What is impunity?

Impunity means “without punishment” or “without consequence”. It occurs when states fail to meet their obligations to investigate human rights violations and hold perpetrators accountable.

Why is impunity harmful to society?

Impunity threatens the rights to know, to truth, justice, and remedy. It promotes widespread fear among society, undermines human rights and fundamental freedoms, diminishes confidence in the rule of law and stifles democracy.

There can be no full realization of human rights as long as impunity prevails. Eradicating impunity is therefore crucial to ensure that every citizen can enjoy their fundamental rights and freedoms freely and safely.

When does impunity happen?

Principle One of the United Nations Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity states that impunity arises from a failure by State:

- To meet their obligations to investigate violations;
- To take appropriate measures in respect of the perpetrators, particularly in the area of justice, by ensuring that those suspected of criminal responsibility are prosecuted, tried, and duly punished;
- To provide victims with effective remedies and to ensure that they receive reparation for the injuries suffered;
- To ensure the inalienable right to know the truth about violations; and
- To take other necessary steps to prevent a recurrence of violations.

How can we fight against impunity?

Fighting against impunity is extremely important as impunity breeds impunity.

Tools to fight against impunity:

- Separation of powers between the executive and judicial branches
- Strong, independent, & impartial judiciary
- Accountability of authorities for their failure to investigate reported crimes
- Prompt, independent, and thorough investigations into human rights abuses
- Equality before the law: no double standards in the justice system and no tolerance for crimes, including those committed by high-ranking and/or well-connected individuals;
- Effective and dissuasive punishments for human rights abuses;
- Availability and accessibility of redress mechanisms for victims.
What main forms of impunity occur in Cambodia?

Lack of investigation into criminal offenses, especially crimes committed against critical voices:
- Murders of prominent human rights activists Kem Ley, Chut Wutty and Chea Vichea remain unsolved or unsatisfactorily solved;
- Journalists are attacked, sometimes killed, for their critical reporting, and proper investigations are not conducted;
- Opposition members are attacked but when investigations occur, they lack rigor or genuineness.

Authorities are not held accountable:
- Authorities use excessive and unlawful force against peaceful protesters during assemblies with no consequences.

Lack of redress for victims of human rights abuses:
- Individuals who are victims of land grabs or forced evictions at the hand of authorities or businesses are provided little to no compensation;
- Victims of gender-based violence rarely obtain justice due to entrenched gender norms and a lack of gender-sensitivity in the justice sector.

Recommendations to the government of Cambodia to combat impunity

1. Carry out efficient, thorough, and independent investigations into all reports of human rights violations without exceptions for powerful individuals, through the creation of independent commissions, if necessary, to ensure that perpetrators are brought to justice;
2. Make the investigations results accessible to the public;
3. Advance judiciary reforms and strengthen the justice system to ensure that it is independent and impartial and delivers effective and fair justice for all; and
4. Ensure non-discriminatory access to justice and uphold victims’ rights to justice, truth, remedy, and reparation.

An emblematic case of impunity in Cambodia: Kem Ley’s murder

Who was Kem Ley?
A prominent political commentator and advocate of democracy and human rights, working closely with grassroots movements.

How did he die?
On 16 July 2016, Kem Ley was shot dead in broad daylight at a gas station coffee shop in Phnom Penh. His purported killer, Oeuth Ang who used the alias Chuop Samlap meaning “Meet to Kill”, casually walked away from the crime scene. He was later arrested and “confessed” to the killing, claiming that Kem Ley owed him a debt.

Why was there impunity?
The investigation’s lack of transparency and Oeuth Ang’s trial - which was widely criticized for its failure to meet international fair trial standards - raised more questions than they answered, leaving many people to think there was a mastermind behind the murder. The trial lasted merely four hours with no questions asked about any possible orders being given. Oeuth Ang was then swiftly sentenced to life imprisonment.

What are the consequences of impunity for Ley’s family and Cambodian society?
- Kem Ley’s true killer may be roaming freely, able to continue perpetrating other crimes.
- It sends the message that it is tolerated to kill human rights defenders for their activism.
- There is no sense of closure or safety for Kem Ley’s family who have fled Cambodia.