



ខុមហ្វ្រែល COMFREL



DEMOCRACY ELECTIONS AND REFORM IN CAMBODIA 2021

Published by July 2022

2021 Annual Report

Democracy, Elections and Reform in Cambodia

TABLE OF CONTENTS

CHAPTER ONE: MAIN SITUATIONS OF DEMOCRACY	2
CHAPTER TWO: FREEDOMS AND POLITICAL RIGHTS	6
Part One — Freedom of Expression	6
Part Two — Freedom of Assembly and Movements.....	8
Part Three — Freedom of Association, CSOs, and Trade Unions.....	10
Part Four — Freedoms of Press and Media (including Internet and Social Media).....	12
Part Five — Political Rights and Political Parties	14
CHAPTER THREE: LEGISLATIVE AND EXECUTIVE BRANCH.....	16
Part One — The Legislative Branch	16
Part Two — The Executive Branch.....	19
CHAPTER FOUR: RULE OF LAW AND JUDICIARY	21
Part One — Rule of Law	21
Part Two — Judiciary	22
CHAPTER FIVE: THE ELECTION	24
Part One — Voter Registration and Voter List.....	24
Part Two — The National Election Committee (NEC)	24
Part Three — CSO's Proposal for Minimum Conditions for the 2022 Free and Fair Commune Election	25
CHAPTER SIX: CONCLUSION	27

CHAPTER ONE:

MAIN SITUATIONS OF DEMOCRACY

The number of people on the first voter list published was 9,205,675, with 23,602 polling offices. Although there are 442,440 new registered voters, 224,970 people were removed from the voter list because they had moved, died, or were disenfranchised.

As for the lead-up to the 5th Commune Council Elections scheduled for June 5, 2022, 17 political parties have been preparing their list of candidates and developing political platforms, which include: the Cambodian People's Party (CPP), Candlelight Party, FUNCINPEC, Khmer National United Party (KNUP), Cambodian Nation Love Party (CNLP), Cambodian Nationality Party, Cambodian Youth Party (CYP), Kampucheaniyum Party (K.P.), Khmer Will Party, Cambodia Reform Party, Grassroots Democratic Party (GDP), Reaksmeay Khemara Party, Beehive Social Democratic Party (BSDP), Indigenous People's Democratic Party (IPDP), Khmer United Party (KUP), Ekpheap Cheat Khmer Party, and Khmer Economic Development Party (KEDP).¹In addition,² 16 national associations and NGOs are preparing to engage in observation for the upcoming commune council election³.

Opposition members have created political parties to participate in the upcoming elections. However, one of them, the Cambodia National Heart Party (CNHP) has been rejected by the Supreme Court and the Ministry of Interior. They were one of the seven political parties that split from the Court-dissolved Cambodia National Rescue Party (CNRP). As for its founder, Siem Phluk, he has been summoned by the Supreme Court to a hearing on December 24 to resolve a complaint he filed against the Ministry of Interior for refusing to register his party⁴. The Phnom Penh Municipal Court has also summoned two activists of the unrecognized opposition Cambodia

¹ <https://www.phnompenhpost.com/national-politics/17-parties-set-commune-election>

² <https://www.nec.gov.kh/khmer/content/5872>

³ <https://www.khmertimeskh.com/501077236/thousands-of-observers-to-monitor-commune-election/?fbclid=IwAR0uEEUMI9u21L0Jf-RkV7fOqnn0HCkdIgXmp0BBAtI1bGzhzQLNM623BmI>

⁴ https://bit.ly/3IASLJc?fbclid=IwAR06dwGDG65KdT3mq7cb0IOMsKOFvv63LRkh_g55QzM8FFsMMYHj55-S0yY

National Heart Party (CNHP) following a complaint made by the Interior Ministry alleging the party used fraudulent thumbprints in its membership list. CNHP has been invalidated from the upcoming elections due to the authority's accusation of fraudulent thumbprints.

As for the FUNCINPEC party, their royalist leadership has won an ongoing legal battle against a rival faction after nearly two months of the legal battle. Prince Norodom Chakravuth is the new leader of Funcnpec after the death of Prince Norodom Ranariddh⁵. On December 26, 2021, their spoke person, Nhoeun Raden, said that Prince Chakravuth wanted all the royalists to come together and join hands to boost his party's popularity.

Other opposition members are also reactivating the decades-old Candlelight Party (C.P.) endorsed by Sam Rainsy ahead of the upcoming elections. However, the opposition leader Kem Sokha blasted his co-founder of the court-dissolved Cambodia National Rescue Party (CNRP), Sam Rainsy, for supporting the C.P., warning Rainsy to stop connecting him to their "political ambitions".⁶ This caused some of the opposition party's supporters to express their disappointment.

Sam Rainsy argued that Kem Sokha, the co-founder of the CNRP, is under threat and pressure from Prime Minister Hun Sen.

The National Assembly (N.A.) of the single-political party CPP has amended articles of the Constitution aiming to mandate single citizenship for the prime minister and presidents of the National Assembly, Senate, and Constitutional Council. Amended in October were articles 19, 82, 106, 119, and 137 of the Constitution and articles 3 and 4 of the Additional Constitutional Law tending to counter the opposition leader Sam Rainsy who has dual citizenship.

Furthermore, The Phnom Penh Municipal court started mass trials in 2021 against over 100 persons connected with CNRP and political activists. In March, the authorities convicted nine exiled CNRP leaders in absentia based on attempted "attack" charges, including CNRP leader Sam Rainsy, and sentenced them to up to 25 years in prison. The case against them is based on false

⁵https://bit.ly/3sCuHAh?fbclid=IwAR3yLCF3uV7pfZLgtFjjrnnvIXJ4ptDYeKBMcBO5BQBB5Be8wA_9IUIMiiY

⁶ https://www.khmertimeskh.com/50978660/sokha-warns-rainsy-questions-candlelight-party-leadership/?fbclid=IwAR3hOYcKajlIMzBYPZkv3_DSR0BbPczmK99qML-DX1ptNAN9ZrqOmaYnp6g

allegations that the CNRP attempted to stage a coup by announcing their plans to return to Cambodia in November 2019⁷.

