders: Protecting the Right to Defend Human Rights' (April 2004), <http://goo.gl/EnVkvY>.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid. Article 12(3)

¹⁵ Ibid.

UN Commission on Human Rights¹⁶ established a Special Rapporteur on the situation of HRDs (the “Special Rapporteur”) as part of its mandate to assist in the implementation of the HRD Declaration.¹⁷ Among other things, the Special Rapporteur can receive information and individual complaints¹⁸ about the violation of HRD’s rights and can communicate with the relevant member states regarding these cases. The Special Rapporteur also undertakes country visits to investigate the situation of HRDs in a particular country and presents annual reports to the UN Human Rights Council.¹⁹ In November 2013, the first ever resolution on human rights defenders was adopted by the United Nations General Assembly’s Third Committee, addressing some of the specific risks, discrimination and violence faced by women human rights defenders.²⁰

In addition to the dedicated mechanisms in place for HRDs, more general developments in the area of human rights can also protect HRDs. For example, the Paris Principles,²¹ adopted by the UN in 1993, encourages the establishment of pluralist and independent national human rights institutions (NHRI). These institutions are often used to house offices responsible for human rights protection and are an additional tool for the protection of HRDs.

The regional legal framework

At the regional level, several organizations have established *ad hoc* mechanisms to complement the international protection framework, evidencing the growing recognition of the importance of the work of HRDs.

Moreover, all regional organizations have demonstrated active engagement specifically in the protection of HRDs. In 2008, the Committee of Ministers of the Council of Europe reaffirmed the importance of protecting HRDs and called on member states to consider strengthening the capacity of independent commissions, national human rights institutions or ombudspersons to address complaints by human rights defenders regarding the violation of their rights.²² In addition, the European Union (the “EU”) and the Organization for Security and Cooperation in Europe (the “OSCE”) have published guidelines on HRDs. The EU guidelines not only call upon EU missions to support HRDs and provide practical means of assisting at-risk activists, but also aim to assist the EU to support HRDs through its relations with non-EU countries and in multilateral fora, for example by including the situation of human rights defenders in political dialogue, and advocating countries to align their legislation with the UN Declaration.²³ Similarly, the OSCE guidelines on the protection of human rights defenders also call on OSCE participating states to form human rights defenders’

¹⁶ The UN Commission on Human Rights was replaced by the UN Human Rights Council in 2006. See, United Nations Human Rights, Office of the High Commissioner for Human Rights, ‘United Nations Human Rights Council’, <http://goo.gl/dr0bl>.

¹⁷ Ms. Margaret Sekaggya held this post from 2008- 2014, and was succeeded by Michel Forst who was appointed in June 2014. See, United Nations Human Rights, Office of the High Commissioner for Human Rights, ‘Special Rapporteur on the situation of human rights defenders’, <http://bit.ly/1q1Hfc6>.

¹⁸ Individual complaints about allegations of HRDs’ rights can be submitted to the Special Rapporteur. See, United Nations Human Rights, Office of the High Commissioner for Human Rights, ‘Submitting complaints’, <http://bit.ly/1C4DJEi>.

¹⁹ UN Human Rights, ‘Country Visits’, n 2

²⁰ United Nations General Assembly Resolution ‘Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders’, (18 December 2013), UN Doc A/RES/68/181, <http://goo.gl/yz4xwt>

²¹ United Nations General Assembly Resolution, ‘Principles relating to the Status of National Institutions (The Paris Principles)’ (20 December 1993) UN Doc A/RES/48/134, <http://goo.gl/nj0h8P>.

²² Council of Europe Committee of Ministers, “Declaration of the Committee of Ministers on Council of Europe Action to Improve the Protection of Human Rights Defenders and Promote Their Activities” (6 February 2008), <http://bit.ly/12kSwNi>.

²³ EU Council Working Group on the General Affairs and Evaluations (other than Schengen) (GENVAL), ‘European Union Guidelines on Human Rights Defenders Created to Ensure their Protection’ (8 December 2008), <http://goo.gl/SWZr5x>.

protection mechanisms, both internally in their own territory, and externally in third countries through their diplomatic relations.²⁴

The Association of Southeast Asian Nations (“ASEAN”) lags behind other regional organizations in the field of human rights, and in this framework does not provide sufficient protection to HRDs in its region. Indeed, the ASEAN was late to incorporate human rights related bodies in its structure: the intergovernmental commission on human rights (the “AICHR”) was launched just in 2009, and its mandate does not contain explicit provisions for receiving and investigating complaints of human rights violations. In addition, the AICHR has not set up any autonomous body dedicated to HRDs and the ASEAN Human Rights Declaration,²⁵ adopted on 18 November 2012 in Phnom Penh, contains no provision related to HRDs.

The national legal framework

Cambodian domestic law does not provide any specific protection to HRDs, although the Constitution²⁶ does protect fundamental freedoms and Article 31 recognizes the human rights stipulated in international treaties. Article 41 of the Constitution states that ‘*Khmer citizens shall have freedom of expression, press, publication and assembly*’;²⁷ Article 35 provides citizens ‘*the right to participate actively in the political, economic, social and cultural life of the nation*’²⁸ and Article 37 grants ‘*the right to strike and to non-violent demonstration*’.²⁹ Cambodia’s obligations under international law are not only set out in Article 31 of the Constitution, but their direct applicability was also clarified in a 2007 decision by the Cambodian Constitutional Council³⁰, which stated that international treaties are directly applicable before the Courts, and that no law should be applied in a manner which violates the Constitution or the human rights treaties to which Cambodia is a party.³¹ Despite these provisions, there is no human rights mechanism that can adequately protect HRDs from violations and abuses, or guarantee remedy and redress.

During Cambodia’s last Universal Periodical Review (“UPR”) on 28 January 2014, nine states³² recommended that the RGC improve protection of HRDs, for instance by engaging in a meaningful national dialogue with HRDs, complying with international freedom of expression standards and halting any actions of intimidation or harassment.³³ The RCG accepted the majority of recommendations, including seven relating directly to human rights defenders, such as the Czech Republic’s suggestion to revise the penal code as well as other laws so that they comply with international freedom of expression standards and prevent the harassment of HRDs, journalists and NGOs and Austria’s recommendation to respect and protect the rights of human rights defenders and journalists to conduct their work without hindrance, intimidation or harassment. Nonetheless,

²⁴ Organization for Security and Cooperation in Europe (OSCE, “Guidelines on the Protection of Human Rights Defenders”, (June 10, 2014), <http://www.osce.org/odihr/119633?download=true>

²⁵ Association of Southeast Asian Nations, ‘ASEAN Human Rights Declaration’ (19 November 2012), <http://bit.ly/1tF3Vl1>.

²⁶ The Constitution of the Kingdom of Cambodia, http://cambodia.ohchr.org/klc_pages/KLC_files/section_001/section_01_01_ENG.pdf

²⁷ Ibid, Article 41

²⁸ Ibid, Article 35.

²⁹ Ibid, Article 37.

