

DEFENDING THE DEFENDERS: Security for Cambodian Human Rights Defenders

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#798, St.99, Boeng Trabek, Chamkarmon, P.O.Box: 2515, Phnom Penh, Cambodia
T +855 23 726 901 F +855 23 726 902 E info@cchrcambodia.org



Free Word Centre, 60 Farringdon Road, London, EC1R 3GA
T +44 20 7324 2500 F +44 20 7490 0566 E info@article19.org

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This Human Rights Defenders Risk Analysis (herein referred to as the “report”) is a product of cooperation between the Cambodian Center for Human Rights (CCHR) and ARTICLE 19. The report is a part of the larger CCHR Human Rights Defenders Project (HRD Project), which aims to complement and reinforce the existing civil society network in support of human rights defenders (HRDs) at risk and, where that support is not forthcoming or is deemed inadequate, to ensure that the necessary support can be secured from other partners, for example international organisations.

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CCHR is a leading, non-aligned, independent non-governmental organisation (NGO) that works to promote and protect democracy and respect for human rights in the Kingdom of Cambodia. Its vision is of a non-violent Cambodia in which people enjoy their fundamental human rights, are treated equally, are empowered to participate in democracy and share the benefits of Cambodia's development. CCHR desires rule of law rather than impunity; strong institutions rather than strong men; and a pluralistic society in which variety is harnessed and celebrated rather than ignored or punished. Its logo – a dove flying in a circle of blue sky – symbolises Cambodia's claim for freedom.

ARTICLE 19 was founded in 1987 as an organisation to defend the right to freedom of expression. ARTICLE 19 envisages a world where people are free to speak their opinions, to participate in decision-making and to make informed choices about their lives. It takes its name from Article 19 of the Universal Declaration of Human Rights (UDHR), which upholds the universal right to freedom of expression and opinion. With offices in Bangladesh, Brazil, Kenya, Mexico, Tunisia, Senegal and the UK, and in collaboration with 90 partners worldwide, ARTICLE 19 carries out campaigns and advocacy on freedom of expression and information.

Should you have any questions or require any further information about this report, or if you would like to give any feedback, please e-mail CCHR at info@cchrcambodia.org or ARTICLE 19 at info@article19.org.

This report, and all other publications by CCHR, is available on the CCHR website at www.cchrcambodia.org as well as on the award-winning human rights online portal, www.sithi.org, which is hosted by CCHR.

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Executive summary

The work of human rights defenders (HRDs) is invaluable for the overall realisation of human rights protection and promotion, and consists of gathering and disseminating information, advocacy, mobilisation of public opinion, empowerment and support of victims of human rights violations.¹ HRDs play an extremely important role in a democracy, encouraging political participation and pushing for good governance and transparency. The security situation and level of risk faced by Cambodian HRDs markedly deteriorated in 2012, a deterioration that continued into 2013. The Royal Government of Cambodia (RGC) has cracked down dramatically on the work of HRDs in the run up to the national elections in 2013. It is the aim of this report to outline the main security threats currently faced by HRDs in Cambodia, to analyse the overall level of risk posed by these various threats, and to provide recommendations in order to mitigate this risk and promote HRD security. The structure of the report is as follows:

Introduction and background: These sections introduce the overriding goals of the report and the major developments in Cambodia, as well as presenting a broad picture of the general human rights situation in Cambodia, and outlining the political and economic background against which this report is set.

International, regional and national legal standards: This section enumerates all the national, regional, and international laws and declarations applicable to HRDs in Cambodia. Some of these laws and declarations protect and promote the rights of HRDs, whereas several restrict the work of HRDs and jeopardise their protection.

Cambodian HRD risk assessment: This section is divided into two subsections. The concept of security in relation to HRDs is briefly introduced and then the first subsection (“Types of HRDs”) subsequently outlines threats faced by different groups of HRDs—opposition parliamentarians, lawyers, journalists/media professionals, grassroots activists, union activists, women land rights activists, NGO workers and NGOs. The second subsection (“Risk Assessment”) determines the risk faced by different groups of HRDs in Cambodia by looking at the different threats they face, deduced from the first subsection, and their vulnerabilities to these threats.

Conclusion and recommendations: The final section of this report provides a brief summary of the findings, and offers substantive recommendations to HRDs in Cambodia, human rights organisations, the Cambodian human rights community and the RGC, in order to improve the current security situation faced by HRDs in the country.

¹ OHCHR, ‘Human Rights Defenders: Protecting the Right to Defend Human Rights’ (Factsheet 29) <<http://www.ohchr.org/EN/PUBLICATIONSRESOURCES/Pages/FactSheets.aspx>>

Introduction

According to the United Nations (UN) Office of the High Commissioner for Human Rights (OHCHR), HRDs are those individuals, groups and organs of society that promote and protect universally recognised human rights and fundamental freedoms. HRDs seek the promotion and protection of civil and political rights as well as the promotion, protection and realisation of economic, social and cultural rights. HRDs also promote and protect the rights of members of groups such as indigenous communities. The definition does not include those individuals or groups who commit or propagate violence.²

The situation of human rights and fundamental freedoms in Cambodia, including the freedoms of thought, expression and association, is dire. The situation for HRDs is equally concerning. In 2012, the authorities continued to react harshly to the activities of HRDs including land and housing rights activists, trade unionists, journalists and NGO workers, using harassment, intimidation, violence and legal action to silence dissent. Despite requirements under international human rights law, as will be further explained below, no *independent*, national mechanism exists in Cambodia to protect and promote the rights of HRDs.³ NGOs provide some support to HRDs – including legal aid and humanitarian support – however NGOs have limited capacities and resources meaning that, in many cases of violations, especially those that occur in remote areas far from the capital of Phnom Penh, support for HRDs can be non-existent.

The security situation and level of risk faced by Cambodian HRDs markedly deteriorated in 2012. The RGC has cracked down dramatically on the work of HRDs in the run up to the national elections in July 2013.

This report was borne of a field visit to Cambodia by ARTICLE 19, and based on initial findings from interviews with HRDs carried out by ARTICLE 19 and CCHR during this visit, as well as extensive research carried out on the ground by CCHR. It is not intended to be a quantitative report on the security situation of HRDs in Cambodia, and therefore the cases described are not an exhaustive account of all forms of threats and risks faced by HRDs. Rather the cases used are a sample of a broader pattern of risks and threats, with the report providing a qualitative analysis of the general security situation.

The aim of this report is to outline the main security threats currently faced by HRDs in Cambodia, to analyse the overall level of risk posed by these various threats, and to provide recommendations to HRDs, the national and international human rights community, and the RGC in order to mitigate this risk and promote HRD security in the country.

² OHCHR, 'Declaration on Human Rights Defenders' (Commentary)
<<http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Declaration.aspx>>

³ CCHR, 'Institutions Series: National Human Rights Bodies in Cambodia' (Factsheet) (March 2012)
<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=factsheet_detail.php&fsid=38&id=5>

Background

Despite its violent past, Cambodia has experienced immense economic growth in the last ten years and a significant decline in poverty rates.⁴ However, underlying the appearance of progress is growing discontent at RGC economic policies that benefit an elite few and often come at the expense of working class Cambodians. The gap in wealth between the rich and poor has been increasing.⁵ Those in power continue to sell, often illegally, the country's land and natural resources to private, well-connected companies for short-term economic gain that carries serious long-term consequences for the Cambodian people.

One of the principal human rights issues in Cambodia, which heavily affects the work of HRDs, is the restriction placed on all types of freedom of expression. The ruling political party, the Cambodian People's Party (CPP), has little tolerance for criticism, a defining characteristic that has serious ramifications for freedom of expression and freedom of information in the country. The state apparatus in Cambodia, which includes the police, military, the judiciary and even the National Assembly, is utilised by top RGC officials and their business affiliates to silence critics.

The leader of the main opposition party, Sam Rainsy, is in self-imposed exile due to an 11-year prison sentence that he would have to serve upon his return to Cambodia.⁶ In 2010 he was found guilty of politically motivated charges of disinformation, forgery, damage to property and incitement to discrimination.⁷ In 2012 Sam Rainsy's name was removed from the voter list as a result of criminal charges against him, meaning that he is not officially permitted to participate in the upcoming national elections in July 2013.⁸

The media in Cambodia is heavily censored in favour of the CPP. All television stations, most radio stations, and the foremost Cambodian newspapers are either owned or controlled by the ruling party or individuals aligned with the ruling party,⁹ thereby ensuring the RGC's control over the dissemination of information, as well as over any form of opposition.¹⁰

It is estimated that since 2000, approximately 700,000 people have had their land grabbed or have been adversely affected as a result of economic land concessions (ELCs) granted

⁴ World Bank, 'Country Overview: Cambodia' (2011) <<http://www.worldbank.org/en/country/cambodia/overview>>

⁵ Cambodia Development Resource Institute (CDRI), 'Annual Development Review 2011-2012', (2012) 2 <<http://www.cdri.org.kh/webdata/download/adr/adr07e1112.pdf>>

⁶ "Sam Rainsy now faces a total of 11 years in prison as a result of three separate convictions. His longest sentence, ten years, was handed down last year after he was convicted in a pair of cases related to a protest he organized in 2009 against alleged Vietnamese encroachment. That sentence was reduced to 7 years in September 2011." LICADHO, "The Delusion of Progress: Cambodia's legislative assault on freedom of expression" (Report) (October 2011) <<http://www.licadho-cambodia.org/reports/files/162LICADHOREport-LegislativeAssaultFreedomExpression2011-English.pdf>> (October 2011)

⁷ See CCHR, "Analysis of the Legal Grounds for Conviction and the Fairness of the Judicial Proceedings in the Criminal Cases Against Sam Rainsy" (February 2011) <http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&anid=24&id=5>

⁸ 'Sam Rainsy Deleted from Voter List for Election' *The Cambodia Daily* (5 November 2012) <<http://www.cambodiadaily.com/news/sam-rainsy-deleted-from-voter-list-for-election-5229/>>

⁹ The Committee on Free and Fair Election in Cambodia (COMFREL), 'Cambodian Democracy, Elections and Reform: 2009 Report' (February 2010) <http://www.comfrel.org/eng/components/com_mypublications/files/8978541265785063Comfrel_Cambodia_Democratic_Reform_2009_En_Final.pdf>

¹⁰ CCHR, 'New Media and the Promotion of Human Rights in Cambodia' (Report) (July 2012) 6 <http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=79&id=5>

by the RGC,¹¹ which is a long-term lease that allows the beneficiary to clear land in order to develop industrial agriculture. The Cambodian Human Rights and Development Association (ADHOC), which has offices in 23 out of 24 provinces/municipalities in Cambodia, reports that over 100 ELCs were granted in 2012 alone compared to 68 in 2011. ADHOC also reported in November 2012 that 32 ELCs had been granted since Prime Minister Hun Sen put a moratorium on ELCs in May of the same year.¹² ELCs now occupy at least 2 million hectares of Cambodian land, which is at least 10% of the country's total landmass.¹³

This economic policy has been problematic in recent years and is the source of many of the most pressing human rights issues in Cambodia. The work of the majority of HRDs is linked to the protection of land rights in some way – for example, journalists, activists and NGO workers are targeted when they speak out against land grabbing and forced evictions. In 2012 alone, at least 201 land rights activists were arrested – more than twice as many as were arrested in 2011.¹⁴

Along with land rights violations resulting in mass demonstrations, mistreatment of garment workers is another main source of social unrest in Cambodia. The garment industry is one of Cambodia's fastest growing sectors. It accounts for almost 90% of the country's exports and employs over 300,000 people.¹⁵ The garment sector is a key area for foreign investment and also an important source of employment, especially for women. However, in recent years, garment workers have increasingly taken to the streets in protest against low wages, poor working conditions and failure by management to pay benefits owed to them. This has led to a crackdown on the freedom of assembly and association of workers. Workers are often punished for joining unions or for striking, and union leaders regularly suffer threats and harassment.¹⁶

Closely related to the stifling of free expression is the crackdown on freedom of assembly. The increasing propensity amongst community and labour activists for organising public demonstrations has led to a markedly more aggressive response from the authorities. Peaceful protests are increasingly turning into violent clashes with the police and the military police and, since the beginning of 2012, there has been several incidents in which the authorities have opened fire on activists. In one case in 2012, such an approach resulted in the shooting dead of 14-year-old Heng Chantha in Kratie province, who was at the scene when the military opened fire on evictees who refused to leave their land.¹⁷

Despite an active and engaged civil society, it is widely recognised amongst human rights groups in Cambodia that the human rights situation, and consequently the security