As for the Khmer Rise Party (KRP), their President, William Guang, has been charged by the Municipal Court with connection to the armed robbery of a young tycoon, An Sieu Mey⁸.

In August, the court convicted trade union leader Rong Chhun of incitement, together with former political opposition members Sar Kanika and Ton Nimol. Their sentences ranged from 20 months to two years in prison and a large fine of 400 million riels (nearly US\$100,000), paid to the Government's Border Affairs Committee. Rong Chhun's arrest followed his public comments on communities' land loss because of the demarcation of the Cambodia-Vietnam border.

The two other activists had peacefully protested for Chhun's release. The authorities arrested nineteen activists, artists, and human rights defenders for participating in similar protests. The court also convicted nine activists and former opposition members of incitement and sentenced them to 12 and 20 months in prison. They had peacefully protested near the Chinese Embassy in Phnom Penh as part of a 2020 campaign to commemorate the Paris Peace Accords anniversary.

The NagaWorld labor Union, Labor Rights Supported Union (LRSU) has accused NagaWorld of not negotiating in good faith. They remained silent in the negotiating meeting and let the ministry official negotiate on their behalf. Senior Officials from the Ministry of Labour tried to discredit the strike as illegal and dangerous, labeling it a politically motivated "color revolution." At least six NagaWorld Labor Rights Supported Union (LRSU) members were presented for questioning before the Phnom Penh Municipal Court after authorities arrested ten people⁹.

These recent developments have made the political landscape in Cambodia enigmatic. What's more is that Prime Minister Hun Sen has endorsed his eldest son Hun Manet as his successor. The ruling Cambodian People's Party (CPP) 's Standing Committee of the Central Committee has supported

⁷ https://bit.ly/3pbBbnN?fbclid=IwAR3pyD8BmC9UMsBiDQBe_w0-Gvx-nE4K5-qHs_sldbOqNviCBxsby-AXDCc

⁸ https://www.khmertimeskh.com/50995445/guang-and-gang-charged-in-pp-court-over-robbery/?fbclid=IwAR10In_Vmsacs5j2TNrZ09SkGeydXIYVfMwTx6cJKHjDrVIX2-QrgyRwOtI

⁹ https://bit.ly/32UNxHW?fbclid=IwAR3MVWv-s7Ec2ZqRjw7lKvfB-ns89dSsFFIO7_-3RNqVPsg5dwA0w-T_B9Q

this move, considering him qualified to hold the top position in the future. Interior Minister Sar Kheng, the deputy prime minister, held back from publicly endorsing Hun Manet to lead the country¹⁰. Except for the deputy prime minister, Sar Kheng, all the deputy prime ministers have issued statements of support for Hun Manet.

This year, the Council of Ministers has approved the draft of the national budget, which is approximately \$7.62 Billion¹¹. The budget is roughly \$5.37 billion for Central administrations, about \$0.88 billion for the capital and provinces departments, and approximately \$1.36 billion for public investments through foreign financing¹². In addition, the sixth session of the sixth legislature of the One-Party National Assembly from June 24 until December 29 approved 20 draft laws proposed by the Government.

¹⁰ [Cambodia's political succession: Hun Manet's path \(eiu.com\)](#)

¹¹ <https://www.khmertimeskh.com/50776654/2021-draft-budget-sees-a-half-billion-reduction/>

¹² Budget Law Database 2021 by Cambodia National Budget.
<http://www.cambodianbudget.org/index.php?page=00124>

CHAPTER TWO:

FREEDOMS AND POLITICAL RIGHTS

In 2021, the FFMP (The Fundamental Freedoms Monitoring Project of CCHR) recorded 454 incidents related to exercising fundamental freedoms. 351 of these incidents were recorded through Media Monitoring, and an additional 103 incidents were recorded through Incident Reports. As a result, 113 incidents demonstrated protection of fundamental freedoms, while 93 included at least one restriction, and 248 included at least one violation of fundamental freedoms.

Freedoms and political rights in Cambodia have always been among the most unpleasant issues among other agendas. Per Freedom House, freedoms in Cambodia were scored 24 on a scale of 100, one point behind last year's status in which the country received 25 over 100¹³. In 2021, Cambodia's political rights were merely 5/40 while its civil liberties dropped to 19/60¹⁴. Of no difference from its previous years, Cambodia's freedoms are 'not' free¹⁵.

This chapter is divided into five parts. The first and second part scrutinises the freedom of expression and freedom of assembly and movements. The third part looks into the freedoms of association, CSOs, and Trade Unions, while the fourth part highlights the press and media freedoms. Finally, the fifth part discusses Cambodia's political rights and political parties.

Part One — Freedom of Expression

The Office of the United Nations High Commissioner for Human Rights (OHCHR) reported 34 examples of criminal charges being brought against human rights advocates throughout the reporting period. Twenty-one human rights activists, including 11 women, were imprisoned after being charged with or condemned for instigation to commit a felony. Amongst 21, 16 were jailed

¹³ <https://freedomhouse.org/country/cambodia/freedom-world/2021>

¹⁴ <https://freedomhouse.org/country/cambodia/freedom-world/2021>

¹⁵ <https://freedomhouse.org/country/cambodia/freedom-world/2020>

and/or convicted due to protests over Rong Chhun, a union leader arrested on July 31, 2020. After visiting him in prison, a woman human rights defender was assaulted by two unidentified guys¹⁶.

