Fact Sheet: Escalation of Violent Repression of Trade Union Activities
Timeline: December 2015 – February 2016



Snapshot: The recent violence during protests by former Capitol Tours drivers highlights the escalation of the Royal Government of Cambodia ("RGC")'s suppression of trade union activities, workers' labor rights and the fundamental freedoms of assembly and association.

Introduction

In recent months, the Kingdom of Cambodia ("Cambodia") has borne witness to a series of incidents in which trade union activities have been brutally suppressed by the authorities. The recent violent crackdown of a protest by drivers formerly employed by Capitol Co., Ltd, widely known as Capitol Tours, in Phnom Penh, highlights both the Cambodian authorities' tacit support for the use of violence against legitimate demonstrators and the suppression of independent trade unions. In contrast to the frequent heavy police presence at peaceful demonstrations and the judicial harassment of independent trade union activists, the police failed to intervene to prevent a mob of tuk-tuk drivers from brutally attacking the protesting bus drivers. Moreover, while victims of the attack have been arrested, the real perpetrators have been allowed to enjoy total impunity. Unfortunately this is not an isolated case; it is one of many similar incidents in which the labor rights and the fundamental freedoms of workers have been violated. This Fact Sheet will outline a selection of the recent violent crackdowns on trade union activities, and consider the human rights implications.

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

Capitol Tours Protest

During the period leading up to 8 December 2015, Capitol Tours dismissed 45 employees after they supported and attempted to form a union. They were concerned with the extremely poor working conditions endured by employees of Capitol Tours and therefore attempted to form a union in order to improve these conditions. Their efforts were thwarted however, after Capitol Tours retaliated by dismissing the union officers and other workers involved in the unionization. Despite the Arbitration Council on 29 July 2015 instructing the Company to allow all workers back to their original work, along with a 31 July court injunction instructing workers to return to work within 48 hours, Capitol Tours has refused to comply with these legal procedures and has continued to harass those who seek to exercise their fundamental freedoms and labor rights. The dismissed bus drivers and other activists have since sustained a prolonged protest against Capitol Tours.

On 06 February 2016, at approximately 9.40am around 50 of the protestors were violently attacked by a mob of tuk-tuk drivers – understood to be associated with the notorious Cambodia for Confederation Development Association ("CCDA") – outside Capitol Tour's offices in Phnom Penh's Prampi Makara district. CCDA has a history of demonstrating against civil society groups, and even the former UN Special Rapporteur for Cambodia, Surya Subedi, at the request of City Hall and businesses in return for lucrative contracts. The mob, comprising approximately 50 tuk-tuk drivers,

attacked the bus drivers when, as part of their protest, they attempted to obstruct a Capitol Tours bus from leaving the bus station. The horrific attack, which left at least 14 people injured, including protesting bus drivers, one human rights monitor and one police officer, was captured in video footage by human rights monitors shows the tuk-tuk drivers attacking the protestors with sticks, metal bars and hammers and a knuckleduster.[1] During the brutal attack, the police failed to take any meaningful action to intervene and there are even suggestions that some police officers actually participated in the violence.[2] The authorities arrested none of the attackers, yet two of the victims were arrested during the protest – bus driver Nan Vanna and labor activist Ruos Siphay. Two days later, on 08 February 2016, they were charged at the Phnom Penh Municipal Court with intentional violence, obstructing public officials and blocking traffic, and they remain in pre-trial detention at Prey Sar prison.[3] On the same day, four leaders of leading independent labor organizations, Cambodian Labour Confederation ("CLC") President Ath Thorn, CLC General-Secretary Kong Athit, Cambodian Informal Economy Workers Association (CIWA) President Sok Chhun Oeung, and Cambodian Transport Workers Federation ("CTWF") Secretary Eang Kim Hun, were also charged with the same three offenses.[4] None of these four leaders were even present during the incident and their prosecution therefore suggests a targeted crackdown on the entire trade union movement. This development gravely threatens all forms of independent union activity and is particularly disturbing in light of Article 29 of the proposed Trade Union Law, which would authorize a proposed Labor Court to dissolve a union for various vague reasons, including the "misconduct" of an individual leader. The entirely unjustified judicial harassment of four prominent trade union leaders who had no direct involvement with the actual protest, and of the two victims of the violence, demonstrates the RGC's determination to destroy independent unions.

