



ARTICLE 19

Cambodia: Human Rights Council must urge action to uphold the right to freedom of expression

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ARTICLE 19

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ARTICLE 19 works for a world where all people everywhere can freely express themselves and actively engage in public life without fear of discrimination. We do this by working on two interlocking freedoms, which set the foundation for all our work. The Freedom to Speak concerns everyone's right to express and disseminate opinions, ideas and information through any means, as well as to disagree from, and question power-holders. The Freedom to Know concerns the right to demand and receive information by power-holders for transparency good governance and sustainable development. When either of these freedoms comes under threat, by the failure of power-holders to adequately protect them, ARTICLE 19 speaks with one voice, through courts of law, through global and regional organisations, and through civil society wherever we are present.

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INTRODUCTION

Two years since the Human Rights Council adopted Resolution 42/37 on advisory services and technical assistance for Cambodia,¹ ARTICLE 19 observes that the situation of freedom of expression, access to information, and freedom of peaceful assembly has reached a new low. The government of Cambodia has taken decisive steps to suppress critical and dissenting voices, the independent media, civil society organisations, environmental activists, and peaceful protesters.

During the COVID-19 pandemic, the protection of fundamental freedoms has worsened as authorities imposed unduly restrictive policies and laws to the detriment of public participation and civic space. Further repressive legislation is being advanced by the government and could impede freedom of expression even further.

Independent journalists, environmental activists, and peaceful protesters have faced physical violence, threats, judicial harassment, and imprisonment. Government restrictions on the freedom of expression—often presented by the government as a response to the COVID-19 pandemic—have far exceeded those permissible under international human rights law. This systematic attack on public discourse and dissenting voices is eroding the confidence of Cambodians in their ability to safely exercise their rights and encouraging widespread self-censorship.

ARTICLE 19 urges the Human Rights Council to adopt a strong resolution calling on the government of Cambodia to prioritise legal reform and to guarantee the rights to freedom of expression, access to information, and peaceful assembly in the country.

ARTICLE 19's suggestions for operational paragraphs draw on consensual language in other resolutions, including those on the safety of journalists, freedom of opinion and expression, the promotion and protection of human rights in the context of peaceful protests, and the promotion, protection, and enjoyment of human rights on the Internet.

RESTRICTIVE LAWS

New legislation that restricts freedom of expression

Law on Measures to Prevent the Spread of COVID-19 and other Serious, Dangerous and Contagious Diseases

In March 2021, Cambodia enacted the new Law on Measures to Prevent the Spread of COVID-19 and other Serious, Dangerous and Contagious Diseases (the COVID-19 Law). The law grants authorities the power to undertake COVID-19 prevention measures and imposes criminal penalties of up to five years' imprisonment on those who do not comply with, or 'intentionally obstruct', such measures. The actions authorities may take to curb the spread of COVID-19 are broadly and vaguely termed within the law. Given the lack of independent oversight or a protection mechanism, they could be easily abused by authorities.² In Article 4, the law includes a catch-all provision permitting the imposition of 'other measures which are necessary to respond and prevent the spread of COVID-19'. Such vague wording bestows seemingly unfettered powers on authorities and could be utilised to

¹ Human Rights Council, Advisory services and technical assistance for Cambodia, UN Doc. A/HRC/RES/42/37, 9 October 2019, available at: https://cambodia.ohchr.org/sites/default/files/resolution-cambodia/A_HRC_RES_42_37_E.pdf.

² See, Human Rights Watch, Cambodia: Scrap Abusive Covid-19 Prevention Bill, 5 March 2021, available at: <https://www.hrw.org/news/2021/03/05/cambodia-scrap-abusive-covid-19-prevention-bill>.

arbitrarily target activists, journalists, or civil society organisations, who already bear the brunt of persecution by the government. Although the government referenced COVID-19 to justify the need for the law—as reflected in its title—it will remain in force after the pandemic subsides and could be utilised to respond to other public health crises, allowing its repressive measures to be applied in perpetuity.

Sub-Decree on the Establishment of a National Internet Gateway

In February 2021, seven months after it was drafted, the Sub-Decree on the Establishment of a National Internet Gateway (NIG Sub-Decree) was adopted, setting in motion the creation and governance of a national internet gateway (NIG)—a gateway through which all Internet communications and Internet data traffic circulating within and coming into Cambodia must pass. The NIG Sub-Decree facilitates monitoring and surveillance of Internet activity, empowers the interception and censorship of digital communications, and enables the collection, retention, and sharing of personal data, thus fundamentally threatening the rights to privacy, freedom of expression, and information. The NIG would place all international Internet traffic under a single authority, enabling the government to more efficiently and effectively cut the country off from the international Internet.

The NIG will be managed by government-appointed operators whose duties, according to Article 6 of the Sub-Decree, will be to work with the government ‘to take actions in blocking and disconnecting all network connections that affect safety, national revenue, social order, dignity, culture, traditions and customs’. The NIG will bolster existing censorship powers of the government and will be utilised to block legitimate expression such as criticism or dissent. Three UN Special Rapporteurs shared their concerns over the NIG Sub-Decree and asked the Cambodian government to explain how provisions of the Sub-Decree are in compliance with international human rights standards.³ In its response, the government dismissed these human rights concerns as ‘imaginary’ and called them ‘baseless assumptions’ but failed to provide information on measures taken to protect the rights to privacy, freedom of expression, and access to information.⁴

Law on the Management of the Nation in State of Emergency

In May 2020, the Cambodian government passed the heavily criticised and hastily drafted Law on the Management of the Nation in State of Emergency,⁵ which grants the government extensive powers to restrict human rights if a state of emergency is declared.⁶ The law gives vague, sweeping, and unfettered powers to the government to implement measures during states of emergency, including restricting or prohibiting movement, free speech, and business activities, closing public and private spaces, surveilling telecommunications, and monitoring and controlling social media. It also includes a concerning catch-all provision enabling ‘other measures that are deemed appropriate or necessary to respond to the state of emergency’. The potential for utilising the law to target human rights defenders, civil society, and the media is exacerbated by the imprecise criminal offences it creates. The law provides penalties of up to five years’ imprisonment for ‘intentionally disobeying’ emergency measures if the action ‘brings chaos to the public’, and up to ten years’ for ‘obstructing’ the response

³ Three UN Special Rapporteurs, Joint letter by three UN human rights expert in relation to the Sub-decree on the establishment of the National Internet Gateway, AL KHM 3/2021, 7 April 2021, available at:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26263>.

⁴ Royal Government of Cambodia, Response from the Government to the National Internet Gateway, 24 May 2021, available at:

<https://cambodia.ohchr.org/en/un-human-rights-mechanisms/other-special-procedures>.

⁵ Ben Sokhean, State of Emergency draft signed into law, *Khmer Times*, 30 April 2020, available at:

<https://www.khmertimeskh.com/50718535/state-of-emergency-draft-signed-into-law/>.

⁶ See, 66 organisations and communities, Joint Statement: Civil Society Organizations call for the Royal Government of Cambodia to Amend the State of Emergency Law to Protect Human Rights, 13 May 2020, available at:

https://cchrcambodia.org/media/files/press_release/756_ccftrtatsoeltphref_en.pdf; and UN OHCHR, Cambodia’s state of emergency law endangers human rights, warns UN expert, 17 April 2020, available at:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25801&LangID=E>.

to the emergency if the action ‘brings chaos to the public or impacts national security’. The offences apply to both individuals and organisations.

Draft laws that threaten freedom of expression

Draft Law on Public Order

The draft Law on Public Order, with the proclaimed goal of creating ‘a more civilized society’, was released in July 2020. It contains an extensive array of overbroad and arbitrary provisions that effectively criminalise the legitimate everyday activities of many within Cambodia, in violation of their rights to freedom of expression, association, assembly, and other protected human rights.⁷ It would grant the government the authority to regulate a vast array of public and private behaviour and would prohibit activities that impact ‘national tradition and dignity’. The draft law specifically disadvantages women, people with a disability, and other marginalised groups by, for example, restricting choices in clothing, free movement, and the use of public spaces. It would also disproportionately impact economically disadvantaged people, including those who work in the informal economy.

