



Submission to the UN Universal Periodic Review of Cambodia
For consideration at the 18th session of the UN working group in 2014

24 June 2013

Introduction

1. The Cambodian Center for Human Rights (CCHR), PEN International, Cambodian PEN, International Publishers Association (IPA), ARTICLE 19, the Cambodian Center for Independent Media (CCIM), the Committee for Free and Fair Elections in Cambodia (COMFREL) and the Southeast Asian Press Alliance (SEAPA) welcome the opportunity to contribute to the second cycle of the UPR process of the Kingdom of Cambodia (Cambodia). This submission focuses on Cambodia’s compliance with its international human rights obligations in respect to freedom of expression.
2. Rather than improving, the human rights situation in Cambodia has continued to deteriorate since 2009, and in particular we are concerned about the state of freedom of expression. Since Cambodia’s last UPR review, the Royal Government of Cambodia (RGC) has continued to stifle free expression and to suppress dissent with impunity. The RGC routinely targets journalists, non-governmental organizations (NGOs) and human rights defenders (HRDs) with legal and physical threats, which instill a deep sense of fear within the population and create a climate of self-censorship. This submission will examine the following key issues:
 - Legislation restricting the right to freedom of expression and information
 - Freedom of information law
 - Freedom of media
 - Freedom of the Internet
 - Freedom peaceful assembly and association

Legislation restricting the right to freedom of expression and information

3. Despite guarantees within the Cambodian Constitution of the right to freedom of expression (Article 41) and the right to political participation (Article 35), and recognition by the Constitutional Council in 2007 that international human rights treaties form part of domestic law, several Cambodian national laws actively restrict the right to freedom of expression, with vague and overboard language that allows for their arbitrary enforcement against critics of the government.

4. A number of provisions of Cambodia's 2009 Criminal Code (the Penal Code) are also used to stifle criticism of the government. **Defamation** remains a criminal offense (Article 305), despite long-standing promises from Prime Minister Hun Sen that he would decriminalize defamation.¹ Penalties include significant fines, and non-payment of fines can result in prison sentences under Article 525 of the Code of Criminal Procedure of the Kingdom of Cambodia. In January 2011, human rights worker Sam Chankea was found guilty of defamation and ordered to pay a hefty fine as a result of speaking out about a land conflict during a radio interview. The Cambodian authorities regularly threaten those who speak out with defamation and related charges, even if these charges are ultimately not followed through.
5. In February 2012, NGO worker Soum Chankea was summoned for questioning relating to a potential charge of **slandorous denunciation** (under Article 311 of the Penal Code). The potential charge came as a result of a complaint by a powerful and well-connected individual, Oum Socheath – the head of a provincial branch of the Cambodian Mine Action Center. Oum Socheath had been accused of sexual harassment by a waitress and Soum Chankea had assisted the waitress in filing a complaint against him. As a result, Oum Socheath filed a counter complaint against Soum Chankea, but it was eventually dropped by the Prosecutor on 8 May 2012.
6. Article 502 of the Penal Code criminalizes **insult addressed to a public official acting on behalf of his or her office**, and Article 523 outlaws **discrediting judicial decisions**. Both provisions severely restrict the right to freedom of expression, and contradict the principle that public officials, including the judiciary, should legitimately be subject to criticism and political opposition and tolerate higher level of scrutiny than ordinary citizens. These provisions are contrary to Cambodia's constitutional and international obligations, and have a chilling effect on freedom of expression in the country.
7. Article 495 of the Penal Code – **incitement to commit a felony** – is regularly abused in order to silence human rights defenders, NGO workers and other individuals/groups that speak out against the authorities or that attempt to educate the Cambodian public on their human rights. Ou Virak, president of CCHR, was summoned for questioning by the Ratanakkiri Provincial Court in October 2012 on bogus charges of inciting members of an ethnic minority group to violently protest a land eviction. The complaint dated back to CCHR human rights training activities held in the area in 2009. Two other human rights workers were also summonsed on the same charge, as well as a journalist based in Ratanakkiri (in the Northeast of Cambodia) who had been reporting on the land conflict, Ratha Visal.
8. The crime of “**disinformation**”- under Article 62 of the United Nations Transitional Authority in Cambodia Criminal Code (the UNTAC Code) - continues to be abused by the judiciary as a tool to stifle freedom of expression. On 23 September 2010, political opposition leader Sam Rainsy was charged with disinformation for disseminating a map that was purported to show evidence of Vietnamese border incursions. As a result, the Phnom Penh Court of First Instance ruled that Sam Rainsy was guilty of damaging the reputation of the ruling party. Combined with additional charges of forging public documents, Rainsy was sentenced to a total of ten years in prison. In addition, he was ordered to pay 5 million riels in fines and 60 million riels in compensation to the state.² With the enactment of the Penal Code in December 2010, many of the UNTAC Code provisions were suspended. However, the crime of disinformation continues to apply under the UNTAC Code because it has not