Furthermore, authorities illegally arrested, prosecuted, and imprisoned human rights defenders and environmental activists. In August, Rong Chhun, a trade union official, was convicted of "incitement to commit a felony or produce social unrest" and sentenced to two years in prison. After demanding Rong Chhun's release, opposition activists Sar Kanika and Ton Nimol were convicted of inciting and sentenced to 20 months in prison. Ten other people who protested Rong Chhun's detention were also arrested and charged with inciting.

With that said, the National Assembly passed the Law on Measures to Prevent the Spread of COVID-19 and Other Serious, Dangerous, and Contagious Diseases (COVID-19 law) the same month, imposing severe penalties for violating COVID-19 limitations, including jail sentences of up to 20 years. According to the LICADHO, at least 258 persons were imprisoned under the COVID-19 statute for defying administrative measures. Among these, 83 people were prosecuted and imprisoned. In addition, several people were detained for criticizing the Government's COVID-19 response.

Another case is that; environmental activists affiliated with the campaign group Mother Nature Cambodia (MNC) experienced court persecution throughout the year. Five MNC activists were convicted of inciting and sentenced to 18 to 20 months in prison in May. (Two were convicted in their absence). They were arrested after arranging a protest march against Government plans to privatize, fill, and develop Phnom Penh's largest surviving lake.

In June, three more MNC activists were accused of "plotting" and "insulting the King" (*lèse majesté*), as well as one more, who was prosecuted in their absence. They were detained while photographing river pollution levels in Phnom Penh. The members of the MNC were among 26 activists released in mid-November, along with Rong Chhun and all those jailed for protesting his detention. All were released under varied terms, including restrictions on their freedom of movement, association, and peaceful assembly.

¹⁶ Ministry of Information announcement No. 1798, on access to information and reporting in restricted zones, 4 May 2021 (in Khmer only).

Part Two — Freedom of Assembly and Movements

In 2021, the FFMP (The Fundamental Freedoms Monitoring Project of CCHR) recorded 87 restrictions to the freedom of assembly, 60 (or 69%) of which were impermissible, thus amounting to violations. These restrictions included, but were not limited to, individuals being threatened with legal action or violence by authorities if they protested, excessive force used by authorities interferences with assembly monitors, and criminal sanctions.

The FFMP recorded 22 assemblies during which authorities used force, accounting for 13% of all assemblies. In all cases, violence was used during land assemblies (six times) or assemblies led by the Friday Women (15 times). The types of force used included pushing and dragging protesters, beatings, and violent attacks, some of which resulted in severe injuries.

Depending on the caseload, the authorities implemented a color-coded classification system describing different levels of restrictions in various regions. While lockdown measures were in effect, causing a lack of food, medications, and other necessities, government officials prohibited media from reporting from the locations with the biggest caseloads and the most severe restrictions. The OHCHR has reported 14 incidents of violent attacks on opposition activists by unknown individuals. The same youngster was hit with a brick by unidentified assailants in April 2021, requiring 20 stitches. On May 12, 2021, a Cambodia National Rescue Party volunteer who was giving humanitarian aid to households in Phnom Penh during the lockdown was attacked by four unidentified males, resulting in head injuries and a fractured finger¹⁷.

According to publicly accessible information, at least 729 people were arrested under the COVID-19 statute and related sub-decrees between mid-April 2021 and the end of the reporting period, with 126 of them being charged. One hundred and sixteen people have been charged, and 110 have been convicted. Moreover, because the trials were held under "instant appearance" procedures, the majority of those convicted were tried without the help of counsel, potentially violating their right to appropriate time and facilities to prepare their defense. In one case that exemplifies the law's

¹⁷ Letter dated 26 October 2020 from OHCHR addressed to the Deputy Prime Minister (ref. No. OHCHR/197/20).

excessive sentencing, four men arrested in Takeo Province on April 18, 2021, for hosting a party were tried and convicted the next day and sentenced to one year in prison¹⁸.

In Battambang Province, the Office of the High Commissioner for Human Rights received allegations of two suspicious deaths of people in detention. The first fatality occurred in police custody on April 3, 2021, while the second occurred in prison on May 3, 2021. OHCHR remotely watched these cases and gave technical assistance to the National Committee Against Torture in its investigations into these fatalities. On 13 January 2021, two officials from the provincial military police were convicted in the matter of a death in custody in Banteay Meanchey on 1 January 2020.

Not to mention, the Government can ban or limit freedoms of travel, assembly, and information sharing, as well as the right to leave one's house, under the April 2020 state of emergency law, which the prime minister stated, was required due to the COVID-19 epidemic. NGOs and U.N. experts opposed the bill, claiming that it lacked an adequate control mechanism and may be used to violate people's rights. However, the administration had not proclaimed a state of emergency under this law since November.

In 2021, the Fundamental Freedoms Monitoring Project (FFMP) of the Cambodian Center for Human Rights (CCHR), Cambodian Human Rights and Development Association (ADHOC), and the Solidarity Center recorded 454 incidents related to the exercise of fundamental freedoms. 351 of these incidents were recorded through Media Monitoring, and an additional 103 incidents were recorded through Incident Reports. As a result, 113 incidents demonstrated protection of fundamental freedoms, while 93 included at least one restriction, and 248 included at least one violation of fundamental freedoms.

At the beginning of 2021, the number of COVID-19 cases increased in Cambodia, which resulted in a lockdown in Phnom Penh and an inter-provincial travel ban in April 2021. These measures likely resulted in reduced restrictions and violations in April 2021. However, the number of limitations and violations peaked in November 2021, when multiple political activists and politicians faced legal action or conditions on their party's activities. Four Cambodian National Rescue Party (CNRP) activists, who had fled to Thailand following the dissolution of the CNRP

¹⁸ Information received from the General Department of Prisons, 21 April 2021.

in 2017, were arrested and deported to Cambodia at the request of or in collaboration with Cambodian authorities in November 2021. All were jailed for what the United Nations called "politically-motivated charges" upon their arrival in Cambodia and were charged with "conspiracy". On the other hand, the other three over their alleged support of Sam Rainsy's failure to return to Cambodia in 2019, and the fourth over his criticism of Prime Minister Hun Sen's Government. In November 2021, a former CNRP activist was murdered in Phnom Penh in an attack that his family and friends described as "politically motivated".