Draft Law on Cybercrime

The draft Law on Cybercrime was first announced in 2010. However, the most recent leaked draft, dated 4 August 2020, has been extensively revised, and its scope significantly broadened in comparison to previous leaked drafts.⁸ The draft Law on Cybercrime contains several highly concerning provisions that do not meet international standards, including those relating to freedom of expression and the right to privacy.⁹

First, the draft law imposes burdensome obligations on service providers, including mandatory data retention for a minimum of 180 days and the requirement to provide user data to authorities upon request. Further, service providers are unclearly defined in the law resulting in ambiguity as to who would constitute a service provider and thus be subject to these burdensome requirements. These blanket obligations on data retention and data sharing violate the right to privacy.

Second, the law creates criminal offences, prohibiting broad categories of online content that will impact all Internet users. Notably, while the Ministry of Information announced in July 2020 that it will not proceed with its drafting of an Anti-Fake News Law,¹⁰ Article 45 of the draft Law on Cybercrime fills this gap by criminalising ‘disinformation’ through information technology. It specifies punishment of disinformation in six vaguely defined different contexts which could be used to punish any criticism of the government or any state institution, severely impeding government accountability and violating the right to freedom of expression. The offence under Article 45 carries penalties of up to three years’ imprisonment and a fine of up to 2,500 USD.¹¹

⁷ See, 65 organisations and communities, Joint Statement: Civil Society Organizations Call for the Draft Law on Public Order to be Immediately Discarded, 13 August 2020, available at: <https://www.amnesty.org/download/Documents/ASA2328732020ENGLISH.pdf>.

⁸ See previous draft of the Law on Cybercrime, April 2014, available at: <https://sithi.org/admin/upload/law/Cybercrime%20Law.pdf>.

⁹ See, Sun Narin, Civil Society Groups Say Draft Cybercrime Law Risks Free Expression, Privacy, VOA, 8 October 2020, available at: <https://www.voacambodia.com/a/civil-society-groups-say-draft-cybercrime-law-risks-free-expression-privacy/5612542.html>.

¹⁰ Why Sovuthy, Information Ministry to push ‘fake news’ education over draft law, *CamboJA*, 24 July 2020, available at: <https://cambojanews.com/information-ministry-to-push-fake-news-education-over-draft-law/>.

¹¹ See, Human Rights Watch, Cambodia: Scrap Draft Cybercrime Law, 13 November 2020, available at: <https://www.hrw.org/news/2020/11/13/cambodia-scrap-draft-cybercrime-law>.

Draft Law on Access to Information

In January 2021, a spokesperson for the Ministry of Information announced that the anticipated draft Law on Access to Information—intended to be passed in 2020—was delayed due to COVID-19.¹² While the government's efforts to enshrine the right to information through legislation is encouraging, the draft Law on Access to Information has numerous shortcomings and in its current form does not sufficiently protect the right to information. The draft law narrowly defines the type of information and institutions to which it applies. Effective access to information legislation should apply to all information under the possession, custody, or control of public institutions, or private bodies performing public functions. However, Article 4 refers to 'official documents', a term which is too vague and subjective to adequately protect the right to information. Further, the draft law omits the required presumption in favour of disclosure and provides overly broad and ambiguous exemptions from disclosure, including a catch-all provision at Article 20(7) that exempts 'other confidential information'. The law would impose unnecessary procedural requirements for requesting information, including the use of an application form and the provision of personal information, namely, 'sex, age, nationality, occupation'. The draft law fails to establish an effective oversight mechanism and carries no protection for whistleblowers. Penalties prescribed in the law for breaches are up to 15 years' imprisonment and as such are vastly disproportionate. These shortcomings contravene international standards on the right to information and threaten to undermine the law's ability to facilitate access to information in Cambodia.¹³

ARTICLE 19 suggests the following new OPs:

Notes with concern legislation that restricts the right to freedom of expression online and offline, including the Sub-Decree on the Establishment of a National Internet Gateway, the Law on the Management of the Nation in State of Emergency, the draft Law on Public Order, the draft Law on Cybercrime, and the draft Law on Access to Information, and calls on the Government of Cambodia to repeal or reform these laws in line with international human rights standards.

Encourages the Government of Cambodia to take the necessary and appropriate measures to promote free, open, reliable, and secure access to the Internet, including through the repeal of the Sub-Decree on the Establishment of a National Internet Gateway.

PRESS FREEDOM

Journalists face many challenges in their work in Cambodia, and are often threatened, attacked, arrested, or silenced through the application of arbitrary criminal charges because of their journalism. Amid the COVID-19 pandemic, the space for press freedom in Cambodia has continued to shrink, impeding the ability of independent journalists to operate freely and inform the public.

Cambodian authorities have actively discouraged and obstructed independent journalism over the last year. In December 2020, the Information Ministry reacted to criticism of the government's response to

¹² Khuon Narim, Gov't says draft access to information law delayed by COVID-19 pandemic, *Cambodia*, 6 January 2021, available at: <https://cambodianews.com/govt-says-draft-access-to-information-law-delayed-by-covid-19-pandemic/>.

¹³ See, ARTICLE 19, Cambodia: Access to Information Bill falls short, 11 December 2019, available at: <https://www.article19.org/resources/cambodia-access-to-information-bill-falls-short/>; and Cambodian Center for Human Rights (CCHR), Access to Information in Cambodia, 28 September 2020, available at: <https://cchrcambodia.org/admin/media/newsletter/newsletter/english/infographic-of-A2I-in-English.pdf>.

the COVID-19 pandemic by threatening journalists with legal action.¹⁴ The Ministry accused journalists of spreading ‘fake news’, not accurately conveying the governments’ efforts, and causing fear and confusion among the public. In January 2021, Information Minister Khieu Kanharith threatened journalists with arrest for reporting or collecting information in ‘prohibited areas’.¹⁵ The same month, Phnom Penh Municipal Police Chief, Sat Thet, issued a directive barring journalists from filming or recording police officers investigating criminal offences.¹⁶ In May 2021, Cambodian authorities placed a *de facto* ban on independent reporting in Phnom Penh’s red zones—areas deemed to be high risk for COVID-19 transmission—by permitting only state media or journalists invited by the government.¹⁷ Following viral livestream footage from multiple Facebook news outlets of long queues of COVID-19 patients outside government treatment centres, the Ministry of Information issued a letter warning journalists not to disseminate information that could ‘provoke turmoil in society’ and threatened legal action against those who disobey.¹⁸ In July 2021, three reporters who were questioned for their coverage of a protest over a land dispute in Phnom Penh, accepted wrongdoing for starting ‘filming too early’, capturing footage of protesters ‘shouting and yelling’.¹⁹ This suggests the authorities’ continued harassment of journalists for legitimate journalistic activities is blurring the general understanding of the boundaries of lawful journalism and leading to self-censorship.

Violence against journalists

Throughout 2020, at least 12 journalists were physically attacked.²⁰ For example, on 28 September 2020, four journalists were assaulted by assailants they recognised as timber traders in Tboung Khmum province.²¹ The journalists, who work for *PMN News*, *Chakrapop News*, and *Eysan Post*, believe the attack was in retaliation for their reporting of an incident of illegal logging to the police two days prior. Additionally, on 29 September 2020, one journalist died in what police claimed to be a traffic accident, while others speculated that his death could have been an extrajudicial killing.²² In 2021 this pattern of violence has continued with at least three recorded incidents of violence against journalists in the first three months alone.²³ For example, in March 2021 Pran Sean, a journalist and publisher for digital news outlet *Anachak Khmer*, was beaten at night as he slept in a hammock outside a temple.²⁴ Sean believes that it was a premeditated attack by illegal loggers in retribution for writing articles about illegal timber trading. In addition to physical violence, threats of attack and death

¹⁴ Khy Sovuthy, Government alleges misconduct among journalists, greenlights legal action, *CamboJA*, 8 December 2020, available at: <https://cambojanews.com/government-alleges-misconduct-among-journalists-greenlights-legal-action/>.