¹ CCHR, 'An Overview of Cambodian Laws Relating to Freedom of Expression and a Summary of Recent Case Examples to Show how Laws are Used and Abused to Stifle Dissent'

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&anid=23&id=5>

² CCHR, 'Analysis of the Legal Grounds for Conviction and the Fairness of Judicial Proceedings in the Criminal Cases Against Sam Rainsy' (February 2011)

<http://www.ifex.org/cambodia/2012/11/22/cambodia_cchr_legal_analysis_sam_rainsy_charges_feb2011.pdf>

been expressly repealed. Maximum penalties provided for disinformation under the UNTAC Code include imprisonment for 3 years and a fine of 10 million riels.³

9. In June 2013, the RGC passed the **Denial of Crimes Committed During Democratic Kampuchea Law** (the Khmer Rouge Crimes Denial Law), which imposes penalties of up to two years' imprisonment and up to \$1000US in fines for denying crimes that were committed under the Khmer Rouge. Holding an individual criminally liable for denials of historical events amounts to an unacceptable restriction on the right to freedom of expression. Considering the lack of a pressing social need for the suppression of historical debate, the law is not necessary in a democratic society.
10. The Khmer Rouge Crimes Denial Law is widely seen as yet another tool to silence dissent and also a way for the ruling party to score points before the National Elections on 28 July. It is worth noting that the Law was hurriedly drafted in response to alleged comments made by acting opposition leader Kem Sokha, and was debated and passed one week later in parliament. There were no opposition parliamentarians present to debate the law as they had recently been stripped of their positions based on a vague provision in the Law on the Election of the Members of the National Assembly. The provision pertains to the fact that the parliamentarians joined a new party – the Cambodian National Rescue Party (CNRP) – when the two main opposition parties formed an alliance. It states that when a parliamentarian leaves a party, he/she should be replaced by another candidate from that party up to six months before a national election. In this case the CNRP candidates were removed from their positions only eight weeks before the election and it remains unclear whether removing these elected representatives from parliament was in any way justified under the law.

Freedom of Information Law

11. The RGC have **failed to adopt a Freedom of Information law** (FoI) to implement the constitutional right to information, despite commitments dating back to 2007. This is in spite of the political opposition submitting draft FoI laws to the National Assembly in 2010, 2012, and 2013. The last draft was dismissed by the ruling party on the basis that it was unconstitutional, despite international experts finding it to contain many of the main features of an effective FoI law.

Freedom of the media

12. In the previous UPR cycle, the RGC committed to ensuring freedom of expression and press freedom, however, neither are a reality in Cambodia despite guarantees of these rights under the Constitution (Article 41).
13. Throughout all of 2012 and 2013 there has been a notable crackdown on media freedom, connected to the desire of the RGC to control media content in the run up to the commune elections (held in June 2012) and the upcoming National Assembly elections, to be held in July 2013.

Media ownership and lack of independence from government influence

³ CCHR, 'An Overview of Cambodian Laws Relating to Freedom of Expression and a Summary of Recent Case Examples to Show How Laws are Used and Abused to Stifle Dissent' (Briefing Note) (30 October 2012) <http://sithi.org/temp.php?url=publication_detail.php&mid=5989>