Meanwhile, no real efforts are being made to bring the real perpetrators of the violence to justice. Remarkably, the President of CCDA, E Sophors, has declared his intention to sue prominent union and civil society leaders for causing the violence, despite the fact that there is damning evidence that it was CCDA members who instigated the attack.[5] This incident highlights a number of extremely disturbing problems: the violation of labor rights whereby companies can dismiss employees for unionizing with impunity; the refusal to follow decisions of the Arbitration Council and the Phnom Penh Municipal court; the tacit acceptance by the RGC of the use of brutal violence against peaceful protestors; and judicial harassment against leaders and members of labor groups.

Recent Escalation of Crackdown of Trade Union Activities

The attack on the former Capitol Tours bus drivers is the latest episode in the recent surge of similar such incidents in which trade union activities have been suppressed. Workers have frequently been subjected to physical violence, judicial harassment and dismissed from their employment for simply attempting to exercise their fundamental freedoms or internationally recognized labor rights.

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[1] LICADO Cambodia, 'Protesting Bus Drivers Beaten by Armed Thugs in Cambodia', *YouTube*, (06 February 2016), <https://www.youtube.com/watch?v=UXYhsw2X8QM> accessed 11 February 2016

[2] LICADO Cambodia, 'Civil Society Strongly Condemns Violence Against Demonstrating Bus Drivers', (06 February 2016) <http://www.licadho-cambodia.org/pressrelease.php?perm=398>

[3] Niem Chheng, 'Capitol protestors charged over brawl', *The Phnom Penh Post*, (09 February 2016), <http://www.phnompenhpost.com/national/capitol-protesters-charged-over-brawl>

[4] Sek Odom and Taylor O'Connell, 'Union Leaders Blast Charges Over Capitol Tours Protest', *The Cambodia Daily*, (10 February 2016), <https://www.cambodiadaily.com/news/union-leaders-blast-charges-over-capitol-tours-protest-107981/>

[5] Lay Samean, 'Alleged attackers at Capitol protest to sue', *The Phnom Penh Post*, (10 February 2016), <http://www.phnompenhpost.com/national/alleged-attackers-capitol-protest-sue>

On 01 February 2016, a group of approximately 600 factory workers employed by Star Light Apparel in Kandal province were brutally attacked by around ten security guards and 30 hired thugs armed with pipes and meat cleavers leaving eight factory workers injured. The incident occurred when the factory workers attempted to travel to Phnom Penh to protest against Star Light Apparel's controversial decision in January to dismiss Try Setra, a representative of Cambodian Labor Solidarity Union ("CLSU"). Workers have been protesting against their working conditions and the dismissal of Try Setra following which seven further workers were dismissed for allegedly inciting workers to strike.[6] As part of this ongoing protest, CLSU has submitted 18 specific demands for the improvement of their working conditions, 15 of which the factory agreed to on 04 February 2016 following negotiations with the district governor. Workers hope that the remaining three demands, which include the reemployment of Try Setra, the payment of the full salaries of workers involved in the protest and the improvement of general working conditions, will be accepted in the next round of negotiations. The President of CLSU has confirmed CLSU and the factory plan to take the matter to the Cambodian Arbitration Council.

Since 25 December 2015, garment workers in Kampong Speu province have engaged in a series of protests against working conditions in the Agile Sweater factory. Later on 5 January 2016, the workers asked for assistance from the Collective Union of Movement of Workers ("CUMW"). In response to CUMW's intervention, the factory applied to the Kampong Speu provincial court for an injunction ordering the strikers to return to work within 48 hours, which was granted on 08 January 2016. In contrast, the workers and CUMW's demands have been continuously rejected, but the protests continued.

