

CAMBODIA

Clooney Foundation for Justice

Justice for Victims of Unfair Trials

The human rights situation in Cambodia continues to deteriorate, with an intensifying crackdown against those seen as critical of Prime Minister Hun Sen or supportive of the now-banned opposition party, the Cambodia National Rescue Party (CNRP). Recently, the courts have become the government's weapon of choice, with judges and prosecutors aiding and abetting the suppression of dissent. TrialWatch monitoring has shown how this happens.

The Law: The authorities rely on vague laws, including one forbidding incitement and another prohibiting espionage. In 2010, Cambodia amended its criminal code to broaden the definition of incitement to include 'incitement to disrupt social order.' The government is now using this charge against many who dare to speak out or protest: journalists reporting on the Prime Minister's response to COVID-19 or on the government's plan to build an environmentally-damaging military base, as well as individuals alleged to be affiliated with the CNRP. Likewise, the definition of espionage covers providing "access by a foreign state" to information that "undermine[s] the national defense"—terms so broad that the UN Working Group on Arbitrary Detention has deemed the provision "inconsistent with international human rights law."

In Practice: CFJ's partner the American Bar Association Center for Human Rights has monitored three trials as part of CFJ's TrialWatch initiative. Each trial showcases the way in which these laws have been instrumentalized to suppress dissent and silence press and opposition.

- > In June 2020, a Cambodian court convicted an activist formerly affiliated with the CNRP of incitement because he advertised t-shirts with the image of a slain government critic, Kem Ley. At Kong Raiya's trial, the only explanation the prosecution gave for why his actions constituted incitement to disrupt social order was that people might see the quotes from Ley featured on the shirt. Instead of presenting further evidence, the prosecution exploited the vagueness of the concept of 'incitement to disrupt social order.' Raiya was given a two-year suspended sentence.
- > In November 2020, a court convicted a journalist of 'incitement to disrupt social order' for Facebook posts critical of Prime Minister Hun Sen and other government officials. As in the Raiya case, the authorities

presented no evidence of any potential threat to social order that Ros Sokhet's words might pose. Instead, the sole witness, a police officer, testified that he had concluded that the posts "could provoke social insecurity." Again, the authorities ignored the international law requirement that restrictions on speech be justified by a demonstration in "specific and individualized fashion [of] the precise nature of the threat" the speech allegedly poses. Sokhet was sentenced to 18 months' imprisonment and remains incarcerated.

- > A third egregious example is the case against Uon Chhin and Yeang Sothearin, two journalists who worked for Radio Free Asia (RFA). Their case began in November 2017 when they were charged with espionage, yet their trial did not commence until July 2019. But even after nearly two years, the prosecution was unable to present evidence to support the charge: the prosecution's first theory was that the defendants had continued to share information with RFA after the closure of RFA's office in Phnom Penh using a broadcasting studio they concealed under the guise of a karaoke business, but the prosecution failed to explain what non-public information the defendants had allegedly shared, what foreign power had been involved and, specifically, how the information related to Cambodia's national security; the prosecution's subsequent theory was that one of the defendants had delivered a hard drive to the U.S. Embassy, but not only was no information about the hard drive included in the indictment, the prosecution presented no evidence as to its contents at trial. Despite the dearth of evidence, the court ordered further investigation, leaving the defendants in a state of limbo, where they remain today.

TrialWatch will continue to monitor these cases and conduct advocacy for reform of these vague laws and an end to their use against the media and others.