³⁰ The Cambodian Constitutional Council is mandated to defend the Constitution. Ibid, Article 136.

³¹ Cambodian Constitutional Council, Decision No. 092/003/2007 (10 July 2007).

³² Ireland, Czech Republic, Austria, Chile, New Zealand, Belgium, France, Germany, Portugal and Tunisia made recommendations on the topic. See, United Nations Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review on Cambodia’ (27 March 2014) UN Doc A/HRC/26/16, <http://goo.gl/XzZk9M>.

³³ Ibid.

they did not support Tunisia's suggestion to ensure a favorable climate for the activities of human rights defenders, nor Portugal's recommendations to protect human rights defenders from harassment and arbitrary arrest, and lift all restrictions to peaceful demonstrations.³⁴ Nevertheless, the RGC has not yet developed any policy or taken any meaningful step to protect HRDs.

Cambodia has three committees with human rights mandates: the Senate Commission on Human Rights, the National Assembly Commission on Human Rights and the governmental Cambodian Human Rights Committee. However, none of the three committees is independent or autonomous, leaving them susceptible to political influence and impeding their ability to carry out their roles effectively.³⁵ Following a conference on the establishment of the NHRIs in 2006, the RGC committed to creating a NHRI based on the Paris Principles of pluralism and independence, and created a Joint Working Group between the RGC and civil society organizations (CSO).³⁶ During Cambodia's 2014 UPR, 10 countries³⁷ recommended that the RGC accelerate its formation. Despite this, the law is still being drafted.

Furthermore, the RGC has not yet ratified the First Optional Protocol to the ICCPR, which recognizes the competence of the UN Human Rights Committee to receive communications from individuals who claim to be victims of human rights violations.

DOCUMENTING RESTRICTIONS OF HRD'S IN CAMBODIA

In Cambodia HRDs regularly face a plethora of unpredictable dangers, which may take the form of threats, beatings, murder, and judicial harassment such as arbitrary arrest and unlawful detention. In the context of a lack of public protection frameworks, CSOs remain a crucial actor in documenting violations and defending HRDs.

Since the launch of the [HRD Project](#) in 2011, CCHR has regularly received requests for support from HRDs at risk. CCHR has thus documented cases of violations committed against HRDs and other challenges they face by gathering information on the nature of the threat, the alleged perpetrators and the impact of the support provided by CCHR. The data is based solely on those HRDs who CCHR provided support for through its HRD fund, and offers an update on HRD developments since CCHR's 2013 'Defending the Defenders' report.³⁸ It should not however, be considered as an exhaustive representation of all HRDs in Cambodia.

³⁴ Ibid.

³⁵ CCHR, Factsheet: 'Institutions Series: National Human Rights Bodies in Cambodia' (March 2012), <http://goo.gl/VNq21u>

³⁶ Asia Pacific Forum, 'Conference on the Establishment of a National Human Rights Institution in Cambodia' (27 September 2006), <http://bit.do/YFMn>.

³⁷ Chile, Myanmar, Serbia, Egypt, India, Thailand, Malaysia, Morocco, Pakistan and Australia., UN HRC, 'UPR on Cambodia', (n 32).

³⁸ CCHR, 'Defending the Defenders: Security for Cambodian Human Rights Defenders', Report, (19 June 2013), <http://goo.gl/a61uIG>

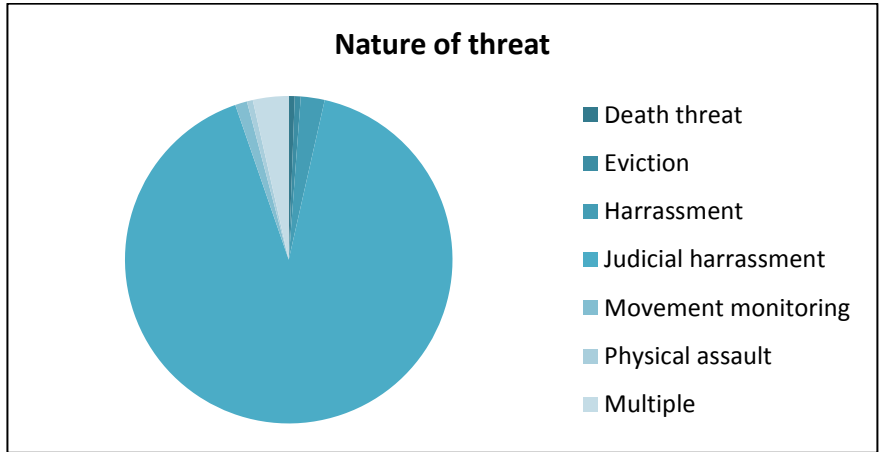


Figure 1: The nature of threats against HRDs in Cambodia.

At the end of 2014, the Project supported 34 cases involving a total of 171 individuals. 91 percent of HRDs have experienced some form of judicial harassment which included arbitrary arrests, unlawful detention and being pressurized into signing commitments stating that they agree not to engage in further protests (figure 1). The remaining 9 percent had been subject to forced evictions, physical assaults or movement monitoring. One HRD had received a death threat, and six had faced multiple forms of threats.

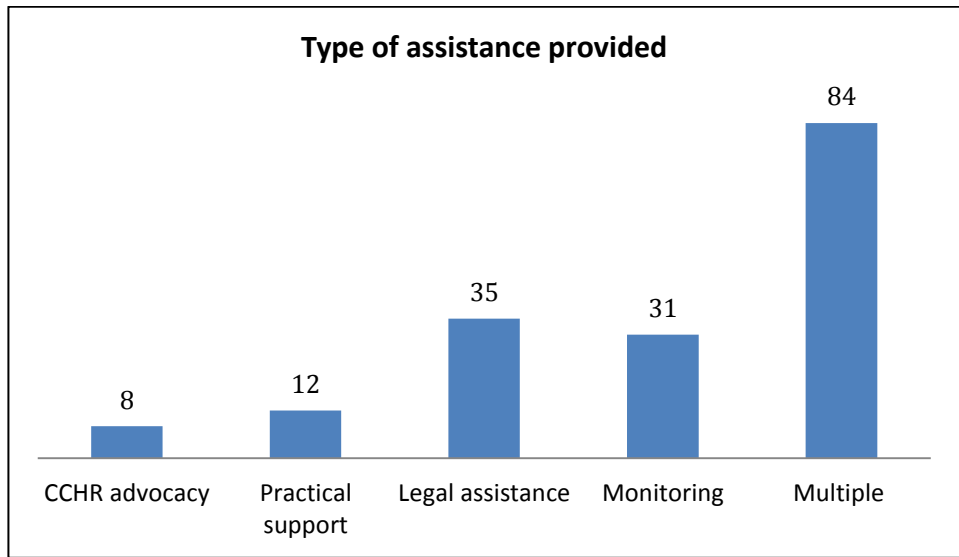


Figure 2: Type of assistance provided to individuals supported by the HRD fund.

