Enforced Disappearances in Cambodia

30 August is the International Day of the Victims of Enforced Disappearances

What is an Enforced disappearance?

Three cumulative elements must exist for an enforced disappearance to be qualified as such:

- Any form of deprivation of liberty (e.g., arrest, detention, abduction) of an individual;
- By agents of the State of by persons or groups of persons acting with the approval, support or acquiescence of the State;
- Followed by the refusal to acknowledge this deprivation of liberty or by the concealment of the fate or whereabouts of the disappeared person, thus placing them outside the protection of the law.

An enforced disappearance can amount to a crime against humanity - one of the most severe breaches of human rights - when committed in a widespread and systematic manner.

Why do states carry out enforced disappearances?

Enforced disappearances are usually carried out by repressive states to incapacitate or "get rid" of people they see as "threats" or "nuisances". The primary targets of enforced disappearances are therefore political opponents, dissidents, journalists, human rights defenders, activists or any other critical voices.

Who is affected by enforced disappearances and how?

The victims themselves: The clandestine nature of their detention places them outside the protection of the law in situations of extreme vulnerability. They are thus at increased risk of being subject to violations of several of their human rights. For instance, victims can experience torture or be held in inhumane conditions. Many are killed or live in constant fear for their lives. Even if they are released, the physical and/or psychological scars stay with them.

The victim’s family members and friends: They do not know the fate or whereabouts of their loved one and experience mental anguish. International law recognizes both the disappeared person and anyone who has suffered harm as the direct result of enforced disappearance as victims.

Communities: Enforced disappearances create a climate of fear and hostility. They are usually used as part of a strategy to spread terror within society.

Legal framework

The International Convention for the Protection of All Persons from Enforced Disappearance ("ICPPED"), adopted by the United Nations in 2010, aims to prevent enforced disappearances, uncover the truth when they occur, and ensure that victims, survivors, and their relatives receive justice, truth, and reparation. Cambodia became a state party to the ICPPED on 27 June 2013. As such, it must notably prevent the occurrence of this crime, investigate acts of enforced disappearances, and hold perpetrators accountable.

Other international human rights instruments - such as the International Covenant on Civil and Political Rights or the International Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment - protect various human rights at risk of being violated when an enforced disappearance occurs. Cambodia is a state party to both instruments.
In preparation for Cambodia’s review by the United Nations Committee on Enforced Disappearances ("CED") – the body tasked with monitoring the implementation of the ICPPED by state parties – the Royal Government of Cambodia ("RGC") submitted a report to the CED in 2021, highlighting the measures it has taken to give effect to its obligations under the ICPPED. This report was originally due in 2015, two years after the entry into force of the ICPPED for Cambodia. The report mentions that Cambodia “does not currently have any official […] cases in relation to enforced disappearance”. The two cases below seem to indicate otherwise.

**WHAT IS THE SITUATION IN CAMBODIA?**

16-year-old Khem Sophath was last seen on 3 January 2014 in Phnom Penh. On that day, a clash took place between the military forces and striking workers from the Hour Sing factory where Khem Sophath worked. He was shot in the chest by security forces when they opened fire on the workers and was seen lying on Veng Sreng road with blood spurting from his chest. Bystanders tried to help him but he urged them to “save themselves” as shots were still being fired. Witnesses reported that he was removed from the road a couple of hours after being shot. Since then, his fate and whereabouts have been unknown.

An urgent action requesting Cambodia to provide information on Khem Sophath’s situation was registered with the CED and transferred to Cambodia on 30 January 2014. Despite at least two follow-ups sent by the CED in 2017 and 2019, Cambodia is not believed to have replied to this request for information.

The Thai activist and outspoken critic of the Thai government was abducted on 4 June 2020 by masked men outside his apartment building in Phnom Penh, a day after posting a video criticizing the Thai Prime Minister. Wanchalearm Satsaksit had fled Thailand following the military coup and had been living in exile in Cambodia since 2014. Prior to launching an investigation, Cambodian authorities initially dismissed the Thai activist’s abduction as “fake news” and denied his presence in Cambodia.

An urgent action was filed on behalf of Wanchalearm Satsaksit with the CED and a report was filed with the United Nations Working Group on Enforced or Involuntary Disappearances (“Working Group”) whose main task is to assist families in determining the fate or whereabouts of their disappeared relatives. In its latest communication to the RGC, dated December 2020, the Working Group reiterated that “Cambodia should take all necessary measures to search for, locate and protect Mr. Wanchalearm Satsaksit”. His fate and whereabouts remain unknown to this day.

**RECOMMENDATIONS TO THE ROYAL GOVERNMENT OF CAMBODIA**

- Recognizing the crime of enforced disappearance as an autonomous offence under Cambodian criminal law;
- Carrying out impartial and thorough investigations into the cases of Khem Sophath and Wanchalearm Satsaksit, making any findings public to uphold the right to truth, and ensure that all cases of enforced disappearance are promptly investigated and that alleged perpetrators are held accountable;
- Encouraging the participation of all persons with a legitimate interest in investigations and keeping them informed about the progress and results of said investigations.

Enforced disappearance is not explicitly criminalized as an autonomous offense under Cambodian law. However, because Cambodia is a state party to the instruments mentioned above, their provisions are directly applicable in domestic law by virtue of Article 31 of the Constitution.