¹⁵ Khy Sovuthy, Reporters remain unclear on scope of police powers in news directive on interference by media, *CamboJA*, 6 February 2021, available at: <https://cambojanews.com/reporters-remain-unclear-on-scope-of-police-powers-in-new-directive-on-interference-by-media/>.

¹⁶ Buth Reaksmeay Kongkea, Journalists barred from filming or recording police investigations, *KhmerTimes*, 25 January 2021, available at: <https://www.khmertimeskh.com/50806487/journalists-barred-from-filming-or-recording-police-investigations/>.

¹⁷ Mech Dara, Red-Zone News Reporting Is Invite-Only: Information Ministry, *VOD*, 3 May 2021, available at: <https://vodenglish.news/red-zone-news-reporting-is-invite-only-information-ministry/>.

¹⁸ Khuon Narim, Information Ministry warns journalists against ‘ambulance chasing’ after video of long waits for COVID-19 patients goes viral, *CamboJA*, 4 May 2021, available at: <https://cambojanews.com/information-ministry-warns-journalists-against-ambulance-chasing-after-video-of-long-waits-for-covid-19-patients-goes-viral/>.

¹⁹ Mech Dara, Three Journalists Detained, Educated for Covering Boeng Tompun Dispute, *VOD*, 22 July 2021, available at: <https://vodenglish.news/three-journalists-detained-educated-for-covering-boeng-tompun-dispute/>.

²⁰ *CamboJA*, Cambodian Journalism Situation Report 2020, March 2020, available at: <https://www.camboja.net/wp-content/uploads/2021/03/Cambodian-Journalism-Situation-Report-2020.pdf>.

²¹ Khuon Narim, Journalists attacked after reporting forestry crime, *CamboJA*, 30 September 2020, available at: <https://cambojanews.com/journalists-attacked-after-reporting-forestry-crime/>.

²² CCHR, International Day to End Impunity for Crimes against Journalists, 1 November 2020, available at: https://cchrcambodia.org/media/files/press_release/784_idteifcaje_en.pdf.

²³ Vann Vichar, Journalist beaten as he slept outside temple, *VOD*, 16 March, 2021, available at: <https://vodenglish.news/journalist-beaten-as-he-slept-outside-temple/>; and Va Sopheanut, Two journalists were beaten while covering a game venue, *VOD*, 1 April 2021, available at: <https://vodkhmer.news/2021/04/01/two-journalists-beaten-by-gamblers/>.

²⁴ Vann Vichar, Journalist Beaten as He Slept Outside Temple, *VOD*, 16 March 2021, available at: <https://vodenglish.news/journalist-beaten-as-he-slept-outside-temple/>.

threats are routinely used against journalists to silence them with nine such threats recorded in 2020.²⁵

Prosecution of journalists

Throughout 2020, four journalists were arrested (Sovann Rithy, Sok Oudom, Ros Sokhet, and Keo Hour) on incitement charges, three of whom were later convicted.²⁶ Courts handed down harsh and disproportionate sentences to Rithy, Oudom, and Sokhet, likely to cultivate self-censorship among independent media. Additionally, the judiciary continued its harassment of two former *Radio Free Asia* reporters, Yeang Sothearin and Uon Chhin, through seemingly never-ending criminal proceedings.²⁷ Concerningly, a letter from the Ministry of Information dated 6 July 2021 empowers local authorities to independently pursue legal action against journalists that they deem are unprofessional or spreading false information.²⁸

The case of Sovann Rithy

On 8 April 2020, Sovann Rithy, director of online news outlet *TVFB*, was arrested under a charge of incitement to commit a felony for quoting, on Facebook, the Prime Minister's statement that motorcycle taxi drivers should sell their motorbikes to combat financial difficulties during COVID-19. A day later *TVFB*'s media license was revoked, and its website blocked by the Ministry of Information. The Phnom Penh Municipal Court convicted Rithy of incitement under Articles 494 and 495 of the Cambodian Criminal Code on 5 October 2020.²⁹ After spending six months in pre-trial detention Rithy was handed down a sentence of 18 months imprisonment, with the remainder suspended, and he was released. Rithy subsequently won the Deutsche Welle annual freedom of speech award in 2020 for his devotion to media freedom in Cambodia.³⁰

The case of Sok Oudom

On 22 December 2020, the Kampong Chhnang Provincial Court convicted Sok Oudom, the owner of *Rithisen* radio station, with incitement to commit a felony under Articles 494 and 495 of the Criminal Code for his comments during a radio broadcast of a protest over a land dispute involving military officials in Phnom Oral Wildlife Sanctuary, Kampong Chhnang Province.³¹ Oudom had been in pre-trial detention since his arrest on 13 May 2020. He was sentenced to 20 months in prison and given a fine of 20 million riels (approximately 5,000 USD).³² *Rithisen*'s radio and news website licenses were revoked for alleged 'exaggerated news reporting', and its website was blocked. Oudom is well known for reporting on prolonged land disputes between local farming communities and powerful district officials.

²⁵ *CamboJA*, Cambodian Journalism Situation Report 2020, March 2020, p.11, available at: <https://www.camboja.net/wp-content/uploads/2021/03/Cambodian-Journalism-Situation-Report-2020.pdf>. See for example, Khut Sokun, Journalist Says He Was Threatened After Covering Land Clearing Case, *VOD*, 4 August 2021, available at: <https://vodenglish.news/journalist-says-he-was-threatened-after-covering-land-clearing-case/>.

²⁶ 57 non-governmental organisations, Cambodia's Government Should Stop Silencing Journalists, Media Outlets, 2 November 2020, available at: <https://www.article19.org/resources/cambodias-government-should-stop-silencing-journalists-media-outlets/>.

²⁷ CCHR, Three Years of Judicial Harassment for Former Radio Free Asia Journalists, November 2020, available at: [https://cchrcambodia.org/admin/media/newsletter/newsletter/english/2020-11-14_RFA%20Timeline_Eng%20\(1\).pdf](https://cchrcambodia.org/admin/media/newsletter/newsletter/english/2020-11-14_RFA%20Timeline_Eng%20(1).pdf).

²⁸ Sorn Sarath, Ministry of Information empowers local authorities to take legal action against journalists, *CamboJA*, 6 July 2021, available at: <https://cambojanews.com/ministry-of-information-empowers-local-authorities-to-take-legal-action-against-journalists/>.

²⁹ Soun Narin, Online Journalist Convicted and Given Suspended Sentence for Quoting Hun Sen, *VOA*, 5 October 2020, available at: <https://www.voacambodia.com/a/online-journalist-convicted-and-given-suspended-sentence-for-quoting-hun-sen/5609194.html>.

³⁰ Deutsche Welle, Deutsche Welle Freedom of Speech Award: 17 laureates from 14 countries, 3 May 2020, available at: <https://amp.dw.com/en/deutsche-welle-freedom-of-speech-award-17-laureates-from-14-countries/a-53306033>.

³¹ Committee to Protect Journalists, Cambodia sentences journalist Sok Oudom to 20 months in prison, 22 December 2020, available at: <https://cpj.org/2020/12/cambodia-sentences-journalist-sok-oudom-to-20-months-in-prison/>.

³² Cheath Chamnan, Kampong Chhnang court sentenced Sok Oudom, *RFA*, 22 December 2020, available at: <https://www.rfa.org/khmer/news/human-rights/sok-oudom-sentenced-20-months-in-prison-12222020111736.html>.