¹¹ 'Carving Up Cambodia' *The Cambodia Daily* (10-11 March 2012) (Weekend Supplement 4)

¹² 'Arrests of Land Rights Activists Doubled in 2012' *The Cambodia Daily* (24 January 2013) 1

<<http://www.cambodiadaily.com/archive/arrests-of-land-rights-activists-doubled-in-2012-8276/>>

¹³ 'Arrests of Land Rights Activists Doubled in 2012' *The Cambodia Daily* (24 January 2013) 1

<<http://www.cambodiadaily.com/archive/arrests-of-land-rights-activists-doubled-in-2012-8276/>>

¹⁴ Ibid

¹⁵ Better Factories Cambodia, 'Industry Data Sheet 2011' (March 2011)

<[http://www.betterfactories.org/content/documents/Industry%20Data%20Sheet%202011_March2011%20\(EN\).pdf](http://www.betterfactories.org/content/documents/Industry%20Data%20Sheet%202011_March2011%20(EN).pdf)

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¹⁶ Clean Clothes Campaign and Community Legal Education Center, '10 Years of the Better Factories Cambodia Project' (Joint report) (August 2012) 16

<<http://www.cleanclothes.org/resources/publications/ccc-clec-betterfactories-29-8.pdf/view>

¹⁷ 'Teenage girl gunned down by security forces in eviction' *The Phnom Penh Post* (17 May 2012)

<<http://www.phnompenhpost.com/2012051756224/National/girl-killed-in-eviction.html>>

environment for HRDs, deteriorated in 2012.¹⁸ Including the 14-year-old girl in Kratie, there were three murders as a result of the RGC's response to activism and freedom of expression in 2012 alone. On 26 April 2012 Chut Wutty, a prominent environmentalist and Director of the Natural Resource Protection Group, was shot dead by military police while investigating illegal logging in Koh Kong province. On 11 September 2012, Hang Serei Odom, a reporter for Ratanakkiri local newspaper, *Vorakchun Khmer*, who frequently reported on illegal logging and its links with Cambodian officials,¹⁹ was found bludgeoned to death in his car. Nobody has been held accountable for the deaths of Chut Wutty or Heng Chantha. Two people have been arrested and charged with the murder of Hang Serei Odom, but it is believed that more people were involved in the murder.²⁰ The investigation was reopened in April 2013 by the presiding judge at Ratanakkiri Provincial Court, who claimed that important information had been neglected.²¹ In Cambodia, violations of the rights of HRDs are generally overshadowed by a cloud of impunity.

Cambodia has three national human rights bodies – the National Assembly Commission on Human Rights, the Senate Commission on Human Rights, and the Cambodian Human Rights Committee. Unfortunately, all of these bodies fall short of the criteria outlined in the Paris Principles, which will be further explained below, and are considered not sufficiently autonomous to hold the RGC to account for human rights violations.²²

¹⁸ Human Rights Watch, 'World Report 2013' (January 2013) (Country Chapter – Cambodia)

<<http://www.hrw.org/world-report/2013/country-chapters/cambodia>>

¹⁹ 'Stringer who reported on logging found dead' *The Phnom Penh Post* (12 September 2012)

<<http://www.phnompenhpost.com/2012091258652/National/stringer-who-reported-on-logging-found-dead.html>>

²⁰ 'Probe into murder of journalist Hang Serei Odom closes' *The Phnom Penh Post* (22 November 2012)

<<http://www.phnompenhpost.com/index.php/2012112259882/National-news/probe-into-murder-of-journalist-hang-serei-odom-closes.html>>

²¹ Radio Free Asia, "Cambodian Court Orders New Probe in Reporter's Death" (30 April 2013)

<<http://www.rfa.org/english/news/cambodia/probe-04302013192504.html>>

²² CCHR, 'Institutions Series: National Human Rights Bodies in Cambodia', (Factsheet) (March 2012)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=factsheet_detail.php&fsid=38&id=5>

International and regional standards

Cambodian HRDs have both national and international legal protections, particularly regarding the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and of association, which act as the key safeguards for their work. Regional declarations provide limited protections for these rights, whereas vague national legislation is applied to restrict the work of HRDs and lead to their harassment.

International Standards

To date, Cambodia has ratified seven of the nine core international human rights conventions:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic Social and Cultural Rights (ICESCR)
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Elimination of Discrimination against Women and its Optional Protocol
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol
- Convention on the Rights of the Child and its Optional Protocols
- Convention on the Rights of Persons with Disabilities.

The Convention on the Rights of Migrant Workers and the Convention on Enforced Disappearances have been signed but not yet ratified by Cambodia.

The UDHR, although it is not legally binding in itself, provides the foundations for other human rights treaties, such as the ICCPR. Article 19 of the UDHR states that:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.²³

In 1992, Cambodia acceded to the ICCPR, which contains legal obligations on State Parties to promote universal respect for, and observance of, human rights and freedoms. Article 19 of the ICCPR guarantees the right to freedom of expression.²⁴

- (1) *Everyone shall have the right to hold opinions without interference*
- (2) *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.*

Freedom of peaceful assembly and association are also guaranteed under Articles 21 and 22 of the ICCPR, respectively.²⁵

²³ UDHR, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948)

²⁴ UN ICCPR, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* (Mar. 23, 1976).

²⁵ *Ibid*

Cambodia has signed but not ratified the Optional Protocol to the ICCPR. Ratifying the Optional Protocol would give the UN Human Rights Committee the competence to receive individual complaints regarding Cambodia's compliance with its obligations under the ICCPR.

Attesting to the importance of the work of HRDs, in 1998 the UN General Assembly adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, otherwise known as the Declaration on Human Rights Defenders (HRD Declaration). In 2000, the UN Commission on Human Rights requested that the Secretary General appoint a special representative on HRDs to monitor and support the implementation of this Declaration.²⁶ The HRD Declaration highlights the internationally perceived importance of the work of HRDs and strives towards their protection. It is not legally binding, however it contains principles from other legally binding documents, such as the ICCPR, and frames these in the context of the work of HRDs. Moreover, the HRD Declaration was adopted by consensus in the General Assembly and therefore represents a very strong commitment by states to its implementation.²⁷ It emphasises the responsibility of States to protect human rights and HRDs but also calls upon every person to fulfil his or her role as an HRD.

Articles 1, 5-9, and 11-13 of the HRD Declaration provide specific protections to human rights defenders, including the rights to, *inter alia*: seek the protection and realisation of human rights at the national and international levels; conduct human rights work individually and in association with others; form associations and NGOs; meet or assemble peacefully; seek, obtain, receive and hold information relating to human rights; lodge complaints about official policies and submit proposals to government bodies for improving their functioning; offer and provide professionally qualified legal assistance in defence of human rights; enjoy unhindered access to communication with non-governmental and intergovernmental organisations; and to receive effective protection under national law in reacting against or opposing, through peaceful means, acts or omissions attributable to the state that result in violations of human rights.²⁸

The HRD Declaration reiterates the state's obligation to ensure the creation and development of independent national institutions for the protection and promotion of human rights and fundamental freedoms. National Human Rights Institutions (NHRIs) are regarded as the "public defenders of human rights defenders".²⁹ NHRIs are state bodies with a constitutional and/or legislative mandate to protect and promote human rights. They are part of the state apparatus and are funded by the state and yet one of the most important characteristics of NHRIs is their autonomy from the state.³⁰ In December 1993, the UN General Assembly adopted the Paris Principles through a resolution, which determine the

²⁶ OHCHR, 'Human Rights Defenders: Protecting the Right to Defend Human Rights' (Factsheet 29)

<<http://www.ohchr.org/EN/PUBLICATIONSRESOURCES/Pages/FactSheets.aspx>>

²⁷ General Assembly Resolution [A/RES/53/144](#) adopting the Declaration on human rights defenders

<<http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Declaration.aspx>>

²⁸ OHCHR, 'Declaration on Human Rights Defenders' (Commentary)

<<http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Declaration.aspx>>

²⁹ Asian NGO Network on National Human Rights Institutions (ANNI) 'ANNI Report on the Performance and Establishment of National Human Rights Institutions in Asia 2012' (Thailand 2012) 15

<<http://www.forum-asia.org/?p=15570>>

³⁰ UN OHCHR, 'National Human Rights Institutions: History, Principles, Roles and Responsibilities', (New York and Geneva 2010) 13

<http://www.ohchr.org/Documents/Publications/PTS-4Rev1-NHRI_en.pdf>

standards that these NHRIs should meet.³¹ NHRIs worldwide are “accredited” with different levels of status in accordance with their adherence to the Paris Principles.³² In Asia, where many countries are facing deteriorating human rights situations, the role of NHRIs is increasingly important.³³

On 21 March 2013, the UN Human Rights Council (HRC) adopted by consensus a resolution on “protecting human rights defenders” (A/HRC/22/L.13). This landmark resolution calls upon States to create a safe and enabling environment for human rights work. This requires States to ensure that “dissenting views may be expressed peacefully,” and that laws do not “prevent public officials from being held accountable.”

International awareness of the crucial role played by HRDs has increased in recent years. The Inter-American Commission on Human Rights states that “[h]uman rights defenders carry out the vital work of protecting everyone’s rights. Protection of such defenders thus takes on singular importance.”³⁴ The European Union (EU) adopted guidelines on HRDs in June 2004, to guide EU actions regarding HRDs in non-EU states.³⁵ The European Parliament resolution on EU policies in favour of HRDs acknowledges “the invaluable contribution human rights defenders make to the protection and promotion of human rights, the rule of law, democracy and the prevention of conflicts at the risk of their own personal security[...].”³⁶

In 2012, the special rapporteur or representative on freedom of expression for the UN, the Organization for Security and Co-operation in Europe, the Organization of American States, and the African Commission on Human and Peoples’ Rights adopted the Joint Declaration on Crimes Against Freedom of Expression,³⁷ stressing the fact that “that crimes against freedom of expression, [...] represent a particularly serious breach of the right to freedom of expression and the right to information.” The Joint Declaration also noted that “violence and other crimes against those exercising their right to freedom of expression, including journalists, other media actors and human rights defenders, have a chilling effect on the free flow of information and ideas in society (‘censorship by killing’), and thus represent attacks not only on the victims but on freedom of expression itself...”

³¹ UNGA (United Nations General Assembly) Res 48/134 (20 December 1993) UN Doc A/RES/48/134

<<http://www.un.org/documents/ga/res/48/a48r134.htm>>

³² The Sub-Committee on Accreditation (SCA) of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights has the mandate of reviewing and analysing accreditation applications of NHRIs and making recommendations to bureau members on the compliance of applicants with the Paris Principles. The SCA is composed of one “A status” accredited NHRI for each of the four regional groupings; namely Africa, the Americas, Asia Pacific and Europe.

³³ ANNI ‘ANNI Report on the Performance and Establishment of National Human Rights Institutions in Asia 2012’ 8

<<http://www.forum-asia.org/?p=15570>>

³⁴ Inter-American Commission on Human Rights, ‘IACHR Deplores the assassination of María del Carmen Florez in Colombia’ (Press Release 6/02) (Washington, D.C.15 February 2002)

<<http://www.cidh.org/Comunicados/English/2002/Press6.02.htm>>

³⁵ See EU guidelines on human rights defenders:

<http://europa.eu/legislation_summaries/human_rights/human_rights_in_third_countries/l33601_en.htm>

³⁶ European Parliament Resolution 2009/2199(INI) on EU policies in favor of human rights defenders (2009)

<<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0226+0+DOC+XML+V0//EN&language=EN>>

³⁷ Joint Declaration on Crimes Against Freedom of Expression (2012)

<http://www.oas.org/en/iachr/expression/showarticle.asp?artID=905&IID=1>

Regional Standards

In Southeast Asia, the Association of Southeast Asian Nations (ASEAN) recently adopted the ASEAN Human Rights Declaration (AHRD) in November 2012.³⁸ The AHRD contains some valuable provisions related to the work of HRDs, such as the protection of the right to freedom of expression and opinion under Article 23, the right to freedom of peaceful assembly under Article 24, and the right to participation in the political life of one's nation under Article 25.³⁹ However, the AHRD has a number of shortcomings. One of the main concerns is the use of broad and vague language regarding the permissible restrictions of rights, allowing for the realisation of individual rights to be contingent upon collective or national interests. Secondly, the AHRD is couched in terms deferential to "national law" and the "regional and national context", thereby diluting the universal and inalienable nature of human rights, and falling beneath the minimum standards that the ICCPR and other international covenants require of all ASEAN member states.⁴⁰

Directly related to this national deference is the principle of absolute sovereignty for the member states of ASEAN. The lack of a supranational enforcement mechanism, such as a regional court of human rights, leaves the AHRD and the ASEAN Human Rights Commission essentially toothless.⁴¹ If anything, the AHRD could be damaging for the security of HRDs if states such as Cambodia begin to look to the AHRD for guidance or justification, rather than adhering to obligations under legally binding international human rights law.