Incidents involving a restriction or violation of fundamental freedoms were recorded in every province of Cambodia. However, the majority (165) occurred in Phnom Penh, with an average of 13.6 incidents per month¹⁹.

Part Three — Freedom of Association, CSOs, and Trade Unions

The FFMP recorded "200 restrictions to the freedom of association, affecting at least 282 individuals. 154 of these restrictions (or 77%) were impermissible, amounting to violations of freedom of association. These restrictions include, but were not limited to, interferences with associations' activities, excessive monitoring of associations, physical attacks against association members, and the use of the judiciary to impede or deter associations and their members".

Authorities arbitrarily arrested, prosecuted, and imprisoned human rights defenders and environmental activists who are members of the associations and trade unions. For instance, human rights defenders from Khmer Thavrak and the Khmer Student Intelligent League Association were detained and are being held in pretrial custody on felony inciting charges.²⁰

At least 282 individuals had their freedom of association restricted, suggesting a complex environment for exercising this freedom. Of these individuals, at least 101 (35%) were political activists or politicians from the opposition. Moreover, 94 of these 101 political activists or politicians were affiliated with the CNRP, the main opposition party dissolved by the Supreme

¹⁹ World Justice Project Report 2021.

²⁰<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25670>

Court in 2017. Interferences with the political activists' freedom of association included – but were not limited to – excessive monitoring, legal actions, intimidation, and physical attacks²¹.

Rong Chhun, a trade union official, was convicted of "incitement to commit a felony or produce social unrest" in August and sentenced to two years in prison. The trial followed public statements he made alleging community land loss due to border delineation between Cambodia and Vietnam. After demanding Rong Chhun's release, opposition activists Sar Kanika and Ton Nimol were convicted of inciting and sentenced to 20 months in prison. Ten other people who protested Rong Chhun's detention were also arrested and charged with inciting.

Moreover, environmental activists affiliated with the campaign group Mother Nature Cambodia (MNC) experienced court persecution throughout the year. Five MNC activists were convicted of inciting and sentenced to 18 to 20 months in prison in May. (Two were convicted in their absence). They were arrested after arranging a protest march against Government plans to privatize, fill, and develop Phnom Penh's largest surviving lake. In June, three more MNC activists were accused of "plotting" and "insulting the King" (*lèse majesté*), as well as one more, who was prosecuted in their absence. They were detained while photographing river pollution levels in Phnom Penh. The members of the MNC were among 26 activists released in mid-November, along with Rong Chhun and all those jailed for protesting his detention. All were released under varied terms, including restrictions on their freedom of movement, association, and peaceful assembly.

The FFMP documented the experiences of three Trade unions attempting to register their union pursuant to the Law on Trade Unions (TUL). Two out of three T.U. registration applications experienced delays, and all three surveyed T.U.s answered that the form "Request for Registration of a Local Union" was a difficult, burdensome, and lengthy process. This hinders the union's ability to carry out their activities legitimately and their freedom of association²².

Environmental deterioration and indigenous peoples' rights, new rules on internet use, and responses to the COVID-19 outbreak significantly restricted civil and political liberties. Infractions of Covid-19 restrictions, as well as criticism of the Government, resulted in arrest and incarceration. Following unfair mass trials, members of the banned opposition party were

²¹ Word Justice Project Report 2021

²² <https://cchrcambodia.org/admin/media/report/report/english/CCHR%20FFMP%20Report%20Year%206-Jan-Dec-2021-ENG.pdf>

sentenced to hefty prison terms. Environmental activists were particularly persecuted, and Indigenous peoples were prevented from participating in conservation activities. Detainees' right to health was jeopardized by severely overcrowded jails and drug detention centers.

Part Four — Freedoms of Press and Media (including Internet and Social Media)

According to a Ministry of Information report¹, by the end of 2021, there were a total of 2,017 outlets registered, including 706 websites, 81 video news outlets, 193 magazines, 22 bulletin newsletters, and 26 foreign news agencies with local offices, and 50 media associations.

Cambodian Journalists Alliance Association (CamboJA) found that the number of journalists arrested and harassed while on duty increased by nearly 50% in 2021 compared to 2020. The rise was due to the Government's ongoing crackdown on press freedom, specifically around reporting on politics, land disputes, and COVID-19. There are 49 harassment cases — including physical attacks, threats of violence, arrest, imprisonment, and other legal actions — against 96 journalists, compared to 35 cases against 72 journalists in 2020. Those figures represent a 40% increase in cases and a 33% increase in the number of journalists targeted.

The Sub-decree on a National Internet Gateway, passed in February 2021, jeopardizes the rights to privacy, freedom of expression, and information access. The sub-decree empowers the Government to monitor and conduct surveillance on online activity, intercept and censor digital communications, and gather users' data²³.

Mr. Hun Sen, the prime minister, signed the Sub-Decree on establishing a National Internet Gateway into law on February 16, undermining the right to privacy and encouraging self-censorship. All internet traffic was needed to transit through a centralized oversight organization responsible for monitoring online behavior and internet service providers to validate internet users' identities. With little understanding, the authorities continued to cite the COVID-19 pandemic as an excuse to limit free expression. Shen Kaidong, a Chinese citizen and the editor-in-chief of the

²³ Role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights.