The support provided from the Project varied according to the specifics of each case. CCHR advocated for some HRDs, for example by issuing joint statements to raise awareness and increase pressure on the RGC to act. Other HRDs were offered practical support which includes per diems, security assistance, and transportation. CCHR's contracted lawyers provided legal assistance to many HRDs, and CCHR monitored the activities of other HRDs in case the risk they face increased. A large majority of them received multiple forms of support, ranging from legal assistance and humanitarian support to public advocacy. See figure 2 above.

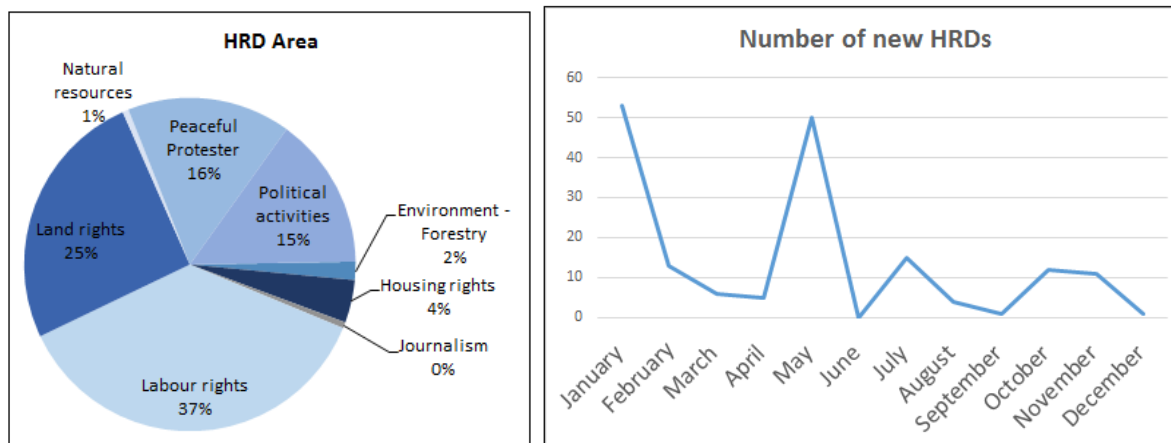


Figure 3: Graphs illustrating area of HRDs work and the number of new HRD cases in 2014.

HRDs were involved in a number of different areas of work, including environmental protection, housing rights, journalism, and conserving natural resources. However, as shown in figure 3, the majority of HRDs who were supported by CCHR were involved in labour rights (37%), land rights (25%), peaceful protesting (16%) and political activities (15%).

Based on the data collected, CCHR has been able to identify a number of trends and patterns in the human rights violations and obstacles faced by HRDs in the course of their work in 2014. The start of 2014 saw a continuation of the government's use of excessive force against protesters with a peak in May relating to garment factory protesters and accordingly, CCHR saw a surge in the number of referrals from human rights defenders.

The following cases illustrate how state authorities and powerful tycoons have continued acting in violation of both international and national law, hence restricting the environment in which HRDs operate in Cambodia.

Crackdown on freedom of expression and assembly³⁹

2014 was marked by serious violations of the freedoms of expression and assembly throughout the country. The violations took the forms of excessive use of force by security forces against protesters, a blanket ban on protests and several instances of arbitrary arrests of demonstrators, who were then pressurised into signing commitments stating that they agree not to engage in further protests.

The excessive use of force against protesters that characterized the end of 2013, including the use of live ammunition against protesters,⁴⁰ regrettably continued into early January 2014. During the first three days of January, the police cracked down on garment protests, leading to at least four deaths among the protesters, the disappearance of a 16-year-old boy and dozens of injured people.⁴¹ Following this event, on 4 January 2014, Phnom Penh Municipal Hall blocked access to Freedom

³⁹ Cambodian Centre for Human Rights (CCHR), 'Briefing Note Cambodia: Freedom of Assembly "on hold"' (April 2014), <http://bit.ly/1su1NYS>.

⁴⁰ CCHR, 'Briefing Note: Excessive use of force against demonstrators in 2013 in Cambodia' (3 January 2014), <http://bit.ly/1tMZWB0>; CCHR, 'Press Release: CCHR Deplores the Use of Live Ammunition by Security Forces as Today's SL Garment Factory Protests Turned Violent' (12 November 2013), <http://bit.ly/1mVPeUT>. CCHR 'Media alert: Harsh Crackdown on Peaceful Assembly at Wat Phnom Results in Five Injured' (18 October 2013), <http://bit.ly/1nGUoUK>.

⁴¹ CCHR, 'Press Release: CCHR Condemns the RGC's Violent Clampdown on Human Rights and the Resulting Deterioration of the State of Democracy in Cambodia' (4 January 2014), <http://bit.ly/1tFFgNa>; CCHR, 'Press Release: CCHR Calls for the Immediate Lift of the Ban on Assemblies and for a Halt to the Wave of Detention of Human Rights Activists' (21 January 2014), <http://bit.ly/1te5V4W>.

Park, in Phnom Penh and the Ministry of Interior announced a ban on assemblies, demonstrations, and marches until “*public order and security are restored*” throughout the country.⁴² Security forces were widely deployed throughout the capital city in a clear tactic by the RGC to instil fear within the population and to deter any dissenting voice.

In this context, the case of the arrest of the “23” protestors became a symbol for the restrictions on the rights to freedom of expression and peaceful assembly.

Free the “23”⁴³

On 2 January 2014, 10 people and 5 monks were arrested following a garment workers’ protest at Yak Jing Factory near Phnom Penh. The monks were released later on that day. Among them were the president of the Independent Democracy of Informal Economy Association (“IDEA”) Vorn Pao, the founder of the Coalition of Cambodian Farmer Community Theng Savoeun, a member of the Center for Labor Rights of Cambodia Sambath Piseth, and the famous Boeng Kak land rights activist Chan Putisak. They were beaten and arrested by Military Special Command Unit 911 during a protest asking the government to increase the minimum wage. The following day, 3 January 2014, a further 13 individuals were arrested near Canadia Industrial Park, on Veng Sreng Boulevard.

They were all initially charged under Article 411 “*intentionally causing damage with aggravating circumstances*” and Article 218 “*acts of violence with aggravating circumstances*” of the Penal Code 2009 facing up to five year’s imprisonment and fines from \$1,000 - \$ 2,500. In violation of both Cambodian and International law, the 23 arrested individuals were held incommunicado for five days, until 8 January 2014. Furthermore, the lawyer of ten of the arrested individuals was not correctly informed as to which Correctional Centre (CC) they had been sent to, being informed that they would be sent to CC1, when they were actually detained at CC3, located in a remote area of Kampong Cham province.

At the trial, 19 of the 23 faced charges under Article 218, “*intentional violence with aggravating circumstances*” and Article 411, “*intentional damage with aggravating circumstance.*” of the Penal Code. The remaining four accused, Vorn Pao, Chan Putisak, Theng Savoeun and Sambath Piseth, had their charges changed on 14 March 2014 to “*incitement to commit acts of violence*” and “*incitement to commit felony*” under Article 494 of the Criminal Code. The Prosecutor again raised the charges during his closing statements to “*instigation to commit acts of violence*” under Article 28 of the Penal Code. The four accused were eventually all found guilty of the more serious charge of instigation.