In the absence of a fully functional regional human rights body, NHRIs and national courts in Southeast Asia are indispensable in the promotion and protection of human rights and HRDs nationally.

³⁸ ASEAN, 'Phnom Penh Statement on the Adoption of the ASEAN Human Rights Declaration' (Press Release) (19 November 2012) <<http://www.asean.org/news/asean-statement-communicues/item/phnom-penh-statement-on-the-adoption-of-the-asean-human-rights-declaration-ahrd>>

³⁹ Asean, "ASEAN Human Rights Declaration" (November 2012) <<http://www.asean.org/news/asean-statement-communicues/item/asean-human-rights-declaration>>

⁴⁰ CCHR, 'CCHR Highlights Rashness of Adopting a Below Par ASEAN Human Rights Declaration' (Press Release) (19 November 2012) <http://www.sithi.org/temp.php?url=media_view2.php&mid=6093>

⁴¹ Ibid

National legislation and restrictions

HRDs are protected under Cambodian national legislation. Article 31 of the Constitution of the Kingdom of Cambodia guarantees the 'respect and recognition' of all rights listed in the UDHR and in other human rights covenants, and that all Cambodian people will be equally entitled to these rights. Article 31 of the Constitution states:

"The Kingdom of Cambodia shall recognise and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women and children's rights."

These covenants and conventions have been directly incorporated into Cambodian national law by virtue of their ratification and such incorporation is confirmed by the decision of the Constitutional Council dated 10 July 2007, which states that "*international conventions that Cambodia has recognised*" form part of Cambodian law.⁴²

The Constitution also protects the rights of HRDs through Article 41, which states, "Khmer citizens shall have freedom of expression, press, publication and assembly." Additionally, Article 35 of the Constitution provides Khmer citizens with the right to "speak and participate actively in the political, economic, social and cultural life of the nation," and Article 39 provides them with the right to "denounce, make complaints, or file claims against any breach of law by the state or social organs or by members of such organs committed during the course of their duties." It should be noted that conditioning the enjoyment of fundamental human rights on the basis of citizenship does not comply with international standards; these rights should be understood as applying to any person within the territory of Cambodia or subject to its jurisdiction.

Furthermore, Article 41 of the Constitution states that "[n]o one shall exercise this right to infringe upon the rights of others, to effect the good traditions of the society, to violate public law and order and national security." It is not legitimate to restrict the right to freedom of expression or peaceful assembly to protect the "good customs of society"; this is a term alien to international human rights and may be abused to arbitrarily restrict the exercise of fundamental rights.

HRDs within the National Assembly are additionally protected by Article 80 of the Constitution, which ensures that "[n]o assembly member shall be prosecuted, detained or arrested because of opinions expressed during the exercise of his (her) duties."

Despite clearly stated guarantees of the rights of HRDs under international and national law, there still remain a number of national laws that contradict these guarantees, and impose excessive regulation and obstacles on the work of HRDs.⁴³

⁴² The Constitutional Council of Cambodia, decision no. 092/003/2007 (2007) <http://www.ccc.gov.kh/english/dec/2007/dec_003.html>

⁴³ LICADHO, 'The Delusion of Progress: Cambodia's Legislative Assault on Freedom of Expression' (October 2011) <<http://www.licadho-cambodia.org/reports/files/162LICADHOREport-LegislativeAssaultFreedomExpression2011-English.pdf>>

Penal Code 2009

The Cambodian Criminal Code 2009 (Penal Code) came into force in December 2010 and contains several vague provisions which restrict freedom of expression and therefore severely hinder the work of HRDs in Cambodia.

Under Article 305 of the Penal Code, undermining the honour or reputation of a person or institution constitutes defamation. The motive of the accused, or traditional defences found in other jurisdictions, such as *fair comment*⁴⁴ have no bearing on the offence.

Furthermore, Article 307 renders any insulting expression, any scornful term or other verbal abuse of a person or institution, a criminal offence. This offense can be committed through various media, including speeches, writing, sketches or audio-visual communication. What defines 'insulting' is incredibly vague; thus, it has the potential to apply to any political criticism or satire.

Article 311 makes slanderous denunciation a crime and defines it as making allegations of fact, which are known to be false and which may result in criminal or disciplinary action against an individual. Individuals can even be charged for discrediting a judicial decision.⁴⁵

There has been an international trend towards the decriminalisation of defamation, demonstrating that many States are able to adequately protect the rights of individuals to a reputation without recourse to the criminal law.⁴⁶ The UN Human Rights Committee,⁴⁷ the four Special Mandates on freedom of expression,⁴⁸ and the African Commission⁴⁹ have called upon states to decriminalise defamation.

Moreover, international standards, such as the Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, make clear that the right to freedom of expression may not be limited to protect the state or public officials from criticism.⁵⁰ The UN Human Rights Committee, in General Comment 34, emphasises the value placed by the ICCPR upon uninhibited expression when it comes to political debate, and specifies that States should not prohibit the criticism of institutions, and that public figures should expect criticism and opposition and not receive heightened protections.⁵¹

⁴⁴ Fair comment is a term used in the defense of libel actions, applying to statements made by a writer (e.g., in the news media) in an honest belief in their truth, relating to official acts, even though the statements are not true in fact. Fair comment must be based on facts truly stated, must not contain imputations of corrupt or dishonourable motives except as warranted by the facts, and must be an honest expression of the writer's real opinion.

⁴⁵ Article 523, Cambodian Criminal Code 2009

⁴⁶ Ghana, Togo, Mexico, the United Kingdom, Ireland, Sri Lanka, Georgia, and the Maldives have decriminalised defamation and the Central African Republic has removed imprisonment for criminal libel.

⁴⁷ Concluding observations on Italy (CCPR/C/ITA/CO/5); concluding observations on the Former Yugoslav Republic of Macedonia (CCPR/C/MKD/CO/2).

⁴⁸ Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression, 10 December 2002. For more information, see: http://www.osce.org/documents/rfm/2004/10/14893_en.pdf

⁴⁹ Ibid, note 35.

⁵⁰ UN Commission on Human Rights, 'The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights' (28 September 1984) UN Doc E/CN.4/1984/4 <<http://www.unhcr.org/refworld/docid/4672bc122.html>>

⁵¹ UNHRC, 'General Comment 34 on Article 19: Freedoms of opinion and expression' (12 September 2011) UN Doc CCPR/C/GC/34 Paragraph 38 <<http://www2.ohchr.org/english/bodies/hrc/docs/GC34.pdf>>

Law on Peaceful Assembly

The Law on Peaceful Assembly (Demonstration Law), was reformed in 2009. While these reforms were positive, there remain some concerns about the application of the law and the specificity of some provisions.⁵²

Article 2 of the Demonstration Law provides that the purpose of the law is to ensure the freedom of expression of Cambodian citizens through peaceful demonstration. Again, it is problematic that the right is guaranteed only to citizens and not to all people. The right is further qualified by this provision, which specifies that the right shall not be used to “affect the good customs of society, public order or national security”. As stated above, these restrictions may be abused to arbitrarily restrict the exercise of fundamental rights.

There are also concerns that the Demonstration Law creates “freedom parks”, which are areas in Cambodian towns and cities that are designated for holding public rallies and demonstrations.⁵³ Although the Demonstration Law states that the existence of these parks will not prevent people from holding demonstrations outside them, the provision can be – and is – abused to restrict or hinder demonstrators from choosing the location of their assemblies. Forcing demonstrators into a space that is out of sight or sound from their intended target violates international standards on the right to freedom of expression and freedom of peaceful assembly.

Anti-Corruption Law 2010

Under the Anti-Corruption Law 2010, if “defamation or disinformation complaints [...] lead to useless inquiry”, individuals can face up to six months in prison, or a fine of 1 million to 10 million riel.

As outlined above, numerous international mechanisms have recommended the repeal of criminal defamation provisions. In the context of anti-corruption, criminal penalties for making frivolous or “useless” inquiries is vague and likely to deter whistle blowers from legitimately exposing corruption. The provisions therefore largely undo the assurances and encouragement offered to employees elsewhere in the law. At most, sanctions for disclosing information should only be imposed through the civil law where the accused knew the information was false and acted with malice to harm the reputation of a natural or legal person.

Press Law 1995

The Press Law 1995 was passed as a result of international donor pressure in order to replace the more draconian Press Law 1972. The current Press Law does contain positive provisions for the promotion of freedom of expression in line with constitutional rights, including: guaranteeing “freedom of the press” and “freedom of publication” (Article 1), an assurance that sources will be protected (Article 2), a guarantee against “pre-publication

⁵² CCHR, ‘Law Series: Law on Peaceful Assembly’ (Factsheet) (August 2011)
<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=factsheet_detail.php&fsid=7&id=5>

⁵³ Article 14 of Cambodian Law on Peaceful Assembly

censorship” (Article 3), and a guarantee that the publication of official information may not be penalised if such publication is fully true or an accurate summary of the truth (Article 4).

However, despite such provisions, both NGOs and the press have criticised the Press Law on the basis that it adds additional constraints to expression when voiced or published by journalists.⁵⁴ For example, under the Press Law, journalists can be imprisoned if found guilty of defamation and libel, along with writing articles which could affect “national security” or “political stability”⁵⁵ (Article 12). The terms ‘national security’ and ‘political stability’ are not clearly defined in the Press Law, leaving the door open for wide judicial discretion and possible intimidation of anyone whom the authorities deem to fall foul of these provisions. Other vague provisions in the Press Law include forbidding the publication of information that humiliates “national institutions”⁵⁶ or anything that “affects the good customs of society”.⁵⁷ These broad and vaguely worded restrictions create a chilling effect on journalists, and greatly debilitate their ability to report openly and effectively on matters of public interest.

Draft Law on Associations and Non-Governmental Organisations

The Draft Law on Associations and Non-Governmental Organisations (LANGO) contains broad and vague provisions that could be used to arbitrarily deny registration or close NGOs or associations, and it requires all associations and NGOs to register before they are permitted to conduct any activities in Cambodia. Furthermore, the registration process lacks safeguards and transparency.⁵⁸

Prime Minister Hun Sen suspended the LANGO in December 2011 after national and international outcry, however it has not been permanently abandoned and may well return to the legislative agenda in the near future. Its very existence continues to pose a serious threat to civil society’s freedom of association and freedom of expression.

Draft Trade Union Law

In similar fashion to the LANGO, the currently pending Draft Trade Union Law also places restrictions and heavy penalties on trade unionists and labour rights activists. For example, the Draft Trade Union Law contains a number of criminal offences, applying to both trade unions and workers, which are vaguely defined and carry heavy penalties. Article 68 of the law prohibits workers and trade unions from violating a collective bargaining agreement, striking illegally, and disturbing the peace for purely political purposes. Furthermore, the Draft Trade Union Law imposes burdensome registration requirements on the establishment of trade unions under Article 12, and excessive financial reporting requirements under Article 17

⁵⁴ ARTICLE 19, ‘Memorandum on The Cambodian Law on the Press’ (October 2004)
<<http://www.article19.org/data/files/pdfs/analysis/cambodia-press-law-oct-2004.pdf>>

⁵⁵ Ibid

⁵⁶ Article 13 of the Press Law 1995

⁵⁷ Article 14 of the Press Law 1995

⁵⁸ CCHR, ‘Draft Law on Associations and Non Governmental Organizations’ (Factsheet) (May 2011)
<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=factsheet_detail.php&fsid=1&id=5>

Cambodian HRD risk assessment

Scope and methodology

22 HRDs were interviewed in total by ARTICLE 19 and CCHR to get an appropriate indication of risks faced at various cross-sections of HRDs.⁵⁹ The main groups targeted were: civil servants, legal professionals, media professionals, grassroots activists, union activists, human rights NGOs and NGO workers. Some names of individuals and organisations interviewed are withheld from this report to ensure the safety of those involved.

The aim of the interviews was to discern real from perceived threats for HRDs, and to determine the seriousness of threats and the probability that real threats could materialise - in other words the level of risk. ARTICLE 19 and CCHR strove to understand the source of threats, the gravity of threats, the factors leading to particular HRDs receiving threats, and the preparedness of HRDs in reacting to such threats. All of this information was collected to formulate recommendations for possible protection mechanisms.

