



*Joint submission to the Universal Periodic Review of Cambodia by ARTICLE 19 and PEN America*  
For consideration at the 32<sup>nd</sup> Session of the Working Group in January 2019  
12 July 2018

## **Executive Summary**

1. The submitting organisations observe that in the period under review, the situation for the rights to freedom of expression, information and association has significantly deteriorated in Cambodia. In this submission ARTICLE 19 and PEN America highlight concerns relating to the right to freedom of expression and information in several key areas:
  - Legal framework for freedom of expression
  - Digital rights
  - Media freedom
  - Threats to human rights defenders, including environmental activists
  - Freedom of association and the right to participate in public affairs
2. A rollback of press freedom has left the country with almost no independent media, while a political crackdown has seen the main opposition party dissolved and its leader imprisoned. Since Cambodia's previous Universal Periodic Review (UPR), the Cambodian Government has not meaningfully addressed concerns related to these rights and has failed to bring laws and policies into line with international human rights law.<sup>1</sup> Rather, the government has further assaulted freedom of expression and tightly circumscribed civic space, including by threatening human rights defenders, enacting legal provisions criminalising online expression, and facilitating the judicial harassment of government critics.

## **Legal Framework for Freedom of Expression**

2. During its last UPR, the government accepted 10 recommendations<sup>2</sup> concerning the reform of Cambodia's legal framework to bring it into line with international human rights standards. However, no significant progress was made on implementing those recommendations. Instead, a number of repressive laws and provisions were enacted, further restricting the enjoyment of fundamental rights and freedoms. Both new and existing laws have been wielded by authorities in crackdowns on media, civil society and political opponents.

## **Constitutional Framework**

3. Articles 41 and 42 of Cambodia's Constitution protect the rights to freedom of expression, assembly and association.<sup>3</sup> However, broadly worded limitations clauses – permitting limitations to protect “the good traditions of society” and “public law and order and national security” – have been used to unjustifiably restrict the enjoyment of these rights.
4. Constitutional amendments passed by the National Assembly on 14 February 2018 and signed into law on 27 February 2018, will enable the government to severely and unjustifiably restrict fundamental rights in violation of international human rights standards.<sup>4</sup> The constitutional amendments affect five articles of the Constitution, and include a broadly worded prohibition on “any activity” that “affects the interests” of Cambodia or its citizens. The amendments also impose duties on political parties to “place the country and nation's interests first” and allow for electoral laws to strip citizens of the right to vote or stand for office.<sup>5</sup> The UN Special Rapporteurs on the situation of human rights in Cambodia and on the promotion and protection of the right to freedom of opinion and expression have communicated grave concerns about the constitutional amendments.<sup>6</sup>

<sup>1</sup> All UPR Recommendations and responses cited in this submission are taken from the outcome of the 2<sup>nd</sup> cycle, as reflected in the Report of the Working Group on the Universal Periodic Review Cambodia (A/HRC/26/16), and the Addendum to the Report of the Working Group on the Universal Periodic Review, Cambodia (A/HRC/26/16/Add.1)

<sup>2</sup> 118.15 (Canada), 118.16 (Belgium), 118.17 (Belgium), 118.18 (Botswana), 118.19 (Canada), 118.20 (Czech Republic), 118.21 (Ireland), 118.27 (Nepal), 118.102 (Germany) and 118.104 (Switzerland).

<sup>3</sup> Constitution of the Kingdom of Cambodia, 1993, articles 41 and 42.

<sup>4</sup> For text of amendments, see, “Draft Penal Code Amendment related to Lèse-majesté and Constitutional Amendments Promulgated”, Fresh News, 3 March 2018, available at: <http://en.freshnewsasia.com/index.php/en/7748-2018-03-03-05-59-30.html>.

<sup>5</sup> See, “Joint CSO Statement on Legislative Assault on Rights”, 21 February 2018, available at: <https://www.hrw.org/news/2018/02/21/cambodia-reject-draft-amendments-constitution-and-criminal-code>.

<sup>6</sup> UN Office of the High Commissioner for Human Rights, “UN experts say constitutional changes in Cambodia impinge on democracy”, 20 February 2018, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22674&LangID=E>.

## Penal Code

5. During the last UPR, the government accepted three recommendations to revise the Penal Code to bring it into line with international standards on freedom of expression.<sup>7</sup> However, Penal Code provisions criminalising freedom of expression remain in place and continue to be used to target journalists, human rights defenders and social media users, as examples in subsequent sections of this submission highlight. Moreover, amendments to the Penal Code during the reporting period have created new restrictions on freedom of expression backed by criminal penalties.
6. Many Penal Code articles contain broad, vaguely worded provisions that have been applied to the detriment of those seeking to exercise fundamental freedoms. Although some crimes impose penalties of fines rather than imprisonment, failure to pay fines resulting from a conviction – an insurmountable challenge for many Cambodians – may result in custodial sentences of up to two years' imprisonment.<sup>8</sup> Penal Code provisions of particular concern include, *inter alia*:
  - **Article 305 concerning defamation.** While prison sentences for defamation were ostensibly abolished in 2006, article 305 provides for fines of up to 10 million riels (US\$2,450) for communications that harm the “honor or reputation” of an individual or institution. The threat of prosecution and fines – with possible imprisonment for non-payment – exerts a considerable chilling effect on freedom of expression.
  - **Article 307 concerning public insult.** The crime, which is not recognised by international human rights law, applies to communications using “any scolding term” or “other verbal abuses”. The article likewise provides for fines of up to 10 million riels.
  - **Article 495 concerning incitement.** A 2010 amendment to the Penal Code broadened the article to include not only incitement to commit a crime, but also incitement to create serious turmoil in society. This extremely broad language has subsequently been used to target human rights defenders and those expressing opinions critical of the government.
  - **Article 503 concerning insults to public officials.** The article provides for up to six days imprisonment and a fine of up to 100,000 riels (US\$25) for communications that “undermine the dignity” of a public official.

## Lèse-Majesté

7. In February 2018, alongside the constitutional amendments described above, Cambodia amended the Penal Code to add a lèse-majesté provision criminalising **insults to the King**.<sup>9</sup> The new **article 437 bis** broadly prohibits “insulting the King” through any “word, gesture, writing, picture or other media which affects the dignity of the individual”, thereby creating another legal tool for the government to suppress expression protected under international human rights law.<sup>10</sup> Individuals charged under the provision face penalties of between one and five years' imprisonment and fines of 2 million riel to 10 million riel (approximately US\$500 to US\$2500). Legal entities, including media outlets, charged under the law face fines of 10 million to 50 million riel (approximately US\$2,500 to US\$12,500), the confiscation of property, dissolution or banning from certain activities should they be found guilty.<sup>11</sup>
8. As of the end of June 2018, three individuals had been arrested under the new lèse majesté provision:
  - On 12 May, authorities arrested teacher Kheang Navy, 50, after he made a Facebook post criticising the King and government over the dissolution of the opposition party, among other issues. He was charged and placed in pre-trial detention the following day.<sup>12</sup>
  - On 19 May, authorities arrested and charged barber Ban Samphy, 70, after he made a Facebook post that included a photograph of King Sihamoni in a car with Prime Minister Hun Sen and his wife, a video of villagers affected by flooding, and a comment reportedly comparing the King unfavourably to former monarchs.<sup>13</sup>
  - In mid-June, local media reported that a man identified as Ieng Cholsa was arrested and charged after posting photographs and comments on Facebook supposedly insulting to the King.<sup>14</sup>

<sup>7</sup> 118.15 (Canada), 118.16 (Belgium) and 118.20 (Czech Republic).