On 12 January 2016, the protest descended into violence as the workers clashed with a gang led by Mr. Sok Ravuth, leader of the Collective Union Free Khmer Worker ("CUFKW"), which is closely aligned with the Agile Sweater Factory. The individuals associated with CUFKW are reported to have attacked the protestors with sticks and metal pipes, while representatives of CUMW arrived in front of the factory. During this incident, five CUMW representatives were arrested and taken to Kampong Speu Provincial Court, where they were charged with intentional violence, inciting people to commit crimes and violating the injunction to end the protest. The five arrested unionists are CUMW Vice-President Khat Lot, and members Cham Samnang, Prum Bunthorn, Mao Moy and An Thona, who has travelled to Kampong Speu province in order to find a resolution for the workers. Following large demonstrations outside Kampong Speu Town Hall on 13 January 2016, and calls from the President of CUMW to release the five individuals and to bring the perpetrators of the violence to justice, the five union representatives were released on bail on 18 January 2016. Following this, Mr. Pav Sina, the President of CUMW and his colleague Mr. Soth Chet were charged with the same crimes as were brought against the five activists. They have been placed under the judicial supervision of the Kampong Speu provincial court.

Similar to the Capitol Tours case, it is noteworthy that the violence against the protestors in Kampong Speu was perpetrated by a group aligned with and effectively controlled by the Agile Sweater Factory rather than the company itself or the authorities. Nonetheless it seems that the authorities have tacitly supported this violence as they failed to take any adequate action to stop the violence or to conduct an effective investigation in order to bring the perpetrators to justice. In addition, a number of CUMW officials have been arrested and charged for their role in organizing the legitimate protests, which also occurred in the Capitol Tours case. This trend is deeply disturbing

[6] Aun Pheap, 'Guards Attack Workers With Meat Cleavers, Union Says', *The Cambodia Daily*, (02 February 2016), <https://www.cambodiadaily.com/news/guards-attack-workers-with-meat-cleavers-union-says-107116/>

as companies are enjoying wider freedom to brutally suppress and intimidate workers from engaging in legitimate union activity via the use of proxy groups.

In December 2015, in Bavet, Svay Rieng province, violence erupted as the authorities suppressed garment worker protests in the Manhattan and Tai Seng Special Economic Zones. The protests began on 16 December 2015 as workers reacted to the government's refusal to raise the garment sector's minimum wage to $148 per month as per their demands. The protest escalated daily as more and more workers joined the protest, forcing the closure of both Special Economic Zones on 17 and 18 December 2015, affecting around 30,000 workers. Violent scenes unfolded as the whole area descended into chaos and over 600 provincial and military police were deployed to crackdown on the unrest.[7] On 21 December, police violently dispersed 8,000 protesting workers by using water cannon, and arrested 58 workers before releasing them later on that day after they had agreed to not engage in any further protests. Following the incident, a provincial representative of CUMW, Chea Oddom, explained "*the police tried to push them and they got angry with the police, so the workers threw water bottles and ice at them, and police used fire hoses to disperse them*".[8] At least 11 garment workers and truck drivers have been arrested and charged with offenses of property damage, intentional violence and incitement for their involvement in these protests.[9] It has also been announced that the factories in the Special Economic Zones have decided to pay workers half-wages for the two days when the area was closed on 17 and 18 December 2015.[10]

Discrimination against union members in Bavet is particularly widespread as only 5 of the approximately 45 factories in the area currently employ union members. The mayhem during these recent protests is largely due to the weaknesses of the unions in the area and the difficulties representing the workers' interests collectively in a stable and focused manner in negotiations with the garment manufacturers. None of the main unions were behind the protest and the lack of systematic organization explains how the escalation of the workers' frustrations quickly resulted in violence. Such chaotic protests with no clear leadership or focus make it very difficult to present a united front, which makes it easier for the authorities to dismiss the protests and the workers' legitimate concerns as simply riots. This analysis is supported by the country director of Solidarity Center who, with regards to the situation in Bavet, has commented that "*If there existed unions with collective bargaining rights, that would go a long way to preventing these types of situations*".[11]

Proposed Trade Union Law

Against the backdrop of the escalating suppression of trade union activities, the RGC appears determined to introduce a new Trade Union Law, which would confer on the government extensive powers to control and restrict the operations of trade unions, and threatens their existence. The RGC has refused to publish full drafts of the various versions of the law that have been proposed law – the potential impact of the law on labor rights is extremely worrying, given this lack of transparency. The most recent leaked version of the proposed law seriously threatens labor rights as well as the freedoms of association, assembly and expression, and has been widely condemned by