The interviews acted as a launch pad for this report. Having collected information on the main threats faced by HRDs in Cambodia, CCHR then built on this information through extensive monitoring of the situation of HRDs throughout 2012 and the beginning of 2013. This monitoring took place through close contact with HRDs assisted through CCHR's HRD Project⁶⁰ and through careful monitoring of the Khmer and English language media.

This chapter is divided into two subsections: "Types of HRDs" and "Risk Assessment". The first subsection will look at different types of HRDs – opposition parliamentarians, human rights lawyers, journalists/media professionals, grassroots land rights activists, union activists, women land rights activists, NGOs NGO workers. Using case studies, it will paint a broad – and more impressionistic – picture of the frequent threats faced by different types of HRDs in the context of their work and their varying levels of vulnerability. The second subsection, on the other hand, will use a more comparative approach, using a "risk assessment indicator" to determine the overall risk posed to different types of HRDs by different threats identified, taking into account the varying vulnerability of the different types of HRDs.

The legislative context is one of the factors that influence the security situation of HRDs in Cambodia, though there are many others. Security means being generally safe and free from threats. This could mean safety from physical attacks (physical security), protection of possessions (property security), and protection from other people accessing one's private information (information security). Security also means *feeling* secure.⁶¹ HRDs throughout Cambodia regularly face security issues as a result of their defence of human rights. Human

⁵⁹ ARTICLE 19 conducted its field mission to Cambodia from 14 - 19 January 2012 inclusive, and utilised interview-based research to gather information. Interviewees were chosen and arranged by CCHR. Given the time limitation, all interviews physically took place in Phnom Penh. ARTICLE 19 and CCHR interviewed HRDs based in Phnom Penh, as well as those working in other provinces who were available to travel to the capital. There was also one teleconference to Ratanakkiri province, which is in the remote northeast of the country.

⁶⁰ The CCHR HRD Project aims to provide assistance to HRDs at risk through legal aid, humanitarian and other assistance and national and international advocacy. More information on the CCHR HRD Project can be found at: <http://www.cchrcambodia.org/index_old.php?url=project_page/project_page.php&p=project_profile.php&id=3&pro=HRDP&show=show>

⁶¹ Bridges Across Borders Cambodia, 'A Guide to Personal Security for Human Rights Defenders' (August 2010)

rights violators are often powerful people who react to challenges by HRDs with threats to the HRDs' security.⁶²

While those interviewed indicated that serious physical violence, such as killings, have abated in previous years, 2012 turned into a bloody year for HRDs with many peaceful land and labour rights demonstrations resulting in violence. The authorities have opened fire on protesters in at least eight cases since November 2011.⁶³

Types of HRDs

Opposition Parliamentarians

Several Cambodian opposition politicians and parliamentarians work fearlessly to promote and protect the human rights of their fellow Cambodians. As a result, they often face threats and intimidation as well as obstruction to their work. Minority party parliamentarians are faced with internal regulations that greatly hinder their ability to speak freely. For example, one National Assembly rule requires parliamentarians to sit in conglomerates of ten in order to have the right to speak before the Assembly. Minority parties find it difficult to achieve such numbers, and are therefore excluded from debate. Freedom of expression for opposition parties is also extremely restricted during election campaigns. In the run up to the June 2012 national commune election, opposition parties found it difficult to get their message across due to government control of the media. National and international observers found numerous irregularities in the run up to the elections, including the misuse of state resources to aid in CPP campaigning, such as public buildings and vehicles, and the use of the military and police forces.⁶⁴

Not only do opposition politicians face obstruction to their work, several opposition politicians who also work as HRDs have also been repeatedly threatened and harassed by the authorities.

One of the most serious threats to minority party members in the National Assembly is the repeal of parliamentary immunity, which can leave them vulnerable to criminal legal charges such as disinformation, defamation, incitement, and obstruction of justice, merely for carrying out their work. These charges are drawn from the Penal Code and Anti-Corruption Law. Parliamentarians are to be protected under Article 80 of the Constitution, which ensures that they can openly express their opinions under office. However, the National Assembly, which is two-thirds CPP, can revoke this protection for minority party members through a vote.

<http://www.babcambodia.org/securityguide/>>

⁶² Ibid

⁶³ LICADHO Report, 'Attacks and Threats Against Human Rights Defenders in Cambodia 2010-2012', (Phnom Penh December 2012) 15

http://www.licadho-cambodia.org/collection/15/attack_hrd_2010_2012>

⁶⁴ Committee for Free and Fair Elections, 'Report on misuse of state resource for political party purposes' (May 2012) http://www.comfrel.org/eng/index.php?option=com_content&view=article&id=537:report-on-misuse-of-state-resource-for-political-party-purposes&catid=188:other>

HRD Spotlight – Mu Sochua

Mu Sochua, a parliamentarian from the Sam Rainsy Party (SRP) was interviewed for the purpose of this report and gave permission for ARTICLE 19 and CCHR to publish her name. SRP, the largest opposition party recently merged with the Human Rights Party to form the Cambodia National Rescue Party (CNRP).

Mu Sochua is outspoken on human rights issues throughout Cambodia and as a result has had her parliamentary immunity revoked in 2009 after she filed a lawsuit against Prime Minister Hun Sen for making derogatory comments against her. She lost the lawsuit but Hun Sen counter-sued and won the case. Mu Sochua was found guilty of defamation and required to pay a fine. When she refused to pay, the prescribed amount was deducted from her parliamentary salary. She fought for three years to have her immunity restored, and for these three years, she was at risk of being arrested at any time as a result of her outspokenness. Mu Sochua noted that it would have been incredibly easy for the ruling party to bring another suit against her, given that the judiciary is compromised by the RGC and that, in practice, the police do not need a warrant for an arrest. Mu Sochua finally had her parliamentary immunity restored, after much campaigning, on 3 August 2012. However, another complaint now hangs over her in relation to her alleged involvement in the escape of land rights activists from a detention centre in Phnom Penh, where they were being held without charge, on 12 January 2012.⁶⁵ The detainees, all women and children, were rounded up after protesting against forced evictions in the Borei Keila area of Phnom Penh. While Mu Sochua was visiting the detention centre to call for the release of the protesters, they escaped over the walls.

During the interview with ARTICLE 19, Mu Sochua also revealed that suspicious incidents have taken place, which gives her reason to believe that she is under frequent surveillance. She noted for example that she was denied access to her online blog in January 2012 due to ‘violated terms and conditions.’

In practice, parliamentary immunity is merely a formality and opposition politicians can easily find themselves in legal difficulties for criticising policies of the leading party.

Along with Mu Sochua, SRP parliamentarian Ho Vann also had his parliamentary immunity removed in 2009. In relation to Mu Sochua, Prime Minister Hun Sen stated: “to lift Mu Sochua’s parliamentary immunity will be as easy as peeling a boiled banana because [the CPP] has enough votes to do that.”⁶⁶

⁶⁵ CCHR ‘Outspoken Opposition Lawmaker Facing Charges of Defamation and Incitement’ (Media alert) (17/02/2012)

http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=alert_detail.php&alid=14&id=5

⁶⁶ CCHR ‘Cambodia Gagged: Democracy at Risk’ (Report) (2010)

http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=13&id=5

Human Rights Lawyers

There are a limited number of Cambodian lawyers who are willing to take on cases against HRDs due to the high risks involved and the fear of reprisals. Lawyers advocating for human rights are vulnerable to the threat of legal charges themselves, or of being disbarred. Not only do they receive legal threats from the RGC, or those linked with the RGC, but lawyers also receive pressure from the Bar Association of the Kingdom of Cambodia (BAKC) to conform to RGC demands.

On 8 February 2013, the BAKC announced it would be more rigorous in implementing an internal rule to regulate how lawyers interact with the media. The rule will prevent lawyers from advocating on their cases or criticising verdicts through the media and criminal charges could ensue if this rule is broken.⁶⁷

Choung Chou Ngy, a prominent human rights and opposition lawyer, was charged under Article 565 of the Penal Code on 29 December 2011 for allegedly helping his client to escape Kandal provincial prison. This charge was brought in response to the release of Choung Chou Ngy's client, Mr. Meas Peng, Deputy Chief of Banteay Dek commune in Kandal province's Kien Svay district, from prison on 23 September 2011. According to the Kandal provincial court, Choung Chou Ngy's actions in helping his client to be released from prison were not in accordance with the laws of his profession, and they in fact constituted helping his client to escape – a penal offense. On the other side, Choung Chou Ngy argued he was only following the law by defending his client and, if he had made a mistake, only the BAKC had the remit to punish a lawyer's professional mistakes. Considering Choung Chou Ngy had in the past represented a number of high profile clients (including Sam Rainsy) and that in this case his client was involved in a land dispute – a delicate issue in present day Cambodia – the charges against him are widely seen as an example of judicial intimidation of legal professionals.⁶⁸ Choung Chou Ngy was called to Kandal provincial court, where he was questioned on 5 March 2012, and released on judicial supervision. As a result, restrictions have been placed upon his liberty including: being prohibited from going outside certain territorial boundaries, being prohibited from changing residence without judicial authorisation, and being required to present himself on fixed dates at a specified police or military office.

It was stated by many of this report's interviewees that the RGC often dropped legal threats if those charged are willing to officially join the ruling party, like in the case of Kong Sam Onn described below.

⁶⁷ Abby Seif and Chhay Channyda, 'Silence is golden: Bar' *The Phnom Penh Post* (11 February 2012) 1

⁶⁸ CCHR 'Judicial intimidation of a lawyer representing an opposition party activist' (Media Alert) (1st Match 2012)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=alert_detail.php&alid=11&id=5>

HRD Spotlight - Kong Sam Onn

The case of Mr. Kong Sam Onn – the former lawyer of prominent opposition National Assembly member, Mu Sochua – illustrates the extent to which the RGC is capable of utilising a politicised judiciary to persecute HRDs and silence legitimate dissent.

As a direct result of his representation of Mu Sochua, on 27 April 2009 Kong Sam Onn was charged with criminal defamation charges when Prime Minister Hun Sen counter-sued.⁶⁹ In addition to the defamation suit against Mu Sochua and Kong Sam Onn, the lawyer acting for the Prime Minister also lodged a complaint with the BAKC against Kong Sam Onn. The BAKC, which is closely affiliated with members of the ruling CPP, decided to proceed with a disciplinary hearing for alleged violations of professional ethics, punishments for which include suspension and disbarment.⁷⁰

The charges against Kong Sam Onn were later withdrawn on July 7 2009⁷¹ after he quit as Mu Sochua's lawyer, apologised to the Prime Minister, and defected to the CPP. Mu Sochua, who refused to apologise to the Prime Minister, fought for three years before her parliamentary immunity was restored.

Journalists and Media Professionals

The media in Cambodia is heavily restricted and is largely controlled by the CPP. Journalists and media professionals who cover controversial stories are often harassed by the authorities. They are faced with legal and physical threats, and in some cases death.⁷² The Club of Cambodian Journalists recorded seven arrests of journalists in 2012.⁷³

ARTICLE 19 and CCHR interviewed many journalists who are faced with real threats, such as physical intimidation and suspicious anonymous phone calls, which have adversely affected their ability to work and has had a negative impact upon their mental and physical health. The prevailing threat against journalists and media workers are legal charges, however another tactic employed by the RGC is to threaten independent sources of news with closure, or stigmatise them to the point where they are forced to close due to a lack of readership and financial partnerships.⁷⁴ As a consequence of such harassment, evidence

⁶⁹ The Observatory for the Protection of Human Rights Defenders, 'Cambodia: Judicial harassment faced by Mr. Kong Sam Onn' (18 June 2009) <<http://www.omct.org/human-rights-defenders/urgent-interventions/cambodia/2008/06/d20068/>>

⁷⁰ CCHR, 'Legal Analysis of the Case of the Kingdom of Cambodia v. Mu Sochua' (May 2010) <http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&anid=11&id=5>

⁷¹ Lawyers' Rights Watch Canada, 'Kong Sam Onn – Concerns about independence of lawyers' (Action Alert) (12 June 2009, updated 7 July 2009)

<<http://www.lrwc.org/kong-sam-onn-concerns-about-independence-of-lawyers/>>

⁷² See Media Harassment Map and Journalists Killed Map on Sithi human rights portal:

<http://www.sithi.org/temp.php?url=jour_case.php&> and <<http://www.sithi.org/temp.php?url=journalists.html&>>

⁷³ 'Censorship Rising as Cambodia Slips Down Press Freedom Index', *The Cambodia Daily* (1 February 2013)

<<http://www.cambodiadaily.com/news/censorship-rising-as-cambodia-slips-down-press-freedom-index-8973/>>