14. Print media, radio and television are subject to the most stringent levels of **control and censorship** in Cambodia. All 11 Cambodian television stations, most radio stations, and the foremost Cambodian newspapers are either owned or controlled by the current ruling party, the Cambodian People's Party (CPP), or individuals aligned with the ruling party,⁴ thereby ensuring the RGC's control over the dissemination of information.⁵
15. Given the concentration of print media to urban centers within Cambodia, the radio is very important in reaching rural communities. Of the 160 radio stations officially registered with Cambodia's Ministry of Information,⁶ most are CPP-influenced.⁷ There are only three independent radio stations in the country – Sahrika, Beehive and Voice of Democracy.
16. United States-funded news agencies Radio Free Asia (RFA) and Voice Of America (VOA) were summoned to a closed-door meeting with the RGC in October 2012 to discuss the stations' goals, news content and professionalism. Both outlets are a rare source of independent Khmer-language news in Cambodia. An RGC spokesperson said that the meeting was an attempt to gain "*cooperation*" from the news agencies, which rent radio airtime from independent radio stations and also publish English and Khmer language news online.

Lack of plurality in election coverage/unequal access to media by political parties

17. The Committee for Free and Fair Elections in Cambodia found that during the commune election period (18 May – 4 June 2012), the CPP was the only party of the 10 contesting the elections to receive any positive coverage in the media, while the SRP and the Human Rights Party (HRP) were the only parties that received negative coverage. The CPP received 7,412 minutes of broadcasting coverage, of which 70 minutes were positive and the remainder was neutral. The SRP, on the other hand, received 5,009 minutes of coverage, of which none was positive, 283 minutes were negative and the remainder was neutral. Likewise, the opposition HRP received 5,857 minutes of coverage, of which none was positive, 848 minutes were negative and the remainder was neutral. The SRP and the HRP are the main opposition parties, which formed an alliance in 2012 to form the new CNRP.
18. Similar unequal and unfair media coverage of opposition parties can be seen in the run up to the National Assembly elections scheduled for 28 July 2013. For example, on the morning of 20 May 2013 the CNRP held a mass demonstration in Phnom Penh's Freedom Park to call for reforms to the National Election Committee. Approximately 3,000 party supporters attended and marched through the city to the European Union Delegation where acting leader Kem Sokha met with the EU ambassador. Despite its significance, the demonstration was mysteriously absent from the majority of news reported that day and the next day.⁸ According to one reporter working for a Khmer language newspaper, he had written an article about the demonstration, which was uploaded onto the newspaper's website but then mysteriously removed not long after. On the contrary, negative claims about the CNRP instigated by the CPP, are widely disseminated.

⁴ The Committee on Free and Fair Election in Cambodia (COMFREL), *Cambodian Democracy, Elections and Reform: 2009 Report* (February 2010) <www.comfrel.org/images/others/1265785063Comfrel-Cambodia%20Democratic%20Reform%202009-En-Final.pdf>.

⁵ CCHR, 'New Media and the Promotion of Human Rights in Cambodia' (Report) (July 2012) 6 <www.cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=79&id=5>.

⁶ CCIM, 'Challenges for Independent Media Development in Cambodia (Report) (March 2013) 10 <<http://www.ccimcambodia.org/reports/38-challenges-for-independent-media-development-in-cambodia-report>>

⁷ CCHR and others, 'Cambodia gagged: Democracy at Risk?' (Report) (September 2010) 20 <www.article19.org/data/files/pdfs/publications/cambodia-gagged-democracy-at-risk-pdf>.

⁸ Kuch Naren and Lauren Crothers, "News of Opposition Met with Media Blackout", *The Cambodia Daily* (22 May 2013) <<http://www.cambodiadaily.com/news/news-of-the-opposition-met-with-media-blackout-25858/>>

19. During the commune elections, the Ministry of Information ordered five radio stations to cease airing programming by VOA and RFA, two independent broadcasters that often disseminate news critical of the RGC. Voice of Democracy's independent Sarika FM was one of the stations shut down during this time.

Restrictive Press Law

20. At Cambodia's 2009 UPR, the RGC accepted the recommendation to ensure freedom of expression and opinion by amending the press law. However, the Press Law of 1995 has not yet been amended and therefore continues to place additional constraints on the free expression of journalists.

21. Provisions of particular concern under the Press Law include several articles imposing impermissible content restrictions. This includes content that:

- “may affect the public order by inciting directly one or more persons to commit violence” (Article 11);
- “may cause harm to the national security and political stability” (Article 12); or
- affects “the good custom of society” (Article 14).

