



CAMBODIA

SUBMISSION TO THE UN HUMAN RIGHTS COMMITTEE
129TH SESSION, 29 JUNE-24 JULY 2020

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INTRODUCTION

Amnesty International provides the following information to the United Nations (UN) Human Rights Committee (the Committee) ahead of the adoption of the list of issues for the third periodic report of Cambodia at its 129th session, in June 2020.

In this document, Amnesty International sets out its concerns about the implementation of the International Covenant on Civil and Political Rights (ICCPR) by Cambodia, focusing in particular on the rights of people who use drugs and other matters of concern to the organization. It should not be seen as an exhaustive account of concerns in relation to Cambodia's implementation of the Covenant on Civil and Political Rights.¹

ARBITRARY DETENTION OF PEOPLE WHO USE DRUGS (ART. 9)

In January 2017, the Cambodian government initiated a six-month campaign against drugs. This campaign – which has seen at least 55,770 people arrested on suspicion of using or selling drugs between January 2017 and March 2020 – has been repeatedly and indefinitely extended since that time.²

According to government data, as of April 2020, 56.9% of all inmates in Cambodian prisons are held on drug-related charges.³ A large proportion of those behind bars are being held for using or possessing small quantities of drugs, and at least 39% of the 21,740 persons prosecuted during the anti-drug campaign between 2017 and 2019 were jailed for minor, non-trafficking offences, including use, possession, administration and facilitation of the use of drugs.⁴

Cambodia's prison population has skyrocketed by 78% since the campaign started, from 21,900 at the end of 2016 to over 38,990 in March 2020. Notably, Cambodia's prisons have an estimated capacity of just 26,593. In early 2020, the population of Cambodia's largest prison, Phnom Penh's CC1, exceeded 9,500 prisoners – 463% over its maximum capacity of 2,050.⁵ As of April 2020, 42% of Cambodia's 38,990 prisoners were detained awaiting the commencement of their trials.⁶ In every criminal case documented by Amnesty International in which drug-related charges were brought, pre-trial detention was imposed without adequate consideration given to alternative, non-custodial pre-trial measures.⁷ This overcrowding crisis is causing serious and systematic violations of prisoners' right to the enjoyment of the highest attainable standard of physical and mental health and, in some instances, amounts to torture or other ill-treatment.

Cambodian authorities have spoken plainly about their desire to arrest and imprison people who use drugs as a way to address drug-related problems in the country, which appears to be intended to remove individuals deemed “undesirable” from public spaces and to punish people for their perceived moral failings. In his initial campaign announcement during late 2016, National Police Chief Neth Savoeun stated that police would specifically target people who use drugs as a means of identifying and tracking down major

¹ Amnesty International, Human rights in Asia-Pacific: Review of 2019, 29 January 2020, Index number: ASA 01/1354/2020, p. 14, <https://www.amnesty.org/en/documents/asa01/1354/2020/en/>

² National Authority for Drugs and Crime website: <https://www.nacd.gov.kh/>

³ Khuon Narim, “New Justice Minister vows reforms and speedier trial procedures,” Khmer Times, 02 April 2020, <https://bit.ly/2wEgKY6>; “The interior minister shows the number of prisoners in prison” [Khmer], Sabay News, 02 April 2020, <https://bit.ly/39Zw1QM>.

⁴ National Authority for Combatting Drugs, Full Year Annual Report 2017, 26 February 2018; National Authority for Combatting Drugs, Full Year Annual Report 2018, 3 April 2019; National Authority for Combatting Drugs, First Six Months Report 2019, November 2019.

⁵ Niem Chheng, “Prey Sar prison no longer accepting pre-trial detainees to ease burden,” *Phnom Penh Post*, 20 January 2020, <https://bit.ly/2OQVYKx>.

⁶ “The interior minister shows the number of prisoners in prison” [Khmer], Sabay News, 02 April 2020, <http://kleykley.sabay.com.kh/article/1199544> (last accessed 20 April 2020).