<sup>8</sup> Cambodia Criminal Procedure Code, 2007, article 530. Terms of imprisonment are determined by the size of the fine. For example, an unpaid fine of 10 million riels, the maximum fine for a defamation conviction, can result in a sentence of up to six months' imprisonment.

<sup>9</sup> Ibid. fn. 2.

<sup>10</sup> Penal Code, article 437 bis.

<sup>11</sup> See *ibid.* fn. 4.

<sup>12</sup> Niem Chheng, “Arrest for lèse majesté violation”, Phnom Penh Post, 14 May 2018, available at: <https://www.phnompenhpost.com/national/arrest-lese-majeste-violation>.

<sup>13</sup> Niem Chheng, “Second man charged under country's lèse majesté law”, Phnom Penh Post, 22 May 2018, available at:

<https://www.phnompenhpost.com/national/second-man-charged-under-countrys-lese-majeste-law>.

<sup>14</sup> Niem Chheng, “Third violator of lèse majesté law arrested”, Phnom Penh Post, 18 June 2018, available at: <https://www.phnompenhpost.com/national/third-violator-lese-majeste-law-arrested>.

9. Cambodian authorities have also threatened or targeted high profile government critics or political opponents – including monk But Buntenh and exiled opposition figure Sam Rainsy – with lèse-majesté charges.<sup>15</sup>

### **Access to Information Law**

10. In January 2018, after years of drafting and consultations, the government unveiled a draft Access to Information Law that officials have stated is near ready for consideration by Parliament.<sup>16</sup> The draft is the result of a cooperative effort between the Ministry of Information and UNESCO, which involved significant civil society consultation.<sup>17</sup> The draft law, which has been published online, represents a potentially important tool to safeguard the right to freedom of information and combat corruption. However, there remain concerns around the definition of information considered to be confidential, and the discretionary powers given to government officials to make that determination. Moreover, civil society groups in the country have expressed concerns about how the law might be implemented and applied in practice, given the current environment for the right to free expression and information in the country.

### **Recommendations:**

11. The government should:
- i. Repeal the February 2018 constitutional amendments to ensure compliance with international human rights law and standards
  - ii. Amend the Penal Code, including in particular Articles 305, 307, 495 and 503, relating to defamation, public insult, incitement and insult to public figures, to ensure compliance with international human rights law and standards
  - iii. Repeal in its entirety the lèse-majesté provision added to the Penal Code in February 2018
  - iv. End all criminal proceedings against individuals for alleged offenses of the new lèse-majesté provision and quash the conviction of anyone convicted under the provision
  - v. Guarantee full civil society participation in any further development of draft access to information legislation, ensure that the bill complies with international human rights law and standards on the right to information before its enactment, and ensure that the law, once passed, is implemented in a manner that complies with international human rights law and standards

### **Digital Rights**

12. During its previous UPR, Cambodia accepted recommendations to consult all stakeholders when developing policies on internet regulation and to draft a cyber law in line with international standards.<sup>18</sup> However, Cambodia has cracked down on digital expression, including by initiating criminal proceedings against individuals for the exercise of the right to freedom of expression online.

### **Prosecution of Individuals Exercising the Right to Freedom of Expression Online**

13. As Internet penetration has increased in Cambodia, the government has sought to tighten its grip on online expression. During the reporting period, the abovementioned legal provisions have been routinely applied against individuals expressing opinions online. In particular, authorities have targeted social media users who post or share content critical of the government or political figures from the ruling party. Recent emblematic cases include the following:

- On 8 February 2018, police arrested San Rotha for posting a widely shared video clip referring to the government as ‘authoritarian’. At the time of writing, he remains in pre-trial detention in Kampong Cham Provincial Prison. Although San Rotha was initially questioned in relation to alleged “public insult” and “incitement” under the Penal Code, the formal charges against him are not known.<sup>19</sup>
- On 7 March 2018, former police officer Keo Saravuth was detained for a Facebook post which criticised the national police chief, stating “the old general police chief protected the subordinates, but new general police

<sup>15</sup> Leonie Kijewski and Niem Chheng, “Religion ministry mulls lawsuit against activist monk But Buntenh under lèse majesté”, Phnom Penh Post, 5 March 2018, available at: <https://www.phnompenhpost.com/national/religion-ministry-mulls-lawsuit-against-activist-monk-buntenh-under-lese-majeste>; “Cambodian Court Summons Former Opposition Leader Sam Rainsy on Lèse-Majesté Charges”, Radio Free Asia, 20 June 2018, available at: <https://www.rfa.org/english/news/cambodia/summons-06202018161940.html>.

<sup>16</sup> Daphne Chen, “Draft of long-awaited access-to-information law unveiled”, Phnom Penh Post, 1 February 2018, available at: <https://www.phnompenhpost.com/national/draft-long-awaited-access-information-law-unveiled>. See ARTICLE 19 analysis of an early draft of the law. ARTICLE 19, “Cambodia: Draft Law on Access to Information”, legal analysis, September 2011, available at: <https://www.article19.org/data/files/medialibrary/2739/11-09-20-Cambodia.pdf>.

<sup>17</sup> See, UNESCO, “Working Towards an Access to Information Law in Cambodia: Bridging the Government and Citizens for Participatory Law-making”, available at: <https://en.unesco.org/partnerships/foe/working-towards-access-to-info-in-cambodia>. See also Ministry of Information website allowing for public comment on the law. Ministry of Information, “Access to Information”, available at: <http://www.a2i.info.gov.kh/>.

<sup>18</sup> 118.103 (Sweden) and 118.101 (Hungary).

<sup>19</sup> Mech Dara and Yesenia Amaro, “Man arrested on wedding day for criticising government on Facebook”, Phnom Penh Post, 12 February 2018, available at: <https://www.phnompenhpost.com/national/man-arrested-wedding-day-criticising-government-facebook>.

chief does not help the subordinates". He was released the same day after agreeing not to further criticise the police chief.<sup>20</sup>

- On 31 March 2018, Mey Voeun, a Cambodian migrant worker, was arrested a day after returning from work in Thailand and placed in pre-trial detention for allegedly insulting Prime Minister Hun Sen in a video clip posted on Facebook in February 2016. He was charged with defamation and incitement to commit a felony.<sup>21</sup>
- On 30 April 2018, police arrested and detained social media user Chhea Dina, for alleged defamation, public insult and incitement to discrimination in relation to a video he posted on Facebook. The League for Democracy Party (LDP) leader who brought the charges claimed that Chhea Dina and others mischaracterized his support for a controversial 2005 supplemental border treaty, and accused him of supporting the cession of Phu Quoc Island to Vietnam. Chhea Dina was released later that day pending further action.<sup>22</sup>
- Kong Raya, a student activist, was released on 22 February 2017 after serving 18 months in prison on incitement charges for a Facebook post calling for a "colour revolution" in Cambodia.<sup>23</sup>

14. Journalists, human rights defenders and opposition politicians have also been targeted for their expression, online and offline, as is described in subsequent sections.

