



កម្ពុជាមណ្ឌលសិទ្ធិមនុស្សកម្ពុជា
Cambodian Center for Human Rights

CCHR Briefing Note – November 2014

Impunity in Cambodia

What is impunity?

Impunity means "without punishment" or "without consequence." In the Kingdom of Cambodia ("Cambodia"), perpetrators of human rights violations, often individuals well connected to the authorities, regularly go unpunished and victims never see justice. This culture of impunity directly threatens the rights to truth,¹ justice and remedy,² and promotes fear that stifles the right to freedom of expression.

Principle One of the United Nations Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity outlines that:

"Impunity arises from a failure by States to meet their obligations to investigate violations; to take appropriate measures in respect of the perpetrators, particularly in the area of justice, by ensuring that those suspected of criminal responsibility are prosecuted, tried and duly punished; to provide victims with effective remedies and to ensure that they receive reparation for the injuries suffered; to ensure the inalienable right to know the truth about violations; and to take other necessary steps to prevent a recurrence of violations."³

This Briefing Note outlines how impunity in Cambodia varies from murder cases of human rights activists and journalists that are never investigated, to cases where security forces have used excessive violence against civilians and remain unpunished, to well-connected officials evading justice.

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

Impunity and violence against protesters

Recent violence against protesters and a failure to hold perpetrators accountable is one of the most significant forms of impunity currently challenging Cambodia.

¹ OHCHR, 'Study on the Right to the Truth,' (Report), (E/CN.4/2006/91), (8 February 2006), <http://bit.ly/OfPl2f>.

² Article 8 of the Universal Declaration for Human Rights (the "UDHR"); Article 2 of the International Covenant for Civil and Political Rights (the "ICCPR").

³ UN Economic and Social Council, 'Promotion and Protection of Human Rights: Updated Set of principles for the protection and promotion of human rights through action to combat impunity.' Commission on Human Rights, 61st Session, Item 17 (8 February 2005) <http://bit.ly/1hHxrQi>.

On 15 September 2013, at least 20,000 supporters of the main opposition party the Cambodian National Rescue Party (the “CNRP”) gathered in Phnom Penh’s Freedom Park to express their discontent with the results of the July 2013 National Elections. They were met with military and riot police armed with guns, rubber bullets, tear gas, smoke grenades and water cannons, and clashes broke out around the city. During a clash, security forces discharged live ammunition, killing Mao Sok Chan, a 29-year-old bystander as he attempted to return home from work, and injuring at least ten others.⁴

On 12 November 2013, 49-year-old street vendor Ms. Eng Sokhom, also a bystander, was shot and killed during protests held by workers of the SL Garment Processing factory in Phnom Penh. Nine other protestors were wounded by police gunfire, one of who is now permanently paralyzed, and several others were severely beaten with batons.⁵

On 2 January 2014, five monks were beaten along with ten union activists and garment workers, who were also subsequently arrested, at Yak Jin factory on the outskirts of Phnom Penh.⁶ On the morning of 3 January 2014, another thirteen people were arrested at a protest on Veng Sreng Boulevard. Following angry responses from the remaining protesters, security forces indiscriminately fired live ammunition into the crowd. Yean Rithy, 25, Pheng Kosal, 22, Kim Phaleap, 25, and Kong Ravy, 25 were killed, and dozens of others were injured.⁷ In addition, Khem Sophat, a 16-year-old boy, has since been missing. A public letter endorsed by 54 Cambodian and international civil society groups, including CCHR, states that a witness saw Khem Sophat be shot in the torso. Since, the authorities have failed to release any information about his whereabouts, which provides grounds to believe that he may have been subjected to an enforced disappearance.⁸

The above deaths were caused by the excessive use of force by state security personnel, and therefore constitute arbitrary executions. According to the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, force is legitimate if all measures to provide a non-violent resolution have been exhausted, and if it is proportional to lawful objectives.⁹ Furthermore, firearms should only be used for self-defense or the defense of others against imminent threat of death or serious injury.¹⁰ On this basis, the use of force by security personnel was illegitimate, disproportionate, and excessive. The deaths constitute violations of the right to life and the right to liberty and security of the person,¹¹ which are fundamental to international human rights law and the Constitution of the Kingdom of Cambodia.

However, the situation has been met with impunity and no independent or impartial investigations have taken place. In January 2014, two investigative commissions were established to determine

⁴ Meas Sokchea and others, ‘Protest takes dark turn’ *The Phnom Penh Post* (16 September 2013) 3 <http://bit.ly/1qpus5U> .

⁵ CCHR, ‘Excessive Use of Force at Workers’ Protest’ (Fact Sheet) (November 2013) <http://bit.ly/1cKfOu4>.

⁶ CCHR, ‘Arrest and Charges against Human Rights Defender Vorn Pao, President of IDEA’ (HRD Alert) (3 January 2014) <http://bit.ly/1dMuwAD>.

⁷ Licadho, ‘List of the dead and missing men from January 3, 2014 demonstration’ <http://bit.ly/1kpFgxK>.

⁸ ‘Public Letter Urging an Immediate Investigation into the Disappearance of Khem Sophath’ <http://bit.ly/1nYpp2d>.