CCHR staff monitored the hearings, which were held at Phnom Penh Municipal Court of First Instance in May. The court hearings revealed a complete lack of any incriminatory evidence: in both courtrooms, the documentary videos of events at Yak Jin factory and on Veng Sreng Boulevard on 2 and 3 January did not show any of the defendants. Many of the questions focused on establishing whether a defendant was present at the protests and whether the defendants’ testimonies included any inconsistencies, meanwhile ignoring evidence that many of the defendants’ original statements were obtained under duress. In addition, defense lawyers in one of the courtrooms presented a documentary video, exonerating Vorn Pao, as he can clearly be heard calling for non-violence.

⁴² CCHR, ‘Lift of the Ban on Assemblies’ (n 45).

⁴³ CCHR’s HRD Project supports 6 of the 23 accused, including Vorn Pao.

Judges seemed to have already assumed the guilt of the defendants, in contravention with the right to be presumed innocent. For instance, the enquiries made by the prosecutions and judges repeatedly equated presence at the protest with guilt. Furthermore, the prosecutors and the judges referred to protesters as “illegal groups,” and “anarchists,” indicating prejudice against the defendants. Finally, 21 of the 23 accused wore orange prison uniforms which read “convicted” on the back, giving the impression that the accused were already convicted felons.

The trials were also deeply biased as judges only allowed testimony and evidence regarding one side of the events. Prosecutors and judges throughout the hearings repeatedly interrupted defense lawyers and defendants when the latter attempted to mention military and police brutality and to introduce evidence related to violence by the security forces. Lawyers were barred from presenting some evidence, such as two video footages, while, for instance, in the case of the ten individuals arrested on 2 January 2014, both the judge and prosecutor introduced new evidence during the trial that was not part of the original case file. Finally, trials went ahead with the majority of civil parties and witnesses not present, whose written statements were instead read out loud in court, consequently preventing them from being cross-examined by the defence lawyers.⁴⁴

The five-day hearing of the ten arrested on 2 January highlighted the serious remaining physical and mental health concerns of some of the defendants, who have been repeatedly denied bail. During the hearing, Sambath Piseth raised concerns regarding his hand, which was broken while he was beaten by the military and his difficulties breathing. Vorn Pao also raised concerns for his health each time CCHR visited him in detention, and collapsed in the courtroom, illustrating the physical and mental strain resulting from the violence they endured at the hands of the security forces combined with the pressure of being in detention.

The verdict was released on 30 May 2014. Human rights defenders Vorn Pao, Sambath Piseth, and Chan Puthisak were sentenced to four and half year imprisonment, whilst Theng Savoeurn was sentenced to four years. The six other individuals arrested at Yak Jin Factory on 2 January 2014 were sentenced to between two and a half years’ and three years’ imprisonment. The 13 arrested on Veng Streng Boulevard on 3 January 2014 all received sentences ranging from one to four years’ imprisonment. However, amid high mobilization from civil society and the international community, the sentences of all 23 were suspended and they were released that same day. Despite this, the Court confirmed their guilty verdict. They all decided to appeal the decision as they want to be declared innocent, however as of January 2015, the Appeal Court is yet to receive the file from Phnom Penh Municipal Court.

The entire proceeding demonstrates that the guilty verdict was based on political considerations rather than evidence. In addition, it illustrated the lack of independence of Cambodia’s judiciary, which has been further threatened by the recent adoption, on 16 July 2014, of three laws relating to

⁴⁴ CCHR, ‘Press Release: CCHR Calls for the Acquittal of the 23 and their Immediate Release’ (29 May 2014), <http://bit.ly/1pK2hgG>.

the judiciary.⁴⁵ Their arrest and conviction is symbolic of a trend to repress human rights defenders and protesters by the Royal Government of Cambodia.⁴⁶

In the meantime, the ban on assemblies, demonstrations and marches announced on 4 January 2014 was used as a tool to pressurise peaceful protesters who continued their activities.

On 25 February 2014, it appeared that Prime Minister Hun Sen was set to lift the ban on assembly, when during a speech in Preah Sihanouk province, he announced, “Now, I am not requesting to hold demonstrations, but I will not prevent it,” adding that he “must guarantee peace for all, as well as guarantee the right to gather for all.” The announcement led to much confusion as to whether the ban had been lifted, including amongst government officials. However, further protests were also banned, indicating that in practice the ban remained in place. On 12 March 2014, after Hun Sen’s speech, authorities announced that Freedom Park would remain off limits for protesters indefinitely. Phnom Penh municipality subsequently rejected several requests to hold public gatherings in Freedom Park by labor unions and associations.

Two additional common features characterised the wave of repression:

- The use of arbitrary arrest and temporary detention against human rights defenders and protesters;
- The requirement that they sign written statements agreeing to not participate in future demonstrations, as a condition of their release or to avoid charges.

In previous years, the RGC had already required HRDs to sign away their rights to future protests. Similar methods were used on 21 April 2011 against Boeng Kak Lake community members and on 11 July 2013 against union member, Rong Panha.⁴⁷ In 2014, the use of this practice increased. This technique was often used during the first five months of 2014 when protests and demonstrations were particularly frequent. CCHR documented 5 cases during this period, against a total of 32 individuals.

This practice represents a constant threat of arrest for HRDs and has a serious negative impact on the work of HRDs as it restricts the right to exercise their freedom of assembly. Article 5 of the UN Declaration on Human Rights Defenders⁴⁸ recognizes the right to peaceful assemblies and the UN Special Rapporteur on the Situation of Human Rights Defenders considers the right to peaceful assembly essential for human rights defenders working locally, nationally and globally to promote and protect human rights. Without enjoyment of this right, HRDs will be restricted in their ability to

⁴⁵ On 16 July 2014, the Law on the Organization and Functioning of the Supreme Council of Magistracy, the Law on the Statute of Judges and Prosecutors and the Law on the Organization and Functioning of the Courts (the “three laws relating to the judiciary”) were signed into effect by King Norodom Sihamoni. See, Stuart White, ‘King OKs Judiciary Laws’ (15 August 2014), <http://goo.gl/fOsa75>.

⁴⁶ CCHR, ‘Press Release: CCHR Welcomes the Release of 25 Protesters But Strongly Condemns their Convictions’ (30 May 2014), <http://bit.ly/1AbkHEO>.

⁴⁷ Ibid.