The case of Ros Sokhet

On 11 November 2020, the Phnom Penh Municipal Court convicted journalist and publisher of the *Khmer Nation* newspaper, Ros Sokhet, with incitement to commit a felony under Articles 494 and 495 of the Criminal Code for allegedly posting critical remarks about government officials on his Facebook page.³³ One such post criticised the Prime Minister for not offering solutions to people struggling to pay off their debts amid the COVID-19 crisis. Another alleged misconduct by the Prime Minister's son-in-law. Sokhet was sentenced to 18 months in prison and given a fine of 2 million riels (approximately 500 USD). At the time of writing, he remains in detention where he has been since his arrest on 25 June 2020.³⁴

The case of Keo Hour

On 7 August 2020, Kampong Chhnang officials arrested Keo Hour, a journalist for *Sneha Cheat* news website. The following day the Kampong Chhnang Provincial Court charged him with incitement under Articles 494 and 495 of the Criminal Code and sent him to pre-trial detention at Kampong Chhnang provincial prison. Keo Hour had reported on the same land dispute at Phnom Oral Wildlife Sanctuary in Kampong Chhnang province as Sok Oudom. Keo Hour was subsequently released on bail following a period of pre-trial detention.

The case of Yeang Sothearin and Uon Chhin

Yeang Sothearin and Uon Chhin, former reporters for *Radio Free Asia*, continue to face unfounded charges over three and a half years since their arrest.³⁵ The pair were arrested in November 2017 and charged with supplying a foreign state with information prejudicial to Cambodia's national defence (Article 445 of the Criminal Code). In March 2018, they were further charged with production of pornography under Article 39 of the Law on the Suppression of Human Trafficking and Sexual Exploitation. The pair were held in pre-trial detention for over nine months before being released on bail in September 2018, in what the UN Working Group on Arbitrary Detention deemed an arbitrary deprivation of liberty.³⁶ The verdict faced multiple delays, and on 3 October 2019 the Phnom Penh Municipal Court called for further investigation instead of declaring a verdict. The failure to reach a verdict is indicative of a lack of credible evidence against the pair and as such illustrates that there is insufficient evidence to hold them criminally liable. Both the Court of Appeal and the Supreme Court rejected Yeang Sothearin and Uon Chhin's appeals against the decision to re-investigate both charges.

Media license revocation

Between 1 April 2020 and 31 March 2021, the government has revoked the licenses of nine media outlets. Five of them were revoked based on allegations that they spread misinformation about or caused chaos during the COVID-19 pandemic.³⁷ Two were terminated after the news websites'

³³ Sun Narin, Cambodia Convicts Journalist for Criticizing Hun Sen, VOA, 16 November 2020, available at: <https://www.voanews.com/press-freedom/cambodia-convicts-journalist-criticizing-hun-sen/>; and Committee to Protect Journalists, Cambodia jails journalist Ros Sokhet for criticizing Prime Minister Hun Sen, 13 November 2020, available at: <https://cpj.org/2020/11/cambodia-jails-journalist-ros-sokhet-for-criticizing-prime-minister-hun-sen/>.

³⁴ Khuon Narim, Newspaper publisher charged over social media posts, *CamboJA*, 29 June 2020, available at: <https://cambojanews.com/newspaper-publisher-charged-over-social-media-posts/>.

³⁵ CCHR, Three Years of Judicial Harassment for Former Radio Free Asia Journalists, November 2020, available at: [https://cchrcambodia.org/admin/media/newsletter/newsletter/english/2020-11-14_RFA%20Timeline_Eng%20\(1\).pdf](https://cchrcambodia.org/admin/media/newsletter/newsletter/english/2020-11-14_RFA%20Timeline_Eng%20(1).pdf).

³⁶ UN Human Rights Council, Opinion No. 3/2019 concerning Uon Chhin and Yeang Sothearin (Cambodia), UN Doc. A/HRC/WGAD/2019/3, 29 May 2018, available at: https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session84/A_HRC_WGAD_2019_3.pdf.

³⁷ Khy Sovuthy, Chinese-language editor to be deported over "fake news" vaccine sales, *CamboJA*, 25 February 2021, available at: <https://cambojanews.com/chinese-language-editor-to-be-deported-over-fake-news-vaccine-sales/>; Khy Sovuthy, Information Ministry advisor stripped of position, news outlet license, *CamboJA*, 15 March 2021, available at: <https://cambojanews.com/information-ministry-advisor-stripped-of-position-news-outlet-license/>; and Nath Sopheap, Ministry revokes two media licenses on the grounds of serious professional abuse, VOD

owners were charged with incitement, the first for quoting a comment made by Prime Minister Hun Sen,³⁸ and the second for reporting on a land dispute involving powerful individuals.³⁹ The license of one outlet was withdrawn for allegedly ‘affecting public order’.⁴⁰ Another outlet lost its license based on an accusation that it was ‘affecting Buddhism as the state religion’.⁴¹

ARTICLE 19 suggests the following new OP:

Calls on the Government of Cambodia to ensure a safe and enabling environment for journalists, other media workers, and human rights defenders, including those covering environmental issues, and to immediately and unconditionally release those who have been arbitrarily arrested or detained.

EXPRESSION ABOUT THE ENVIRONMENT AND CAMBODIA’S BORDER

Environmental activists harassed

The case of Mother Nature

Environmental rights group Mother Nature and its members have long faced harassment from authorities. Mother Nature Cambodia decided to de-register in September 2017, citing judicial harassment of its members. However, Mother Nature activists continue their environmental activism as a movement of concerned citizens. In a press release dated 7 September 2020, the Ministry of Interior labelled the organisation as ‘illegal’ and called for authorities to take legal measures against its members. In 2020, multiple Mother Nature environmental campaigns were shut down by authorities, including a bicycle ride campaign⁴² and a gallery viewing to raise awareness of Koh Kong Krao Island and call for it to be classified as a protected national sea park to preserve its natural resources.⁴³

In May 2021, five Mother Nature activists were convicted for their involvement in planning a one-woman march from Wat Phnom to the Prime Minister’s residence to share concerns over the filling-in of Boeung Tamok Lake.⁴⁴ Their convictions rested upon writing and sharing a social media post stating the plans for the one-woman march. Three of the activists—Long Kunthea, Phuon Keo Reaksmey, and Thun Ratha—were arrested in September 2020 and sent to Prey Sar Prison for pre-trial detention, while the other two—Chea Kunthin and Mother Nature co-founder Alejandro Gonzalez-Davidson, a Spanish national who was deported for his activism in 2015—were convicted *in absentia*. All five defendants were convicted of incitement to commit a felony under Articles 494 and 495 of the

Khmer, 26 March 2021, available at: <https://vodkhmer.news/2021/03/26/ministry-of-information-revokes-license-of-two-online-media-outlet-for-spreading-fake-news/>.

³⁸ Sun Narin, Online Journalist Charged with Incitement for Reporting Hun Sen’s Comments, VOA, 9 April 2020, available at: <https://www.voacambodia.com/a/online-journalist-charged-with-incitement-for-reporting-hun-sen-s-comments/5365676.html>.

³⁹ Sun Narin, Kampong Chhnang Radio Owner Charged for “Incitement”, VOA, 15 May 2020, available at: <https://www.voacambodia.com/a/kampong-chhnang-radio-owner-charged-for-incitement/5421115.html>.

⁴⁰ Chhengpor Aun and Mony Say, Amid Backsliding on Press Freedoms, Phnom Penh Calls for ‘Professional’ Reporting’, VOA, 2 May 2020, available at: <https://www.voanews.com/press-freedom/amid-backsliding-press-freedoms-phnom-penh-calls-professional-reporting>.

⁴¹ Sun Narin, Online Publication Shut Down for Criticizing Monk Beatings in Siem Reap, VOA, 19 March 2021, available at: <https://www.voacambodia.com/a/online-publication-shut-down-for-criticizing-monk-beatings-in-siem-reap/5820896.html>.

