The Impact of Restricted Civil Society on the Memorialisation of Victims of Enforced Disappearance in Cambodia

Submission to the Working Group on Enforced or Involuntary Disappearances' "Thematic Report on Enforced Disappearances and Memorialisation"

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(I) Introduction

This submission is respectfully provided to the Working Group on Enforced or Involuntary Disappearances (the Working Group) in response to the call for submissions for the Working Group's Thematic Report on Enforced Disappearances and Memorialization, to be presented to the Human Rights Council in September 2026 and to the General Assembly in October 2026. The submission offers the experience and recommendations of a civil society organisation (CSO) operating in Cambodia.

The Cambodian Human Rights and Development Association (ADHOC) is an independent, non-partisan, non-profit and non-governmental human rights organisation founded in 1991 to address the absence of rights, freedoms and liberties in Cambodia. ADHOC's goal is to change the policy and practice of democratic institutions in Cambodia to better uphold human rights and to combat the culture of impunity. One way it does so is to advocate for the improvement and enhancement of laws, institutions and law enforcement.

While it may be useful for the Working Group to consider the memorialisation of human rights abuses during the Khmer Rouge regime,[1] including enforced disappearances,[2] such memorialisation's are outside the scope of ADHOC's work. Instead, ADHOC wishes to make this submission to bring the Working Group's attention to memorialisation processes in the context of contemporary and individual enforced disappearances in Cambodia, as ADHOC plays a direct role in supporting these victims and their families through investigating the whereabouts of victims, supporting memorialisation efforts, and providing advocacy and legal support.

The submission aims to contribute to the Working Group's objectives by: (1) illustrating that memorialisation ought to be construed widely, (2) illustrating the impact of a restricted civil space on the memorialisation of enforced disappearances, (3) providing case studies from the

[1] UNESCO, Decision 47 COM 8B.14 Cambodian Memorial Sites: From centres of repression to places of peace and reflection (Cambodia), 2025.
[2] ECCC, Case 002/01, 002/19-09-2007/ECCC/TC, Judgement, 7 August 2014; ECCC, Case 002/02, 002/19-09-2007/ECCC/TC, Judgement, 16 November 2018.

Cambodian context, (4) demonstrating that the issue may not be a lack of legal protections, but rather a lack of enforcement of such protections, and (5) proposing recommendations that ADHOC's experience has proven warrant consideration.

The submission seeks to provide an examination of the challenges that restrictions on civil society create for memorialisation. ADHOC hopes that by providing the Working Group with information on the situation in Cambodia, it will assist the Working Group to answer:

- Do States bear a positive duty to enable, facilitate, or protect memorialization initiatives – particularly in contexts of ongoing impunity or contested narratives?
- Does international or domestic law define State obligations to support or protect civil society-led memorialization, and does it limit State interference in such initiatives?
- Which forms of threat have been documented against families of disappeared persons, communities and civil society who engage in memorialization? Which forms of threats and attacks against memorials have been documented?
- What (legal) protection mechanisms exist to shield families of disappeared persons, communities and civil society from such backlash? What renders such mechanisms effective and what, on the contrary, has proved inefficient? What are other proposed ways for effective protection?
- How can UN and regional human rights mechanisms contribute to the safeguard of commemorative practices in cases of enforced disappearance?
- To what extent can forms of backlash against memorialization be seen as manifestations of State denial?

(II) Conceptualisation of "memorialisation"

From the outset, ADHOC recommends that the Working Group adopt a broad conceptualisation of memorialisation, as then-Special Rapporteur in the field of cultural rights, Farida Shaheed, does in her report on memorialisation processes.[3] Adopting a broad conceptualisation is necessary to protect families of victims of contemporary, individual enforced disappearances in their attempts to seek justice.

a. Purpose of memorialisation

The purpose of memorialisation reflects the time and scale of the event. Memorialisations often reflect historical mass human rights abuses; in these instances, the purpose is likely to honour victims, move towards reconciliation, and create a reminder that such events should never be repeated. However, memorialisations in the context of contemporary individual enforced disappearances, though also embodying these dimensions, often have additional purposes. One additional purpose is to draw public attention and anger towards the human rights violation, and, subsequently, to pressure authorities towards action and justice. This is especially important as states are, by definition, a party to enforced disappearance, and therefore, in the context of contemporary enforced disappearances, are likely to actively suppress awareness-raising of the disappearance. Furthermore, to deflect responsibility, states may promote a certain version of events, and memorialisation is a means by which to challenge this. Therefore,

[3] Farida Shaheed, Report of the Special Rapporteur in the field of cultural rights - Memorialization processes, A/HRC/25/49, 23 January 2014.

