



Fact Sheet: Fundamental Freedoms Series: Union Membership

Fundamental Freedoms: Freedom of Expression and Association

Snapshot: The right to freedom of association is protected under provisions of domestic and international law. Despite this, widespread violations of the right to freedom of association frequently occur throughout the Kingdom of Cambodia (“Cambodia”), which is increasingly regarded as a dangerous country in which to be a trade unionist. In October 2013 the International Labour Organization (the “ILO”) named Cambodia as one of three country cases that were the most serious and urgent regarding freedom of association.

Introduction

In light of recent events in Cambodia and increasing attacks on freedom of association, this Factsheet examines the right to freedom of association in Cambodia, particularly in the context of union membership. Freedom of association is a fundamental human right that allows everybody the freedom to association with others, which includes the right to form and to join trade unions and to join with others to pursue or promote common causes and interests. It also includes the right to formally join or establish associations. However, in Cambodia, the right to freedom of association and form unions is severely curtailed.

This Factsheet is written by the Cambodian Center for Human Rights (“CCHR”), a leading, non-aligned, independent non-governmental organization (“NGO”) working to promote and protect democracy and human rights – primarily civil and political rights – throughout Cambodia.

Freedom of association – domestic and international law

The right to freedom of association is promoted and protected under Cambodian law. Article 36 of the Constitution of the Kingdom of Cambodia (the “Constitution”) provides that Khmer citizens shall have the right to “*form and be members of trade unions*”, while Article 37 guarantees the right to strike and engage in non-violent demonstrations. Furthermore, Article 266 of the Labor Law stipulates that workers and employers have the right to form professional organizations for the exclusive purpose of studying, promoting the interests, and protecting the rights of the persons covered by the organization’s statutes.

Moreover, Article 31 of the Constitution states that Cambodia shall recognize and respect the Universal Declaration of Human Rights (“UDHR”) and the covenants and conventions related to human rights, thereby incorporating the UDHR and the International Covenant on Civil and Political Rights (“ICCPR”) into domestic law. Article 20 of the UDHR states that “*everyone has the right to freedom of peaceful assembly and association*,” while Article 23 specifies that “*everyone has the right to form and to join trade unions for the protection of his interests*.” Article 22 of the ICCPR, ratified by the Royal Government of Cambodia (the “RGC”) in 1992, also provides for the universal right to freedom of association and union membership. Providing further protection is the ILO’s 1948 Freedom of Association and Protection of the Right to Organize Convention, one of the eight fundamental Conventions of the ILO, which was ratified by the RGC in 1999. Once ratified, the ILO Conventions create legally binding obligations for that government.

Finally, a first draft of a Law on Trade Unions was introduced by the RGC in 2011 but was shelved after civil society groups and trade unions raised concerns regarding certain provisions in the draft law, including concerns that the law would make trade unions highly vulnerable to dissolution and de-registration, that the law provided for burdensome and discriminatory requirements for individuals seeking leadership positions in unions, and that it provided the RGC with too much distraction over decision-making in these areas, amongst other such issues.

However, it appears the law was submitted for review by the Council of Ministers in late 2013 and may be passed by the National Assembly in early 2014.

The right to freedom of association and union membership in Cambodia

The situation of freedom of association in Cambodia is alarming. The garment sector in particular, Cambodia's largest export earner, is plagued by widespread disregard for and violations of the right to freedom of association. Over the past several years, Cambodia has been increasingly seen as a dangerous country in which to be a trade unionist and union members are often met with violence and arrest for their activities in a climate of impunity.

Strikes and demonstrations led by trade unions are frequently dispersed violently by the authorities, with the use of live ammunition becoming increasingly commonplace. In addition, union workers, as well as union representatives and leaders, are regularly summarily fired as a result of their union activities. In early January 2014, at least 50 members of the Collective Union of Movement of Workers and Cambodian Alliance of Trade Union were fired from several factories in the Manhattan Special Economic Zone in Svay Rieng province, allegedly for participating in strikes in December 2013. Union members also face legal threats due to their activism. Several garment factories are now pursuing legal action against workers for participating in recent strikes and the RGC has threatened unions that, if they continue striking, they will have their licenses suspended or cancelled, while union leaders could face potential lawsuits.

Of great concern are incidences of union leaders receiving death threats or even being killed as a result of their union activities. In the last ten years, three trade union leaders – Chea Vichea, Ros Sovannareth and Hy Vuthy – have been assassinated in Cambodia. Most notable was the case of Chea Vichea, the then-leader of the Free Trade Union of Workers of the Kingdom of Cambodia, who was gunned down in broad daylight in central Phnom Penh on 22 January 2004. Although, the police arrested two men – Born Samnang and Sok Sam Oeun – and charged them with murder, it soon became apparent that the arrest was a cover-up of the RGC's involvement in the murder. The two accused were acquitted on 25 September 2013, and Chea Vichea's real killers remain at large. More recently, in November 2013, Ath Thorn, president of the Coalition of Cambodian Apparel Workers' Democratic Union, reported that he had received several anonymous phone calls, during which he and other union officials received death threats.

Conclusion

Failure to investigate the assassinations of and death threats against union leaders and a failure to bring the real offenders to justice have contributed to a culture of impunity in Cambodia. This, along with the continuing repression of trade unionists, has contributed to a widespread denial of freedom of association. The RGC must recognize and ensure the right to freedom of association and trade union membership in Cambodia. Furthermore, CCHR urges the RGC to ensure adequate consultation with civil society, unions and workers with regard to the draft Law on Trade Unions and to ensure that any such law reflects human rights principles.

For more information, please contact CCHR Business and Human Rights Project Coordinator Piseth Duch via telephone at +855 (0) 12 71 23 71 or e-mail at [dchpiseth@cchrcambodia.org](mailto:duchpiseth@cchrcambodia.org) or CCHR Consultant Juliette Rousselot via telephone at +855 (0) 15 35 0 620 or e-mail at julitterousselot@cchrcambodia.org.