⁷⁴ One example is that of opposition-aligned *Moneaksekar Khmer* (*Khmer Conscience*), one of Cambodia's oldest and most influential opposition papers. Its editor, Dam Sith, was forced to close the newspaper in July 2009 in order to avoid criminal prosecution for criticism of government officials. The newspaper was closed on 10 July 2009. The charges against Dam Sith reportedly related to the content of several articles published between February and May. His offer to close the paper followed a battery of threats of criminal prosecutions for criticism of government officials over the years. See Human Rights Watch, 'Cambodia: End Assault on Opposition Critics' (14 July 2009)

<<http://www.hrw.org/news/2009/07/14/cambodia-end-assault-opposition-critics>>

suggests a culture of self-censorship among media professionals, who avoid publishing information that the RGC may consider offensive or politically sensitive.⁷⁵

HRD Spotlight - Mam Sonando

Mam Sonando, Director of Beehive Radio and President of the Democrat Association, was arrested on 15 July 2012. He was accused of leading a secessionist movement in Kratie province. From 11-14 September, he was tried at Phnom Penh Municipal Court and on 1 October he was found guilty of all charges against him and was sentenced to 20 years in prison.⁷⁶

Mam Sonando's arrest is believed to be related to a report that was broadcasted on Beehive Radio, discussing the receipt by the Office of the Prosecutor of the International Criminal Court (ICC) of a communication issued by the head of the Khmer People Power Movement alleging the RGC's involvement in crimes against humanity. Prime Minister Hun Sen called for Mam Sonando's arrest the day after the report was broadcasted. Mam Sonando was abroad at that time, reporting directly from the ICC, when the arrest warrant was issued. He returned to Cambodia on 12 July and was arrested in Phnom Penh the next day.⁷⁷

This is the most recent incident in a long campaign of intimidation against Mam Sonando and Beehive Radio. In 2003, the reporter was imprisoned for allegedly inciting anti-Thai riots. In 2005, Mam Sonando was again imprisoned following an interview broadcast on Beehive Radio, criticising Prime Minister Hun Sen's involvement in territorial concessions made to Vietnam.⁷⁸

The charges against Mam Sonando were in connection with a long-running land dispute and eviction process in Kratie province involving Russian company Casotim. Villagers refused to move from their land during a forced eviction and were accused by the RGC of being secessionists and plotting with the Democrat Association to create a state within a state. The leader of the so-called secessionists in Kratie, Bun Ratha, has since clarified that there were no links between the Democrat Association and the activities in Kratie. Furthermore, no evidence has been provided to support allegations of a secessionist plot.⁷⁹

The charges brought against Mam Sonando were: participating in an insurrectionary movement under Articles 456 and 457 of the Penal Code; inciting people to take up arms against state authority under Article 464; obstruction of public officials under Article 504; and unlawful interference in the discharge of public functions under Article 609. Mam Sonando was also charged and found guilty of instigating the

⁷⁵ CCHR and others, 'Cambodia gagged: Democracy at Risk?' (Report) (September 2010)

<<http://www.article19.org/data/files/pdfs/publications/cambodia-gagged-democracy-at-risk-.pdf>>

⁷⁶ CCHR, 'CCHR Slams Guilty Verdict for Mam Sonando as a Travesty of Justice and an Embarrassment to Cambodia's Reputation' (Press Release) (1 October 2012)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=press_detail.php&prid=293&id=5>

⁷⁷ CCHR, 'The Case of Human Rights Defender Mam Sonando' (Briefing Note) (August 2012)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=analysis_detail.php&anid=20&id=5>

⁷⁸ Ibid

⁷⁹ Ibid

above offenses under Article 28 of the Penal Code, which defines an *instigator* of a felony or misdemeanour under Cambodian law.⁸⁰

On 12 October 2012, Mam Sonando filed for appeal but the Municipal Court failed to send the case file to the Appeal Court within the ten days required by law and so the case has been unnecessarily delayed. His lawyer subsequently submitted a bail motion, under Articles 306 and 307 of the Criminal Code of Procedure 2007, to the Appeal Court on behalf of his client on 5 December 2012. The Court of Appeal in Phnom Penh issued a verdict on 14 December 2012, refusing to release Mam Sonando on bail.⁸¹ However, on 14 March 2013, the Appeal Court dropped the more serious charges against him and reduced his sentence from 20 years to five years, with his prison term adjusted to time already served, namely eight months, and with the remainder suspended.⁸² Mam Sonando was released the next day but remains under judicial supervision.

Grassroots Rights Activists

In Cambodia, the majority of grassroots activists are land activists. Regular threats against land-activists at the grassroots level can be largely attributed to the RGC's self-interest in land concessions and also the level of advocacy that has emerged out of forced evictions. Another reason for the propensity of threats against grassroots community activists is the remote nature of many of these communities, meaning that they are beyond the reach of many NGOs and media outlets.

HRDs from land-grabbing affected communities have informed ARTICLE 19 and CCHR that their demonstrations have been met with the use of tasers, guns, tear-gas, water hoses, batons, and beatings by the authorities. Furthermore, land activists have reported phone threats and frequent surveillance by the police, or unidentifiable men on motorcycles that are sometimes armed. Threats have also been made against the children of grassroots HRDs, a tactic often used by the authorities against women HRDs. As mentioned earlier, 201 land rights activists were arrested in 2012 alone.

The RGC's intolerance of grassroots activism was demonstrated clearly through the reaction of the authorities to the ASEAN Grassroots People's Assembly (AGPA). AGPA encountered RGC opposition while organising workshops and other activities connected to the ASEAN Summit being held in Phnom Penh from 18 – 20 November 2012.⁸³ On 13 November 2012, the opening ceremony of the AGPA, which was held at a restaurant and attended by over 1,500 people, was disrupted when the electricity supply to the venue was cut off. According to AGPA spokesmen, the restaurant owner had been pressured by the local authorities to disrupt and cancel the event.⁸⁴ In addition, AGPA workshops scheduled to begin on 14 November 2012 had their venues cancelled at the last minute, and over 250 AGPA

⁸⁰ Ibid

⁸¹ CCHR, 'CCHR expresses grave disappointment at today's Appeal Court decision to refuse bail to journalist and human rights defender, Mam Sonando' (Press Release) (14 December 2012)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=press_detail.php&pid=326&id=5>

⁸² CCHR, 'CCHR welcomes the Court of Appeal's decision to release Mam Sonando but observes that the verdict was a classic example of "rule by law" rather than "rule of law"' (Press Release) (20 March 2013)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=press_detail.php&pid=371&id=5>

⁸³ Frontline, 'Cambodia: Civil society events disrupted by authorities ahead of ASEAN summit' (20 November 2012) <<http://www.frontlinedefenders.org/node/20836>>

⁸⁴ Ibid

participants were allegedly turned away by guesthouses in Phnom Penh, ostensibly due to threats by local authorities who had been seen harassing owners of these guesthouses.⁸⁵ Organisers of a rally on 16 November 2012 to submit demands to the RGC, as the Chair of ASEAN, had their notification refused by the Phnom Penh Municipality and Ministry of Interior (Mol). According to AGPA, the RGC also warned them that anybody who participated in public protests during the ASEAN Summit could be arrested.⁸⁶

The other civil society-organised event, the ASEAN Civil Society Conference/ASEAN People's Forum (ACSC/APF), which was held on 14-16 November, reportedly faced similar obstructions and had to change venues twice due to intimidation. The UN Human Rights Office in Cambodia reported that many organisers had received warnings, had their names and photographs taken or had their venues cancelled.⁸⁷

Meanwhile, in Thmor Kol village by Phnom Penh International Airport, the authorities arrested eight villagers – six women and two men – for taking the initiative to paint “SOS” on their rooftops, in the hopes that United States President Barack Obama, who flew into Phnom Penh during the ASEAN Summit, would call upon the RGC to cease forced evictions.⁸⁸

HRD Spotlight – Chut Wutty

On April 26 2012, prominent grassroots environmental activist Chut Wutty was fatally shot in Koh Kong province by military police while photographing illegal logging.⁸⁹ Chut Wutty was escorting two journalists 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 subsequently shot and killed. A military policeman, In Rattana, was also killed by gunfire in the incident. The two journalists were detained, and during their detention they overheard military police discussing their executions in order to cover up the incident.⁹⁰ Fortunately, both were later freed.

Official explanations of the incident were confused and at times contradictory. Mol spokesman Khieu Sopheak claimed that military police had told him that Chut Wutty had fired first, instigating the incident.⁹¹ Military police spokesman Kheng Tito claimed that Chut Wutty had been armed, but that it was impossible to say whether

⁸⁵ Ibid

⁸⁶ Ibid

⁸⁷ Multiple civil society organisations, 'Cambodia: Stop disrupting civil society events and restricting freedom of expression and assembly ahead of ASEAN Summit', (Statement) (15 November 2012) <<http://www.forum-asia.org/?p=15599>> Also see: Simon Lewis and Khuon Narim, 'Intimidation of NGOs Continues Before Summits' *The Cambodia Daily* (Phnom Penh 15 November 2012) <<http://www.cambodiadaily.com/news/intimidation-of-civil-society-groups-continues-before-summits-5627/>>

⁸⁸ APGA, 'Statement for Immediate Release & AGPA's Joint Statement – 15 November' (Phnom Penh, 15 November 2012) <<http://aseanagpa.wordpress.com/2012/11/15/statement-for-immediate-release-agpas-joint-statement-november-15/>>

⁸⁹ May Titthara and David Boyle, 'Environmental activist Chut Wutty shot dead' *The Phnom Penh Post* (27 April 2012) <<http://www.phnompenhpost.com/2012042655803/National/environmental-activist-chut-wutty-shot-dead.html>>

⁹⁰ Olesia Plokhii, 'Murders in the Forest' *Reuters* (20 September 2012) <<http://blogs.reuters.com/great-debate/2012/09/20/murders-in-the-forest/>>

⁹¹ Saing Soenthrit and Abby Seiff, 'Chut Wutty, Prominent Environmental Activist, Shot Dead in Koh Kong' *The Cambodia Daily* (26 April 2012) <<http://www.cambodiadaily.com/news/chut-wutty-prominent-environmental-activist-shot-dead-in-koh-kong-1816/>>

Chut Wutty had fired his weapon and, if so, who had fired first.⁹² Kheng Tito did, however, claim that In Rattana “was doing his duty” when he shot at Chut Wutty.⁹³ Deputy provincial police chief Sin Sen claimed that In Rattana shot Chut Wutty and then killed himself.⁹⁴ An investigator from the Cambodian League for the Promotion and Defense of Human Rights (LICADHO) concluded that In Rattana had opened fire when Chut Wutty tried to drive away, killing the environmentalist, and that In Rattana had been struck and killed by ricocheting bullets fired from his own weapon.⁹⁵

The investigation into the events of April 26 was deeply flawed. On 4 October 2012, in a trial lasting just 90 minutes, the Koh Kong provincial court failed to consider any concrete evidence, instead relying on contradictory and ambiguous statements from witnesses, many of whom were inexplicably not present to be cross-examined.⁹⁶ The court also failed to consider the role of the Timber Green Logging Co. in the incident, despite the earlier admission by Kheng Tito that police had accosted Chut Wutty at their request.⁹⁷ On 22 October 2012, the provincial court judge concluded that In Rattana had been killed by an accidental discharge of his own weapon during a struggle with Rann Boroath, a private security guard employed by Timber Green Logging Co. who tried to disarm In Rattana.⁹⁸ The court decision assumed, despite the lack of evidence and the absence of any clear motive, that In Rattana had killed Chut Wutty before Rann Boroath had intervened. Rann Boroath was therefore found to be acting in self-defence, and sentenced to two years in prison. Three quarters of his sentence was suspended. With the presumed murderer dead, a separate investigation specifically focusing on the killing of Chut Wutty was abandoned.