### **"Fake News"**

15. On 5 April 2018, a spokesperson for the Cambodia People's Party (CPP), the ruling party, stated that the government was considering introducing a "fake news" law, following reports of closed-door meetings on the topic by the Ministry of Information earlier in the year.<sup>24</sup> Such a law, if introduced, could provide the government an additional powerful tool to silence critics and control media, giving those in power the authority to determine what is 'true', promote official narratives and restrict access to alternate viewpoints.<sup>25</sup>

16. As of the end of June, the Cambodia government had not tabled "fake news" legislation. However, on 28 May 2018, the Ministry of Interior, Ministry of Information and Ministry of Posts and Telecommunications published a joint-ministerial proclamation "aimed at controlling all dissemination of information or written messages, audio, pictures, videos and/or other forms via websites and social media that are operated on the Internet in Cambodia".<sup>26</sup> The proclamation empowered the three ministries to block online content and to require Internet Service Providers (ISPs) to install surveillance software to monitor and censor online content, in violation of the rights to privacy, freedom of expression, and information.

### **Draft Cybercrime Law**

17. In early 2014, a leaked draft of a proposed Cybercrime Law revealed provisions that would greatly restrict digital rights.<sup>27</sup> In particular, article 28 of the draft law provided for criminal penalties of up to three years imprisonment for a variety of online activities, including those that generate "insecurity, stability and political cohesiveness", or undermine the "integrity of any government agencies or ministries".

18. A second draft of the bill was leaked in late 2015. While some of the more controversial elements from the first draft, including article 28, had been removed, it nonetheless retained provisions that severely restricted the right to freedom of expression. The draft law incorporated penalties for vaguely worded "cybercrimes"; provided authorities with broad search and seizure powers; and allowed for the dissolution of NGOs and other legal entities whose employees committed cybercrimes, among other worrying elements.<sup>28</sup> Government officials have recently stated that the bill is still being considered, but no timetable has been given for its introduction.<sup>29</sup>

<sup>20</sup> Khouth Sophak Chakrya, "Ex-officer detained for Facebook post aimed at police", Phnom Penh Post, 08 March 2018, available at:

<https://www.phnompenhpost.com/national/ex-officer-detained-facebook-post-aimed-police>.

<sup>21</sup> Niem Chheng, "Migrant arrested for insulting PM on Facebook", Phnom Penh Post, 4 April 2018, available at: <https://www.phnompenhpost.com/national/migrant-arrested-insulting-pm-facebook>.

<sup>22</sup> Niem Chheng, "Man briefly detained in Poipet for Facebook post involving LDP head Khem Veasna", Phnom Penh Post, 8 May 2018, available at:

<https://www.phnompenhpost.com/national/man-briefly-detained-poipet-facebook-post-involving-ldp-head-khem-veasna>.

<sup>23</sup> Ouch Sony and Taylor O'Connell, "Student Gets 18 Months for Call for 'Color Revolution'", Cambodian Daily, 16 March 2016, available at:

<https://www.cambodiadaily.com/editors-choice/student-gets-18-months-for-call-for-color-revolution-109944/>.

<sup>24</sup> Mech Dara and Ananth Baliga, "Hun Sen 'mulling fake news bill'", Phnom Penh Post, 6 April 2018, available at: <https://www.phnompenhpost.com/national/hun-sen-mulling-fake-news-bill>; Daphne Chen, "Ministry targets 'fake news'", Phnom Penh Post, 7 March 2018, available at: <https://www.phnompenhpost.com/national/ministry-targets-fake-news>.

<sup>25</sup> See, ARTICLE 19, "Free speech concerns amid the 'fake news' fad", 18 January 2018, available at: <https://www.article19.org/resources/free-speech-concerns-amid-fake-news-fad/>.

<sup>26</sup> "Cambodia to Monitor, 'Control' Online News Ahead of Upcoming Ballot", Radio Free Asia, 4 June 2018, available at:

<https://www.rfa.org/english/news/cambodia/news-06042018162755.html>. See also, "Joint Statement: Civil Society Rejects Government Attack on Freedom of Expression", 8 June 2018, available at: [https://cchrcambodia.org/index\\_old.php?title=Civil-Society-Rejects-Government-Attack-on-Freedom-of-Expression&url=media/media.php&p=press\\_detail.php&prid=694&id=5&lang=eng](https://cchrcambodia.org/index_old.php?title=Civil-Society-Rejects-Government-Attack-on-Freedom-of-Expression&url=media/media.php&p=press_detail.php&prid=694&id=5&lang=eng).

<sup>27</sup> ARTICLE 19, "Cambodia: Secret Draft Cybercrime Law seeks to undermine free speech online", 9 April 2014, available at:

<https://www.article19.org/resources/cambodia-secret-draft-cybercrime-law-seeks-undermine-free-speech-online/>.

<sup>28</sup> CCHR, "Digital Wrongs?: An Overview of the Situation of Digital Rights in Cambodia", Briefing Note, February 2016,

[https://cchrcambodia.org/admin/media/analysis/analysis/english/2016\\_03\\_03\\_CCHR\\_Briefing\\_Note\\_Digital\\_Wrongs\\_ENG.pdf](https://cchrcambodia.org/admin/media/analysis/analysis/english/2016_03_03_CCHR_Briefing_Note_Digital_Wrongs_ENG.pdf); Association for Progressive Communications, "Unshackling Expression: A study on laws criminalizing expression online in Asia" p. 39, available at:

[http://www.giswatch.org/sites/default/files/giswspcial2017\\_web.pdf](http://www.giswatch.org/sites/default/files/giswspcial2017_web.pdf).

<sup>29</sup> See, for example, Erin Handley, "Freedom of expression online in Cambodia 'stifled by laws'", Phnom Penh Post, 25 April 2018, available at:

<https://www.phnompenhpost.com/national/freedom-expression-online-cambodia-stifled-laws>.

## **Recommendations:**

19. The government should:

- i. End all ongoing criminal proceedings against individuals based on their exercise of the right to freedom of expression on online spaces, and quash all convictions on such grounds
- ii. Ensure any efforts to combat disinformation or “fake news” are in line with international law and standards, and in particular the right to freedom of expression, including by avoiding a focus on censorship and criminal sanction for online speech
- iii. Repeal the May 2018 joint-ministerial proclamation on controlling online content
- iv. Immediately disclose the status of proposed cybercrime legislation, and commit to undertake a consultation of the legislation, with the full and effective participation of all relevant stakeholders, including civil society, and ensure its compliance with international human rights law and standards
- v. Ensure that any future legislative or policy proposals governing online spaces are developed transparently and in full consultation with the public and civil society, and that they comply with international human rights law and standards

## **Media Freedom**

20. During its previous UPR, Cambodia accepted four recommendations concerning the protection of journalists and media freedom, including to ensure that journalists are not subject to harassment or retaliation and to revise penal code provisions to comply with international free expression standards.<sup>30</sup> Contrary to these commitments, Cambodia carried out a vigorous campaign against press freedom, eliminating or co-opting all major independent news outlets in the country.