22. All of the provisions involve financial sanctions and Article 12, if breached, allows for the possibility of suspending publications for up to 30 days without opportunity to appeal.

23. These provisions are vague and are therefore open to arbitrary enforcement. Moreover, “*political stability*” and “*the good custom of society*” are not legitimate bases for restricting the right to freedom of expression under international law. There is also no “*pressing social need*” to create separate content-based speech offences for the media as opposed to laws of general application.

24. The Penal Code itself also establishes a “carve-out” with regards to the application of criminal sanctions where the media are charged with defamatory offenses. Articles 306, 308 and 49 stipulate that defamation, public insult and incitement, when perpetrated by professionals working in print media, should be prosecuted under the Press Law. However, it remains to be seen how these provisions will be applied in practice and one regular complaint from media professionals is that the provisions of the Penal Code are used to threaten them and restrict their work, instead of the less harsh Press Law provisions.

25. The Press Law must be amended to remove content-based restrictions, both in the civil and criminal law. There is no pressing social need in a democratic society to provide content-based restrictions beyond those of general application to media and non-media alike.

Threats against the media

26. In the previous UPR cycle, the RGC accepted the recommendation to adopt legislative measures to protect journalists. Since then, there have been numerous attempts to restrict traditional media through the use of threats and intimidation aimed at journalists, editors and media outlets. Between January 2010 and April 2013, 85 cases of media harassment, including arrests of journalists, prevention of reporters from entering public events, confiscating or damaging journalists' property, criminal charges and even violence, were reported.⁹

27. Mam Sonando, owner of independent radio station Beehive, was found guilty of incitement and insurrection on 1 October 2012 and sentenced to 20 years in prison. The lack of evidence to warrant a conviction indicates that he

⁹ See CCHR Media Harassment Map: http://www.sithi.org/temp.php?url=jour_case.php&.

was targeted as a result of the critical stance of radio Beehive in reporting independent news, and of Mam Sonando's role as a journalist and human rights defender.¹⁰ The charges against Mam Sonando were reduced to a five year suspended sentence on appeal, in March 2013. However, he remains under judicial supervision.

28. Hang Serei Odom was a reporter for a small provincial publication, *Vorakchun Khmer*, in Ratanakkiri who was reported to have been found bludgeoned to death in the trunk of his car on 11 September 2012. Hang Serei Odom had reported on illegal logging in the area and its links to powerful public officials. The investigation into his murder resulted in the charging of two individuals; however it is believed by rights organizations working in the province that there were more people involved. The investigation was recently deemed inadequate by a judge at the provincial court and the case has since been reopened. Hang Serei Odom was the 11th Cambodian journalist killed, seemingly on account of his work, since 1994. All the other cases have been met with impunity.
29. Harassment of the press has contributed to the emergence of a culture of self-censorship among media professionals, who avoid publishing information that the RGC may consider "offensive" or politically sensitive.¹¹ Observers have noted that there is an active policy on the part of publishers and editors to cover less sensitive and often less interesting stories "*in order to stay out of harm's way.*"¹²
30. Publishers and authors operate in a similarly repressive environment and exercise self-censorship. In July 2010, Cambodian Education Minister, Im Sethy, banned volumes of a high school textbook, because it was deemed unsuitable due to its "political" content, including references to corruption in government and human rights abuses inhibiting development. Following the ban, author Pen Puthspha received death threats and was forced to go into hiding. He subsequently fled the country and remains in exile.

Freedom of the Internet

31. In the previous UPR cycle, the RGC accepted the recommendation to develop an action plan for ensuring free access to electronic media and liberalizing electronic media rules. Internet connection has become significantly less expensive in recent years and the number of Internet Service Providers in Cambodia has now risen to 27. As a result, the Internet is being used more and more by journalists, NGOs, bloggers and others to discuss and disseminate information on social and political issues. The Internet has become a valuable tool for the promotion and protection of human rights in Cambodia and for encouraging political participation, especially amongst the youth.
32. Since 2009, there have been increased attempts by the RGC to censor online content and to restrict Internet access. In May 2012, the RGC announced that it was in the process of drafting a Cyber Law in order to prevent "*ill-willed people...from spreading false information.*"¹³ The draft law has not been made public, and there has been no consultation with civil society regarding its drafting. It is therefore not clear what kind of provisions it will contain, although it is widely expected to contain restrictive provisions for freedom of expression.