Chinese-language media portal Angkor Today, was deported in early March for publishing a piece regarding vaccines that the authorities called "false news."

Citizens were arrested and charged with misinformation and the misdemeanor "incitement to commit a felony." Judges may also assess fines that, if not paid, can result in jail time. Police and courts defined "incitement" broadly; authorities arrested several people for statements made on social media, many of which were about the COVID-19 pandemic. In August, for example, a Phnom Penh court condemned Ny Nak to 18 months in prison for "incitement" after he posted a seemingly joking remark on Facebook claiming he would give his hens face masks to protect them from COVID-19. On September 2, a Phnom Penh court jailed Thun Chanta and Mey Sophorn to the maximum term for "incitement" after the pair questioned the Government's COVID-19 immunization protocols in Facebook posts.

70 percent of NGOs and unions said they didn't feel safe sharing material on social media in a nine-month poll done by local NGOs that ended in January. To avoid government repercussions, 16% of them "always" self-censored, 36% "frequently" self-censored, and 37% "occasionally" self-censored.

Newspapers and broadcast media were owned or influenced by the Government, military, and ruling party; there were few prominent independent news outlets. The three most influential pro-government media did not criticize the Government for politically motivated conduct or human rights violations. According to experts, the Government withdrew the licenses of nine media outlets in the first three months of the year, accusing them of distributing false information or "creating disorder" during the COVID-19 outbreak.

The Ministry of Information revoked the licenses of media platforms and radios: online news outlet TVFB after it quoted Prime Minister Hun Sen verbatim, the license of radio station Rithysen 99.75 FM following a report on a land dispute involving powerful individuals, and the license of news website CKV TV online after accusing it of disrespecting Buddhism.

In addition, Youn Chiv, the Koh Kong Hot News website owner, was sentenced to a year in prison on September 30 for "incitement" for remarks about a property dispute after Defense Minister Tea Banh — a Koh Kong local — filed legal action against him.

Part Five — Political Rights and Political Parties

29 of the 118 CNRP officials barred from political activity had applied for political rehabilitation. The Government restored the political rights of 26 individuals and rejected three applications. In August, Prime Minister Hun Sen stated that he would not restore any politician's political rights unless he were "pleased". The prime minister chooses his political opponents. Prime Minister Hun Sen and the CPP dominated all levels of Government, from the authorities to the National Assembly.

Members of the opposition party (the CNRP), have been subjected to arbitrary arrests, prosecutions, and brutal attacks by unknown assailants. In early January, mass trials of roughly 150 CNRP top leaders, party members, and supporters began. Many of the allegations were related to the anticipated return of self-exiled CNRP officials to Cambodia in November 2019, which the authorities interpreted as a coup attempt. In addition, the Government stepped up attacks against environmental and youth activists as well as human rights defenders. Currently, Cambodia holds at least 60 political prisoners in notoriously overcrowded prisons.

On March 1, nine senior party leaders were convicted of " attempting to commit a felony" under Articles 27 and 451 of Cambodia's Criminal Code, respectively. Party co-founder Sam Rainsy was sentenced to 25 years in prison, while others received sentences ranging from 20 to 22 years. Veourn Veasna and Voeung Samnang, both CNRP supporters and UNHCR-recognized refugees, were forcibly repatriated to Cambodia from Thailand in November and jailed on allegations of provocation and violation of the COVID-19 statute. Hun Sen had earlier ordered Voeurn Veasna's arrest after publishing a poem critical of him. By the end of the year, the two guys were still in pretrial confinement. The authorities did not investigate physical attacks on CNRP members and sympathizers.

In a case of a 16-year-old CNRP supporter was beaten by two guys in April and was hospitalized with a cracked skull. The attackers were not apprehended. On June 24, the same fan was detained and charged with inciting and insulting public officials in connection with comments critical of the Government posted on the messaging app Telegram. He received an eight-month prison sentence and was freed in November after serving four and a half months. The supporter's father was detained in 2020 and was one of the dozens of CNRP members on trial.

In response to exiled Cambodia National Rescue Party (CNRP) leader Sam Rainsy's expected to return in 2019, authorities arrested over 139 CNRP members in November 2020, the majority of whom live in exile, to stand trial for planning and instigating to destroy the Government through Facebook posts. The trial was still ongoing, and the prosecution's case centered on private texts sent between CNRP members and wiretapped phone conversations.²⁴

As a result of their online utterances, journalists, activists, and other internet users are increasingly subjected to physical and online assault. For example, Wachalearm Satsaksit, a Thai pro-democracy activist, was kidnapped in Phnom Penh in July 2020 by unknown assailants after posting a video on Facebook criticizing Thailand's prime minister.²⁵

²⁴ <https://freedomhouse.org/country/cambodia/freedom-net/2021>

²⁵ <https://freedomhouse.org/country/cambodia/freedom-net/2021>

CHAPTER THREE:

LEGISLATIVE AND EXECUTIVE BRANCH

Since the 2018 national election has turned Cambodia into a *de facto* one-party country, it appeared that the ruling party dominated all levels of Government, from districts and provincial councils to the National Assembly. This chapter will highlight the lack of transparency in Cambodia's legislative and executive branches, including the national expenditures and the legal drafting process.

Part One — The Legislative Branch

The sixth session of the sixth legislature of the National Assembly from June 24 until December 29 has been completed. However, it remained ineffective. This inefficiency is because the National Assembly of the single party has not solved many major national problems, such as forestry issues (legal mechanisms and relevant practitioners) and land issues²⁶.