### **Closure and Sale of Independent Media Outlets**

21. During the reporting period, the government has overseen a systematic crackdown on independent media in Cambodia. Most independent newspapers and radio stations have been closed or co-opted, decimating the public’s access to credible sources of information.

22. Licensing rules have been applied arbitrarily and selectively by the Ministry of Information to silence independent radio broadcasters. In August 2017, the Ministry of Information ordered 32 radio frequencies to cease broadcasting, citing licensing issues, including the alleged failure to disclose the identity of those purchasing airtime.<sup>31</sup> The stations targeted for closure aired broadcasts by the Voice of America (VOA), Radio Free Asia (RFA) and the national independent outlet Voice of Democracy, as well as content from the opposition Cambodia National Rescue Party (CNRP).<sup>32</sup>

23. Subsequently, on 12 September 2017, RFA was forced to close its Cambodia operations under government pressure related to alleged unpaid tax bills and registration issues.<sup>33</sup> RFA’s President Libby Liu denounced the closure as part of a pattern of attacks on media outlets in the country using “a thin pretext of tax and administrative violations” and condemned the government’s “increasingly threatening and intimidating rhetoric”.<sup>34</sup>

24. The closure of radio stations has had a significant impact on media pluralism in the country, undermining the ability of Cambodians to access information, to engage in discourse on matters of vital public interest, and, consequently, to exercise their rights to political participation. In particular, these developments have had a profound impact on rural communities, who often lack access to other sources of information.<sup>35</sup>

25. Independent newspapers have also been targeted. On 4 September 2017, *The Cambodia Daily*, a well-known, independently owned newspaper, closed operations after receiving a US\$6.3 million tax bill it claimed was politically motivated.<sup>36</sup> As one of the few independent media outlets in the country, its closure has had a significant impact on access to information. One day after *The Cambodia Daily* announced it was ceasing operations, the government ordered ISPs to block access to the paper’s website, which contained an archive of its reporting, as

<sup>30</sup> 118.101 (Hungary), 118.105 (Austria), 118.20 (Czech Republic), and 118.21 (Ireland). Cambodia also “noted” a further five recommendations. 119.23 (Tunisia), 119.24 (Portugal), 119.25 (Czech Republic), and 119.26 (Netherlands).

<sup>31</sup> Mech Dara and Ananth Baliga, “Government closes 15 radio stations”, Phnom Penh Post, 25 August 2017, available at: <https://www.phnompenhpost.com/national/government-closes-15-radio-stations>; LICADHO, “Restricting Critical Voices on Cambodian Airwaves”, 9 September 2017, available at: <http://www.licadho-cambodia.org/articles/20170909/148/index.html>.

<sup>32</sup> Ibid.

<sup>33</sup> Committee to Protect Journalists, “Radio Free Asia suspends operations in Cambodia”, 14 September 2017, available at: <https://cpj.org/2017/09/radio-free-asia-suspends-operations-in-cambodia.php>.

<sup>34</sup> “Statement of Radio Free Asia’s President on Cambodia”, Radio Free Asia, 12 September 2017, available at: <https://www.rfa.org/about/releases/statement-on-cambodia-09122017092506.html>.

<sup>35</sup> Documentation Center of Cambodia, “Projects—Radio”, available at: <http://www.dccam.org/Projects/Radio/Radio.htm>. (noting that “The majority of Cambodians, especially survivors of the Khmer Rouge period who live in predominantly rural areas, have little access to print and news media. Thus, radio remains a culturally popular medium and is often the sole source of national news and information for many Cambodians.”)

<sup>36</sup> “Cambodia Daily Announces Immediate Closure Amid Threats”, Cambodia Daily, 4 September 2017, available at: <https://www.cambodiadaily.com/topstory/cambodia-daily-announces-immediate-closure-amid-threats-134283/>.

well as to its Twitter and Facebook accounts.<sup>37</sup> On 5 February 2018, the Ministry of Post and Telecommunications issued a letter warning ISPs that failure to comply with the blocking order would trigger an investigation, and possible suspension of licences.<sup>38</sup>

26. In May 2018, the *Phnom Penh Post* was sold to Sivakumar Ganapathy, the Malaysian owner of a public relations firm that lists Prime Minister Hun Sen as a former client.<sup>39</sup> The Cambodian Government had previously slapped the paper with a US\$3.9 million tax bill, which was settled as part of the sale.<sup>40</sup> Ganapathy's firm reportedly ran the pro-government *Cambodia Times* newspaper for several years in the early 1990s.<sup>41</sup> The change in ownership had an immediate impact on the *Phnom Penh Post's* editorial independence. The editor-in-chief Kay Kimsong was fired on 7 May after publishing an article highlighting the connections between the new owner and Hun Sen.<sup>42</sup> The article was subsequently removed from the website. Up to thirteen foreign journalists at the paper resigned in protest in the following weeks.<sup>43</sup>

### **Threats, Attacks and Harassment of Journalists and Media Workers**

27. In the period under review journalists and media workers have faced frequent reprisals because of their work. Recent emblematic cases include the following:

- In April 2017, RFA Cambodia's deputy director Huot Vuthy (also known as Chun Chanboth), fled the country after authorities lodged "false declaration" charges under Article 633 of the Criminal Code for allegedly failing to identify himself as a journalist during a prison visit.<sup>44</sup>
- On 14 November 2017, two former RFA reporters, Yeang Sothearin and Oun Chhin, were arrested and charged with "supplying a foreign state with information prejudicial to national defence" under Article 445 of the Penal Code, which carries a penalty of seven to 15 years imprisonment.<sup>45</sup> Authorities accused the pair of continuing to produce content for RFA after its closure. On 28 March 2018, the prosecutor added charges under the Suppression of Human Trafficking and Sexual Exploitation Law. The prosecutor claimed, without providing evidence, that the two men had been involved in the production of pornography, an allegation seemingly designed to discredit and stigmatise the reporters. On 18 May 2018, a judge approved a six-month extension to their pre-trial detention.<sup>46</sup>
- Following the closure of *The Cambodia Daily*, its former general manager and deputy publisher, Douglas Steele and Deborah Krisher-Steele, were prevented from leaving the country in connection with the paper's unpaid tax bill.<sup>47</sup> Krisher-Steele is currently facing defamation charges under the Penal Code for comments in which she accused tax authorities of leaking the paper's tax bill.<sup>48</sup>

### **NEC Code of Conduct for Journalists Covering Elections**

28. During the reporting period, Cambodia has imposed highly restrictive "codes of conduct" governing the activities of journalists covering elections in the country.<sup>49</sup>

29. In May 2018, the National Election Commission rolled out the code of conduct governing the July 2018 general elections. The guidelines preclude journalists from expressing "personal opinion or prejudice"; ban coverage that "affects political and social stability" or leads to "confusion and loss of confidence" in the elections; and forbid journalists from interviewing voters at polling stations.<sup>50</sup> Those violating the code of conduct are subject to fines of up to US\$7,400.