⁷ See Chapter 4 ‘Criminalization and Denial of Fair Trial Rights’ in Amnesty International, *Substance abuses: The human cost of Cambodia's anti-drug campaign*, May 2020, Index No. ASA 23/2220/2020

“drug dealers”.⁸ In July 2019, another senior drug enforcement official reportedly told a gathering of anti-drug police, “Please don’t forgive – even if it’s a minor drug crime – because it could lead to the arrest of the big fish.”⁹ Similar sentiments were expressed by Interior Minister Sar Kheng in March 2020 when he called for legal action against all “drug addicts and dealers in small-scale drug use and distribution cases”.¹⁰

Amnesty International has found that the legal basis for most of these prosecutions contravenes international standards and best practice. Cambodia’s Law on Drug Control, enacted in 2012,¹¹ provides for a wide range of criminal offences, including the crime of “keeping” drugs (defined as possession), which carries a sentence of two to five years’ imprisonment, and up to ten years’ imprisonment in cases of repeat offending (Articles 40 and 48). Separately, the law criminalises the “unlawful consumption of narcotic substances” for individuals who have “already accepted compulsory treatment”, providing for penalties of between one- and six-months imprisonment, or up to one year in cases of repeat offending (Articles 45 and 53). Trafficking is criminalised under Article 40, carrying prison sentences of two to 20 years.

People accused of these offences are often detained despite not being in possession of any drugs and in the absence of arrest warrants. Simply being in the wrong place at the wrong time – typically a poor neighbourhood or near a drug treatment facility – can be sufficient reason for the police to round up people suspected of using drugs. The nearby presence of drug paraphernalia, including syringes or pipes, or mere association with an individual in possession of drugs, is commonly seen as sufficient cause for arrest. Once in police custody, people are regularly subjected to compulsory drugs urine testing and asked to sign or thumbprint documents which they often cannot read or do not understand. Some people told Amnesty International that they were physically forced to thumbprint documents they did not understand after being arrested during street sweeps under threat of further physical violence.

In parallel to those unjustly prosecuted for drug-related offences, thousands of people who are suspected of using drugs are held in compulsory drug detention facilities. There are currently at least seven state-run drug detention centres in which people who use drugs are compulsorily held, spread across various provinces of Cambodia.¹² These centres are variously overseen by the national police, military police (gendarmierie), and the Ministry of Social Affairs, and Veterans and Youth Rehabilitation (MoSAVY), in tandem with municipal and provincial authorities. However, data on the number of people compulsorily detained for drug-related reasons in Cambodia is difficult to access and verify. This Committee had previously expressed concern over the arbitrary arrest and detention of people who use drugs in “social affairs” facilities, and in youth rehabilitation and drug rehabilitation centres.¹³ Many other international human rights mechanisms have similarly expressed concern over the arbitrary detention of people who use drugs and their detention in compulsory drug centres.¹⁴

Cambodia’s compulsory detention centres for people suspected of using drugs operate in a legal vacuum, with no domestic legislation adequately governing their management or operations. As such, these centres not only violate international human rights law, they also operate in the absence of oversight and regulation, rendering people detained therein at heightened risk of human rights violations. None of the individuals interviewed by Amnesty International who had been sent to compulsory drug detention or social affairs centres were given the opportunity to consult a lawyer. None were told of the legal basis for their arrest; none were told of their rights; and the vast majority were not told how long they would be detained.¹⁵

Amnesty International has called on the Cambodian authorities to decriminalize the use and possession of drugs for personal use and enhance harm reduction services for people who use drugs, in line with the UN common position on the question of drug policy, published in March 2019, that for the first time placed the

⁸ Lay Samean and Erin Handley, “Top officials vow harder line with drugs initiative,” *Phnom Penh Post*, 23 December 2016, <https://bit.ly/2SFwYah>.

⁹ Ben Sokhean, “Don’t collude with dealers: Mok Chito,” *Khmer Times*, 16 July 2019, <https://bit.ly/2uJLWEh>.

¹⁰ Taing Vida, “Sar Kheng cautions against freeing suspects in minor drug crimes,” *Khmer Times*, 5 March 2020, <https://bit.ly/3dpmwNR>.

¹¹ Law on Drug Control, promulgated January 2012, Royal Kram NS/RKM/0112/001.

¹² 1) Orkas Knhom Center, Phnom Penh; 2) Chivit Thmey Youth Rehabilitation Center, Banteay Meanchey; 3) Educational and Rehabilitation Center of Military Police, Banteay Meanchey; 4) Hope Center of Civilian Police, Battambang; 5) Educational and Rehabilitation Center of Military Police, Battambang; 6) Rehabilitation Center for Drug Dependence, Siem Reap; and 7) Education and Rehabilitation Center of Military Police, Sihanoukville.

