



Inter-Parliamentary Union
For democracy. For everyone.

Cambodia

Decision adopted by consensus by the IPU Governing Council at its 210th session (Kigali, 15 October 2022) ¹



Former Cambodia National Rescue Party (CNRP) leader Kem Sokha arrives at the Phnom Penh municipal court for his trial in Phnom Penh on 22 January 2020. TANG CHHIN Sothy/AFP

- | | |
|-----------------------------|--------------------------------|
| KHM27 - Chan Cheng | KHM76 - Ky Wandara |
| KHM48 - Mu Sochua (Ms.) | KHM77 - Lath Littay |
| KHM49 - Keo Phirum | KHM78 - Lim Bun Sidareth |
| KHM50 - Ho Van | KHM79 - Lim Kimya |
| KHM51 - Long Ry | KHM80 - Long Botta |
| KHM52 - Nut Romdoul | KHM81 - Ly Srey Vyna (Ms.) |
| KHM53 - Men Sothavarin | KHM82 - Mao Monyvann |
| KHM54 - Real Khemarinn | KHM83 - Ngim Nheng |
| KHM55 - Sok Hour Hong | KHM84 - Ngor Kim Cheang |
| KHM56 - Kong Sophea | KHM85 - Ou Chanrath |
| KHM57 - Nhay Chamroeun | KHM86 - Ou Chanrith |
| KHM58 - Sam Rainsy | KHM87 - Pin Ratana |
| KHM59 - Um Sam Am | KHM88 - Pol Hom |
| KHM60 - Kem Sokha | KHM89 - Pot Poeu (Ms.) |
| KHM61 - Thak Lany (Ms.) | KHM90 - Sok Umsea |
| KHM62 - Chea Poch | KHM91 - Son Chhay |
| KHM63 - Cheam Channy | KHM92 - Suon Rida |
| KHM64 - Chiv Cata | KHM93 - Te Chanmony (Ms.) |
| KHM65 - Dam Sithik | KHM94 - Tioulong Saumura (Ms.) |
| KHM66 - Dang Chamreun | KHM95 - Tok Vanchan |
| KHM67 - Eng Chhai Eang | KHM96 - Tuon Yokda |
| KHM68 - Heng Danaro | KHM97 - Tuot Khoert |
| KHM69 - Ke Sovannroth (Ms.) | KHM98 - Uch Serey Yuth |
| KHM70 - Ken Sam Pumsen | KHM99 - Vann Narith |
| KHM71 - Keo Sambath | KHM100 - Yem Ponhearith |

¹ The delegation of Cambodia expressed its reservations regarding the decision.

KHM72 - Khy Vanndeth
KHM73 - Kimsour Phirith
KHM74 - Kong Bora
KHM75 - Kong Kimhak

KHM101 - Yim Sovann
KHM102 - Yun Tharo
KHM103 - Tep Sothy (Ms.)

Alleged human rights violations

- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Abusive revocation of the parliamentary mandate
- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings and excessive delays
- ✓ Failure to respect parliamentary immunity
- ✓ Violation of freedom of movement
- ✓ Threats, acts of intimidation
- ✓ Torture, ill-treatment and other acts of violence
- ✓ Impunity
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention

A. Summary of the case

On 16 November 2017, the Supreme Court dissolved the sole opposition party in Cambodia, the Cambodian National Rescue Party (CNRP). It also banned 118 CNRP members (including all 55 CNRP members of the National Assembly) from political life for five years with no possibility of appeal. Their parliamentary mandates were immediately revoked, and their seats reallocated to non-elected political parties allegedly aligned to the ruling party. The Supreme Court decision was based on charges of conspiracy with a foreign country to overthrow the legitimate government brought against the President of the CNRP, Mr. Kem Sokha. Seventeen former parliamentarians subsequently fled Cambodia and went into exile. The dissolution of the CNRP left the ruling Cambodian People's Party (CPP) – and Prime Minister Hun Sen – with no viable challengers in the February and July 2018 elections to the Senate and National Assembly.

The dissolution of the CNRP took place against the backdrop of long-standing and repeated threats and groundless criminal charges against its members of parliament. They had been repeatedly warned by the Prime Minister that their only choice was to join the ruling party or be prepared for the dissolution and ban of their party.

Mr. Kem Sokha, who became CNRP Acting President after its President, Mr. Sam Rainsy, went into exile in 2015, is accused of attempting to topple the Government on the basis of a 2013 speech he made on television in which he called for peaceful political change in Cambodia, without at any point inciting violence or hatred or uttering defamatory words. Mr. Kem Sokha, who is currently on bail, faces a 30-year prison term on treason charges and is reportedly banned from taking part in political life, as well as from leaving Cambodia. Mr. Kem Sokha's trial began in January 2020, but was suspended in March 2020, and appears to have only recently resumed.