<sup>37</sup> The government's orders were revealed in documents leaked in February 2018. Mech Dara and Erin Handley, "Cambodia Daily's website, Twitter blocked by government order", *Phnom Penh Post*, 4 February 2018, available at: <https://www.phnompenhpost.com/national/cambodia-dailys-website-twitter-blocked-government-order>.

<sup>38</sup> Erin Handley, "Telecoms regulator to investigate internet providers for snubbing Cambodia Daily ban", *Phnom Penh Post*, 5 February 2018, available at: <https://www.phnompenhpost.com/national/telecoms-regulator-investigate-internet-providers-snubbing-cambodia-daily-ban>.

<sup>39</sup> Asia PR, "Over the Years", available at: <http://www.asia-pr.com/over-the-years/>.

<sup>40</sup> Julia Wallace and Mike Ives, "A Newspaper Is Sold, and Cambodians Fear the End of Press Freedom", *New York Times*, 7 May 2018, available at: <https://www.nytimes.com/2018/05/07/world/asia/cambodia-phnom-penh-post-sale.html>.

<sup>41</sup> Brendan O'Byrne and Ananth Baliga, "Phnom Penh Post sold to Malaysian investor", *Phnom Penh Post*, 7 May 2018, available at: <http://www.nationmultimedia.com/detail/business/30344773>.

<sup>42</sup> "Post senior staff out in dispute over article", *Phnom Penh Post*, 8 May 2018, available at: <https://www.phnompenhpost.com/national/post-senior-staff-out-dispute-over-article>. The removed article is cited in fn. 33.

<sup>43</sup> Prak Chan Thul, "Foreign journalists quit Cambodia paper in protest at perceived interference", *Reuters*, 9 May 2018, available at: <https://www.reuters.com/article/us-cambodia-politics-media/foreign-reporters-quit-newspaper-in-cambodia-en-masse-after-sale-idUSKBN11A01J>.

<sup>44</sup> Niem Chheng and Ananth Baliga, "RFA reporter Chun Chanboth in Bangkok ahead of court summons date", *Phnom Penh Post*, 1 May 2017, available at: <https://www.phnompenhpost.com/national/rfa-reporter-chun-chanboth-bangkok-ahead-court-summons-date>.

<sup>45</sup> Human Rights Watch, "Cambodia: Release Ex-Radio Free Asia Journalists", 12 May 2018, available at: <https://www.hrw.org/news/2018/05/12/cambodia-release-ex-radio-free-asia-journalists>.

<sup>46</sup> LICADHO, "Former RFA journalists await release or further detention decision", 16 May 2018 (updated 18 May 2018), available at: <http://www.licadho-cambodia.org/flashnews.php?perm=244>.

<sup>47</sup> Niem Chheng, "Daily directors barred from leaving country", *Phnom Penh Post*, 5 September 2017, available at: <https://www.phnompenhpost.com/national/daily-directors-barred-leaving-country>.

<sup>48</sup> Niem Chheng and Ananth Baliga, "Cambodia Daily publisher's defamation trial again deferred", *Phnom Penh Post*, 12 April 2018, available at: <https://www.phnompenhpost.com/national/cambodia-daily-publishers-defamation-trial-again-deferred>.

<sup>49</sup> In the lead up to commune elections in June 2017, the NEC imposed a media code of conduct with ambiguous restrictions on the activities of journalists and harsh penalties for non-compliance. Yesenia Amaro, "NEC 'code of censorship' slammed", *Phnom Penh Post*, 17 May 2017, available at: <https://www.phnompenhpost.com/national/nec-code-censorship-slammed>.

<sup>50</sup> UN Office of the High Commissioner for Human Rights, "Cambodia: UN experts express concerns about media freedoms ahead of vote", 15 June 2018, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23205&LangID=E>.

## **Recommendations:**

30. The government should:

- i. Publicly acknowledge the importance of an independent media sector and commit to creating a media environment conducive to independent and effective journalism
- ii. Restore broadcasting rights to radio stations whose licenses were revoked in 2017, and ensure that all licensing laws and regulations are applied consistently, without bias, and in a manner that complies with international human rights law and standards, including those relating to the right to freedom of expression
- iii. Review all decisions leading to the closure of independent media outlets, including those relating to tax liability and licensing requirements, and take steps to restore the rights of such outlets, including RFA and the Cambodia Daily
- iv. Refrain from any efforts aimed at manipulating ownership of media outlets or colluding with individuals or companies seeking ownership of such outlets
- v. End all ongoing criminal proceedings against media actors based on their journalistic work, and quash all convictions on such grounds
- vi. Ensure that any media codes of conduct comply with international human rights law and standards, including those relating to the rights to freedom of expression and to participate in public affairs

## **Threats to Human Rights Defenders, including Environmental Activists**

31. During its previous UPR, Cambodia accepted six recommendations concerning the rights and protection of human rights defenders (HRDs) and impunity for acts of violence.<sup>51</sup> However, during the reporting period, the already serious risks faced by HRDs, including environmental activists, intensified. Government authorities and private actors have used physical attacks, threats and judicial harassment to silence those speaking out against human rights abuses, land grabs and environmental degradation, among other topics.

32. Environmental and land rights activists face particularly grave threats and security risks. Many environmental defenders work in remote and isolated areas, heightening their vulnerability. Some have fled the country because of safety concerns.

### ***Physical Attacks, Killings and Impunity***

33. On 10 July 2016, the political commentator and HRD Kem Ley was shot and killed inside a gasoline station in Phnom Penh. His death came only days after speaking on a RFA broadcast about a Global Witness report, which concerned the vast economic holdings of members of Prime Minister Hun Sen's family. A suspect, Oeut Ang, was arrested and stated at trial that he had killed Kem Ley over an unpaid debt, but no proof of that debt was presented to the court. Other evidentiary shortcomings raised concerns that the case had not been thoroughly investigated and that connections to government authorities had not been credibly probed.<sup>52</sup>

34. Similar concerns regarding the independence of investigations and quality of accountability surround other acts of violence against activists and HRDs, including environmental defender Chut Wutty, killed in 2012.<sup>53</sup> The Cambodian Government took no significant action to resolve these concerns during the reporting period.