⁴² 100 organisations and communities, With No Will to Amend, LANGO Must Be Repealed, 10 February 2020, available at: <https://www.voacambodia.com/a/koh-kong-police-block-mother-nature-environmental-campaign/5447613.html>.

⁴³ Khun Narin, Demonstration for conservation of Koh Kong island shut down, *CamboJA*, 23 June 2020, available at: <https://cambojanews.com/demonstration-for-conservation-of-koh-kong-island-shut-down/>.

⁴⁴ World Organisation Against Torture, Cambodia: Sentencing of five environmental activists, 6 May 2021, available at: <https://www.omct.org/en/resources/urgent-interventions/cambodia-sentencing-of-five-environmental-activists>.

Criminal Code, with Gonzalez-Davidson being convicted of incitement by accomplice, and each was sentenced to between 18 and 20 months in prison. In July 2021, Long Kunthea, Phuon Keo Reaksmey, and Thun Ratha—who all remain imprisoned under their incitement convictions—had additional charges of plotting (Article 453) imposed on them.⁴⁵ If convicted they each face up to ten years in prison. The new charges are believed to be in connection with a second case involving Mother Nature activists who were arrested in June 2021 (see below).⁴⁶

On 16 June 2021, four Mother Nature activists were arrested. Sun Ratha, Ly Chandaravuth, and Seth Chhivlimeng were arrested in Phnom Penh where earlier that morning they had been shooting video footage in front of the Royal Palace to document the discharge of raw sewage into the Tonle Sap River. Yim Leanghy was arrested on the same day in Kandal province. All four activists were taken for questioning at the Anti-Cyber Crime Department. Chhivlimeng was released by the National Police after being questioned for 18 hours. On 20 June 2021, the remaining three detained activists were brought to the Phnom Penh Municipal Court where they were formally charged with plotting under Article 453 of the Criminal Code⁴⁷ and insulting the king (*lèse majesté*) under Article 437(*bis*).⁴⁸ Chandaravuth was charged under Article 453 only. A fourth activist, Gonzalez-Davidson, was charged *in absentia* under Articles 453 and 437(*bis*). On 21 June, Ratha, Chandaravuth, and Leanghy were sent to Prey Sar Correctional Centers 1 and 2 in Phnom Penh, for pre-trial detention.

A spokesperson for the National Police, Chhay Kimkhoun, stated that the activists were indicted for using foreign funds to topple the government, not for their environmental activism. On 22 June, government mouthpiece *Fresh News* accused Mother Nature of using the guise of environmentalism to plot against the country and posted a video of an apparent Zoom meeting between Mother Nature members which is believed to be evidence that will be used against the activists during trial.⁴⁹ In the video, individuals alleged to be the indicted activists use disrespectful language to refer to the King and the Prime Minister and discuss a cartoon of Prime Minister Hun Sen wearing a crown in the National Assembly.

The case of Prey Lang Community Network

Police have hindered the efforts of activists from the Prey Lang Community Network (PLCN), a grassroots movement working to document illegal logging and deforestation in Prey Lang Forest, which spans Kratie, Stung Treng, Preah Vihear, and Kampong Thom provinces.⁵⁰ The Ministry of Environment has labelled the community-based organisation as illegal because it is not registered under the controversial Law on Associations and Non-Governmental Organisations (LANGO)⁵¹ and has accused the group of having a political agenda.⁵² In February 2020 the Ministry of Environment imposed a ban on PLCN, preventing PLCN activists from patrolling the core area of the forest, and

⁴⁵ LICADHO, Imprisoned Activists Face New Charges in Plotting Case, 21 July 2021, available at: https://www.licadho-cambodia.org/flashnews.php?perm=288&english&fbclid=IwAR21knPsXIGZTmXVIApJw4r6ilym5bAbiDtxccxihNzU3g_flin3XOI6i.

⁴⁶ Khy Sovuthy, Three convicted Mother Nature activists handed an additional plotting charge, *CamboJA*, 21 July 2021, available at: <https://cambojanews.com/three-convicted-mother-nature-activists-handed-an-additional-plotting-charge/>.

⁴⁷ Article 453: Plotting 'consists of a resolution agreed upon by two or more persons to commit an attack where the resolution was put into effect by one or more material actions'.

⁴⁸ Article 437 (*bis*) prohibits anyone from defaming, insulting or threatening the King through 'any speeches, gestures, scripts/writings, paintings or items that would affect the dignity of the King'.

⁴⁹ Video available on *Fresh News* TV Facebook account: https://www.facebook.com/watch/?v=346703053635914&_rdc=1&_rdr.

⁵⁰ See, Human Rights Watch, Cambodia: Environmental Activists Harassed, 20 March 2020, available at: <https://www.hrw.org/news/2020/03/20/cambodia-environmental-activists-harassed>.

⁵¹ Despite the LANGO's definition of 'association' being exceptionally broad, potentially imposing mandatory registration on every informal group in Cambodia, including community-based organisations (CBOs), in a letter to the Cambodian Center of Human Rights, dated 22 September 2015, the Ministry of Interior indicated that the LANGO should not apply to small CBOs.

⁵² Thorn Tharo, Prey Lang community demand ministry of environment to show evidence, *RFA*, 9 February 2020, available at: <https://www.rfa.org/khmer/news/environment/PreyLangs-requires-MoE-for-evidence-accusing-for-political-reasons-02092020035005.html>.

has threatened them with arrest.⁵³ Monthly forest patrols are a core aspect of PLCN's fight against deforestation, and Prey Lang communities are concerned that without their presence in the forest illegal logging will increase. While attempting to patrol the forest to prevent illegal activity, PLCN has been repeatedly blocked by local authorities and barred entry to the forest.⁵⁴ PLCN's annual tree-blessing ceremony was also blocked in 2020 by armed authorities under the justification that prior permission had not been given to enter the protected area.⁵⁵

In June 2021 the United States announced its withdrawal of 100 million USD of funding from the Cambodian government's 'Greening Prey Lang Project', stating that the decision was due in part to the harassment of environmental activists.⁵⁶ The funds are being redirected to local groups working on environmental protection instead.

The case of Ouch Leng

Four environmental activists, including Goldman Environmental Prize-winner Ouch Leng, were arrested on 13 March 2020 while investigating illegal logging inside Prey Lang Wildlife Sanctuary.⁵⁷ Private company Think Biotech Cambodia Co. Ltd. detained the four under allegations of trespass. Company security guards held them on company territory before handing them over to district police. One activist was beaten by the guards. After two days of questioning by Kratie Provincial Court, the four were released without charge.⁵⁸ However, the court decided to temporarily suspend the activities of the Cambodian Human Rights Task Force run by Leng, citing the organisations' lack of registration under LANGO.

Similarly, on 5 February 2021, Leng and four other environmental activists were arrested by authorities after they entered Prey Lang Forest to collect illegal logging evidence and to put up banners reading 'Please help preserve our forests.'⁵⁹ They were released on 8 February 2021 after they agreed to sign two contracts promising to ask permission before entering the protected forest and banning them from circulating information without permission.⁶⁰

Expression about the Cambodia-Vietnam border

In recent years there has been a concerted effort to silence all expression about Cambodia's border with Vietnam. In 2020, Prime Minister Hun Sen warned that authorities would arrest those who raised the issue of lost territory between Cambodia and Vietnam, stating "everyone who talks about that issue will be arrested for a red-handed crime."⁶¹

⁵³ Cheat Chamnan, Environmental Activists said they threaten to arrest by environmental official, *RFA*, 10 February 2020, available at: <https://www.rfa.org/khmer/news/environment/forest-protection-activists-says-environment-official-threatens-them-02112020070436.html>.