Buddhist leaders in Cambodia are believed to be affiliated with the CPP, meaning that in practice, monks are forbidden from partaking in political activism.⁹⁹ However, venerable Loun Sovath, a prominent grassroots activist and Buddhist monk, has repeatedly been the target of intimidation due to his land rights activism and to his human rights work. Loun Sovath has been banned from entering all pagodas in Phnom Penh. There was an attempt to arrest him in April 2011, when he was attending a peaceful gathering of NGOs, media and Boeng Kak land activists in front of the Phnom Penh municipal office. He escaped narrowly

⁹² May Titthara and David Boyle, ‘Environmental activist Chut Wutty shot dead’ *The Phnom Penh Post* (27 April 2012) <<http://www.phnompenhpost.com/2012042655803/National/environmental-activist-chut-wutty-shot-dead.html>>

⁹³ ‘Cambodian police shoot dead leading anti-logging campaigner’ *The Guardian* (London 26 April 2012) <<http://www.guardian.co.uk/world/2012/apr/26/cambodia-police-shoot-dead-antilogging-activist>>

⁹⁴ Olesia Plokhii, ‘Murders in the Forest’ *Reuters* (20 September 2012) <<http://blogs.reuters.com/great-debate/2012/09/20/murders-in-the-forest/>>

⁹⁵ May Titthara and David Boyle, ‘Environmental activist Chut Wutty shot dead’ *The Phnom Penh Post* (27 April 2012) <<http://www.phnompenhpost.com/2012042655803/National/environmental-activist-chut-wutty-shot-dead.html>>

⁹⁶ LICADHO, ‘Conclusion of Two Cases Related to Chut Wutty Slaying Leaves More Questions Than Answers’ (Press Release) (22 October 2012) <<http://www.licadho-cambodia.org/pressrelease.php?perm=293>>

⁹⁷ May Titthara and David Boyle, ‘Environmental activist Chut Wutty shot dead’ *The Phnom Penh Post* (27 April 2012) <<http://www.phnompenhpost.com/2012042655803/National/environmental-activist-chut-wutty-shot-dead.html>>

⁹⁸ Vichey Anandh, “Abrupt End to Murder Trial” (Radio Free Asia, 4 October 2012). <<http://www.rfa.org/english/news/cambodia/chut-wutty-10042012160930.html>>

⁹⁹ ‘Defrocked Monk Decries ‘Biased’ Decision’, *Radio Free Asia* (22 May 2012) <<http://www.rfa.org/english/news/cambodia/defrocked-05222012162403.html>>

when other demonstrators gathered around him and walked him out of harm's way.¹⁰⁰ The Boeng Kak case will be further elaborated upon below. Venerable Loun Sovath was briefly detained on 24 May 2012 after being arrested at a protest of Boeng Kak land activists outside the Phnom Penh municipal court to call for the release of the 13 Boeng Kak women (the "Boeng Kak 13").¹⁰¹ The authorities allegedly attempted to persuade him to sign a document stating that he would not continue his advocacy efforts. Loun Sovath refused to sign, despite the threat of being disrobed.¹⁰²

Union Activists

Internationally, factory workers in Cambodia are among the lowest paid in their industry. In September 2010, 261 trade union activists at 20 separate factories were illegally dismissed or suspended without appeal from their jobs as a result of striking.¹⁰³ Despite giving prior notice to the RGC, as well as ensuring that their strike met all criteria for legal protests, a number of the protest organisers received legal and violent threats for allowing the strikes to occur. Ten factories filed lawsuits against union leaders, preventing them from returning to work. More strikes ensued as a result. Finally Prime Minister Hun Sen intervened, ordered the factories to drop the lawsuits and ordered all strikers back to work.

From 13 – 16 September 2011, 200,000 clothing factory workers went on strike to demand a pay raise that would provide them with a living wage. The situation did not improve through 2012. The authorities continued to intimidate, physically harass and use legal action against trade unionists and other activists. In 2012, of the 87 demonstrations monitored by CCHR, 17 of these involved protestors being abused by police, military police, soldiers, local authorities or factory owners.¹⁰⁴ For example, in July 2012, police viciously beat union activist Rong Panha before arresting and detaining him for partaking in a labour rights demonstration. He was released later that same day without any charges.¹⁰⁵ The police who beat him went unpunished.

On 20 February 2012, three women were shot and seriously injured during a protest at the Kaoway Sports Ltd factory in Bavet town's Manhattan Special Economic Zone, in Svay Rieng province. Chhouk Bandith, former governor of the provincial capital, originally confessed to firing into the crowd of protestors but later recanted.¹⁰⁶ While the Court dropped the original case in December, the case was finally accepted by the Appeal Court in Phnom

¹⁰⁰ Frontline Defenders, 'Cambodia: Harassment of human rights defender Venerable Loun Sovath' (29 May 2012) <<http://www.frontlinedefenders.org/node/18467>>

¹⁰¹ 'Activist monk detained at Wat Botum', *The Phnom Penh Post* (29 May 2012) <<http://www.phnompenhpost.com/2012052556389/National/activist-monk-detained-at-wat-botum.html>> February 2013. Also see CCHR 'Day of Crackdown – 13 Lake Activists Imprisoned as "Multi-Media Monk" is Detained and Defrocked' (Alert) (24 May 2012)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=alert_detail.php&alid=22&id=5>

¹⁰² Frontline Defenders, 'Cambodia: Harassment of human rights defender Venerable Loun Sovath' (29 May 2012) <<http://www.frontlinedefenders.org/node/18467>>

¹⁰³ Clean Clothes Campaign, 'Over 200 Cambodian trade union leaders suspended or illegally dismissed after mass strike end' (24 September 2010) <<http://www.cleanclothes.org/news/2010/09/24/over-200-cambodian-trade-union-leaders-suspended-or-illegally-dismissed-after-mass-strike-ends>>

¹⁰⁴ Unpublished data collected by CCHR.

¹⁰⁵ CCHR, 'Violent Response to Workers Protest' (Factsheet) (July 2012) <http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=factsheet_detail.php&fsid=52&id=5>

¹⁰⁶ Men Kimseng, 'Gender inequality seen in Bavet shooting case' *Voice of America | Khmer* (28 December 2012) <<http://www.voacambodia.com/content/cambodia-gender-inequality-seen-in-bavet-shooting-case/1573588.html>>

Penh three months later, however his trial date has been repeatedly delayed and still has yet to occur. Considering the time the Justice has taken to treat this case despite blunt evidence against the accused, the victims as well as local human rights organisations remain sceptical about the fair outcome of the trial.¹⁰⁷

Significantly, as mentioned above, the country awaits the adoption of a proposed Draft Trade Union Law that would allow informal workers – such as tuk tuk and moto drivers – to also form trade unions. The original Draft Trade Union Law was proposed in 2011 and now sits at the Council of Ministers of the Ministry of Labour. There has been an apparent reluctance by the government to approve the Draft Trade Union Law, which would allow informal workers to unionise and collectively bargain for better conditions.¹⁰⁸ Some union activists have also raised concerns that the proposed law weakens union rights and falls short of international labour rights standards.¹⁰⁹

HRD Spotlight – Rong Chhun

Rong Chhun is the President of the Cambodian Confederation of Unions, which represents over 90,000 Cambodian workers and strives to realise their rights. Recently, for example, he has been at the forefront of the campaigns to bring to justice former Bavet town governor, accused of shooting three garment workers during a protest (mentioned above), and to release two men believed to have been wrongly accused of the murder of unionist Chea Vichea.¹¹⁰ Rong Chhun also led the recent negotiations to increase garment and footwear's workers minimum and was involved in a two-month long strike at Tai Yang Enterprises that began on 25 June 2012. This strike relates to a garment factory reportedly refusing to pay bonuses provided for under national law.¹¹¹ As a result of this, Rong Chhun was questioned in the Kandal Provincial Court on 11 and 27 September 2012.¹¹² Mr. Jack Liu, the director-general of Tai Yang Enterprises, accused Rong Chhun of inciting the workforce to protest. Rong Chhun claimed that he only became involved after receiving a letter from the workers of the garment factory requesting his assistance. Mr. Jack Liu has also accused Rong Chhun of making defamatory comments during the strike and referenced Article 305 (criminal defamation) of the Penal Code.

Rong Chhun's ongoing interrogation by the courts amounts to judicial harassment. His harassment is strongly believed to be rooted in his prominent human rights on behalf of Cambodian workers. While Rong Chhun was never officially charged, 53 employees did lose their jobs as a result of the strike, and they lost an appeal for

¹⁰⁷ May Titharra, "Round 2 in Bandith case locked for May" *Phnom Penh Post* (25 April 2013)

<<http://www.phnompenhpost.com/2013042565227/National/round-2-in-bandith-case-locked-for-may.html>>

¹⁰⁸ Shane Worrell and Mom Kunthear, "Still no motion on union law" *The Phnom Penh Post* (4 September 2012),

<<http://www.phnompenhpost.com/2012090458479/National/still-no-motion-on-union-law.html>>

¹⁰⁹ Civil Rights Defenders, "Civil Rights Defenders: Cambodia" (Report) (May 2012)

<<http://www.civilrightsdefenders.org/files/Cambodia-report.pdf>>

¹¹⁰ May Titharra "re-charge Bandith: Unionists" (Phnom Penh Post) (15 January 2013)

<<http://www.phnompenhpost.com/2013011560784/National/re-charge-bandith-unionists.html>>

¹¹¹ Frontline Defenders, 'Cambodia: Court summons issued to trade union leader and human rights defender Mr. Rong Chhun' (5 September 2012) <<http://www.frontlinedefenders.org/node/19749>>

¹¹² Frontline Defenders, 'Cambodia: Update- Trade union leader and human rights defender Mr Rong Chhun questioned in court regarding incitement and defamation charges' (5 October 2012)

<<http://www.frontlinedefenders.org/node/19973>>

severance pay on 13 December 2012.¹¹³ This verdict, and the harassment suffered by Rong Chhun, is a prime example of the culture of impunity that persists in Cambodia for crimes against HRDs.

Chea Vichea, former President of Cambodia's Free Trade Union was gunned down in broad daylight on 22 January 2004 in Phnom Penh.¹¹⁴ He relentlessly fought for the increase in minimum wage for the country's garment workers. In response to public demands for justice, two men were promptly arrested for Chea Vichea's murder. Born Samnang and Sok Sam Oeun were each charged and sentenced to 20 years in prison, however in 2008, they were provisionally released after the Supreme Court found mounting evidence pointing to their innocence. Despite such, on 27 December 2012, the Appeal Court in Phnom Penh upheld the original 20 year sentences and the two men were sent back to prison.¹¹⁵ Born Samnang and Sok Sam Oeun are widely believed by the human rights community to be scapegoats in what was a political murder.¹¹⁶

Women land right activists

Starting in 2012, women land rights activists have come to the forefront in the people's battle against forced evictions throughout Cambodia. Cambodian women are now taking a stand against RGC backed forced evictions and land grabs, and leading the struggle for justice on behalf of their communities, while at the same time putting themselves at tremendous risk. During interviews, women land activists informed ARTICLE 19 and CCHR that the women of Phnom Penh's evicted communities strategically decided to collectivise and protest against forced evictions, thinking that the authorities would be less aggressive towards women activists than male activists. The Boeng Kak women in particular have received a large amount of attention in the national and international media because, as women, they represent a new face of activism in Cambodia.

This is highly visible in the cases of Boeng Kak and Borei Keila, two areas of Phnom Penh affected by land grabbing and forced eviction with inadequate compensation. The families of the Boeng Kak community have been battling forced evictions since 2007, when the RGC leased their land to private company Shukaku Inc. for development. As for the Borei Keila community, the company Phanimex had breached its agreement to build ten on-site buildings to house the Borei Keila evictees. The company built only eight of the promised structures, leaving many evictees homeless and without any form of compensation.