Lawmakers approved 20 draft laws proposed by the Government (*see Table 1*). The draft laws approved by the National Assembly include The Amendments to the Law on Commercial Enterprises; the Commercial Rules and Registration; the Approval of the ASEAN Protocol on Enhanced Dispute Settlement Mechanism; the Finance for Management 2022; the General State Financial Settlement for the Management 2020²⁷; the Regional Comprehensive Economic Partnership (RCEP) agreement; the bilateral Cambodia-China Free Trade Agreement (CCFTA); Competition Law; the amendment of the New Article 18 of the Audit Law; the amendment of Articles 123, 138, 162, 300, 343, 350, 363, & 367 of the labor law; the Law on Investment; the draft protocol to amend the ASEAN Plus Three Emergency Rice Reserve Agreement (APTERR), the legislation calls for the banning of Cambodians with dual citizenship from becoming prime minister or president of the National Assembly, Senate, or Constitutional Council.

Table 1:

²⁶ Summary of COMFREL PW 2021

²⁷ <https://www.khmertimeskh.com/50997459/national-assembly-approved-20-draft-laws/>

The 20 Draft Laws Approved by the Lawmakers	
The Amendment of the Law on Commercial Enterprises	Include the revision and overhaul of most existing articles to adapt to the modern commercial landscape while removing some irrelevant articles. ²⁸
The Commercial Rules and Registration	Include four new articles include the requirement for all companies in Cambodia to register their business 15 days before opening their business, the obligation to implement accounting and auditing rules, and more. ²⁹
ASEAN Protocol on Enhanced Dispute Settlement Mechanism	To serve as an additional mechanism to settle investment, trade, and tourism issues within the ASEAN framework and beyond.
Law on the financial management of 2022 ³⁰	To collect revenue for the national budget, taxes, contributions, taxes, revenues, and revenues, as well as to achieve investment subsidies and borrowings according to the budget. ³¹
General State Financial Settlement for the Management 2022 ³²	
Regional Comprehensive Economic Partnership (RCEP) Agreement ³³	Free trade deal among the Asia-Pacific nations, including Australia, Brunei, Cambodia, China, Indonesia, Japan, South Korea, Laos, Malaysia, Myanmar, New Zealand, the Philippines, Singapore, Thailand, and Vietnam.

²⁸ <https://noplegal.com/2022/02/16/law-on-the-amendment-to-the-law-on-commercial-enterprises/>

²⁹ <https://noplegal.com/2022/02/18/law-on-amendment-to-the-law-on-commercial-rules-and-commercial-registration/>

³⁰ https://data.opendevelopmentcambodia.net/laws_record/law-on-financial-management-2022

³¹ https://data.opendevelopmentcambodia.net/laws_record/law-on-financial-management-2022#:~:text=Law%20on%20financial%20management%20of,borrowings%20according%20to%20the%20budget.

³² <https://www.khmertimeskh.com/50997459/national-assembly-approved-20-draft-laws/>

³³ <https://www.khmertimeskh.com/50933276/national-assembly-approves-draft-law-paving-way-for-rcep-entry/>

Cambodia-China Free Trade Agreement (CCFTA)	The trade of goods by reducing and eliminating tariffs and non-tariff barriers ³⁴
Competition Law	Composed of 7 chapters and 41 articles, for business -anti-competitive behavior and assist consumers
The Amendment of the New Article 18 of the Audit Law	The appointment of the auditor-general and deputy auditor-general; ranks are equivalent to a senior minister and minister, respectively. They have a five (5) year term. ³⁵
The amendment of articles 123, 138, 162, 300, 343, 350, 363, and 367 of the Labour Law	
Law on Investment	Consists of 12 chapters and 42 articles; priority sectors to foster developments in science and technology, job creation, skills training, research, innovation, and small and medium enterprises ³⁶ .
ASEAN Plus Three Emergency Rice Reserve Agreement	malnourishment within the ASEAN region without distorting normal trade in the global market.
Legislation for the ban of dual citizenship Cambodians from the position of Prime Minister, President of the National Assembly, Senate, or Constitutional Council	

The number of the National Assembly agenda in the third year has increased from the second year, and the number of meeting sessions has also increased. In the National Assembly meeting, the member of the National Assembly mostly praised the Government for proposing new laws rather than discussing the loopholes in laws that emerged from the current practice. During each plenary

³⁴ <https://www.aseanbriefing.com/news/cambodia-ratifies-free-trade-agreement-with-china/>

³⁵ <http://www.cambodianbudget.org/index.php?page=00138>

³⁶ <https://www.khmertimeskh.com/50914236/new-draft-of-investment-law-given-national-assembly-committee-ok/>

session, no member of the National Assembly talked about negativity over the executive branch or proposed discussions to solve problems for the citizens³⁷. The National Assembly approved the budget bill for 2022 of roughly \$8.013 billion without discussions and debates.

The National Assembly and Senate of the single-party approved the new draft Constitutional Amendment limiting the top four national positions to only Khmer nationality on October 25 and November 2, respectively. In addition, the new law bans the Prime Minister, the Presidents of the Senate and National Assembly, and the Constitutional Council President from holding any citizenship other than Cambodian. The amendment includes Articles 19 (New), 82, 106 (New, 1), 119 (New), and 137 (New) of the Constitution, and Articles 3 and 4 of the Additional Constitutional Law.

Part Two — The Executive Branch

The 2021 national budget is more than \$7.62 billion and SDR 1.5 billion (\$2.1 billion) in borrowing from development partners³⁸. With the country still reeling from the economic effects of COVID-19, the Government has temporarily halted new civil servant recruitment and any wage increases for government workers in 2022³⁹. In response to a significant COVID-19 pandemic in March 2021, the Government implemented a Law on Measures to Prevent the Spread of COVID-19 and Other Severe and Dangerous Contagious Diseases, which it has used to jail residents for internet discourse about COVID-19 or vaccinations⁴⁰. According to the government announcement, foreigners who flee quarantine and refuse to cooperate with the Ministry of Health will be expelled. This law allows for up to 20-year-prison sentences for violations of COVID-19 measures. Amid the lockdown in the capital of Cambodia, the authorities used bamboo canes to beat people on the streets of Phnom Penh who defied the COVID-19 edicts by leaving their homes.