¹³ Human Rights Committee (27 April 2015), Concluding Observations: Cambodia, UN Doc. CCPR/C/KHM/CO/2, para. 16

¹⁴ Committee on Economic, Social and Cultural Rights (12 June 2009), Concluding Observations: Cambodia, UN Doc. E/C.12/KHM/CO/1, para. 33; Committee on the Rights of the Child (3 August 2011), Concluding Observations: Cambodia, UN Doc. CRC/C/KHM/CO/2-3, para. 38-39; Committee Against Torture (20 January 2011), Concluding Observations: Cambodia, UN Doc. CAT/C/KHM/CO/2, para. 18.

¹⁵ See Chapter 3, ‘Arbitrary Detention, Torture and Other Abuses in Drug Detention Centres’ in Amnesty International, *Substance abuses: The human cost of Cambodia’s anti-drug campaign*, May 2020, Index No. ASA 23/2220/2020

right to health at the heart of international drug control efforts.¹⁶ Moreover, the organization has urged the government to order the immediate and permanent closure of all compulsory drug “rehabilitation” centres and social affairs centres, in line with previous recommendations by this Committee and other human rights mechanisms, and to ensure that all drug treatment and rehabilitation in Cambodia is evidence-based, voluntary, and safeguarded by informed consent. People detained in such centres should be immediately released, and provided with adequate healthcare and social support in line with their individual needs.

TORTURE AND OTHER ILL-TREATMENT IN COMPULSORY DRUG DETENTION CENTRES AND POLICE STATIONS (ART. 7)

People interviewed by Amnesty International described regimes of violence and fear in which “room leaders” - detainees given authority over fellow detainees by centre management - and centre staff exercise apparently unlimited power over detainees. In addition to systematic “welcome” beatings upon arrival in the centres, detainees are subjected to severe physical punishments for infractions of arbitrary rules by room leaders and centre staff. Assaults are most often carried out by room leaders, long-term detainees who have been selected by the centre staff to maintain discipline and order over other detainees in exchange for privileges and benefits.¹⁷

Testimonies gathered by Amnesty International suggest widespread violations of the right to be free from torture and cruel, inhuman and degrading treatment or punishment, in addition to violations of the right to life, in compulsory drug detention facilities. These violations appear to occur with total impunity. Despite many well-publicised reports of torture and other ill-treatment, as well as deaths in social affairs and drug detention centres over the past ten years, Amnesty International found no evidence of credible or independent investigations into these reports. The organization wrote to the Cambodian Ministry of Social Affairs, Veterans and Youth Rehabilitation on 4 February 2020 in order to request information in relation to investigations into allegations of torture and other ill-treatment in drug detention centres, but has received no responses to date.¹⁸

Amnesty International also received several reports of torture and other ill-treatment committed by the police in police stations to extract “confessions” in criminal prosecutions. People are regularly subjected to compulsory drugs urine testing, in violation of their right to privacy,¹⁹ and asked to sign or thumbprint documents which they often cannot read or do not understand. The practice of enforced “confessions” under threat of violence was particularly highlighted by sex workers interviewed by the organization, who said that they are often forced to undergo urine tests when they are arrested in street sweeps. Even if they test negative, they are then forced to thumbprint “confessions” before being sent to a drug detention centre. If they don’t thumbprint the documents, they are beaten.²⁰

¹⁶ United Nations, “What we have learned over the last ten years: A summary of knowledge acquired and produced by the UN system on drug-related matters,” UN system coordination Task Team on the Implementation of the UN System Common Position on drug-related matters, March 2019

¹⁷ See Chapter 3, ‘Arbitrary Detention, Torture and Other Abuses in Drug Detention Centres’ in Amnesty International, *Substance abuses: The human cost of Cambodia’s anti-drug campaign*, May 2020, Index No. ASA 23/2220/2020

¹⁸ Letter to the Cambodian Ministry of Social Affairs, Veterans and Youth Rehabilitation, 4 February 2020, on file with Amnesty International.

¹⁹ UN General Assembly, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, August 2009, UN Doc. A/64/272 para 32.

²⁰ Amnesty International interview with sex worker representative, Phnom Penh, 29 November 2019.

OVERCROWDING AND CONDITIONS OF DETENTION IN PRISONS AND DRUG DETENTION CENTRES (ART. 10)

People who are prosecuted as part of Cambodia's anti-drug campaign are likely to be placed in one of the country's 28 squalid and dangerously overcrowded prisons. Drug detention centres are equally overcrowded, with the situation deteriorating markedly between 2017 and 2019 as a result of the anti-drug campaign.