¹⁰ For more detail on the case see CCHR, 'Legal Analysis of the Charging and Sentencing of Cambodian Journalist and Human Rights Defender Mam Sonando' (February 2012)

http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&anid=33&id=5

¹¹ Supra note 7.

¹² 'Soldiers for free speech' *The Phnom Penh Post*, 6 January 2010.

¹³ The ill-willed" spark cyber law: officials' *The Phnom Penh Post* (24 May 2012)

www.phnompenhpost.com/2012052456372/National/the-ill-willed-spark-cyber-law-officials.html

33. On 19 January 2011, BlogSpot sites in Cambodia were blocked following an order from the Ministry of Interior to all Cambodian Internet Service Providers. The sites, including controversial blog KI-Media, which regularly posts harsh criticisms of the RGC and of the Prime Minister himself, were inaccessible to users of EZECOM service provider for a number of weeks. In February 2011, there was a new wave of blockages affecting KI-Media, Khmerization – a similar blog – and the blog of Khmer political cartoonist Sacrava, as well as five others. On 10 February 2011, So Khun, Minister for Post and Telecommunications, met with mobile phone operators to seek their “*cooperation*” in blocking certain sites that “*affect Khmer morality and tradition and the government*”. The blockage of the above websites, although it was short-lived (approximately three weeks for the majority of Internet providers), was allegedly in response to a KI-Media posting from December 2010 that referred to key RGC officials as “*traitors*”.
34. Phel Phearun, a teacher, criticized the traffic police in a post on his Facebook account on 24 January 2012. His criticism attracted a lot of comments, leading to the post becoming an online commentary on police corruption in Cambodia. Approximately one month later, Phel Phearun received a letter from the Phnom Penh municipal police requesting that he appear for questioning regarding a potential defamation charge in relation to his Facebook activity. Although he was not charged, the police questioning was clearly an intimidation tactic to encourage self-censorship in future.

Freedom peaceful assembly and association

35. In the previous UPR cycle, the RGC agreed to respect the freedom of expression and association rights of NGOs. However, in 2011, the RGC drafted the **restrictive Law on Associations and Non-Governmental Organizations** (LANGO), which set out discriminatory criteria for foreign associations and NGOs, and established complex and onerous registration procedures. The draft also granted the RGC power to dissolve NGOs on various vague grounds that are open to broad interpretation and manipulation. The law was shelved at the end of 2011 as a result of national and international pressure, however it has not been completely dropped and there are fears that it will reappear on the legislative agenda after the 2013 National Assembly elections. Moreover, the RGC has not been discouraged from using other legal measures to silence NGOs and NGO staff members.¹⁴
36. One example of illegitimate restrictions of NGOs’ activities is the 6-month suspension imposed by the Ministry of Interior (MoI) on Cambodian land-rights NGO, Sahmakum Teang Tnaut (STT), in August 2011. Established in 2005, STT had been a vocal critic of land grabbing and forced evictions in Phnom Penh and the Cambodian provinces.¹⁵ According to the MoI, the suspension was due to STT’s failure to modify their leadership structure and revise their statutes - the MoI had directed STT to implement these reforms during a meeting on 14 July 2011. However, STT had followed these instructions within the time frame set by MoI and there is no existing law that establishes suspension on the grounds of procedural failure. The MoI offered an alternative explanation on 13 August and stated on their website that “*STT operated and incited people to oppose national development.*”¹⁶ STT reestablished operations after its six-month suspension.