⁵⁴ Danielle Keeton-Olsen and Hun Sirivadh, Officials Block Prey Lang Activists Form Forest Ahead of Annual Event, *VOD*, 21 February 2020, available at <https://vodenglish.news/officials-block-prey-lang-activists-from-forest-ahead-of-annual-event/>.

⁵⁵ LICADHO, Prey Lang Community Members Blocked By Authorities, 21 February 2020, available at: <https://www.licadho-cambodia.org/flashnews.php?perm=276>.

⁵⁶ U.S. Mission Cambodia, U.S. Embassy Phnom Penh Statement on the USAID Greening Prey Lang Funding Redirect, 17 June 2021, available at: <https://kh.usembassy.gov/u-s-embassy-phnom-penh-statement-on-the-usaid-greening-prey-lang-funding-redirect/>.

⁵⁷ Son Khemara, Ouch Leng And Three Environmental Activists Detained in Kratie, Being Questioned by Court, *VOA*, 16 March 2020, available at: <https://www.voacambodia.com/a/ouch-leng-and-three-environmental-activists-detained-in-kratie-being-questioned-by-court-5330378.html>.

⁵⁸ Pech Sotheary, Court frees activists over trespassing allegation, *Khmer Times*, 17 March 2020, available at: <https://www.khmertimeskh.com/50702363/court-frees-activists-over-trespassing-allegation/>.

⁵⁹ *RFA*, Authorities Release Five Cambodian Activists Detained Days For Entering Forest Without Permission, 8 February 2021, available at: <https://www.rfa.org/english/news/cambodia/release-02082021175436.html>.

⁶⁰ Tran Techseng, After Release, Ouch Leng Alleges He Saw Convoys Taking Prey Lang Wood, *VOD*, 9 February 2021, available at: <https://vodenglish.news/after-release-ouch-leng-alleges-he-saw-convoys-taking-prey-lang-wood/>.

⁶¹ Khuon Narim, Activist demand Rong Chhun's release despite Hun Sen's arrest threat, *CamboJA*, 25 August 2020, available at: <https://cambojanews.com/activists-demand-rong-chhuns-release-despite-hun-sens-arrest-threat/>.

At least three arrests were made in 2020 for expression about the border. President of the Cambodian Confederation of Unions, Rong Chhun, was arrested for a statement he made concerning the Cambodia-Vietnam border on 31 July 2020.⁶² He was subsequently charged with incitement to cause social unrest under Article 495 of the Criminal Code. At the time of writing, he remains in pre-trial detention. Soung Sophorn, President of the Khmer Win Party, was arrested for allegedly distorting information related to border issues.⁶³ He was convicted of incitement to commit a felony in February 2021 and sentenced to 20 months in prison.⁶⁴ On 4 September 2020, Kea Sokun, a 22-year old rapper, was arrested in Siem Reap and charged the next day with incitement to commit a felony or cause social unrest under Articles 494 and 495 of the Criminal Code in connection with his song 'Dey Khmer'—Khmer Land. The song, which had more than 1.5 million views on YouTube at the time of his arrest, spoke about Cambodia's borders and corruption throughout the country. Kea Sokun was convicted in December and sentenced to 18 months imprisonment, with six months suspended.⁶⁵

As above, ARTICLE 19 suggests the following new OP:

Calls on the Government of Cambodia to ensure a safe and enabling environment for journalists, other media workers, and human rights defenders, including those covering environmental issues, and to immediately and unconditionally release those who have been arbitrarily arrested or detained.

ARTICLE 19 also recommends maintaining references to the Law on Associations and Non-Governmental Organisations as in A/HRC/RES/42/37.

ONLINE EXPRESSION AND SURVEILLANCE

Over the past two years, the Cambodian government has increasingly restricted Internet freedom and targeted individuals responsible for critical online commentary. Social media users in particular have become the focus of criminal charges for expressing opinions online. Users of Facebook,⁶⁶ YouTube,⁶⁷ and TikTok⁶⁸ have experienced judicial harassment for their online expression. In 2019, Interior Minister Sar Kheng assigned a working group of 14 members to monitor the Facebook page of Prime Minister Hun Sen to identify users who make 'undesirable' comments, illustrating the government's concerted effort to increase its policing of social media platforms. In February 2021, the Information Ministry announced that it was expanding its online monitoring activities to include TikTok as well as closed-sourced platforms such as WhatsApp, Messenger, and Telegram.⁶⁹

⁶² Niem Chheng, Union leader charged for 'fake' border news, *Phnom Penh Post*, 2 August 2020, available at: <https://www.phnompenhpost.com/national/union-leader-charged-fake-border-news>.

⁶³ Khan Leakhena, Police Arrest Politician Over Support for Border Comments, *VOD*, 14 August 2020, available at: <https://vodenglish.news/police-arrest-politician-over-support-for-border-comments/>.

⁶⁴ Ouch Sony, 20 Months Jail, \$500,000 in Damages for Politician in Rong Chhun Case, *VOD*, 10 February 2021, available at: <https://vodenglish.news/20-months-jail-500000-in-damages-for-politician-in-rong-chhun-case/>.

⁶⁵ Prak Chan Thul, Cambodia court jails rappers for rhymes inciting crimes, *Reuters*, 22 December 2020, available at: <https://www.reuters.com/article/us-cambodia-rappers/cambodia-court-jails-rappers-for-rhymes-inciting-crimes-idUSKBN28W0YB>.

⁶⁶ See, Hul Reaksmeay, Family at Risk After Arrest of Cambodian Woman for 'Sexy' Online Sales, *VOA Khmer*, 10 March 2020, available at: <https://www.voacambodia.com/a/family-at-risk-after-arrest-of-cambodian-woman-for-sexy-online-sales/5322573.html>.

⁶⁷ See, Mech Dara, Siem Reap provincial court sentenced two rappers, *VOD*, 22 December 2020, available at: <https://vodkhmer.news/2020/12/22/siemreap-provincial-court-sentence-two-youths-who-sing-rap-in-prison/>.

⁶⁸ See, National Police, A Tik Tok user question at national police, 6 July 2020, available at: <https://phnompenhpolice.com/social-security/2170.html>.

⁶⁹ *UCA News*, Cambodia expands monitoring of 'fake news', 19 January 2021, available at: <https://www.ucanews.com/news/cambodia-expands-monitoring-of-fake-news/91186#>.

In May 2021, the government also demanded the immediate cessation of social media posts intended to ‘provoke and create chaos’ in the context of the COVID-19 pandemic, referring to such posts as ‘acts of attack’ that must be punished.⁷⁰ Cambodian authorities have arrested dozens of individuals for expressing critical opinions about the government’s COVID-19 response online, including at least seven individuals for their criticism of the government’s vaccination campaign.⁷¹ One Chinese journalist, Shen Kaidong, was subsequently deported for publishing an alleged ‘fake news’ story in which multiple Chinese nationals reported receiving a text offering them the Sinopharm vaccine for a service fee.⁷² On 15 July 2021, a second journalist, Kao Piseth, was arrested and charged with incitement to commit a felony and ‘obstruction’ under Article 11 of the COVID-19 Law for posts on Facebook criticising the efficacy of Chinese-made vaccines and accusing the government of having a political motive in using them.⁷³ Authorities have also prosecuted at least three individuals under the COVID-19 Law—Korng Sambath, Nov Kloem, and Pann Sophy—for posting TikTok videos criticising the use of Chinese-made vaccines.