People formerly held in Cambodian jails described extreme overcrowding in hot, humid, and dirty cells lacking any beds or bedding, often holding hundreds of people. Some cells in Phnom Penh's Prey Sar jail were reported to house up to 530 prisoners.²¹ Due to the severity of overcrowding, prisoners can barely move during the 22 to 24 hours they spend inside their cells each day. At night, prisoners are forced to sleep on hard concrete floors without bedding, often while pressing up against other prisoners and unable to straighten their legs. Food is not nutritious or sanitary, illness is rife, and healthcare services are negligible in Cambodia's prisons.

People formerly detained in drug detention centres consistently described conditions which were so cramped that it was impossible to sleep on one's back on the floor of the cell. Conditions are exacerbated by a lack of ventilation, with many former detainees describing hot, windowless cells infested with mosquitoes. People interviewed by Amnesty International described being confined to their extremely cramped cells for 22 to 24 hours per day. While most people said they were allowed outside for one to two hours daily at mealtimes, others described being forced to eat in their rooms, and only being allowed outside their cells if they paid money to their "room leaders". In addition to overcrowding, people held in these centres suffer from a lack of sanitation and adequate healthcare.

In the opinion of Amnesty International, the overall impact of this overcrowding, combined with other inhumane conditions of detention, reaches the threshold of cruel, inhuman or degrading treatment under international human rights law. The conditions are so brutal that many detainees are physically and mentally traumatised by their experiences of mistreatment and abuse, which may in turn exacerbate drug dependence.

DISPROPORTIONATE IMPACT OF THE ANTI-DRUG CAMPAIGN ON WOMEN AND OTHER MARGINALIZED GROUPS (ART. 2)

Cambodia's anti-drug campaign has a disproportionate impact on women. While 57% of all prisoners in Cambodia are held on drug-related charges, 73% of all women prisoners are imprisoned on drug-related charges. Women detained in CC2 prison reported that their children received no food from the prison, and that they received no additional food when breastfeeding. Food was reported to be of poor nutritional value and portions were inadequate. No portions were provided for infants in detention, so mothers had to share their own meagre helpings or find ways to purchase additional food. Several women complained that their

²¹ Amnesty International telephone interview with a man detained during anti-drug campaign, 16 April 2020.

infant children often fell ill in prisons, due to a combination of unsanitary conditions, overcrowding, stale air, and poor quality of insufficient food.²²

Cambodian law allows for the imprisonment of children along with their mothers until they reach three years of age. The anti-drug campaign has led to significant increases in the numbers of women held in detention with their children. In the 18 prisons monitored by LICADHO, a Cambodian human rights NGO, the number of infants living in prisons increased from 30 at the end of 2015 to 138 in mid-2018²³ with a total number of 203 children and 55 pregnant women in 2018.²⁴ In February 2019, 170 women with their children and 51 pregnant women were reported to reside in Cambodia's prisons.²⁵

Cambodia's anti-drug campaign has had an especially severe impact on a number of marginalised groups, including people living with HIV, sex workers, and ethnic minorities. Organisations supporting people living with HIV have complained of significant difficulty in providing effective treatment to those with whom they work as a result of the anti-drug campaign.²⁶ Community and outreach workers with public health organisations, including those promoting harm reduction services, are regularly arrested in drugs raids while conducting outreach activities and sometimes detained in compulsory drug detention centres.²⁷

Cambodia's Vietnamese population – both established ethnic Vietnamese communities and more recent arrivals – face widespread discrimination in Cambodian society. Many are denied legal recognition in the form of identification cards and family books, putting them at a heightened risk of homelessness and poverty.²⁸ Ethnic Vietnamese people interviewed by Amnesty International described particularly harsh treatment at the hands of police and within compulsory drug detention centres. A 41-year-old rubbish collector who was prosecuted for a drug-related offence in July 2019, told Amnesty International that “Vietnamese detainees are always treated worse than Cambodian detainees. They are really neglected and discriminated against”.²⁹

RIGHT TO FREEDOM OF EXPRESSION (ART. 19)