in the context of contemporary disappearances, memorialisation is a valuable advocacy method to ensure that the disappeared person is not forgotten, and to spur public discourse on the violation.

b. Forms of memorialisation

As Ms Shaheed recognises, "memorial expressions are extremely diverse".[4] She acknowledged they may include authentic sites, constructed monuments, museums, internet pages and public apologies.[5] This submission reiterates that even these expressions only represent a subset of the ways in which memorialisation processes can take place.[6] ADHOC endorses Ms Shaheed's recognition that memorialisation processes have evolved to "encompass all kinds of engagements specifically designed to remember the wrongs of the past" and submits that this breadth of understanding ought to be upheld.[7] If it were to not, many of the memorial expressions generated in the wake of contemporary singular enforced disappearances would be excluded.

c. Temporality of memorialisation

Widely recognised memorials, an example being the Tuol Sleng Genocide Museum and the Choeung Ek Genocidal Center (the "Killing Fields") in Cambodia, have in common their representation of historical events. This submission seeks to remind the working group that it is not only historical enforced disappearances that can be, and are, memorialised. Families cannot delay the process of memorialisation as memorialisations are a method of obtaining justice and delay would decrease the likelihood of the disappeared person being found alive. This submission therefore asks the Working Group to take Ms Shaheed's position that memorialisation can occur at any time during or after the event in question,[8] rather than limiting its inquiry to historic memorials.

d. Architects of memorialisation

Due to the historical nature of widely recognised memorials, the state is often the instigator of their construction. However, in the context of a contemporary enforced disappearance, this would be implausible - authorities are unlikely to memorialise an enforced disappearance they conducted. Therefore, when outlining the scope of memorialisations, this submission cautions the Working Group against excluding memorialisation processes initiated by individuals, families, and communities, which may have a different character or be of a smaller scale, but are just as important to protect.

(III) The relationship between the freedoms of assembly and expression and the ability to engage in memorialisation

[4] Ibid 4.
[5] Ibid.
[6] Ibid.
[7] Ibid.
[8] Ibid 12.

As explained above, memorialisation can take various forms. For example, following a contemporary enforced disappearance while the victim's whereabouts remain unknown, acts of memorialisation can include advocacy from the victims' families and CSOs, such as protests and public campaigns, to ensure the victim's story is not erased and to pressure authorities to locate the victim. Given states are, by definition, conducting, supporting or acquiescing to enforced disappearances, acts of memorialisation often are, or at least are perceived of as, critical of the government. Therefore, for memorialisation to take place, a broader suite of rights and freedoms must be available, particularly the fundamental freedoms of expression and assembly.

As will be illustrated below, memorialisation efforts in Cambodia have not been hindered by the presence of specific measures not conducive to memorialisation, but rather have been restricted by a broader oppressive civic space. As also stated below, ADHOC therefore respectfully requests that the Working Group turns its mind to the importance of protecting fundamental freedoms, to ensure memorialisation for victims of enforced disappearances can openly take place.

(IV) Case Studies of Recent Enforced Disappearances in Cambodia

The Royal Government of Cambodia (RGC) has not carried out mass enforced disappearances. However, individual enforced disappearances have occurred against political dissidents. The following case studies have been selected because (1) they are recognised to fulfil the elements of an enforced disappearance present in Article 2 of the *International Convention for the Protection of All Persons from Enforced Disappearance*, and (2) ADHOC was involved in investigating, supporting or memorialising the case. Both cases illustrate how memorialisation efforts have been hampered by a climate of civic repression, and the state's continuing denial.

a. Wanchalearm Satsaksit

Wanchalearm Satsaksit is a prominent Thai pro-democracy activist. He was abducted on 4 June 2020 from outside his home in Phnom Penh, that he had been living in whilst in exile. Though he was on the phone with his sister at the time of his abduction and she heard disturbance, though there is video footage of a navy or black SUV driving away from his place of residence, and though he possessed a Cambodian passport, the Cambodian authorities claim there is no evidence that the crime against him was committed on Cambodian soil. In December 2025, the investigation was terminated by the Phnom Penh Municipal Court. There were no updates between the start of the investigation in December 2020 and its termination.

Memorialisation initiatives since Wanchalearm Satsaksit's disappearance include a 4 Years of Silence, 4 Years of Voices event by Cross Cultural Foundation (CRCF) in Thailand and annual commemorative events in Phnom Penh.[9] However, further memorialisation has been hampered by civic restrictions in both Cambodia and Thailand: ten protestors outside the Cambodian

[9] CRCF Thailand, '"4 Years of Silence, 4 Years of Voices: Remembering Wanchalearm Satsaksit" 4 June 2024 at SEA Junction, Bangkok Art and Culture Centre', 29 May 2024, <https://crcfthailand.org/en/2024/05/29/54963/>.