[7] Mech Dara, 'Cops, protesters clash in Bavet', *The Phnom Penh Post*, (22 December 2015), <http://www.phnompenhpost.com/national/cops-protesters-clash-bavet>
[8] Ibid
[9] Kang Sothear, 'Woman Is Eleventh Arrest Over Riots in Bavet City SEZs', *The Cambodia Daily*, (28 December 2015), <https://www.cambodiadaily.com/news/woman-is-eleventh-arrest-over-riots-in-bavet-city-sezs-104007/>
[10] Kang Sothear, 'Factories to Withhold Wages After Bavet City SEZ Protests', *The Cambodia Daily*, (29 December 2015), <https://www.cambodiadaily.com/news/factories-to-withhold-wages-after-bavet-city-sez-protests-104084/>
[11] Kang Sothear, 'Bavet City SEZs Close Amid Violent Protests', *The Cambodia Daily*, (18 December 2015), <https://www.cambodiadaily.com/news/bavet-city-sezs-close-amid-violent-protests-103351/>

trade unions, civil society groups and international organizations.[12] The law threatens to impose onerous registration (Article 14) and reporting (Article 17) requirements; mandate a proposed Labor Court to dissolve unions for vague reasons, such as the "*misconduct*" of the individual leader (Article 29); and prohibit union activities on ambiguous grounds, such as for activities "*contrary to public order*" or which would "*cause trouble with the only objective of being of service to a political tendency*" (Article 65). With such worryingly restrictive provisions, if adopted in its current form, the Trade Union Law is likely to further suppress the enjoyment of internationally recognized labor rights in Cambodia.

Labor Rights and Freedoms of Association and Assembly

Labor rights and the fundamental freedoms of association and assembly are strongly protected under national and international law. The Universal Declaration of Human Rights ("UDHR") and the International Covenant on Civil and Political Rights ("ICCPR") are both effective in Cambodian law, as confirmed by a 2007 decision of the Constitutional Council.[13] The aforementioned rights are protected in Cambodian law by virtue of the ICCPR and the International Covenant on Economic, Social and Cultural Rights ("ICESCR"). The right to freedom of association is protected by Article 22 of the ICCPR and Article 8 of the ICESCR, which covers the right "*to form trade unions and join the trade union of his choice"* and *"the right of trade unions to function freely*". Further, various provisions of the proposed Trade Union Law would violate various standards and policies of the International Labor Organization ("ILO"), in particular ILO Conventions 87 and 98 which concern freedom of association and the right to organize and collectively bargain, respectively.

Conclusion

The recent violence involving the former Capitol Tours bus drivers and the other violent and shocking events as described in this Fact Sheet are a stark reminder of the continuous and widespread violations of labor rights and fundamental freedoms in Cambodia. The RGC's determination to suppress any activism that it regards as a potential threat to its authority in advance of the 2017 and 2018 elections has resulted in this systematic and persistent crackdown of all forms of trade union activity. The use of ruthless physical violence against those who dare to exercise their legal rights to peaceful protest, the judicial harassment of protestors, and the planned introduction of a repressive Trade Union Law have all contributed to create an extremely hostile environment in which workers are deterred from engaging in union activities and exercising their rights to express legitimate grievances with their working conditions. All of these developments are indicative of the RGC's resolute attempts to crack down on the entire labor movement.

CCHR urges the RGC to take action to ensure that companies are held legally accountable for their violations of the labor rights and fundamental freedoms of their employees, and to ensure that the rights of victims of such violations are properly respected according to the rule of law. Additionally, CCHR urges the Phnom Penh Municipal Court to take the following measures:

1. Conduct effective investigations into all instances of violence against protestors;
2. Prosecute the perpetrators of such violence and the companies responsible for orchestrating the violence

[12] Human Rights Watch calls on changes to proposed Trade Union Law to protect worker's rights; 17 December 2015; https://www.hrw.org/news/2015/12/17/cambodia-revise-union-law-protect-worker-rights
[13] Constitutional Council of the Kingdom of Cambodia, Decision No. 092/003/2007, (10 July 2007).

3. All charges against protestors and union leaders should be immediately dropped, including the charges against the six individuals relating to the Capitol Tours case.

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