Amnesty International has continued documenting violations to the right to freedom of expression, which continue to perpetuate a culture of fear and self-censorship among Cambodia's few remaining independent journalists and media outlets. Rath Rott Mony, president of a construction workers union, was convicted of “incitement to discriminate” in June and sentenced to two years' imprisonment based on his role as a translator in a documentary on human trafficking.³⁰ By the end of 2019, former Radio Free Asia journalists Uon Chhin and Yeang Sothearin remained under judicial supervision and investigation for “supplying a foreign state with information prejudicial to national defence” despite the lack of any credible evidence against them.³¹ Seven people were arbitrarily arrested in July 2019 in relation to the commemoration of the third anniversary of the murder of independent government critic Kem Ley, including youth activists Kong Raiya and Soung Neakpaon, who were charged with “incitement to commit a felony” and later released on bail.³²

²² See Chapter 5, ‘In the Margins: Discriminatory Impact on At-Risk Groups’ in Amnesty International, *Substance abuses: The human cost of Cambodia's anti-drug campaign*, May 2020, Index No. ASA 23/2220/2020

²³ LICADHO, “Time for Bail: Ending Needless Mass Detention” October 2018, <https://bit.ly/2SKsGhQ> p. 3.

²⁴ LICADHO internal statistics, 2018.

²⁵ Khorn Savi, “PM calls for mercy in sentencing women with children,” *Phnom Penh Post*, 19 February 2019, <https://bit.ly/20P18a4>.

²⁶ See, for example, Martin de Bourmont and Khouth Sophak Chakrya, “Is Cambodia's war on drugs working?” *Phnom Penh Post*, 14 June 2017, <https://bit.ly/37nY7UH>.

²⁷ Amnesty International interview with a man detained during anti-drug campaign, Phnom Penh, 18 November 2019.

²⁸ See: Report of the Special Rapporteur On the Situation of Human Rights in Cambodia, September 2019, UN Doc. A/HRC/42/60/Add.1, paras. 47-51; Minority Rights Group, “Cambodia: Ethnic Vietnamese,” November 2017, <https://bit.ly/2vuwQFm>; Tim Frewer, “Cambodia's Anti-Vietnam Obsession,” *The Diplomat*, 6 September 2016, <https://bit.ly/2uHhJWg>.

²⁹ See Chapter 5, ‘In the Margins: Discriminatory Impact on At-Risk Groups’ in Amnesty International, *Substance abuses: The human cost of Cambodia's anti-drug campaign*, May 2020, Index No. ASA 23/2220/2020

³⁰ Cambodia: Drop trumped-up charges in child sexual exploitation documentary case ([news story](#), 30 May).

³¹ Cambodia: Drop bogus “espionage” charges against former Radio Free Asia journalists ([news story](#), 13 November).

³² Cambodia: Release prisoners of conscience Kong Raiya and Soung Neakpaon ([ASA 23/1291/2019](#), 27 October).

RIGHT TO FREEDOM OF ASSOCIATION (ART. 22)

Supporters of the Cambodia National Rescue Party (CNRP) faced increased harassment, intimidation and arbitrary arrest throughout 2019, culminating in a major crackdown related to the potential return to Cambodia of acting CNRP president Sam Rainsy on 9 November.³³ Although the planned return did not materialise, at least 60 former CNRP supporters were jailed and over 100 were subjected to politically motivated charges, including “plotting against the state” and “attack,” between mid-August and 9 November. Arrests were typically conducted without due process and in the absence of arrest warrants. All of those imprisoned during this period were later released on bail following an order by Prime Minister Hun Sen, but remained charged at the end of 2019.

One former CNRP member, Sam Bopha, was killed in police custody. At least two former CNRP members were beaten with metal bars by unidentified assailants on the streets of Phnom Penh in September 2019. CNRP President Kem Sokha was released from de facto house arrest on 10 November but remained subject to strict bail conditions, including a ban on political activity and on leaving the country.³⁴ Several CNRP supporters fleeing persecution and seeking refuge abroad faced intimidation and harassment in Thailand. CNRP activist Soun Chamroeun was subject to an apparent attempted abduction and was attacked with a taser on the streets of Bangkok in December.³⁵ Outspoken NGOs were subjected to unlawful surveillance, threats and intimidation by police and local authorities. Routine NGO events such as workshops continued to be shut down despite the revocation of a ministerial regulation that required prior permission for such event.

³³ Cambodia: End arbitrary arrests and prosecution of opposition members ([ASA 23/1350/2019](#), 5 November).

³⁴ Cambodia: Reprieve for Kem Sokha a ‘token gesture’ that should not distract from human rights crisis ([news story](#), 10 November).

³⁵ Cambodia: Stop harassment of opposition figures in Thailand ([ASA 23/1632/2019](#), 27 December).

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