⁴⁸ United Nations General Assembly resolution 53/144, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, (9 December 1998): <http://bit.ly/1fbj99p>.

fulfill their fundamental role of protection and promoting human rights.⁴⁹

As noted by the UN Office of the High Commissioner for Human Rights (“OHCHR”), “*It is common for some State authorities falsely to push defenders into administrative ‘illegality’ and to use this as the basis for a subsequent arrest, detention and conviction.*”⁵⁰ The permanent threat of arrest is in contradiction with the Human Rights Council’s resolution on protecting human rights in the context of the right to protest, which states that: “*everyone must be able to express their grievances or aspirations in a peaceful manner, including through public protest, without fear of being injured, beaten, arbitrarily arrested and detained, tortured killed or subjected to enforced disappearance.*”⁵¹ In addition, any future arrests made solely based on these letters should be considered arbitrary and unlawful detention.⁵²

Moreover, the signed statements do not meet the criteria of proportionality and legitimacy necessary to justify a restriction of the right to freedom of assembly. They prohibit HRDs from further demonstrations and amount to a blanket restriction on the right to freedom of assembly. Furthermore, these documents have no legal basis: as the signatures are obtained under threat and pressure, often at the police station while HRDs are being detained, they are null and void and cannot be considered as a “contract” between the authorities and the individual. As such, they do not carry any legal obligation.

Temporary detention and misuse of conditional release

On 6 January 2014, five Boeng Kak land activists (Tep Vanny, Bo Chhorvy, Song Srey Leap, Phan Chhunret and Yorm Bopha) were arrested as they were marching to the French Embassy in order to ask for the release of Vorn Pao and nine other peaceful demonstrators. After agreeing to sign a letter stating that they will not engage in further protests, they were released.⁵³

On 19 January 2014, police and security guards arrested Sok Chhun Oeung (the vice president of IDEA) while attempting to hold a vigil for the 23 persons that have been detained since the violent clashes on 2 and 3 January 2014. He was held overnight at the Phnom Penh Municipal Police Station and released around 10:00 am the next morning, only after signing a written statement in which he agreed not to undertake unlawful activities; not to incite to illegal demonstrations; to report any illegal activities and to cooperate with government.⁵⁴

On the morning of 21 January 2014, security forces arrested and took into custody 11 human rights defenders for several hours at Phnom Penh Municipal Police Station. The 11 had attempted to submit petitions to foreign embassies, including those of the US and France, calling for the release of 23 demonstrators who authorities detained in a crackdown on striking garment workers on January

⁴⁹ United Nations General Assembly, Report by the Special Representative of the Secretary-General on Human Rights Defenders, UN Doc. A/61/312 (5 September 2006), para. 76 and introduction, <http://bit.ly/1fbiAN0>.

⁵⁰ OHCHR, ‘Human Rights Defenders: Protecting the Right to Defend Human Rights,’ (Fact Sheet No. 29): <http://bit.ly/1iFTNUY>.

⁵¹ Human Rights Council Resolution, ‘The promotion and protection of human rights in the context of peaceful protests,’ A/HRC/Res/19/35, (18 April 2012): <http://bit.ly/1llo3qn>.

⁵² See Human Rights Committee Draft General Comment No. 35 (Article 9, Liberty and Security of Person), (2013) UN Doc. CCPR/C/107/R.3, para. 17; Human Rights Committee, Concluding Observations on Canada, (2006) UN Doc. CCPR/C/CAN/CO/5, para. 20; Human Rights Committee, Concluding Observation on Moldova, (2009) UN Doc. CCPR/C/MDA/CO/2, para. 8. <http://bit.ly/1fbdi3S>.

⁵³ CCHR, ‘Alert: Temporary Arrest of Land Activists and Ban on Demonstrations’ (1 June 2014), <http://bit.ly/1oqyuo0>.

⁵⁴ CCHR, ‘HRD/FoEX Alert Update: Continuous Temporary Arrest of Human Rights Activists and Ban on Demonstrations’ (21 January 2014), <http://bit.ly/1pnRWlh>.

2-3. Among them were Boeng Kak Lake rights activists Tep Vanny, Yorm Bopha, Song Srey Leap, Phan Chunreth, Poug Sopheap, Erm Sreytouch, Bov Sorphea, and Ngoun Kimlang; Cambodian Independent Teachers Association (“CITA”) President, Rong Chhun; Cambodian Alliance of Trade Unions (“CATU”) member Cheang Thida; and Housing Rights Task Force (“HRTF”) communication officer, Long Kimhaeng. The arrests took place during a demonstration that started in front of the embassy of the United States to deliver a petition calling for the release of the 23 people jailed during the violent crackdown on garment workers demonstrations earlier in the month. All 11 were released later in the day after they were forced to sign statements pledging that they would not join, lead or incite ‘illegal’ activities or protests in the future.⁵⁵

On 22 February 2014, seven youths were temporarily detained in Phnom Penh while marching to call for peace. They were members of the organization called Club of Khmer Youth Mohanokor,⁵⁶ which promotes youth advocacy and social justice. They were released the same day, after signing written statements promising not to march without permission.

On 23 May 2014, eight union leaders and union members from the Coalition of the Cambodian Apparel Workers’ Democratic Union (“CCAWDU”) were arrested in Bati District, Takeo Province, during a garment factory strike at the JSD Textile Co. Ltd Factory. The strikers were calling for improved working conditions. The eight were then detained for 48 hours and questioned in relation to possible charges of instigating a felony, threats to cause damage, discrediting a judicial decision and of being instigators. They were all released on bail on 25 May after the President of CCAWDU signed a letter guaranteeing that the eight would not cause trouble at the factory and would present themselves when requested by the Prosecutor.⁵⁷ They remain under judicial supervision (article 223 of the Code of Criminal Procedure) for exercising their right to strike.

Judicial harassment: the most common tool used against HRDs

Judicial harassment, including through the misuse of criminal charges and an abuse of provisional detention, has become a systematic strategy used to deter HRDs from fulfilling their activities. In 2014, 91% of the individuals supported by CCHR were facing judicial harassment.

Judicial harassment occurs when the executive and powerful tycoons can avail themselves of the police and judiciary in order to attend to their interests and to prevent HRDs from undertaking their human rights defence work. Judicial harassment manifests itself through summons to court, charges or actual convictions, which sometimes carry heavy sentences. It hinders HRD’s work, as they are unable to continue performing their human rights activities whilst in prison, and moreover, it serves to deter others from acting to defend their or others’ human rights. In Cambodia, the lack of separation of powers, and the continued influence that the executive exerts on the judiciary enables judicial harassment. The situation is further aggravated by the high level of corruption and collusion between the authorities and influential individuals or companies.

In 2014, judicial harassment cases affecting land activists represented 27% of CCHR’s total cases. These cases have a number of common features. Firstly, the triggering incident normally involves a dispute between a company and villagers over who has rights to the land. Secondly, most victims of

⁵⁵ Ibid.

⁵⁶ Hul Reaksmeay and Mech Dara, ‘Events Promoting Peace Stopped by Authorities’ *The Cambodia Daily* (Phnom Penh, 24 January 2014), <http://bit.ly/1rrjafZ>.