⁹ The United Nations, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 27 August to 7 September 1990, Provision 4 and 5(a) <http://bit.ly/1dtR5f7>.

¹⁰ Ibid Provision 9.

¹¹ Article 3 and 9 of the UDHR; Article 6 and 9(1) of the ICCPR.

how the situations occurred and the damage caused by protesters.¹² They were also responsible for identifying which individuals fired their weapons. However, these commissions lacked independence and transparency, as the Interior Minister was the head of the commission that investigated the forces under his command. Furthermore, the results of the alleged investigations have not been released.

The Royal Government of Cambodia's (the "RGC") rhetoric and actions further reveal bias towards security forces. In late January 2014, five unidentified officers were questioned by the prosecutor at the Phnom Penh Court of First Instance about their involvement with the clashes. However, according to Brigadier General Kheng Tito, none will face charges as they were allegedly acting in self-defense.¹³ Prime Minister Hun Sen further praised the security forces for "protect[ing] social order and security."¹⁴ Rather than questioning the actions that led to six arbitrary executions, over a dozen injuries and a disappearance, the RGC has praised the actions of the security forces. The RGC failed to uphold the rights of the victims and the families to truth, justice and remedy. You can find out more about violence conducted by security forces at CCHR's campaign '[Where is my justice?](#)'.

Impunity and a culture of fear

Together with violence against protesters, impunity is used as an attempt to create a culture of fear in Cambodia and to stop people publically seeking the truth. This is apparent when the murders of human rights defenders or journalists go uninvestigated. In 2004, Chea Vichea, a unionist was shot in broad daylight in Phnom Penh.¹⁵ In 2012, Hang Serei Oudom, a journalist reporting on illegal logging, was found brutally murdered in the trunk of his car with axe wounds to his head.¹⁶ In 2013, Chut Wutty, an environmental rights activist, was shot dead following a dispute with military police in Koh Kong province.¹⁷ Their cases were either dropped or never investigated, and they represent many others who have faced similar consequences for pursuing truth. For example, since 1994, 13 journalists have been murdered in Cambodia, each of which has been met with impunity.¹⁸

Finally, powerful authorities or those connected to them often evade the justice system. For example, on 20 February 2012 three female workers were taking part in a protest outside the Kaoway Sports Ltd factory when they were shot by Chhouk Bandith, the ex-governor of Bavet, in Svay Rieng province.¹⁹ Bandith's initial confession, which was later retracted, aligned with witness reports that he fired indiscriminately into the crowd. While Bandith was found guilty of "*causing involuntary bodily harm*", which is mild considering the gravity of the offense, he remains at large.

¹² May Titthara 'Rights groups critical of gov't investigations' *The Phnom Penh Post* (13 January 2014).

<http://bit.ly/MKwBXI>.

¹³ Buth Reaksmeay Kongkea and Daniel Pye 'Officers queried on shootings' *The Phnom Penh Post* (27 January 2014)

<http://bit.ly/1cyH93f>.

¹⁴ Khuon Narim and Colin Meyn 'No Results in Protest Shooting Investigations' *The Cambodia Daily* (4 February 2014)

<http://bit.ly/1dWztk>.

¹⁵ Denise Hruby 'The Assassination of Union Leader Chea Vichea—A Decade On' *The Cambodia Daily* (22 January 2014)

<http://bit.ly/1jAqVe5>.

¹⁶ Ratha Visal, 'Cambodian Court Acquits Two in Slaying of Journalist' *Radio Free Asia* (28 August 2013)

<http://bit.ly/1pV7Y6I>.

¹⁷ Clothilde Le Coz, 'Chut Wutty death does little to curb Cambodia's illegal logging' *Asian Correspondent* (29 April 2013)

<http://bit.ly/1BwAN1V>.

¹⁸ 'Journalists killed in Cambodia' (*Sithi.org*) <http://bit.ly/1tENY2S>.

¹⁹ CCHR, 'Chhouk Bandith' (Fact Sheet) (November 2013) <http://bit.ly/1w3IjOt>.

The failure to pursue investigations and charges in these cases, despite the seriousness of the crimes, highlights the continuing power of the elite over the judicial system and the culture of impunity within Cambodia, which creates fear about speaking the truth. You can find out more about impunity and its impacts from CCHR's [2013 Impunity Campaign](#).

Conclusion

The failure of the RGC to halt impunity signifies that it will allow gross human rights violations, such as those outlined above, to continue. Achieving justice is now not only fundamental for the victims and their families, but for the future of freedom of expression rights in Cambodia.

CCHR calls on the RGC to:

- Carry out efficient, thorough and independent investigations into all reports of excessive use of force and firearms by state security forces;
- Carry out efficient, thorough and independent investigations into reports of human rights violations and the murder of human rights defenders and journalists;
- Release all investigation results to the general public;
- Bring those identified as responsible for gross human rights violations before a competent, independent and impartial tribunal, regardless of who they may be;
- Uphold the victims' rights to justice, truth and remedy and reparation; and

For more information, please contact Sorn Ramana, Freedom of Expression Project Coordinator via telephone at +(855) 17 655 591 or e-mail at ramanasorn@cchrcambodia.org.