³⁷ Summary of COMFREL PW 2021

³⁸ <https://www.phnompenhpost.com/national/govt-approves-2021-budget>

³⁹ <https://www.phnompenhpost.com/national/no-new-civil-servants-or-salary-raises-2022-pm?fbclid=IwAR28CMJkGzpuQ6-Yk0pyrXteYOGBLnp0TDHZzsX5veKShbprezh7TatW7Rk>

⁴⁰ <https://freedomhouse.org/country/cambodia/freedom-net/2021> ; <https://www.khmertimeskh.com/50776654/2021-draft-budget-sees-a-half-billion-reduction/>

More government institutions have begun to postpone important events and gatherings within their ministries, and the Government has renewed restrictions on organizing public events and other large gatherings⁴¹.

The Government passed a sub-decree that tightens internet regulation (Establishment of the National Internet Gateway) and intensifies online surveillance of those who criticize the Government. In addition, the authorities increased their efforts to intimidate nonviolent environmental activists, accusing them of attempting to overthrow the Government with foreign financing. After issuing court summons in November 2020, the authorities started mass trials in 2021 against over 100 persons connected with CNRP and political activists due to the upcoming 2022 and 2023⁴².

According to the Transparency International Cambodia report, Cambodia received a score of 23 and is ranked 157th among 180 countries due to the 2021 Corruption Perceptions Index (CPI)⁴³. Cambodia's CPI results reflect the country's continuous promises to strengthen public financial management, notably fiscal transparency and resource mobilization; public reform administration, including e-government promotion; and manage and respond to the COVID-19 epidemic. Though there was a firm commitment from the Government, anti-corruption laws are poorly enforced, and corruption is sporadic in public procurement and tax administration. There were credible claims that government officials, especially police officers, committed abuses and acts of corruption with impunity. In addition, officials of the Government and their families were often immune from prosecution.⁴⁴

⁴¹ <https://reliefweb.int/report/cambodia/world-vision-cambodia-situation-report-covid-19-response-21-10-june-2021>

⁴² <https://www.hrw.org/world-report/2022/country-chapters/cambodia>

⁴³ <http://www.ticambodia.org/cpi2021/>

⁴⁴ 2021 Country Reports on Human Rights Practices: Cambodia

CHAPTER FOUR:

RULE OF LAW AND JUDICIARY

In 2021, the World Justice Project (WJP) subtracted 2.3 percent from the Cambodian Rule of Law Index. As a result, the 2021 Index shows that the rule of law status in Cambodia strike down to 0.32 points, pushing the country to the second bottom in the list (Cambodia's ranking at 138 out of 139 countries). This chapter will delve into the rule of law situation in Cambodia, including how the judiciary functions as an independent power from the other two branches, especially the executive branch. This chapter is guided by three scrutinies: the rule of law, the judiciary, and law enforcement in Cambodia.

Part One — Rule of Law

The World Justice Project (WJP) Rule of Law Index 2021 offers an overview of the rule of law in almost 140 jurisdictions by scoring and rankings on account of 8 factors: Constraints on Government Powers, Absence of Corruption, Open Government, Fundamental Rights, Order and Security, Regulatory Enforcement, Civil Justice, and Criminal Justice.

To mention a few more about the Rule of Law in Cambodia—Cambodia's overall rule of law score decreased by 2.3% in the 2021 Index⁴⁵. Cambodia remained in the same global rank at 138th place out of 139 countries and jurisdictions worldwide. Cambodia's score places it at 15 out of 15 countries in East Asia and the Pacific region while also 35 out of 35 among lower-middle-income countries.

By using the WJP Rule of Law Index, the first factor identifies 'Constraints on Government Powers,' which is to measure the power of the Government and to make sure they are governing by law—a law which comprises both constitutional and institutional that holds their power accountable under the law. This includes non-governmental checks on the Government's powers, such as the free and independent press. As the scoring factor, Cambodia scored 0.28, which placed on the 135 ranking out of 139.

⁴⁵ World Justice Project Report 2021

The second factor is the Absence of 'Corruption' in Government. This factor considers the three forms of corruption: bribery, improper influence by public or private interests, and misappropriation of public funds or other resources. These three forms are being examined with respect to the government officers in the executive branch, the judiciary, the military, the police, and the legislature. Cambodia's factor score for this was only 0.23, placing it on a scale of 138 out of 139.

The third factor is the 'Open Government' while Cambodia again ranked 138 out of 139.

The 'Fundamental Rights' is the fourth factor to consider in the rule of law in Cambodia. Cambodia ranked 131 based on factor scores.

The fifth factor is based on how well a society ensures the security of persons and property. Security is one of the defining aspects of any rule of law society and is a fundamental function of the states. Again, Cambodia ranked 95. Meanwhile, the sixth factor is 'Regulatory Enforcement. Cambodia ranked 128 over 139. The seventh factor is the civil justice system. Cambodia ranked last. Lastly, 'Criminal Justice,' the eighth factor, Cambodia ranked 135 over 139⁴⁶.

Part Two — Judiciary

The right to a fair trial has been critically ignored. The Government has often used the Judiciary in Cambodia to silence the opposition and activists. Using its tight grip on the criminal justice system, the Cambodian Government has brought a series of trumped-up charges against political opposition members, trade union activists, human rights /environmental activists, and political commentators to harass, intimidate and punish them. There are currently hundreds of politically motivated cases subject to criminal proceedings as part of a concerted attempt by the Government to crush any public criticism.