⁵⁷ CCHR, ‘Alert: Charges and Detention of Eight Union Leaders and Members’ (26 May 2015), <http://bit.ly/1pbxrbH>.

judicial harassment are those activists who have mobilized and represented the community. In some cases, they have interrupted machines for forest exploitation or have obstructed the company's employees who are working on the disputed land. Thirdly, they are often charged with incitement or intentionally causing damage with aggravating circumstances. In 2014, 12 individuals supported by CCHR were charged with damage with aggravating circumstances and 4 were charged with violence against a property owner. In addition, 6 individuals were questioned for the crime of incitement to damage property, 4 for inciting villagers to commit illegal activities and a further 10 were questioned for interference in public affairs.

Judicial harassment against land rights defenders

Ly Srea Kheng, aged 58, lives with his wife, son and daughter in the Boeung Kak one area ("BK1") of Phnom Penh's Tuol Kork District, where they say they have occupied land since the ousting of the Khmer Rouge in 1979. Ly Srea Kheng has been involved in a land dispute since 2005 when his attempts to register his family's plot under the 2001 Land Law were repeatedly unsuccessful as local authorities accused them of illegally occupying state land.⁵⁸

The land which Kheng's family and other local residents have been living on was also partly occupied by offices belonging to the local Sangkat (Commune) Council and the Cambodian People's Party ("CPP"). In 2007, the Sangkat authorities exchanged the land in a real estate deal with the Khun Sear Import Export Company ("Khun Sear Company"), owned by business tycoon Khun Sear. Seven families were initially involved in the dispute, and all faced threats and intimidation in attempts to pressurize them to leave the land. Since then, all of the families except Kheng's have accepted the Khun Sear Company's compensation offer and have left the area.⁵⁹

In 2010, the Council of Ministers issued a notification stating that the disputed land belonged to the state, and could therefore legitimately be exchanged with the Khun Sear Company. In 2013, the Ministry of Land Management, Urban Planning and Construction issued a certificate stating that the Phnom Penh Municipality had sold the land to the Khun Sear Company.⁶⁰

Kheng's family have endured a campaign of threats, intimidation and attacks by security guards hired by the Khun Sear Company, including arson, physical assault and destruction of their property, and in October 2013, three venomous cobras were even thrown into their house.⁶¹ Kheng's family has filed several complaints before the Phnom Penh Municipal Court of First Instance, but to date no investigations have been conducted and the perpetrators of attacks against them have not been pursued.⁶²

By contrast, Kheng's entire family face a range of charges following complaints by Khun Sear and have been summoned to court for questioning on several occasions. Most recently, at around 11:30 am on the morning of November 18 2014, police arrested Kheng at his home, forcing him into a police car without showing a warrant or even allowing him time to get properly dressed.⁶³ At 4:00pm on the same day, his daughter Ly Seav Minh, 23, was also arrested having gone to the Phnom Penh

⁵⁸ CCHR, 'Ly Srea Kheng: Family Faces Threats and Attacks in Phnom Penh', Land Activist Profile, <http://goo.gl/vHLHT7>.

⁵⁹ Ibid.

⁶⁰ CCHR, 'Threats Against CCHR Land Reform Project Coordinator', Alert Detail, (10 May 2014), <http://goo.gl/g34hF2>.

⁶¹ CCHR, 'ADHOC, BCV, CCHR, CHRAC, and HRTF call for a prompt and independent investigation into allegations of harassment and intimidation related to land dispute', Joint Statement, (17 March 2014), <http://goo.gl/DYJLpg>.

⁶² Family Faces Threats and Attacks, (n 638)

⁶³ Chhay Channyda, 'Khun Sear Disputants Jailed', *The Phnom Penh Post*, (19 November 2014), <http://goo.gl/IJOuBt>.

Municipal Court of First Instance to try and find her father.⁶⁴ Both face charges of "using violence against a possessor in good faith of an immovable property, whether or not his title has been established or it is disputed," under Article 253 of the 2001 Land Law. Later that evening, a Khun Sear Company representative contacted Kheng's son to continue negotiations over the disputed land. Kheng was released on bail on 5 December 2014, but Ly Seav Minh remains in jail. If convicted, they face between six months and two years in jail, and fines of 1,500,000 to 25,000,000 Riel.⁶⁵

Along with land rights activists, union members and leaders are the also particularly vulnerable to judicial harassment. Of the 62 union members and leaders who have been supported by CCHR in 2014, 100% had been the victim of judicial harassment. The allegations typically involve claims that they had incited the workers to strike, caused unrest, or destroyed a factory's property.

Judicial harassment against union activists

Workers at SL Garment Processing (Cambodia) Ltd factory began striking on 8 August 2013. They demanded a 3 USD daily meal allowance and a return to an eight-hour daily schedule, rather than the nine-hour schedule that had recently been imposed. In addition, they requested that the factory paid their wages for the strike period, and removed the newly appointed manager, Meas Sotha, along with the military police who were hired by Meas Sotha to guard the factory. During August, the number of workers on strike reached 6,000 people, among which were close to 2,500 CCAWDU members.

The strike lasted for several months until a violent clash on 12 November 2013 brought the dispute to a head. The strikers attempted to march from their factory to the Prime Minister's home to urge the government to respond, however they were met with live ammunition fired by the police force. The police fired into a crowd of hundreds of SL protesters, killing a 49-year old street vendor who was a bystander and leaving nine persons hospitalized with gunshot wounds. Nearly 40 people were arrested on this day.

CCHR supported three cases related to these protests.

The first case⁶⁶ relates to the initial days of the strike from 12 August 2013 until 16 August 2013. On 12 August 2013, SL Garment Processing Ltd filed a court case against 19 CCAWDU union activists and workers⁶⁷ who had been involved in the protests. They were accused of '*intentionally causing damage with aggravating circumstances*' under Article 411 of the Criminal Code as they had allegedly damaged the factory's generator and blocked the gate to the factory thereby stopping workers from getting inside. On 16 August 2013, the Court ordered that all of the 19 accused must return to work within 48 hours, which they did. The defendant has not received any information since then and the case is still pending.

The second case⁶⁸ relates to crimes allegedly committed between 8 August 2013 and 1 November 2013. 12 people,⁶⁹ including Ath Thorn, the coalition's president, and Ek Sopheakdey, CCAWDU's

⁶⁴ CCHR, 'Arbitrary Arrests in Boeung Kak 1', Joint Statement, (20 November 2014), <http://goo.gl/2o8lo5>

⁶⁵ Ibid.

⁶⁶ Criminal case number 2451

⁶⁷ Pav Panna, Sang Ratha, Larg Sry Phan, Chhoun Chheang, Ouch Noeurn, Leang Sok heng, Long Leub, Lis Sreim, Chan Narath, Heng Saroun, Kim SamEoeun, Kong Sopun, Chem Sam Oun, Doung Rith, Teng Rie, Nuch Sdaeng, Thou Chivorn, Rith Sie Noeun, Chhay Khim Sey

⁶⁸ Criminal case number 3479

secretary general, were questioned⁷⁰ for ‘*intentional violence with aggravating circumstances*’ under Article 218 of the Criminal Code, ‘*theft*’ under Articles 353 and 356, and ‘*intentionally causing damage with aggravating circumstances*’. They had allegedly damaged 14 cars and trucks belonging to SL Garment Processing Ltd. and 13 motorbikes belonging to factory workers; had broken numerous windows of the factory; destroyed 14 computers and stolen a further 13 computers, along with some other factory equipment. The intentional violence accusation relates to injuries against Cambodian factory workers and Chinese factory staff. SL Garment Processing Ltd asked 12 of CCAWDU’s members for a total of USD 15,214,284.37 in material compensation for the damage done to the factory during the protest and an additional USD 2,018,579.00 as psychological compensation. The accused have not yet been charged, and there have not been any developments on the case since February 2014.