On 11 January 2012, police arrested 22 women protesters and six children who were demonstrating against forced eviction from the Borei Keila community.¹¹⁷ The protesters were detained in Prey Speu detention centre for several days before three women were released on 16 January, and one more on 17 January, when they agreed to accept

¹¹³ Mom Kunthea and Shane Worrell, 'Tai Yang strikers lose arbitration' *The Phnom Penh Post* (17 December 2012) <<http://phnompenhpost.com/2012121760318/National/tai-yang-strikers-lose-arbitration.html>>

¹¹⁴ James Welsh and Prak Chan Thul, 'A Lost Legacy' *The Cambodia Daily* (24 January 2009) <<http://www.cambodiadaily.com/features/a-lost-legacy-1389/>>

¹¹⁵ Kim Sarom, Buth Reaksmey and Abby Seiff, 'Guilty Verdicts Upheld in Chea Vichea Slaying' *The Phnom Penh Post* (28 December 2012)

¹¹⁶ James Welsh and Prak Chan Thul, 'A Lost Legacy' *The Cambodia Daily* (24 January 2009) <<http://www.cambodiadaily.com/features/a-lost-legacy-1389/>>

¹¹⁷ Phok Dorn, 'Borei Keila Protesters Detained at Prey Speu' *The Cambodia Daily* (11 January 2012) <<http://www.cambodiadaily.com/news/borei-keila-protesters-detained-at-prey-speu-565/>>

relocation to another site. The rest escaped from the detention centre on 18 January by scaling the walls – the same day that Mu Sochua visited them, as mentioned earlier.¹¹⁸

On 22 May 2012, the “Boeng Kak 13” was arrested while holding a peaceful protest and news conference in Village 1, Boeung Kak Lake. During the protest, attended by more than 200 people, some of the participants decided to rebuild the houses which had been demolished more than two years ago by the Shukaku Inc Company. After being shouted at, threatened and beaten by the security guards, resulting in three activists losing consciousness and many more being injured, 13 activists were arrested and taken to Phnom Penh Police station.¹¹⁹ They were later charged and convicted of “obstructing a public official with aggravating circumstances” under Article 504 of the Penal Code, and illegal occupation of land under Article 34 of the Land Law.¹²⁰ Seven women were sentenced to two years and six months imprisonment; five were sentenced to two years (with six months’ suspended sentence); and one woman was sentenced to one-year imprisonment (with a year and six months’ suspended sentence).¹²¹ Due to the high international visibility and the attention of the Boeng Kak 13 case, they were released from prison on 27 June 2012 after the Court of Appeal reduced their prison terms to one month and three days – the time they had already served. However, the charges against them were not dropped.¹²²

The RGC has not hesitated to crackdown on this new form of activism. Women land rights activists are suffering a heightened level of physical violence at the hands of police and military police, who are increasingly using batons and other weapons to attack women HRDs. For example, on 27 June 2012, pregnant Bov Srey Sras was protesting during her sister’s appeal hearing, her sister being one of the Boeng Kak 13, and was kicked in the stomach by a police officer, resulting in a miscarriage.¹²³ When she announced that she was suing the three men believed to be responsible, amongst them Phuong Malay, the Deputy Police Chief of the Phnom Penh Municipality, she was met with offensive remarks by Phuong Malay to the media.¹²⁴ During the writing of this report, legal action had yet to be taken against the Deputy Police Chief, despite a complaint filed against him at the Phnom Penh court in July 2012.

¹¹⁸ Forum Asia, ‘Cambodia: Borei Keila forced eviction and arbitrary detention of 22 women and six children’ (Letter) (23 January 2012) <<http://www.forum-asia.org/?p=11990>>

¹¹⁹ CCH, “Boeung Kak lake residents arrested by Police while on peaceful protest” (Media Alert) (5 May 2012) <http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=alert_detail.php&alid=20&id=5>

¹²⁰ CCHR, ‘CCHR Releases Legal Analysis of the Charging and Sentencing of 13 Boeng Kak Activists on 24 May 2012’ (Press Release) (11 June)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=press_detail.php&prid=257&id=5>

¹²¹ Ibid

¹²² Shane Worrell and Khouth Sophak Chakrya, ‘Freedom rings for Boeung Kak 13’ *The Phnom Penh Post* (28 June 2012): <http://www.phnompenhpost.com/index.php/2012062857085/National-news/freedom-boeung-kak-13.html>

¹²³ ‘Land Activists Released’ *Radio Free Asia* (27 June 2012) <<http://www.rfa.org/english/news/cambodia/boeung-kak-06272012162146.html>>>

¹²⁴ CCHR “Open Letter to Cambodian Officials regarding discriminatory comments made by Phnom Penh Municipality Deputy Police Chief” (Open Letter) (8 August 2012) <http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=press_detail.php&prid=277&id=5>

HRD Spotlight – Yorm Bopha

When the Boeng Kak 13 was convicted, another Boeng Kak activist, Ms. Yorm Bopha, rose to the forefront to campaign for their release. She was a visible and high profile presence at every demonstration, and she was outspoken in her criticism of the RGC. As a result, Yorm Bopha was verbally threatened, harassed and intimidated by the authorities. Police told her repeatedly that she was “on the blacklist” and that she “would be in trouble soon”.¹²⁵

On 4 September 2012, Yorm Bopha and her husband, Lous Sakhorm, were accused of allegedly masterminding the assault of two motorbike-taxi drivers. The couple was charged with “intentional violence with aggravating circumstances” under Article 218 of the Penal Code. According to the Prosecutor’s version, “Yorm Bopha and her husband had masterminded an assault on two men sitting in a drink shop and had then showed up to witness their plan in action”.¹²⁶ On 27 December, Yorm Bopha and her husband were both found guilty and sentenced to three years in prison. However, while Yorm Bopha was brought straight to Phnom Penh’s Prey Sar prison, her husband had his sentence fully suspended and walked free.¹²⁷

Leaving aside multiple procedural irregularities during the trial - including two of Yorm Bopha’s brother’s being tried in absentia - no evidence was produced in court to suggest that Yorm Bopha and Lous Sakhorm were violent towards the motorbike-taxi drivers. In fact, none of the accounts presented by the witnesses suggested that Yorm Bopha and her husband had taken part in the assault. The Prosecution argued that although Yorm Bopha and her husband were not directly violent, that they had planned the assault. Several witnesses said that they had seen Yorm Bopha and her husband at the scene and that Yorm Bopha had helped to free one of her brothers when the motorbike-taxi driver overpowered him, however none of the witnesses could say explicitly that Yorm Bopha had planned the attack. It should also be noted that there were clear inconsistencies between the written statements and the courtroom testimonies of the witnesses, including the time they arrived to the drink shop, the time Yorm Bopha and her husband arrived, and when and how the fight started. Both Yorm Bopha and her husband stated that they did not know the two motorbike-taxi drivers – they merely heard yelling when the fight broke out and went to see what was happening.¹²⁸ Nevertheless, Yorm Bopha and her husband were found guilty, despite the lack of concrete evidence. This leads ARTICLE 19 and CCHR to believe that the charges and convictions were politically motivated. Yorm Bopha filed for appeal in January 2013 and the Court of Appeal in Phnom Penh will hear her case on 14 June 2013.

¹²⁵ Clean Clothes Campaign, ‘Over 200 Cambodian trade union leaders suspended or illegally dismissed after mass strike end’

¹²⁶ LICADHO “Briefing update: the Yorm Bopha case” (Briefing Update) (April 2013)
<<http://www.licadho-cambodia.org/reports/files/177LICADHOBriefBopha2013-English.pdf>>

¹²⁷ Clean Clothes Campaign, ‘Over 200 Cambodian trade union leaders suspended or illegally dismissed after mass strike end’

¹²⁸ LICADHO “Briefing update: the Yorm Bopha case” (Briefing Update) (April 2013)
<<http://www.licadho-cambodia.org/reports/files/177LICADHOBriefBopha2013-English.pdf>>

Tim Sakmony, a prominent activist from the Borei Keila community, was arrested and detained one day after Yorm Bopha, and accused of making a “false declaration” in an attempt to secure an apartment for her son.¹²⁹ At the time of her arrest, Tim Sakmony had been living in desperate conditions after being denied on-site relocation accommodations.¹³⁰ After more than three and a half months in pre-trial detention, Tim Sakmony was tried on 26 December 2012 and found guilty of fraud. She was given a suspended sentence of 6 months in prison.¹³¹ Like Yorm Bopha, Tim Sakmony was arrested to intimidate other women land rights activists from continuing with their human rights work.¹³²

According to the available information and gathered testimonies, the threats and vulnerabilities faced by female activists and male activists appear to be similar. There is not significant evidence of a gender-based differentiation in the identified threats from the authorities. However, there is growing participation of women in demonstrations and protests, particularly against forced evictions. Given that women are traditionally the caretakers of families in Cambodia, there is transfer of risk to children and other family members as the women HRDs participate in human rights work and leave their children unattended. Some of the women interviewees reported that they received anonymous phone calls threatening to harm their children if their activism did not cease. In addition, women activists can be more vulnerable to physical violence if, for example, they are pregnant.

NGO Workers

In the past, NGO leaders were not better protected from threats and intimidation than other NGO workers. In December 2005, two high-ranking NGO leaders were arrested and detained on charges of defamation during a government crackdown on prominent dissidents. This drew immediate condemnation from the international community, human rights activists and watchdog organisations. In this incident, Mr. Kem Sokha, President of CCHR, and Mr. Yeng Virak, Director of the Community Legal Education Center were amongst the first victims of a campaign by the RGC to target increasingly high ranking and prominent human rights campaigners. The catalyst was a banner displayed during a celebration of International Human Rights Day on the 10th of December 2005. The banner was from the pre-2003 election, and contained small hand-written comments by Cambodian villagers expressing political opinions about the CPP and the Prime Minister, as well as slogans such as “I don’t vote for any party that sows fear to the people.”¹³³

Both Yeng Virak and Kem Sokha were arrested and remanded on bail for defamation charges relating to the criticisms of the RGC displayed on the banner. After spending

¹²⁹ Various civil society groups, “Two days, two unjustified Pre-trial detention orders for prominent land right activists in Phnom Penh” (joint statement) (6 September 2012)

<http://sithi.org/temp.php?url=publication_detail.php&lg=&mid=5809>

¹³⁰ Khouth Sophak Chakrya and Shane Worrell “Cambodian government imprisons second land activist in two days” *Phnom Penh Post* (6 September 2012)

<<http://www.phnompenhpost.com/2012090658543/National/cambodian-government-imprisons-second-land-activist-in-two-days.html>>

¹³¹ Free the 15, ‘Sakmony Found Guilty But to be Released’ (Phnom Penh, 26 December 2012)

<<http://freethe15.wordpress.com/2012/12/26/505/>>

¹³² LICADHO, ‘Human Rights Defender Tim Sakmony Imprisoned for Demanding Housing Rights’ (Briefing Paper)(September 2012) <<http://www.licadho-cambodia.org/reports/files/174Free15+AI-SakmonyProfile-English.pdf>>

¹³³ The Observatory for the Protection of Human Rights Defenders, ‘Cambodia: Arbitrary Detention of Mr. Kem Sokha and Mr. Yeng Virak’ (Overview) (4 January 2006) <<http://www.omct.org/human-rights-defenders/urgent-interventions/cambodia/2006/01/d17795/>>

seventeen days in Prey Sar prison, the RGC was forced to bow to increasingly vocal international criticism and released both men on bail, most likely due to their high international profiles.¹³⁴

In the recent years leading up to 2012, directors of prominent NGOs have been relatively safer from threats and intimidation than their employees. This quasi-immunity is largely attributed to the high profile of the directors in national and international media.

On 29 May 2010, Leang Sokchoeun, an employee at LICADHO was arrested for allegedly distributing 'inflammatory' leaflets in Takeo province. Despite Leang Sokchoeun claiming to have no link to the leaflets or to their creation, and despite numerous procedural irregularities in his arrest and trial, he was convicted of incitement and sentenced to two years in prison.¹³⁵ On 30 May 2012, he was released after fully serving a two-year sentence.¹³⁶

The major difference between this case and the cases of Yeng Virak and Kem Sokha is the level of international condemnation each attracted. The international prominence of Yeng Virak and Kem Sokha was far greater than that of Leang Sokchoeun - on one occasion for example Kem Sokha was even visited in jail by the Swedish Justice Minister. The case of Leang Sokchoeun on the other hand attracted less attention and this in turn likely affected the outcome of his case.¹³⁷

It is also worth noting that during ARTICLE 19's field visit to Cambodia, many NGOs expressed the belief that the RGC's greatest fears relate to community-level empowerment, therefore any NGO worker attempting to conduct human rights training sessions or collective actions are vulnerable to threats, namely legal charges and arrest. CCHR trainings and public forums have been interrupted or shut down on a number of occasions, usually by police carrying firearms.¹³⁸ Most recently, on 27 July 2012 in Ratanakkiri province, a land rights meeting organised by CCHR and ADHOC was interrupted and shut down by local authorities, one of whom was carrying an M-16 rifle. The police told CCHR staff present that if they did not leave the area, their security could not be guaranteed.¹³⁹

¹³⁴ Human Rights Watch, 'Cambodia: Hun Sen Systematically Silences Critics' (4 January 2006) (Updated) <<http://www.hrw.org/news/2006/01/03/cambodia-hun-sen-systematically-silences-critics>>

¹³⁵ IFEX, 'International groups condemn sentencing of local rights staffer' (Alert) (2 September 2012) <http://www.ifex.org/cambodia/2010/09/01/leang_sentenced/>

¹³⁶ 'Licadho staffer walks after two year lock-up' *The Phnom Penh Post* (5 June 2012) <<http://www.phnompenhpost.com/2012053156507/National/licadho-staffer-walks-after-two-year-lockup.html>>

¹³⁷ Human Rights Watch, 'Cambodia: Free Human Rights Worker' (14 July 2011) <<http://www.hrw.org/news/2011/07/14/cambodia-free-human-rights-worker>>

¹³⁸ CCHR, 'Fundamental Freedoms Factsheet: Meetings and Trainings' (Factsheet) (September 2011) <http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=factsheet_detail.php&fsid=12&id=5>

¹³⁹ ADHOC-CCHR, 'Continued Disruption of Community Empowerment Activities Organized by Human Rights Groups' (Joint Press Release) (27 July 2012) <http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=press_detail.php&pid=274&id=5>

HRD Spotlight – Chan Soveth, ADHOC

On 9 August 2012, the Phnom Penh Municipal Court issued a citation summoning Chan Soveth, Senior Investigator at ADHOC, to appear before Investigating Judge Chhe Virak on 24 August 2012, relating to the charge of “providing assistance to a perpetrator” under Article 544 of the Penal Code.¹⁴⁰

The charge against Chan Soveth came after a speech made by Prime Minister Hun Sen on 1 August, accusing an unidentified “human rights worker” of assisting criminals. It is highly believed that the human rights worker referred to by the Prime Minister was Chan Soveth and that the accusation against him was based on the humanitarian assistance he provided to a land rights activist from Kratie province, who arrived at ADHOC offices starving after having walked for days. The land rights activist in question was allegedly involved in a secessionist movement, attempting to establish a state within a state, in Pro Ma village, the site of a 15,000-hectare land concession. On 16 May 2012, hundreds of armed police and military police stormed Pro Ma village, in an effort to evict around 1,000 families living in the concession area. When villagers, amongst them so-called secessionists, refused to move from their land, the authorities opened fire, causing the death of 14-year-old Heng Chantha, as mentioned earlier in the report. Evidence of a secessionist movement in Kratie has yet to be produced.¹⁴¹ It is also worth noting that the activist who Chan Soveth assisted had the charges against him dropped, while the charges against Chan Soveth remained.