35. Other HRDs, environmental activists and communities challenging threats to their homes and livelihoods have suffered physical violence and threats to their personal security during the reporting period, including:

- In March 2016, environmental activist Phon Sopheak of the Prey Lang Community Network (PLCN) was attacked by unknown assailants while conducting a forest patrol to combat illegal logging.<sup>54</sup>
- On 12 May 2018, environmental activist Ven Aet was shot by unknown assailants at his home in Koh Kong province, but escaped uninjured. He had recently been threatened by state authorities while supporting indigenous groups to claim their rights.<sup>55</sup>

36. Cambodian authorities have also used violence against environmental activists, HRDs and others seeking to exercise their right to peaceful assembly. Activists Am Sam Ath and Chan Puthisak were attacked by para-police

<sup>51</sup> 118.13 (Germany), 118.14 (Montenegro), 118.20 (Czech Republic), 118.24 (Portugal), 118.104 (Switzerland) and 118.05 (Austria). Cambodia also "noted" four recommendations. 119.22 (Denmark), 119.23 (Tunisia), 119.24 (Portugal) and 119.25 (Czech Republic).

<sup>52</sup> "Joint Letter on Investigation Into Killing of Kem Ley", 7 July 2017, available at: [https://www.hrw.org/news/2017/07/07/joint-letter-investigation-killing-kem-ley#\\_ftnref8](https://www.hrw.org/news/2017/07/07/joint-letter-investigation-killing-kem-ley#_ftnref8); Amnesty International, Human Rights Watch and the Independent Commission of Jurists, "Cambodia: Significant questions remain after guilty verdict in Kem Ley trial", 23 March 2017, available at: <https://www.amnesty.org/en/documents/asa23/5944/2017/en/>.

<sup>53</sup> ARTICLE 19 and CCHR, "Defending the Defenders: ", pp. 25-26, available at: <https://www.article19.org/data/files/medialibrary/37113/Cambodia-Defending-the-Defenders-2013-ENG.pdf>.

<sup>54</sup> Phak Seangly and Igor Kossov, "Lauded activist attacked while patrolling Prey Lang forest", Phnom Penh Post, 29 March 2016, available at: <https://www.phnompenhpost.com/national/lauded-activist-attacked-while-patrolling-prey-lang-forest>.

<sup>55</sup> CCHR, "Environmental activist Ven Aet was shot at in Areng Valley, but sustained no injury", 17 May 2018, available at: [https://cchrcambodia.org/index\\_old.php?url=media/media.php&p=alert\\_detail.php&alid=71&id=5&lang=eng](https://cchrcambodia.org/index_old.php?url=media/media.php&p=alert_detail.php&alid=71&id=5&lang=eng).

while monitoring a peaceful World Habitat Day march in Phnom Penh in October 2016.<sup>56</sup> In February 2017, para-police attacked a group of 35 women and children protesting the detention of environmental activist Tep Vanny in Phnom Penh, injuring three.<sup>57</sup> Trade union members have also been subjected to violence by authorities and non-state actors while protesting working conditions.<sup>58</sup>

### Legal Threats

37. During the period under review, the Cambodia government has routinely applied criminal law provisions in an abusive and arbitrary fashion to silence HRDs and obstruct their work. The following cases are emblematic of a far larger number of cases of judicial harassment of activists and HRDs.<sup>59</sup>
38. On 28 April 2016, five individuals affiliated with Cambodian human rights organization ADHOC –who came to be known as the “ADHOC 5” – were taken into police custody and subsequently charged with “bribery of a witness” after providing legal advice to a woman who was due to be questioned by authorities about her relationship with opposition leader Kem Sokha.<sup>60</sup> The five spent more than a year in prison before being released on bail on 30 June 2017. The case against the five remains open.<sup>61</sup>
39. On 1 July 2016, three activists from the environmental group Mother Nature, Sim Somnang, Tri Sovikea, and San Mala, were convicted on charges of “threatening to cause destruction, defacement or damage” for their role in protests against illegal sand dredging in Koh Kong Province. Upon their conviction, they were released on a suspended sentence and time served, having been in detention since their arrest in August 2015.<sup>62</sup> Two additional members of Mother Nature, Dem Kundy and Hun Vannak, were convicted of “incitement to commit a felony” on 26 January 2018 in relation to their filming of sand dredging activities. They were released less than three weeks later on a suspended sentence and time served.<sup>63</sup>
40. On 10 August 2017, political analyst Kim Sok was convicted of defamation and incitement for suggesting in a radio interview that the ruling CPP was behind the killing of Kem Ley. He was sentenced to 18 months imprisonment, fined, and ordered to pay approximately US\$200,000 in compensation to the CPP.<sup>64</sup>
41. In 2017, prominent environmental HRD Tep Vanny was convicted in two separate criminal trials relating to her participation in a land rights protest several years earlier. In February, she was sentenced to 30 months’ imprisonment on charges of “intentional violence with aggravating circumstances”, and in September, she was sentenced to six months’ imprisonment for “insult” and “obstruction of a public official with aggravating circumstances”. Tep Vanny has been detained continuously since her August 2016 arrest while protesting the detention of the ADHOC 5.<sup>65</sup>
42. On 4 January 2018, activists But Buntenh, Pa Nguon Teang and Moeun Tola were charged with “breach of trust” for allegedly misappropriating funds raised for Kem Ley’s funeral based on a complaint filed by the leaders of the Cambodian Youth Party, a party with alleged links to the CPP. Kem Ley’s family did not support the complaint.<sup>66</sup>
43. In February 2018, Thai authorities returned Sam Sokha to Cambodia to serve a two year prison sentence for a conviction *in absentia* for “incitement to discrimination” and “insults to a public official”. She had fled Cambodia in 2017 after a warrant was issued for her arrest in relation to a Facebook video, which showed her throwing a sandal at a picture of Prime Minister Hun Sen.<sup>67</sup>

### Recommendations:

44. The government should:
  - i. Publicly condemn violence, threats and harassment against HRDs, including environmental activists, and publicly commit to holding those responsible to account
  - ii. End impunity for all attacks against HRDs, ensuring the prompt, thorough and impartial investigation of all cases of murder, attacks and threats, including by examining the alleged involvement of public officials

<sup>56</sup> LICADHO, “The Dangers of Dissent: Attacks on Human Rights Defenders”, July 2017, p. 6, available at: [https://www.licadho-cambodia.org/reports/files/2232017\\_HRD\\_ENG\[finalWeb\].pdf](https://www.licadho-cambodia.org/reports/files/2232017_HRD_ENG[finalWeb].pdf).

<sup>57</sup> *Ibid.* p. 7.

<sup>58</sup> *Ibid.*

<sup>59</sup> See, *ibid.*

<sup>60</sup> Human Rights Watch, “Cambodia: Cease Campaign to Curtail Rights Monitoring” 3 May 2016, available at: <https://www.hrw.org/news/2016/05/03/cambodia-cease-campaign-curtail-rights-monitoring>.

<sup>61</sup> Yon Sineat, Ananth Baliga and Mech Dara, “‘Adhoc 5’ released on bail in case widely seen as political”, Phnom Penh Post, 30 June 2017, available at: <https://www.phnompenhpost.com/national/adhoc-5-released-bail-case-widely-seen-political>.

<sup>62</sup> FIDH, “Cambodia: Suspended sentences and subsequent release of Messrs. Sim Somnang, Tri Sovikea and San Mala”, 4 July 2016, available at: <https://www.fidh.org/en/issues/human-rights-defenders/cambodia-suspended-sentences-and-subsequent-release-of-messrs-sim>.