UN human rights experts have called many times for reviews of the legal proceedings brought against political opposition members, trade union activists, and human rights /environmental activists after at least defendants were convicted at trials. The decision came after hearings took place in 2021. Concerns around the legal process include: Several accused were denied physical access to their trial and consequently tried in absentia; Denial of complete access to case files; The

⁴⁶ World Justice Project Report 2021.

violation of the principle of presumption of innocence is noted in examples of judges' use of accusatory language against defendants present at hearings; Extended periods of pretrial detention in contravention of national and international laws protecting the right to a timely trial; The lack of clear, factual and conclusive evidence underpinning the charges.

CHAPTER FIVE:

THE ELECTION

As the 2022 Commune Council Election was only one year away, this chapter reports the voter registration and the voter list. It also updates the situation of the National Election Committee (NEC) and CSO proposal for minimum Conditions for the 2022 Free and Fair Commune Election.

Part One — Voter Registration and Voter List

The number of people on the first voter list published was 9,205,675, with 23,602 polling offices. Although there are 442,440 new registered voters, 224,970 people were removed from the voter list because they had moved, died, or were disenfranchised. One of the political parties, the League for Democracy Party (LDP), opposed the NEC results; while unsatisfying with the accused lack of transparency in the operating system of the election registration process, the League for Democracy Party (LDP) submitted a petition to the Western embassies in the country.

COMFREL conducted verification and found that 98.45% of voter names on the 2021 voter list found the voters to present at the residence according to data in the voter list in 11 provinces of 25 provinces. Migrant eligible voters living abroad (according to informal estimation, about 02 million workers could not access registration if they did not return to Cambodia.

Part Two — The National Election Committee (NEC)

The National Election Committee (NEC), an institution overseeing polls in Cambodia, has been preparing for the commune council election in 2022. They are responsible for planning, organizing, and managing the election in Cambodia. On November 14, 2021, NEC signed a memorandum of understanding (MoU) with the Ministries of Interior and National Defense⁴⁷. This MoU aims to maintain peace, political stability, public order, and social security from 2021 to 2024.

⁴⁷ https://m.phnompenhpost.com/national/nec-signed-memo-ministries-vote-security?fbclid=IwAR1MC3DV1toXLXffr1963Is-JXpEQ-NKzc9VKp4WapCTkx_rmAI0la29LLE

Political parties have voices and worries over the upcoming election next year even though the National Election Committee (NEC) is working to reset the "2021 pilot Commune Council Election ". In addition, mock elections across every province were to be organized on June 20, 2021; nonetheless, considering the continuous spread of Covid-19 in the community, the National Election Committee (NEC) called off the pilot election⁴⁸.

The departure of Sik Bun Hok, the Chairman of the National Election Committee (NEC), has been acknowledged by the National Assembly's Permanent Committee due to poor health. The National Assembly then named two new candidates to replace Sik Bun Hok's position⁴⁹. The ruling party said it has no plan to review the law on the Organization and Functioning of the National Election Committee. However, there are complaints from non-ruling political parties about the NEC's alleged lack of independence after the termination of the critical opposition. As a result, the former provincial governor from the ruling party Prach Chan was appointed by the National Assembly to be the new National Election Committee (NEC), Chairman.

The nomination of Chan as the new NEC chairman drew criticism that Mr. Chan is not qualified due to his "inexperience" in election work despite his involvement in domestic politics and public service for decades.

Part Three — CSO's Proposal for Minimum Conditions for the 2022 Free and Fair Commune Election

A group of more than 60 NGOs and associations proposed the minimum conditions for the upcoming election in 2022 with six recommendations for restoring: 1- free political environment, 2- the restoration of political rights and stand for elections, 3- protection of the expression of the will of the electorate, 4- improvement of composition of the National Election Committee, 5- an independent and neutral armed forces, and judicial system, 6- respect for the role of the media and CSOs. The conditions are drawn from the Cambodian Constitution, international instruments, and treaties (such as the Paris peace agreements and various United Nations bodies), thus shall be the accepted principles for free and fair elections. In addition, the conditions reflect the current

⁴⁸ <https://www.khmertimeskh.com/50864975/uncharted-territory-mixed-reactions-to-kingdoms-first-ever-pilot-election/>

⁴⁹ <https://www.phnompenhpost.com/national/national-assembly-vets-candidates-nec-chair>

Cambodian political context, resulting in a political compromise solution; there are a few parts of improvements regarding the political rights and role of CSOs and Media. As a result, 17 political parties can carry out political activity, prepare their list of candidates, and develop political platforms, including the Cambodian People's Party (CPP) and part of the opposition Candlelight Party. However, there have been no significant changes for improvement. In addition, there has been no reconciliation dialogue between the Government, the ruling party, and opposition parties to reduce tensions and encourage more open public debate.

CHAPTER SIX: CONCLUSION

Democracy in Cambodia further declined as the V-Dem Institute found that Cambodia is still in the bottom 10%. Cambodia is one of the seven worsened Democratic countries in the Asia-Pacific region in the last decade that have undergone substantial autocratisation. The leader of the country, Hun Sen, his party, and the Government, continued to consolidate their authoritarian power over the political system, and there were no significant improvements in liberal pluralism. The reforms were not sufficient in any area to meet the standards of an established democratic system. Cambodia's civil and political environment deteriorated due to the chilling effects of judicial prosecutions and other actions taken against members of political parties, civil society, and the media, particularly the continued judicial supervision of political opposition politicians, particularly its leaders Kem Sokha and Sam Rainsy. The Government of Cambodia continued to restrict the rights to freedom of expression, association, and assembly and did not fulfill its accountability for the cases concerned. In civil and political rights, intimidation and a sense of insecurity among the public have amply expanded following massive trials for anyone supporting the plan of the opposition leader to return to Cambodia. The Cambodian people can no longer support a political party based on free choice or express their sentiments in public space. The repression cases over the opposition members violate the political rights and the Cambodian constitution spirit of democracy.