The third case⁷¹ involves just two people: Ath Thorn, and Pav Phanna, a CCAWDU member. They were accused of ‘*incitement to commit felony*’ and ‘*intentional acts of violence with aggravating circumstances*’. It is alleged that on 1 November 2013, Ath Thorn and Pav Phanna incited workers to use sticks, iron bars, stones and slingshot against the non-striking workers, causing many injuries. On 8 April 2014, Ath Thorn and Pav Phanna were questioned at Phnom Penh Court of First Instance and placed under judicial supervision, with the conditions that they cannot move from their address without prior permission from the investigating judge and that they must respond to the summons of the investigating judge and must attend Steung Meanchey Police Station on the fourth week of each month. Ath Thorn, had the extra condition that he must pay bail 25,000 USD to Phnom Penh Court of First Instance before the 8 May 2015. On 21 April 2014, the Phnom Penh Court of First Instance placed additional conditions onto their judicial supervision, including that they must not carry weapons or meet a group of people with the purpose of forming a group whose actions would affect the public order. Ath Thorn also had the conditions that he must not do anything to affect the public order around Phnom Penh Court of First Instance, that he must not go to the SL factory; nor meet workers at the factory.

On 21 April, Ath Thorn’s lawyer submitted a motion to the Phnom Penh Court of First Instance requesting that the bail amount be reduced from 25,000USD to 1,000USD and asking for the judicial supervision to be stopped, however this motion was rejected. On 5 May 2014, the lawyer submitted another motion appealing this decision; the Court of Appeal rejected this request. CCAWDU and several NGOs organized a fundraising campaign to pay for his bail and on 12 May 2014 Ath Thorn paid 21,000 USD plus 16 million riel to the Court. Also on 12 May Ath Thorn submitted another request that all the judicial supervision conditions were dropped. This was rejected on 23 May 2014.

The same day Ath Thorn was summoned to attend the Court on 9 June 2014 for questioning. Ath Thorn requested on 30 May 2014 that the questioning be adjourned as he had to attend a seminar in Preah Sihanouk Province. The Court granted this adjournment and Ath Thorn instead attended the Court on 16 June 2014 at 2.30pm. On 27 August 2014, the investigating judge informed the lawyers that the investigation procedure was closed. On 19 September, the prosecutor of Phnom Penh Court

⁶⁹ Ath Thorn: Ek Sopheakdey, Pav Panna, Rith Noeun, Ouch Noeurn, Chem Sam Oun, Teng Rie, Leang Sok heng, Nuch Sdaeng, Chhoun Chheang, Lay Seyhon, and Ou Eab.

⁷⁰ The Court twice ordered the accused to attend the Court for questioning: once in December 2013 and again in February 2014. In fact Teng Rie and Nuch Sdaeng were questioned on 30 December 2013, whilst Ath Thorn: Ek Sopheakdey, Pav Panna, Rith Noeun, Ouch Noeurn, Chem Sam Oun, Leang Sok heng, Chhoun Chheang were questioned on 4, 5 and 7 February 2014.

⁷¹ Criminal case number 3873.

of First Instance stated that the violence at SL Factory was committed by the factory workers and requested that the investigating judge open additional investigations so as to question the workers allegedly involved in the violence for questioning. CCHR has not received any information as to whether the investigating judge has questioned the factory workers and there have not been any developments since then. The criminal trial is still pending.

In addition to the above cases, CCAWDU representatives met with SL Garment Processing Ltd. representatives for negotiations on 3 December 2013. CCAWDU and SL Garment Processing Ltd's management came to an agreement, where in SL Garment Processing Ltd would pay workers half of the wages they would have earned during the strike, and that Meas Sotha would no longer be associated with the factory.

In addition to judicial harassment against individuals, the RGC threatened some major Cambodian unions, such as the Cambodian Alliance for Trade Union ("CATU"), the Cambodian Food and Service Worker Federation ("CFSWF"), the National Independent Federation Textile Union of Cambodia ("NIFTUC") and the Free Trade Union of Workers of the Kingdom of Cambodia ("FTUWKC"), to revoke their license or suspend their registration process.⁷²

Powerful firms are able to lobby the RGC to limit the right to unionize. Two months after the Garment Manufacturers Association in Cambodia ("GMAC") claimed that freedom of association was being abused by unions,⁷³ Nang Sothy, vice chairman of the RGC's Labor Advisory Committee, requested Prime Minister Hun Sen to reconsider Cambodia's status as a signatory to the ILO's Freedom of Association and Protection of the Right to Organize Convention.⁷⁴ In addition, on two occasions unions members have been illegally fired by firms because of their action as unionists, and despite the fact that freedom of association is guaranteed under Article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and Article 22 of the ICCPR.⁷⁵ Another common practice was for the companies to ask union workers to pay an excessive amount of compensation, often amounting to several thousand dollars, after they were found guilty of damaging property during protests.⁷⁶

Violence and harassment against environmental and land rights defenders denouncing land grabbing and illegal logging

Environment and land rights defenders play a crucial role in advocating for people's land rights, protecting the environment, safeguarding natural resources and defending communities' livelihoods. In 2014, environmental and land rights defenders have been increasingly harassed, threatened and subjected to violence. In one case, Taing Try, a journalist who reported on illegal

⁷² CCHR, 'Briefing Note: Freedom of Associations for Unions', (April 2014) <http://bit.ly/1pL0aJc>.

⁷³ GMAC, 'What Everyone Needs to Know about ILO Convention 87 on Freedom of Association and the Right to Strike' (Statement) (27 January 2014), <http://bit.ly/NqmKqd>.

⁷⁴ Hul Reaksmey and Alex Willems, 'End Right to Unionize, Businesses Ask Hun Sen' *The Cambodia Daily* (Phnom Penh, 5 March 2014) <http://bit.ly/1ctedPx>.

⁷⁵ In early January 2014, at least 50 members of the Collective Union of Movement of Workers and Cambodian Alliance Trade Union ("CATU") were fired from several factories in the Manhattan Special Economic Zone in Svay Rieng province, allegedly for participating in strikes that occurred in December 2013. See, Mom Kunthear and Sean Teehan, 'Svay Rieng Garment Workers Fired, Suspended' *The Phnom Penh Post* (Phnom Penh, 10 January 2014), <http://bit.ly/NNm5iU>. On 28 April 2014 a JSD factory worker was fired for collecting signatures in hopes of starting up a local union branch. See, Mech Dara, 'More Unionists Charged on Eve of Brand Meeting' *The Cambodia Daily* (Phnom Penh, 26 May 2014) <http://bit.ly/1sU8j0u>.