Embassy in Thailand were issued summons in the week following Satsaksit's enforced disappearance, with the justification being that the assembly "may cause unrest"; and his Facebook page, which was being used as a memorial, was lost, for unknown reasons. Concerningly, Thai authorities have particularly targeted Satsakit's sister, Sitahan. She has twice been threatened with criminal charges after she spoke at events in September and December 2021 about her brother's disappearance, was blocked by police from protesting during the President of the Senate of Cambodia, Hun Sen's, visit to Thailand in 2024, and has been monitored and surveilled by police.[10]

b. Khem Sophath

On 3 January 2014, 15-year-old Khem Sophath was seen, for what is the last time, lying on the ground with an apparent gunshot wound to the chest during a garment factory worker strike in Phnom Penh. As arbitrary killings and arrests were being carried out by Cambodian forces during the demonstration, and as Khem Sophath has not been seen since, Cambodian CSOs believe that he was subjected to an enforced disappearance. Yet, the RGC continues to maintain that no one from the demonstration is unaccounted for.

The government's lack of proper investigation, either into the disappearance or into remains that have been rumoured to be those of Khem Sophath, have left his mother without the ability to "arrange a proper ceremony for him" or to "find peace".[11] Cambodian CSOs have held annual memorials as repeated reminders of his disappearance, in order to pressure the RGC to comply with their obligations as a State Party to the *International Convention for the Protection of All Persons from Enforced Disappearance* to take appropriate measures to locate him, keep his family informed of the investigation, and to provide compensation. However, these annual memorials, alongside other memorialisation efforts, have been obstructed by authorities. For example, when ADHOC, alongside other CSOs, planned a Buddhist memorial ceremony and blessing to commemorate Khem Sophath and the other victims on the second anniversary of the workers' strike, the authorities blocked the memorial from occurring by physically dispersing the mourners with electric batons.[12] This repression has continued, with authorities using intimidation to prevent a public remembrance at the site of the violence, Veng Sreng Boulevard, on the 6th anniversary of the strike in 2020.[13] Despite this, ADHOC and other CSOs continue to hold memorial events, to ensure that Khem Sophath and the violence of 3 January 2014 is not forgotten.

(V) Ineffectiveness of legal protection mechanisms

[10] Prachatai, 'Missing activist's sister blocked from protesting during Hun Sen visit', 22 February 2024, <https://prachataienglish.com/node/10832>.
[11] Equitable Cambodia, 'Joint Statement Veng Sreng Remembered: Eight Years of Silence but No Peace', 3 January 2022, <https://equitablecambodia.org/website/article/3-2459.html>.
[12] Hul Reaksmey, 'Police Block Mourners During Memorial for 2014 Killings of Workers', 4 January 2016, <https://khmer.voanews.com/a/police-block-mourners-during-memorial-for-2014-killings-of-workers/3130361.html>.
[13] LICADHO, 'Families, Activists Mark Sixth Anniversary of Veng Sreng Violence', 3 January 2020, <https://www.licadho-cambodia.org/articles/20200103/165/index.html>.

The memorialisations of Wanchalearm Satsaksit and Khem Sophath were suppressed despite the existence of legal protection mechanisms that ought to have shielded the families, community and CSOs, demonstrating the lack of enforcement of these protective mechanisms, and how they instead may be weaponised against memorialisation processes.

Cambodia has enshrined the right to freedom of expression and freedom of assembly, which ought to shield families of disappeared persons, communities and civil society. Article 41 of the Constitution of the Kingdom of Cambodia states "Khmer citizens shall have freedom of expression, press, publication and assembly". Cambodia is party to the International Covenant on Civil and Political Rights (26 August 1992) and its optional protocol. Article 31 of the Constitution of the Kingdom of Cambodia imbues these treaties with the force of domestic law.

However, these freedoms are not well respected in Cambodia. The Fundamental Freedoms Monitoring Project makes it evident that to enjoy fundamental freedoms it is not enough that they merely exist in the legal framework. The 6th Annual Report found at least 200 restrictions upon assertions of the freedom of association in 2021, affecting at least 282 individuals.[14] Such restrictions make it difficult to participate in or construct memorials.