<sup>63</sup> Prak Chan Thul, “Cambodia jails two environment activists for filming sand export activity”, Reuters, 26 January 2018, available at: <https://www.reuters.com/article/us-cambodia-human-rights-jails-two-environment-activists-for-filming-sand-export-activity-idUSKBN1FF16G>.

<sup>64</sup> Niem Chheng and Ananth Baliga, “Kim Sok gets 18 months and must pay \$200K in compensation to CPP”, Phnom Penh Post, 11 August 2017, available at: <https://www.phnompenhpost.com/national/kim-sok-gets-18-months-and-must-pay-200k-compensation-cpp>.

<sup>65</sup> Amnesty International, “Supreme Court verdict against Tep Vanny and other activists exposes Cambodia’s courts of injustice”, 8 December 2017, available at: <https://www.amnesty.org/en/latest/news/2017/12/supreme-court-verdict-against-tep-vanny-and-other-activists-exposes-cambodias-courts-of-injustice/>.

<sup>66</sup> FIDH, “Cambodia: Judicial harassment of prominent defenders Pa Nguon Teang, Venerable But Buntenh and Moeun Tola”, 30 January 2018, available at: <https://www.fidh.org/en/issues/human-rights-defenders/cambodia-judicial-harassment-of-prominent-defenders-pa-nguon-teang>.

<sup>67</sup> Human Rights Watch, “Cambodia: Free Forcibly Returned Critic of Hun Sen”, 9 February 2018, available at: <https://www.hrw.org/news/2018/02/09/cambodia-free-forcibly-returned-critic-hun-sen>.



- iii. Hold perpetrators of attacks against HRDs accountable, and guarantee a right to effective remedies for victims and their families
- iv. Establish, with the full and effective participation of HRDs, mechanisms to ensure the protection of persons who are at risk for exercising their rights to freedom of expression
- v. Cease and prevent the abuse of legal processes to harass HRDs including through threats of arrest, arbitrary arrest and detention, and prosecution
- vi. End all ongoing criminal proceedings against individuals based on the exercise of their human rights, including the rights to freedom of expression, assembly and association, and quash all convictions on such grounds

## **Freedom of Association and the Right to Participate in Public Affairs**

45. During Cambodia's previous UPR, the government accepted seven recommendations related to the right to freedom of association, including recommendations to take steps to protect and empower civil society organisations and to foster a "culture of dialogue" among political parties.<sup>68</sup> However, the government has tightened its grip on NGOs and other associations, overseen a dramatic contraction of civic space, and taken steps to eradicate any credible political opposition.

### ***Law on Associations and Non-Governmental Organisations***

46. In July 2015, the Cambodian Government passed the highly restrictive Law on Associations and Non-Governmental Organizations (LANGO), governing the registration and regulation of both foreign and domestic associations and NGOs. The law was passed without significant public consultation and amid the vociferous objections of civil society and human rights organisations.<sup>69</sup>

47. The LANGO imposes onerous registration and reporting duties on associations and NGOs. Registering organisations must endure a burdensome administrative process and disclose vast amounts of sensitive information, including banking details, sources of funding, and personal information of founding members. Authorities retain complete discretion to arbitrarily reject applications. The law bars unregistered groups from performing any activities, potentially imposing insurmountable challenges for community-based organisations. The LANGO gives authorities sweeping powers to dissolve associations and NGOs without justification or procedural safeguards. Vague requirements of political "neutrality" further open the door to the arbitrary application of the law.<sup>70</sup>

48. In the past three years, Cambodian authorities have used the LANGO to shut down organisations or force their temporary suspension of operations. On 23 August 2017, the Ministry of Foreign Affairs forced the closure of the US-funded National Democratic Institute (NDI), citing the organisation's failure to comply with the registration requirements of the LANGO, an allegation which NDI denied.<sup>71</sup> The environmental organization Equitable Cambodia was forced to suspend operations for a period of five months, from late 2017 and into 2018, for allegedly violating two articles of the LANGO.<sup>72</sup> The Cambodia Centre for Human Rights (CCHR) was put under investigation under the LANGO, but ultimately cleared to continue operations, after Prime Minister Hun Sen publicly threatened to shut down the organization.<sup>73</sup>

49. The government has further sought to disrupt the work of NGOs using the LANGO to ban specific activities. On 4 July 2017, the government sent cease-and-desist letters to NGOs taking part in an election monitoring consortium called the Situation Room, stating that the initiative "does not reflect the neutrality" required by the LANGO.<sup>74</sup> Three prominent local human rights organisations that were part of the consortium, the Cambodian Human Rights and Development Association (ADHOC), the Cambodian League for the Promotion and Defense of Human Rights (LICADHO), and Comfrel, were later called for questioning in August 2017 by the Ministry of Economy and Finance's Taxation Department.<sup>75</sup>

<sup>68</sup> 118.19 (Canada), 118.104 (Switzerland), 118.106 (Columbia), 118.107 (Croatia), 118.09 (Czech Republic), 118.110 (Netherlands) and 118.111 (Australia).

<sup>69</sup> Joint open letter to Prime Minister Hun Sen regarding Law on Associations and Non-Governmental Organizations, 6 July 2015, available at:

[https://www.article19.org/data/files/medialibrary/38048/INGO-LANGO-letter-to-PM\\_Final-version.pdf](https://www.article19.org/data/files/medialibrary/38048/INGO-LANGO-letter-to-PM_Final-version.pdf).

<sup>70</sup> Joint open letter to the President of the National Assembly on the Draft Law on Associations and Non-Governmental Organizations, 22 June 2015, available at:

<https://www.hrw.org/news/2015/06/22/cambodia-joint-letter-draft-law-associations-and-non-governmental-organizations>.

<sup>71</sup> National Democratic Institute, "Statement on Cambodian Government's Decision to Shut Down NDI's Office in Cambodia" 23 August 2017, available at:

<https://www.ndi.org/publications/statement-cambodian-government%E2%80%99s-decision-shut-down-ndis-office-cambodia>.

<sup>72</sup> Leonie Kijewski and Niem Chheng, "Equitable Cambodia allowed to reopen", Phnom Penh Post, 26 February 2018, available at:

<https://www.phnompenhpost.com/national/equitable-cambodia-allowed-reopen>.

<sup>73</sup> CCHR, "CCHR welcomes the announcement that it will not be closed", 3 December 2017, available at: [https://cchrcambodia.org/index\\_old.php?title=CCHR-](https://cchrcambodia.org/index_old.php?title=CCHR-Welcomes-the-Announcement-That-it-Will-not-be-Closed&url=media/media.php&p=press_detail.php&prid=680&id=5)

[Welcomes-the-Announcement-That-it-Will-not-be-Closed&url=media/media.php&p=press\\_detail.php&prid=680&id=5](https://cchrcambodia.org/index_old.php?title=CCHR-Welcomes-the-Announcement-That-it-Will-not-be-Closed&url=media/media.php&p=press_detail.php&prid=680&id=5).