Article 97 of the Law on Telecommunications permits the surveillance of private communications without judicial oversight, garnering concern about the law being misused by authorities to silence dissenting voices. Such concerns have come to fruition. Kong Bunheang and Hang Seng, both former political opposition members, were arrested on 17 and 18 October 2020, respectively, and charged with insulting the King for comments they made during a private phone call with one another. A recording of the conversation was used to convict the pair in March 2021.⁷⁴ The authorities have also utilised their surveillance powers to monitor private communications between citizens regarding COVID-19 and collect evidence for use in criminal proceedings.⁷⁵

In a survey taken in September and October 2020, 40% of civil society organisation and trade union leaders reported that their organisations had experienced monitoring or surveillance by the government in the last year.⁷⁶ In 2021, additional episodes of suspected surveillance by authorities have been reported. As mentioned above, a video of a Zoom meeting that appears to be between Mother Nature activists was leaked online. It is not known how the video was obtained. It was first reported on by government mouthpiece *Fresh News*, linking to a Facebook account called ‘Kamchatchunkbot’ (defeat the traitor) that published the video.⁷⁷ Government spokesperson Phay Sipphan stated that he did not know how the conversation became public.⁷⁸ Additionally, on 24 June 2021, the 16-year-old son of a former Cambodia National Rescue Party (CNRP) official was arrested

⁷⁰ Government Spokesperson Unit, Press Release, *Fresh News*, 1 May 2021, available at: <http://freshnewsasia.com/index.php/en/localnews/196108-2021-05-01-08-27-47.html>.

⁷¹ See, Nhim Sokhorn and Samoeun Nicseybon, Two Deaths Rules Unrelated to Vaccine, Covid; Two Arrested Over Posts, *VOD*, 2 March 2021, available at: <https://vodenglish.news/two-deaths-ruled-unrelated-to-vaccine-covid-two-arrested-over-posts/>.

⁷² Sun Narin, Cambodia Deports Chinese Journalist Over Vaccine for Sale Story, *VOA*, 3 March 2021, available at: <https://www.voacambodia.com/a/cambodia-deports-chinese-journalist-over-vaccine-for-sale-story-5800111.html>.

⁷³ Khuon Narim, Online journalist charged with the incitement after criticizing Chinese vaccines, *CambodiaJA*, 16 July 2021, available at: <https://cambodianews.com/online-journalist-charged-with-the-incitement-after-criticizing-chinese-vaccines/>; and Mech Dara, Jailed Journalist Slapped With Incitement, Covid-19 Law Charges, *VOD*, 16 July 2021, available at: <https://vodenglish.news/jailed-journalist-slapped-with-incitement-covid-19-law-charges/>.

⁷⁴ Andrew Nachemson and Kong Meta, Cambodia’s digital surveillance serves to silence the opposition and suppress criticism of the government, *Post Magazine*, 19 October 2019, available at: <https://www.scmp.com/magazines/post-magazine/long-reads/article/3033508/cambodias-digital-surveillance-serves-silence>; and Ouch Sony, Two Ex-CNRP Members Sentenced for Insulting King in Private Call, *VOD*, 3 March 2021, available at: <https://vodenglish.news/two-ex-cnrp-members-sentenced-for-insulting-king-in-private-call/>.

⁷⁵ Sen David, Kandal man questioned over alleged fake news distribution, *Khmer Times*, 27 March 2020, available at: <https://www.khmertimeskh.com/50706332/kandal-man-questioned-over-alleged-fake-news-distribution/>.

⁷⁶ CCHR, ADHOC, Solidarity Center, and ICNL, Cambodia Fundamental Freedoms Monitor: Fifth Annual Report, April 2021, p.18, available at: <https://cchrcambodia.org/admin/media/report/report/english/CCHR%20FFMP%20Report%20Year%205%20Apr%20Dec%202020%20Eng.pdf>.

⁷⁷ Video available on Fresh News TV Facebook account: <https://www.facebook.com/watch/?v=346703053635914&rdc=1&rdi>.

⁷⁸ Sorn Sarath and Sam Sopich, Digital surveillance increasingly used to oppress civil society, rights groups say, *CambodiaJA*, 28 June 2021, available at: <https://cambodianews.com/digital-surveillance-increasingly-used-to-oppress-civil-society-rights-groups-say/>.

for audio messages he sent on the messaging app Telegram that allegedly insulted public officials.⁷⁹ He was subsequently charged with incitement and insulting public officials and has been denied bail.⁸⁰ Civil society has expressed its concern at this emerging pattern of surveillance and the impact it is having on the right to privacy.

ARTICLE 19 suggests amending the existing OP33:

Expresses concern at the reported general reluctance among many people to speak out in public for fear of arrest and surveillance, and the limited number of peaceful assemblies and demonstrations allowed in accordance with the Law on Peaceful Demonstration, and encourages the Government of Cambodia to continue to take action to promote the rights and dignity of all Cambodians by protecting civil and political rights online and offline, including freedom of opinion, expression and privacy, in accordance with the historical context of Cambodia, and to this end to ensure that all laws are interpreted and applied in a judicious manner so as to promote economic, social and cultural rights in accordance with the rule of law.

PEACEFUL PROTESTERS

Assembly interference, use of state force, and arrest of protesters

ARTICLE 19 has witnessed a worrying increase in interference with peaceful assemblies in Cambodia—including through the use of state force. According to the Cambodia Fundamental Freedoms Monitor, throughout 2020 there were at least 14 incidents of unlawful use of state force.⁸¹

Rong Chunn protests

The arrest of Rong Chunn (see above), caused an eruption of assemblies calling for his release. Individuals including monks, youths, environmental activists, and other union leaders held numerous peaceful protests which were dispersed by police officers using excessive force. In August and September 2020, 17 individuals were arrested for participating in, planning to participate in, or organising protests demanding the release of Rong Chhun.⁸² The arrested individuals are: former CNRP officials – Uk Sam Aun, Chhin Sovanna, Chhou Pheng, Chum Puthy, and Sar Kanika; environmental activists and brothers – Chum Huot and Chum Hour; Khmer Thavrak activists – Svay Samnang, Yornng Sok Hai, Chea Kunthin, Hun Vannak, Chhoeun Daravy, Buddhist Monk Venerable Koet Saray, Tha Lavy, and So Metta (also known by Eng Malai); and Khmer Student Intelligent League Association members – Mean Prommony and Mounng Sopheak. Ten of these individuals remain in pre-trial detention, having been repeatedly denied bail, awaiting trial for charges of incitement to commit a felony under Articles 494 and 495 of the Criminal Code.⁸³

⁷⁹ Khuon Narim, Former CNRP official's son arrested on charge of incitement in Telegram chat, *CamboJA*, 25 June 2021, available at: <https://cambojanews.com/former-cnrp-officials-son-arrested-on-charge-of-incitement-in-telegram-chat/>.

⁸⁰ Khan Leakhena, Appeal Court Denies Bail for Son of Jailed CNRP Official, *VOD*, 3 August 2021, available at: <https://vodenglish.news/appeal-court-denies-bail-for-son-of-jailed-cnrp-official/>.

⁸¹ CCHR, ADHOC, Solidarity Center, and ICNL, Cambodia Fundamental Freedoms Monitor: Fifth Annual Report, April 2021, p.24, available at: <https://cchrcambodia.org/admin/media/report/report/english/CCHR%20FFMP%20Report%20Year%205%20Apr%20Dec%202020%20Eng.pdf>.

⁸² CCHR, Crackdown of Arrests, September 2020, available at: https://cchrcambodia.org/admin/media/newsletter/newsletter/english/Crackdown%20of%20Arrests-ENG_Final.pdf.

⁸³ Human Rights Watch, Political Prisoners Cambodia, 24 January 2020, available at: <https://www.hrw.org/video-photos/interactive/2020/01/24/political-prisoners-cambodia>.