Furthermore, a growing number of restrictive laws undermining these freedoms have materialised. The Law on Associations and Nongovernmental Organizations (LANGO) requires advance notifications of demonstrations, giving the government the opportunity to either create barriers to the demonstration and arrange authority presence, or lay charges for lack of compliance with this requirement. Article 24 requires "neutrality towards political parties", which could restrict the capacity of civil society to memorialise disappearances of political figures should they be disappeared. A breach of Article 24 can also be alleged if the memorial is interpreted as criticising the ruling party. The broad permit in Articles 30 and 35 to deregister or terminate the Memorandum of Understanding of an organisation who "conducts activities that endanger the security, stability and public order, or jeopardise the national security, culture, tradition, and custom of Cambodian national society…" infringes upon the security of conducting memorials that inevitably implicitly criticise the Cambodian government.

Moreover, the Ministry of Information's "Charter for Professional Journalism" mandates that journalists must not disseminate what is deemed by the government to be "fake news".[15] In the context of enforced disappearances being denied by the government, this Charter elevates the risk involved in memorialising disappeared persons through official media channels.

The Cambodian Law on Peaceful Demonstration is supposed to "assure freedom of expression of Khmer citizens through peaceful assembly" and "not be used abusively [to affect] rights

[14] International Center for Not-For-Profit Law, 'Cambodia Fundamental Freedoms Monitor, Sixth Annual Report', January-December 2021, <https://www.icnl.org/wp-content/uploads/FFMP-Year-6-Annual-Report-Jan-Dec-2021-ENG.pdf>.
[15] Hong Raksmey, 'New charter covers all media, content creators, MMO activities', 7 August 2024, <https://www.phnompenhpost.com/national/new-charter-covers-all-media-content-creators-mmo-activities>.

[and] freedoms", in theory allowing memorialisations to take place openly.[16] However, in recent years, authorities have routinely misapplied the requirement to notify authorities as a requirement for permission.[17] Further, the law makes exceptions for "funeral processions" and "educational dissemination activities", however these are either not wide enough to encompass memorialisations, or they are an example of the trend of legislative protections not being upheld, because as Section IV highlights above, risks and restrictions for those that fall afoul of the RGC remain present.

Therefore, while no legal protection mechanisms exist to specifically protect memorialisation, broader legal protection mechanisms that should allow such processes to take place have failed, due to their lack of, or improper, enforcement, and indeed are able to be weaponised against memorialisation processes.

(VI) Recommendations

Based on the above, this submission respectfully proposes the following recommendations for the Working Group's report and advice:

1. Adopt a broad conceptualisation of memorialisation, such that it can include advocacy in the wake of an enforced disappearance, can take varied forms, can occur anytime during or after the event in question, and can be enacted by any party, with the goal of protecting memorialisation efforts of contemporary individual enforced disappearances.
2. Recognise that although legal protections of memorialisation may exist, a broader culture of protecting the freedoms of association and expression must exist for memorialisation to take place.
3. Urge the RGC to cease interfering in the memorialisation efforts for Wanchalearm Satsaksit and Khem Sophath, and to uphold its obligations under domestic and international law to protect memorialisation efforts.

ADHOC also wishes to endorse and reiterate the following comments provided throughout the panel discussion on history teaching and memorialisation processes on 9 September 2014 pursuant to Human Rights Council resolution 25/19 of 28 March 2014:

- Ms Wilson's stress, at paragraph 23, that priority should focus on creating the conditions necessary for a constant ongoing dialogue, with lesser importance accorded to the nature of the memorialisation activity itself;
- Mr de Greiff's urge, at paragraph 27, to guarantee effectively the freedom and independence of actors involved in this process, including by liberalising the establishment of civil society organisations;
- The observation, at paragraph 48, that with regards to the conditions and recommendations for successful memorialisation processes and history teaching

[16] Article 2, <https://cambodia.ohchr.org/sites/default/files/Law_on_peaceful_demonstration-promulgated_Eng.pdf>; <https://cambodia.ohchr.org/sites/default/files/Implementation_Guide-Rev_Eng.pdf>.
[17] Amnesty International, 'Cambodia: Authorities must ensure right to freedom of peaceful assembly on Human Rights Day', 9 December 2015, <https://www.amnesty.org/fr/wp-content/uploads/2021/05/ASA2330402015ENGLISH.pdf>.

activities, freedom of expression, including freedom of the press, were regrettably not guaranteed in some countries.

(VII) Conclusion

The restraints upon those conducting memorialisation's for individual contemporary enforced disappearances in Cambodia offers an example of the broader challenge that constraints on civic freedoms pose to these practices. It demonstrates that while legal protection mechanisms may be promoted, to holistically safeguard memorialisation practices and to ensure the effectiveness of legal protection mechanisms, broader civil rights and freedoms must also be promoted.

Respectfully signed,

Phnom Penh, March 06, 2026