Seventeen parliamentarians, who have all been forced into exile abroad, have been sentenced in one or more of the following mass trials against CNRP members in the last two years:

Ruling of 14 June 2022 – plotting and incitement: This concerns 60 CNRP politicians and supporters, including 12 former CNRP leaders who were convicted *in absentia* on charges of plotting and incitement and handed prison sentences of eight years. This case relates to the failed return attempt to Cambodia of Mr. Rainsy in November 2019 and the alleged plan to gather supporters both in the country and overseas to accompany him, as well as the establishment of the Cambodia National Rescue Movement abroad. The evidence mostly comprised Facebook posts expressing support for the former opposition party or democratic principles. No clear links were apparently made between the evidence accepted, each individual defendant and each element of the charges and the judge reportedly failed to provide any analysis for the decision.

Case KHM-Coll-03

Cambodia: Parliament affiliated to the IPU

Victims: 57 former opposition parliamentarians (50 male and seven female, 55 from the National Assembly and two from the Senate)

Qualified complainant(s): Section I(1)(c) of the Committee Procedure (Annex I)

Submission of complaint: November 2011

Recent IPU decision: November 2021

IPU mission: February 2016

Recent Committee hearing: Hearing with the Cambodia delegation to the 145th IPU Assembly (October 2022)

Recent follow-up:

- Communication from the authorities: Letter from the Secretary General of the National Assembly (September 2022)
- Communication from the complainant: September 2022
- Communication to the authorities: Letter to the Secretary General of the National Assembly (September 2022)
- Communication to the complainant: October 2022

Ruling of 17 March 2022 on charges of plotting, incitement and inciting military personnel to disobedience: This concerns 21 senior CNRP leaders, including seven CNRP parliamentarians, as well as supporters. The trial covered multiple issues, including the formation of the overseas Cambodia National Rescue Movement in 2018 and critical comments made by former CNRP officials about the COVID-19 pandemic. In court, several accused have recanted their prior testimonies, alleging they were given under duress. The seven parliamentarians were found guilty of the charges and sentenced *in absentia* to 10 years in prison.

Ruling of 1 March 2021 - plotting and incitement: The case concerns nine CNRP leaders, all CNRP parliamentarians, who were found guilty of carrying out an attack against Cambodian institutions or territorial integrity, with the prosecution accusing the group of an attempted coup, presenting evidence of speeches about raising funds to support defecting soldiers. They were sentenced *in absentia* to 20 to 25 years in prison and stripped of their right to vote, stand for election or be a public official, and ordered to pay a sizeable fine.

With regard to these trials, the United Nations (UN) Special Rapporteur on the human rights situation in Cambodia, in his report of 18 August 2022 (A/HRC/51/66), stated that the “Mass trials, particularly of individuals from the main opposition party and those seen to be antithetical to the dominant power base, have caused great concern and stifled the possibility of political pluralism [...] Irregularities inherent in these trials include the lack of credible evidence, failings concerning respect for fair trial rights and due process guarantees, and the fact that several of the so-called accused are being tried *in absentia* in breach of human rights guarantees”.

With regard to the independence and transparency of the judiciary and prosecutors, the Special Rapporteur stated in the same report that “This is a long-standing issue referred to decades ago in earlier United Nations resolutions on Cambodia. There is a more recent turn, however, in that some judicial and related personnel have close links with the political party in power; for instance, they might sit on various key committees of the party”.

With regard to the local council elections held in June 2022, the Rapporteur held that “In essence, the 2022 commune elections took place peacefully and there were no major allegations of violations. There was a glimmer of diversity in political participation and in the results, which opened the door to the limited number of seats won by the opposition. However, the whole scenario was subject to the constrained civic and political space, compounded by the predominating power monopoly in the country”, and that “the narrow political and civic space, which is the major challenge facing the country today, is partly a consequence of a variety of draconian laws which hamper civil and political rights entrenching the power monopoly already identified. Those laws are often too broad in their scope, also a feature of excessive legislation, and impose exorbitant fines and sanctions on those prosecuted under them”.

Among a series of recommendations, the Special Rapporteur suggested that the Cambodian authorities: “open up the political and civic space in preparation for the national elections in 2023, in particular to ensure a genuine multiparty system, free and fair elections, checks and balances against power abuse, and guarantees for people’s participation and shared power; [...] suspend and reform laws, policies and practices that are antithetical to human rights, including the State of Emergency Law, [...], various laws impeding freedom of expression, other freedoms and the work of NGOs, and laws on political parties and related elections; open up to political pluralism and ensure the separation of powers and functions, especially in order to safeguard the judiciary from executive seepage”.

Similarly, the UN Human Rights Committee, which supervises the implementation of the International Covenant on Civil and Political Rights to which Cambodia is a party, in its concluding observations adopted at its 134th session (28 February–25 March 2022) echoed these findings and recommendations in great detail.