¹⁴ CCHR, ‘LANGO 4th Draft Analysis’ (18 December 2011) <http://sithi.org/temp.php?url=publication_detail.php&mid=5081>

¹⁵ CCHR, ‘Suspension of Prominent Land Rights NGO Confirms Civil Society Fears Regarding Forthcoming NGO Law’ <http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=alert_detail.php&alid=5&id=5>

¹⁶ CCHR, ‘Case Study Series: Sahmakum Tean Tnaut (“STT”)’ (September 2011) <http://a4id.org/sites/default/files/CCHR_Case_Study_Factsheet_STT_Eng.pdf>

37. The authorities regularly disrupt legitimate NGO activities, such as trainings and meetings. In July 2012, a joint training on land rights organized by CCHR and the Cambodian Human Rights and Development Association (ADHOC) in Ratanakkiri province was broken up by the village and commune chiefs and several police officers, one of whom was carrying an M-16 rifle. CCHR and ADHOC originally ignored the disruption but when the authorities threatened staff safety, they decided to put an end to the meeting. This is only one example of what is a semi-regular occurrence. The Law on Peaceful Assembly adopted in 2009 exempts NGOs from having to seek permission for these types of training activities. Unfortunately local authorities often disregard the law, or are unaware of its provisions, and complain when NGOs do not ask their permission to carry out these activities in advance.

Judicial harassment of NGO workers under criminal law

38. In August 2012, a senior investigator at ADHOC, Chan Soveth, was summoned for questioning by the Phnom Penh Municipal Court in relation to assistance he had provided to a man he believed to be a land rights activist. ADHOC received reliable information that if Chan Soveth appeared for questioning in August, he would have been arrested. They therefore requested that the questioning be delayed. Chan Soveth eventually appeared in front of the judge on 24 December 2012 and the charges against him were finally dropped on 8 February 2013. Nevertheless, the charges significantly impeded Chan Soveth's human rights work and served as a warning to other human rights workers in Cambodia.¹⁷ Chan Soveth is currently being investigated once again on charges of incitement based upon his human rights work investigating land grabbing in Pursat province.

Politically motivated charges against HRDs

39. While the authorities continue to judicially harass RGC critics using these restrictive and vague laws, more recently the charges brought against HRDs in attempt to silence them are not always directly related to their activities as HRDs, but are based on fabricated or exaggerated events.

40. In addition to the case of Mam Sonando, as mentioned above, housing rights activist Yorm Bopha, representative of the Boeng Kak community, is currently serving a two-year prison sentence as a result of her activism. Yorm Bopha was charged with "*intentional violence with aggravating circumstances*" under the Penal Code on 4 September 2012, in relation to an alleged assault on two motorbike drivers, which reportedly took place near to her house on 7 August 2012. Yorm Bopha became a thorn in the side of the authorities when she came to the forefront of a campaign to free thirteen of her fellow activists (the Boeng Kak 13) who were arrested, charged and convicted for peacefully protesting in May 2012. Yorm Bopha was frequently threatened by police and told that "*she would be next*" to be imprisoned. The case against Yorm Bopha was extremely weak: the prosecution witnesses and civil parties frequently contradicted each other and changed their stories, and yet these testimonies were the only proof of Yorm Bopha's alleged guilt.¹⁸ Despite a blatant lack of evidence against her, Yorm Bopha was convicted on 27 December 2013 and sentenced to three years in prison. On 13 June 2013 her conviction was upheld by the Court of Appeal in Phnom Penh and one year of her three year sentence was suspended. She was taken back to prison immediately to serve the remainder of her sentence.

Impunity for violence against HRDs

¹⁷ CCHR, 'CCHR Briefing Note-Freedom of Expression' (February 2013)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&anid=30&id=5>

¹⁸ For more detailed information on this case please see CCHR, "Legal Analysis of the Charging and Sentencing of Cambodian Land Rights Activist Yorm Bopha" (June 2013)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&anid=35&id=5>

41. One of the most significant cases of **violence against HRDs** and NGO workers in recent years is the murder of prominent Cambodian grassroots environmental activist Chut Wutty, Director of the Natural Resources Protection Group, who was fatally shot in Koh Kong province by military police while photographing illegal logging on 26 April 2012. Chut Wutty was escorting two journalists from The Cambodia Daily to an illegal logging site when his vehicle was stopped by military police, who ordered him to hand over the memory card from his camera; he refused to do so, and was shot dead. A military policeman, In Rattana, was also killed by gunfire in the incident.
42. There has been no thorough investigation into the killing of Chut Wutty. Instead, the court proceedings that followed centered only on the death of In Rattana, who had been blamed for shooting Chut Wutty before he himself was killed. On 22 October 2012, the Koh Kong provincial court judge concluded that In Rattana had been killed by a shot from his own rifle during a struggle with a private security guard employed by Timber Green Logging Co., who was found to be attempting to disarm In Rattana. The security guard was sentenced to two years in prison with three-quarters of the sentence suspended.