The ‘Friday Women’

Family members of detained CNRP activists have been protesting for their relatives’ release in front of the Phnom Penh Municipal Court most Fridays since 19 June 2020, garnering them the name the ‘Friday Women’. The protests, comprised mostly of female protesters, have been heavily monitored and security forces have frequently interfered violently with these peaceful assemblies. Assembly monitors have documented peaceful protesters being shoved, kicked, and dragged across the pavement by armed security forces. At one protest by the Friday Women on 4 September 2020, Seng Chanthorn, the wife of a detained former-CNRP official, was thrown to the ground by district security guards resulting in hospitalisation.⁸⁴ The Cambodia Fundamental Freedoms Monitor documented that the rate of unlawful use of state force against assemblies organised by the Friday Women was much higher (43%) than the ordinary rate of unlawful state violence for assemblies (11%).⁸⁵

The Paris Peace Agreements protests

On the 29th Anniversary of Paris Peace Agreements Day, 23 October 2020, violence was used by authorities against peaceful protestors gathering near the Chinese Embassy for the purpose of calling for China to respect the spirit of the Paris Peace Agreements. Three individuals—Lim San, Yoy Srey Mom, and Ton Nimol—were forcefully arrested and sent to pre-trial detention.⁸⁶ Over the subsequent days four more individuals were arrested: Pai Ren, An Hong, Sat Pha, and San Srey Neath and charges of incitement to commit a felony were imposed on all seven plus Ho Vann and San Seihak who remain at large. All nine are former-CNRP members or activists. On 2 August 2021, the nine activists were convicted by the Phnom Penh Municipal Court and sentenced to between 12 and 20 months in prison each.⁸⁷ The crackdown on this assembly also involved interference with journalists documenting the event, with one journalist having his camera confiscated and multiple threatened with the same. There was a stark inconsistency in the actions of the authorities that day; while one assembly outside the Chinese Embassy was broken up using force and threats against protestors, journalists, and monitors, assemblies taking place outside the US and French embassies were not impeded. This lack of equality also highlights the political sensitivity regarding Cambodia’s strengthening relationship with China.

Protest prohibitions

On 3 August 2020, the Ministry of Justice issued a press release stating that that, ‘People gathering in front of the Phnom Penh Court of First Instance to demand the release of the accused, Rong Chhun, is against the law’.⁸⁸ Such accusation of illegality violates the right to freedom of assembly. The Ministry stated its aim was to protect ‘judicial integrity’. The press release declared that the exercise of freedom of assembly in front of a Court to demand the release of a detainee is a crime under Article 522 of the Criminal Code, ‘Publication of commentaries intended to unlawfully coerce judicial authorities’. Article 552 prohibits commentaries that are intended to ‘put pressure on the court...in order to influence its judicial decision’ and carries a prison term of up to six months. The press release seems to be espousing an interpretation of Cambodian law that criminalises all future assemblies in

⁸⁴ Joshua Lipos, Cambodian Opposition Activist’s Wife Hospitalized After Authorities Disperse Protest, *RFA*, 4 September 2020, available at: <https://www.rfa.org/english/news/cambodia/wife-09042020135412.html>.

⁸⁵ CCHR, ADHOC, Solidarity Center, and ICNL, Cambodia Fundamental Freedoms Monitor: Fifth Annual Report, April 2021, p.24, available at: <https://cchrcambodia.org/admin/media/report/report/english/CCHR%20FFMP%20Report%20Year%205%20Apr%20Dec%202020%20Eng.pdf>.

⁸⁶ Khy Sovuthy and Khuon Narim, Three CNRP activists arrested in Paris Peace Agreements demonstration, *CambodiaJA*, 23 October 2020, available at: <https://cambojanews.com/three-cnrp-activists-arrested-in-paris-peace-agreements-demonstration/>.

⁸⁷ Son Minea, Court sentences protesters to 12-20 months in prison, *Khmer Times*, 4 August 2021, available at: <https://www.khmertimeskh.com/50907959/court-sentences-protesters-12-20-months-in-prison/>.

⁸⁸ Ministry of Justice, Press Release from the Spokesperson of the Ministry of Justice, 3 August 2020, available at: <https://opendevelopmentcambodia.net/announcements/press-release-ministry-of-justice-calls-on-protesters-requesting-the-ministry-to-drop-the-charge-against-rong-chhun-to-stop-action-immediately-before-authorities-take-legal-action/>.

front of a Court calling for the release of an accused person, amounting to a blanket ban on such assemblies.

The Cambodian government's response to the COVID-19 pandemic has had a severe impact on the right to freedom of assembly. The government has repeatedly justified its restrictions on protest activities based on the supposed goal of promoting public health and curbing the COVID-19 pandemic. In practice such prohibitions have been both unnecessary and disproportionate to the aim of protecting public health, as demonstrated by the prohibition of Human Rights Day celebrations in 2020.⁸⁹ Six UN Special Procedure Mandates have expressed concern over the government's 'apparent attempts to incite fear amongst human rights defenders', including by criminalising the means through which they carry out their work, such as organising and participating in peaceful demonstrations.⁹⁰

During the pandemic the government imposed strict lockdowns on certain 'red zones' in Phnom Penh deemed to be high risk for COVID-19 transmission. Residents in red zones were prohibited from leaving their homes for any purpose except medical emergencies. As a result, many experienced food insecurity and voiced their desperation at food shortages.⁹¹ Spontaneous protests erupted within red zones, and the Prime Minister responded by threatening to deny food aid to those protesting.⁹² During one red zone protest on 29 April 2020, residents held signs reading, 'We are starving'.⁹³ In response, the local commune chief labelled protesters as an 'opposition group', accused them of not being poor, denied that the residents were in fact hungry, and chastised them for giving authorities 'headaches'.⁹⁴ On 1 May a spokesperson of the Council of Ministers called those claiming to be hungry 'liars',⁹⁵ and local authorities dismissed protesters asking for food as 'politically motivated'.⁹⁶

ARTICLE 19 suggests the following new OP:

***Expresses deep concern* regarding the instances in which protests have been met with repression, including the unlawful use of force by law enforcement officials and arbitrary arrest and detention, and calls on the Government of Cambodia to uphold the right to peaceful assembly in line with international human rights obligations and its Constitution.**

⁸⁹ CCHR, ADHOC, Solidarity Center, and ICNL, Cambodia Fundamental Freedoms Monitor: Fifth Annual Report, April 2021, p.27, available at: <https://cchrcambodia.org/admin/media/report/report/english/CCHR%20FFMP%20Report%20Year%205%20Apr%20Dec%202020%20Eng.pdf>.

⁹⁰ Six UN Special Procedure Mandates, Information received concerning the detention of and charges against Cambodian human rights defenders, AL KHM 8/2020, 10 November 2020, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25670>.

⁹¹ Amnesty International, Cambodia: Authorities must avert COVID-19 humanitarian crisis, 30 April 2021, available at: <https://www.amnesty.org/en/latest/news/2021/04/cambodia-humanitarian-crisis-covid/>.

⁹² Ramsmei Kampuchea Daily, available at: https://www.facebook.com/watch/live/?v=143168371088354&ref=watch_permalink.

⁹³ *Khmer Times*, Red Zone residents in Meanchey District gather to demand for immediate food assistance, defying curfew and lockdown measures, 30 April 2021, available at: <https://www.khmertimeskh.com/50848522/red-zone-residents-in-meanchey-distict-gather-to-demand-for-immediate-food-assistance-defying-curfew-and-lockdown-measures/>.

⁹⁴ Mech Dara, Red-Zone Residents Protest for Food, Official Labels Them 'Opposition Group', VOD, 29 April 2021, available at: <https://vodenglish.news/red-zone-residents-protest-for-food-official-labels-them-opposition-group/>.

⁹⁵ Phorn Bopha, Mounting desperation in Cambodia amid COVID lockdown, *AlJazeera*, 2 May 2021, available at: <https://www.aljazeera.com/news/2021/5/2/mounting-desperation-in-cambodia-amid-covid-lockdown>.

⁹⁶ Hul Reaksmey, Phnom Penh Administration Dismisses Food Shortage Concerns in Red Zones, VOA, 7 May 2021, available at: <https://www.voacambodia.com/a/phnom-penh-administration-dismisses-food-shortage-concerns-in-red-zones-/5881862.html>.