<sup>74</sup> Ben Sokhean and Ben Paviour, "Interior Ministry Issues Stop-Order to Situation Room NGOs", 5 July 2017, available at: [https://www.cambodiadaily.com/news/interior-](https://www.cambodiadaily.com/news/interior-ministry-issues-stop-order-to-situation-room-ngos-132133/)

[ministry-issues-stop-order-to-situation-room-ngos-132133/](https://www.cambodiadaily.com/news/interior-ministry-issues-stop-order-to-situation-room-ngos-132133/); Human Rights Watch, "Cambodia: Revoke Ban on Election Monitors"; 9 July 2017, available at:

<https://www.hrw.org/news/2017/07/09/cambodia-revoke-ban-election-monitors>.

<sup>75</sup> Human Rights Watch, "Cambodia: Onslaught on Media, Rights Groups", 25 August 2017, available at: [https://www.hrw.org/news/2017/08/25/cambodia-onslaught-](https://www.hrw.org/news/2017/08/25/cambodia-onslaught-media-rights-groups)

[media-rights-groups](https://www.hrw.org/news/2017/08/25/cambodia-onslaught-media-rights-groups).

## **Dissolution of Political Opposition and Imprisonment of Politicians**

50. The government heavily curtailed political rights in the period under review, in particular in the run-up to, and in the wake of, communal elections in 2017. The communal elections were marked by threats and intimidation directed at the opponents of the ruling CPP party.<sup>76</sup> Although the CPP retained a slim majority of commune councillor seats after the election, the opposition CNRP made unexpected gains, demonstrating its threat to the CPP. In the months that followed the government engineered the wholesale dismantlement of the CNRP.
51. On 3 September 2017, CNRP leader Kem Sokha was arrested and subsequently charged with treason under Article 443 of the Penal Code.<sup>77</sup> Authorities accused Kem Sokha of conspiring with foreign powers to overthrow the government, citing as evidence a 2013 video in which Kem Sokha said that the US Government had advised him on political strategy.<sup>78</sup> The Supreme Court upheld an appeal court decision to deny him bail on 7 May 2018, extending his pre-trial detention for a further six months.<sup>79</sup> Following Kem Sokha's arrest and detention, a large number of CNRP MPs, including deputy leader Mu Sochua, fled the country out of fear for their safety.<sup>80</sup>
52. On 16 November 2017, the Supreme Court granted a motion for the dissolution of the CNRP filed by the Ministry of Interior after receiving complaints from the Cambodian Youth Party and FUNCINPEC party in early of October 2017.<sup>81</sup> A five year ban from politics was simultaneously placed on 118 CNRP party officials.<sup>82</sup> The parliamentary seats left vacant following the CNRP's dissolution were subsequently filled by unelected representatives of FUNCINPEC, the Cambodia Nationality Party and the Khmer Economic Development Party.<sup>83</sup> With the successful dissolution of the main opposition party, and ongoing efforts to prevent the formation of new opposition groups,<sup>84</sup> the government's legislative proposals, policies and actions have been left largely unchallenged.
53. Recent attacks against the CNRP follow years of legal harassment of opposition politicians. Former CNRP leader Sam Rainsy, exiled since 2015, has faced a litany of charges over the years. On 29 December 2017, Rainsy was convicted of defamation *in absentia* in a case brought against him by Prime Minister Hun Sen for comments made by Rainsy concerning the Prime Minister's role in the persecution of the CNRP.<sup>85</sup> Rainsy was ordered to pay compensation of US\$1 million to the Prime Minister.

### **Recommendations:**

54. The government should:
- i. Reform the LANGO to bring it in line with international human rights law and standards, including those relating to freedom of association
  - ii. Review all decisions leading to the closure or suspension of NGOs and civil society organisations and take steps to restore the rights of such groups, including NDI
  - iii. Ensure an enabling environment for environmental HRDs, including by ensuring that all stakeholders are able to meaningfully participate in decision-making on projects that may affect the environment
  - iv. Take steps to allow the restoration of CNRP and the registration of new political parties in line with international standards
  - v. Immediately drop charges against, and unconditionally release, opposition leader Kem Sokha and end the use of criminal charges to target political speech
  - vi. Restore the political rights of CNRP leaders and other barred from political activities or otherwise denied political rights

<sup>76</sup> Human Rights Watch, "Cambodia: Commune Elections Not Free or Fair," 12 June 2017, available at: <https://www.hrw.org/news/2017/06/12/cambodia-commune-elections-not-free-or-fair/>.

<sup>77</sup> Office of the Council of Ministers, "Statement of the Royal Government on Kem Sokha, who was arrested in flagrante delicto by the judiciary police officers in accordance with the Criminal Procedure Code of the Kingdom of Cambodia", 3 September 2017, available at: <http://pressocm.gov.kh/en/archives/11871>.

<sup>78</sup> Amnesty International, "Cambodia: Head of Dissolved Main Opposition Party Jailed: Kem Sokha", 21 December 2017, available at: <https://www.amnesty.org/en/documents/asa23/7623/2017/en/>.

<sup>79</sup> "Cambodian Opposition Chief Kem Sokha Again Denied Bail", Radio Free Asia, 7 May 2018, available at: <https://www.rfa.org/english/news/cambodia/kemsokha-denied-05072018163413.html>.

<sup>80</sup> Prak Chan Thul, "Opposition leader's deputy flees Cambodia, fearing for safety", Reuters, available at: <https://www.reuters.com/article/us-cambodia-politics/opposition-leaders-deputy-flees-cambodia-fearing-for-safety-idUSKCN1C8111>.

<sup>81</sup> Human Rights Watch, "Cambodia: Supreme Court Dissolves Democracy", 17 November 2017, available at: <https://www.hrw.org/news/2017/11/17/cambodia-supreme-court-dissolves-democracy>.

<sup>82</sup> Prak Chan Thul and Amy Sawitta Lefevre, "Cambodia's main opposition party dissolved by Supreme Court", Reuters, 16 November 2017, available at: <https://www.reuters.com/article/us-cambodia-politics/cambodias-main-opposition-party-dissolved-by-supreme-court-idUSKBN1DG1BO>.

<sup>83</sup> Ben Sokhean and Andrew Nachemson, "Lawmakers take CNRP seats after dissolution", Phnom Penh Post, 27 November 2017, available at: <http://www.phnompenhpost.com/national-politics/breaking-lawmakers-take-cnrp-seats-after-dissolution-0>.

<sup>84</sup> See, for example, "CNRM Leaders Under Investigation", Fresh News, 16 February 2018, available at: <http://en.freshnewsasia.com/index.php/en/7482-2018-02-16-11-57-08.html>.

<sup>85</sup> Chansy Chhorn, "Cambodia's Sam Rainsy found guilty of defamation, ordered to pay \$1 million", 29 December 2017, available at: <https://www.reuters.com/article/us-cambodia-politics/cambodias-sam-rainsy-found-guilty-of-defamation-ordered-to-pay-1-million-idUSKBN1EN0H7>.