Recommendations

43. **Based upon the above observations, CCHR, PEN International, Cambodian PEN, IPA, ARTICLE 19, CCIM, COMFREL and SEAPA call upon the Cambodian government to significantly improve the overall conditions for freedom of expression in the country. In order to do so, the RGC should:**
- *Amend unconstitutional laws that violate the right to freedom of expression:*
 - Review all laws affecting freedom of expression for compliance with the Constitution and international standards. Those that fail to meet the standards should be repealed or amended as necessary to remedy the problem;
 - Decriminalize defamation (Article 305 of the Penal Code);
 - Repeal the offence of the undermining of dignity of holders of public office (Article 502) and the discrediting of judicial decisions (Article 523) as these are incompatible with international freedom of expression standards;
 - Amend provisions in the Penal Code relating to malicious denunciation (Article 311) and incitement to commit crimes (Article 495) in order to clear up vague terminology and to ensure that these provisions may not be misused to stifle legitimate expression;
 - Prevent all public bodies from bringing defamation actions, either through criminal complaints or through civil actions;
 - Repeal all content-based offences in the Press Law.

 - *Set up the infrastructure for and adopt comprehensive freedom of information law and policies:*
 - Commit to debating the draft FoI law proposed by the SRP at the National Assembly, and ensure the meaningful participation of civil society in this process;
 - Ensure that the FoI law complies with international standards on the right to freedom of information;
 - Ensure that the FoI law applies to all branches and levels of government, including the judiciary, as well as private bodies carrying out public functions or receiving public funds;
 - Ensure that journalists have access to important public information from government bodies and that this information is delivered in a timely manner;
 - Ensure that all Ministries and public bodies respect the principle of maximum disclosure (presumption that all information held by public bodies should be subject to disclosure and that this presumption may be overcome

only in very limited circumstances) and obligation to publish (to disseminate widely documents of significant public interest, subject only to reasonable limits based on resources and capacity).

- *Ensure the independence of media from political influence, ensure editorial independence, and promote media pluralism:*
 - Ensure the independent regulation of broadcast media;
 - Allow self-regulation of the printed media independent of government influence in order to bring about a pluralistic media environment and to promote professionalism and impartiality in journalists and other media professionals;
 - Commit to opening up media licensing in order to increase plurality of media ownership;
 - Repeal content-based restrictions in the Press Law and guarantee editorial independence;
 - Ensure equal access to the media of political parties in order to allow for free and fair elections to take place.

- *Stop harassment of journalists, media workers and human rights defenders and end impunity for violations:*
 - Address the current pattern of harassment of NGO workers, writers, journalists and HRDs and take effective measures to prevent violence and harassment against them.
 - Tackle impunity in cases of harassment of NGO workers, writers, journalists and HRDs: when such acts of violence or harassment do occur, ensure that all cases are speedily, independently and effectively investigated and that perpetrators and instigators are brought to justice;

- *Promote Internet freedom:*
 - Actively work to increase access to the Internet in Cambodia, reducing prices and ensuring the necessary infrastructure exists in more remote areas;
 - Seek civil society input on the Cyber Crimes Law and ensure that the law complies with international human rights standards and does not contain any vague or restrictive provisions that could jeopardize online freedom;
 - Refrain from blocking websites, which should always be considered a disproportionate measure because of associated risks of over blocking. In addition, and in any event, any such order should be made, if at all, only by a court or other independent adjudicatory bodies.

- *Respect the right to freedom of assembly and association and recognize the importance of a diverse civil society in a democracy:*
 - Amend the LANGO and abolish restrictive and onerous regulations and registration provisions, which could stifle smaller local organizations, as well as international organizations operating in Cambodia;
 - Ensure that the LANGO is clearly worded and specifically sets out the grounds on which an organization could be denied registration. There should also be a provision to allow all organizations – local and international – to appeal decisions to reject their registration, based on objective criteria;
 - Ensure that the authorities are aware that no permission is needed for CSOs to hold meetings/forums/workshops and that they should be allowed to do so freely.