⁷⁶ On 24 January 2014, 6 Union Activists in Ang Snoul, Kandal (see above) were asked to pay a \$100,000 compensation at the Ministry of Interior.

logging and uncovered several cases linked to powerful tycoons, was killed. The former member of the journalist association “Khmer Bracheathibtey” (“Khmer Democracy”) in Kratie was found dead near his car on 12 October 2014. CCHR has recorded 6 cases related to harassment of HRDs or journalists who were working on illegal logging and land rights.

The risk faced by environment and land rights defenders come from both State officers, such as military police and non-state actors, and private security guards. They are particularly exposed to threats when investigating in the field and advocating on business-related human rights violations.

In 2014, an increasing number of citizens became concerned with environmental matters and illegal logging. According to Global Witness, land grabbing has affected an area amounting to 2.5 million hectares, equivalent to 76% of the arable land in Cambodia.⁷⁷ The majority of this land has been taken from local farmers and sold to agricultural and rubber companies.⁷⁸ Several areas were subjected to deforestation, including national parks and protected forest, which threatens to wipe out Cambodia’s forests.⁷⁹

The Special Rapporteur urged “human rights and environmental regulations to be strengthened in order to avoid public and private actors’ violations against the communities who live where they operate.”⁸⁰

The Areng dam case

Mother Nature (MN) is an environmental NGO that has been fighting for the cancellation of the Stung Cheay Areng hydroelectric dam project in cooperation with Chong villagers. The 109-megawatt dam would be based in Chumnoab village in Koh-Kong province, and is supposed to be built by the Chinese company Sinohydro. Senator Lao Meng Khin and his wife Choeung Sopheap are in the company’s board of directors and have been involved in forced evictions and other human rights violations in the past.⁸¹

The dam threatens the Areng valley’s unique biodiversity and could destabilize the ecosystem of the Central Cardamom Mountains. It would lead to the eviction of 600 ethnic Chong families as well as the destruction of 20,000 hectares of land. The Phnom Penh-based company Social Business and Khmer Research and Development (SBK R&D) has conducted a survey that estimated that more than 1,300 villagers would be evicted. The dam also jeopardizes the Jong indigenous communities’ cultural heritage. They are one of Cambodia’s last groups still largely dependent on natural resources.

On 13 March 2014, a team from Sinohydro’s Cambodia branch arrived in the village of Chumnoab to prepare for the arrival of a larger group of Chinese engineers who were supposed to bring drilling equipment for research purposes. Villagers strongly opposed their presence and pushed the team out from the village and blocked the road so they could not return. The police then had to intervene.

⁷⁷ Global Witness, ‘Campaign on the Corruption of Oil, Gas and Mining in Cambodia’, <http://bit.ly/1xki4aS>.

⁷⁸ Ibid.

⁷⁹ Forestry Department, Food and Agriculture Organization of the United Nations, ‘Brief on National Forest Inventory (NFI): Cambodia’ (June 2007), <http://bit.ly/1BNdVuX>.

⁸⁰ United Nations Human Rights Council, ‘Report of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya’ (21 December 2011), <http://bit.ly/1GGZHN3>.

⁸¹ For example, Shukaku Inc., a private firm owned by Senator Lao Meng Khin and his wife Choeung Sopheap leased an area in Phnom Penh’s Boeung Kak neighbourhood where 3,000 families were forced out of their homes. Phorn Bopha and Zsombor Peter, ‘Boeung Kak Evictees Ask City Hall For Better Compensation’, *The Cambodia Daily*, (1 March 2013), <http://goo.gl/Fzq0Ft>.

The villagers expressed their disapproval of the project and confronted the district governor about a comment he had made in the media the day before saying that villagers had agreed to the move.

On 15 November 2014, 11 protestors from the Mother Nature Group blocked again the visit of Chinese experts and officials convoy to the Chhay Areng dam project. They were all detained overnight including the founder of Mother Nature, Alex Gonzalez-Davidson. They signed a letter stating that they would not be involved in further “illegal activities” and would not participate in future demonstrations in order to avoid charges and be released. On 23 February 2014, Cambodian immigration authorities deported Alex Gonzalez-Davidson, following a decision by the Interior Ministry not to renew his visa, which had expired three days earlier. Gonzalez-Davidson was legally entitled to stay for 27 days after his visa expiration provided he paid related fines. His deportation is widely seen as a retaliatory measure, which follows Mother Nature’s campaign against the construction of the Chhay Areng hydropower dam.⁸²

CONCLUSION AND RECOMMENDATIONS

In 2014, HRDs have seen their environment increasingly constrained, especially through restrictions of their freedom of assembly and expression, and have experienced continuous harassment by state officials and private companies.

Considering the current situation described above, CCHR makes the following recommendations to the RGC.

- Ensure that all law enforcement officials receive human rights training and adhere to the UN Basic Principles on the Use of Force and Firearms and the Code of Conduct for Law Enforcement Officials;
- Only deploy military personnel in matters of grave national security and cease involving private security guards in the policing of demonstrations;
- Ensure prompt, thorough, and effective investigations and prosecutions of alleged perpetrators by independent and impartial bodies, into all reports of excessive use of force by law enforcement officials and private security guards hired by local authorities and make the results public;
- Guarantee effective remedy to victims, and ensure that cases of abuses and violations against journalists, political activists, opposition politicians, NGO workers, union members and other human rights defenders are duly investigated and all perpetrators are brought to justice irrespective of their status;
- Ensure respect for the right to freedom of assembly, and put a formal end to arbitrary or sweeping bans on the holding of public gatherings;
- Put an end to the practice of forcing human rights defenders and citizens exercising their fundamental rights to freedom of expression and assembly from signing statements that restrict their rights in order to be released or avoid charges, and to annul such letters previously signed;

⁸² CCHR, ‘Local Community Activists in Koh Kong Exposed to Risks Following Deportation Of Foreign Colleague’, Media Alert, (24 February 2015), <http://goo.gl/hDAqGV>.

- Refrain from attempting to silence political dissent and critics via the court system, and immediately and unconditionally release human rights defenders currently detained for politically-motivated charges or convictions that have no basis in law and no place in a liberal democracy;
- Take immediate steps to establish a National Human Rights Institution (“NHRI”) in line with the Paris Principles, and consider ratifying the Optional Protocol to the ICCPR;
- Respond positively to the request of the Special Rapporteur on the situation of human rights defenders to visit the country (In 2012 the Special Rapporteur wrote to the RGC to request that an invitation be extended for a country visit to Cambodia).⁸³

For more details, please contact Chhunly Chhay, via telephone at [+855 \(0\) 17 52 80 21](tel:+855017528021) or e-mail at chhunly.chhay@cchrcambodia.org or Marta Riggio via telephone at [+855 \(0\) 13590 671](tel:+855013590671) or e-mail at marta.riggio@cchrcambodia.org.



⁸³ UN Human Rights, ‘Country Visits’, n 2.