The leader of the Cambodian delegation to the 143rd IPU Assembly (November 2021) invited the Committee on the Human Rights of Parliamentarians to send a delegation to Cambodia to discuss its concerns and questions with all relevant stakeholders. Despite efforts by the IPU Secretariat to organize the mission soon after, the Cambodian authorities did not follow up, with the Secretary General of the National Assembly finally responding in a letter of 9 September 2022 that “For Cambodia, in 2022 there have been positive developments of the political situation in Cambodia through Cambodia’s assuming the role as the rotating Chair of ASEAN, the high-level visits of ASEAN top leaders and other world leaders to Cambodia as well as the successful conduct of the recent 2022 commune elections. The Parliament of Cambodia is of the view that it is no longer necessary to send any IPU fact-finding mission to Cambodia”. Similarly, the leader of the Cambodian delegation to the 145th IPU Assembly, in a hearing with the Committee on the Human Rights of Parliamentarians,

echoed these observations. He added that, in addition to the ruling Cambodian People's Party (CPP), seven other political parties now had representatives on the local councils following the successful commune elections, in which several political parties participated, that there had been great progress in protecting labour rights, in ensuring full vaccination of the population against COVID-19, in allowing media outlets to flourish and in allowing Cambodians to freely express themselves online and offline. In a meeting held with the IPU Secretary General during the 145th IPU Assembly, the leader of the Cambodian delegation stated, however, that the Secretary General and the Committee on the Human Rights of Parliamentarians were welcome to visit Cambodia, but that the purpose should not be fact-finding.

On 7 October 2022, the Phnom Penh court sentenced Mr. Son Chhay, a former member of the CNRP and now the Vice-President of the opposition Candlelight Party, in two cases to pay the CPP and the National Election Committee 3 billion riels and 17 million riels (US\$754,250) in damages, finding him guilty of defamation for saying that voting fraud occurred during the June 2022 commune elections.

It should be noted that, out of the 57 CNRP parliamentarians, 13 have been politically rehabilitated after fulfilling certain conditions, which were said to include an admission of guilt and a promise of refraining from certain political activism. Three others have joined the CPP, and two others have died in natural circumstances. Twenty others are in Cambodia or abroad and do not wish to ask for forgiveness and rehabilitation in the belief that they have done nothing wrong. The remaining 17 others, as highlighted above, have been sentenced *in absentia* and are abroad and also do not wish to ask for forgiveness and rehabilitation.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the leader of the Cambodian delegation for the information provided and his spirit of cooperation;
2. *Is pleased* to learn that the invitation extended by the parliamentary authorities for an IPU delegation to travel to Cambodia to discuss its long-standing concerns in this case is still in place; and *sincerely hopes* that the mission can soon take place;
3. *Is gravely concerned* in this regard about the mass trials of the leadership and supporters of the CNRP, in particular the alleged procedural and substantive irregularities, the fact that several of the accused were not allowed back into the country to stand trial, and the fact that the verdicts have eliminated any possibility of the 17 senior CNRP parliamentarians freely returning to Cambodia and taking part in the electoral process; *considers* that these trials, in light of its long-standing concerns, have to be seen as the culmination of ongoing efforts by the current authorities to limit any political opposition that could effectively lead to an alternation of power; *considers*, similarly, that the drawn-out trial against Mr. Kem Sokha serves as a reminder that he too could face a similar fate; and *recalls* in this regard that the so-called evidence against Mr. Kem Sokha includes videos of a 2013 speech in which he at no point incited hatred or violence or uttered defamatory words but, rather, emphasized that he was aiming to bring political change by winning the elections;
4. *Is shocked* that Mr. Son Chhay was found guilty of defamation, even though the remarks he made about the commune elections have been supported and substantiated by other entities at the national and international levels; *considers* that such defamation charges impede the right to freedom of expression and political pluralism; and *calls on* the authorities to put an end to such intimidation and instead to do everything possible to help ensure that the national elections in July 2023 can be truly free and fair and inclusive of all voices in Cambodian society;
5. *Expresses the hope*, therefore, that the authorities will resume political dialogue urgently with all opposition parties, both in and outside of Cambodia, and *urges* them to do so, in the belief that this is indispensable to help build trust and find solutions to the current political situation;

6. *Decides* to close the cases of the two deceased parliamentarians, the 13 parliamentarians, with the exception of Mr. Son Chhay, who have sought, and were granted, rehabilitation and the three CNRP parliamentarians who joined the CPP; *decides to do so* pursuant to section IX, paragraph 25(a), of the Procedure for the examination and treatment of complaints, with regard to the two deceased parliamentarians, given that a satisfactory settlement could not be reached, and 25(b) with regard to the 15 others who have not provided any updated information; and *reserves* the right, however, to re-open the case of these 15 individuals should new information be made available that would warrant such action;
7. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be in a position to help with the successful organization of the mission;
8. *Requests* the Committee to continue examining this case and to report back to it in due course.