Chan Soveth received assistance from several international stakeholders to leave the country for human rights trainings before his court date. ADHOC requested that his court date be pushed back and the court obliged. Chan Soveth finally appeared before Phnom Penh Municipal Court for questioning on 24 December 2012. He was not detained¹⁴² but the charges hung over him until they were finally dropped on 8 February 2013.

Chan Soveth was targeted merely for carrying out his work as an NGO worker. It is widely believed that the purpose of the judicial intimidation of Chan Soveth was to send a message of intimidation to other human rights workers in Cambodia.

In addition to the case of Chan Soveth, there have been several cases brought against ADHOC staff based in the Cambodian rural provinces. For example, Sam Chankea was found guilty of defamation in January 2011 and ordered to pay a hefty fine when he spoke out about a land conflict in Kampong Thom during a radio interview.¹⁴³ In 2009, Pen Bonnar and Chhay Thy, two provincial staff based in Ratanakkiri were also charged in relation to their activities empowering villagers to peacefully protect their land rights. They appeared in

¹⁴⁰ CCHR, ‘NGO worker summonsed by Phnom Penh Municipal Court’ (Alert) (15 August 2012)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=alert_detail.php&alid=24&id=5>

¹⁴¹ Ibid

¹⁴² ADHOC Statement, ‘Human Rights Defender Chan Soveth Not Detained After Questioning’ (Phnom Penh, 24 December 2012) <<http://www.adhoc-cambodia.org/?p=2732>>

¹⁴³ Article 19/CCHR, ‘Cambodia: Conviction of Sam Chankea is an Attack on Freedom of Expression’ (Joint Press Release) (25 January 2011)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=press_detail.php&pid=4&id=5>

court for questioning in relation to these charges in 2011. The men were not detained, however the charges were not dropped.¹⁴⁴

The RGC appears to be cracking down on all levels of activism due to the July 2013 election. In 2012 several NGO leaders faced serious threats. Ou Virak of CCHR was summoned for questioning at the Ratanakkiri provincial court relating to a complaint going back to 2009.¹⁴⁵ An RGC affiliated student group threatened Sia Phearum, Director of Housing Rights Task Force, with violence after he criticised the student land measuring initiative during a radio interview.¹⁴⁶ Additionally, as mentioned earlier, NGO leader Chut Wutty was shot dead, and NGO leader and prominent journalist, Mam Sonando, was initially found guilty of secession with no evidence to support the verdict, and was sentenced to 20 years in prison before his sentence was finally reduced by the Appeal Court.

Entire organisations have also faced threats as a result of their work in protecting and promoting human rights. The RGC has lashed out against NGOs in the past when NGO staff have spoken out against RGC policy, when they have attempted to help victims of human rights abuses to file complaints against the authorities, organised community trainings or assisted communities in organising demonstrations, and when NGOs have published reports that are critical of RGC policies. In some cases, the authorities make complaints against individual staff members. The cases of Pen Bonnar, Chhay Thy and Sam Chankea from ADHOC are all examples of this, as are the cases of Ou Virak and Chan Soveth, described above. In addition to targeting individual NGO workers however, the RGC has also threatened to suspend several NGOs as a result of their human rights activities.

¹⁴⁴ CCHR/ADHOC, 'Three rights workers and one journalist summonsed to appear at Ratanakkiri court on charges of incitement' (Joint Alert) (2 October 2012)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=press_detail.php&prid=295&id=5>

¹⁴⁵ The complaint, made by commune chief Kith Chem, accused Ou Virak as well as Pen Bonnar and Chhay Thy, provincial coordinator and investigator of Human Rights organisation ADHOC, and Radio Free Asia journalist Ratha Visal, of inciting members of an ethnic minority group to protest violently against agro business company D.M Group, as part of a long-running and ongoing land dispute in Lumphat district, Ratanakiri province. See CCHR, 'CCHR President Ou Virak will Face Questions at Ratanakkiri Court on Monday 8 October 2012' (Press Release) (4 October 2012)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=press_detail.php&prid=296&id=5>

¹⁴⁶ CCHR, 'NGO worker threatened after giving an interview with RFA' (Alert) (10 August 2012)

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

HRD Spotlight - STT and BABC

On 11 August 2011, the Mol suspended the well-known land rights organisation Sahmakum Teang Tnaut (STT).¹⁴⁷ In the years prior to its suspension, STT had been increasingly critical of the RGC's 142 million dollar scheme to redevelop Cambodia's rail network, pointing out that the eviction of communities near railway lines would make Cambodia's poor even poorer. The RGC responded to these criticisms by suspending STT's activities altogether. In a letter from the Mol dated 2 August 2011, STT was told to "suspend its activities" for five months. The letter unjustly accused STT of failing to modify its leadership structure and of making unacceptable amendments to its statutes. Even if there was truth in the claims by the Mol, there was no legal basis offered for the suspension.¹⁴⁸ The Mol offered an alternative explanation for the suspension of STT on 13 August, in statements posted on the Mol website that accused STT of inciting people to oppose national development through their advocacy work.¹⁴⁹ STT's suspension came to an end in January 2012.

STT was just one of several NGOs that had been critical of the Asian Development Bank funded rail project. In a letter to Hun Sen just before STT's suspension, Minister of Economy and Finance Keat Chhon requested "immediate action" to be taken against STT and Bridges Across Borders Cambodia (BABC) as a result of their activism. He was also recorded saying, "do not allow foreign NGOs to do advocacy work [...] or interfere."¹⁵⁰ On 18 August, BABC and one other organisation, NGO Forum, received orders from the RGC to "readjust their work" and accused them of inciting families to oppose the rehabilitation of the Cambodian rail system.¹⁵¹

¹⁴⁷ CCHR, 'Suspension of prominent land rights NGO confirms civil society fears regarding forthcoming NGO law' (Alert) (12 August 2011)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=alert_detail.php&alid=5&id=5>

¹⁴⁸ World Organisation Against Torture and others, 'Arbitrary Suspension of the Human Rights NGO Sahmakum Teang Tnaut' (Press Release) (August 2011)

<<http://www.omct.org/human-rights-defenders/urgent-interventions/cambodia/2011/08/d21402/>>

¹⁴⁹ CCHR, 'Case Study Series: Sahmakum Teang Tnaut ("STT")' (Factsheet) (September 2011)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=factsheet_detail.php&fsid=13&id=5>

¹⁵⁰ Sebastian Strangio, 'Cambodian NGOs under the gun', *Asia Times* (20 September 2011)

<http://www.atimes.com/atimes/Southeast_Asia/MI20Ae02.html>

¹⁵¹ CCHR, 'NGOs advised by Ministry to 'readjust' their work' (Alert) (19 August 2011)

<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=alert_detail.php&alid=6&id=5>

Risk assessment

There are definite trends in the types of threats faced by HRDs in Cambodia. The principal and most serious threats faced by HRDs in Cambodia are physical attacks, arrest without charge, and legal and judicial harassment.

There are several other more specific threats faced by only particular types of HRDs – for opposition parliamentarians, it is the threat of losing parliamentary immunity, for human rights lawyers, the threat of being disbarred, for activist monks, the threat of being disrobed, and for NGOs the threat of being suspended.

To assess the security situation of HRDs in Cambodia it is necessary to look at the *risk* involved in promoting and protecting human rights. The level of risk faced by HRDs increases in accordance with the threats that they face and their vulnerability to those threats. However, this level of risk can then be reduced through increased capacity of HRDs to deal with the threats that they face.¹⁵²

For the purpose of this report, a **threat** is an affront against an HRD as a result of his/her work, and is likely to recur should the HRD continue with his/her work. The level of threat is dependent upon the seriousness of the potential impact of this threat and the likelihood of the particular threat materialising based on the level of frequency at which this type of threat has materialised in the past.

The severity and likelihood of threats are determined through information gathered in interviews, as well as through close monitoring of and extensive research into the situation of HRDs in Cambodia.

Vulnerability refers to the factors that increase the chances of an HRD, or a group of HRDs, from suffering an attack or from suffering greater harm as a result of an attack.¹⁵³ All HRDs are vulnerable in Cambodia due to factors such as the legislative context, the lack of an independent NHRI, a corrupt and politicised judiciary, the use of the state apparatus to silence dissent and widespread impunity for violators of the rights of HRDs. However, vulnerability also varies per type of HRD. Different types of HRDs have different capacities to deal with threats – some types of HRDs are more prepared to deal with threats than others, thereby reducing their vulnerability.

For example, an NGO worker based in Phnom Penh will likely be less vulnerable and better protected than a grassroots activist working in a remote province, due to the NGO worker's central location; affiliation with an NGO that likely has security protocols in place; regular communication with other NGOs, international donors and the media; easier access to legal representation; and increased knowledge and awareness of risk. In addition, some HRDs are more frequently targeted and face more serious threats due to the focus of their work – such as grassroots land rights or union activists for example. The level of vulnerability to different types of threats is therefore heavily dependent on the type of HRD facing the threat.

¹⁵² Frontline Defenders, 'Protection Handbook for Human Rights Defenders' (Dublin, November 2007)

<<http://www.frontlinedefenders.org/files/en/Front%20Line%20Protection%20Handbook.pdf>>

¹⁵³ Ibid

In this subsection, CCHR and ARTICLE 19 will analyse the risk faced by Cambodian HRDs. Each of the main threats identified will be assigned an indicator based upon the severity of the threat and its frequency, as shown in the table below. The HRDs' vulnerability to that particular threat will also be assigned an indicator, according to how vulnerable the HRDs are to the threat based upon any pre-existing protection measures (or lack thereof), the HRDs' socio-economic position, their location and the type of work that they do.

	THREATS	VULNERABILITY
HIGH	Very likely for threat to occur and/or to have a detrimental impact on the security and safety of the HRD if it were to occur	Low capacity to deal with threats
MEDIUM	Likely for threat to occur and/or to have a detrimental impact on the security and safety of the HRD if it were to occur	Medium capacity to deal with threats
LOW	Not as likely for threat to occur and/or to have a detrimental impact on the security and safety of the HRD if it were to occur	Strong capacity to deal with threats

This method, implemented for several years by ARTICLE 19 in Mexico, is a basic scale employed by CCHR and ARTICLE 19 to compare and contrast the different risks faced by Cambodian HRDs, and to establish an overall picture of the security situation for HRDs in Cambodia.

Main Threats

It was unanimous across all interviews held with HRDs – and confirmed by research carried out – that the main “agent of persecution” against HRDs is the RGC. The next biggest source of threats was from individuals or groups linked to the CPP. HRDs also receive threats from private security guards who work for companies typically owned by RGC officials, or by the family and friends of RGC officials.

Physical violence and harassment: high threat

Prior to 2012, it appeared that physical attacks on HRDs were decreasing and the authorities favoured the use of the courts and the legislature to intimidate and silence HRDs, rather than outward violence. However, towards the end of 2011 and throughout 2012 there was a marked increase in the number of physical attacks on HRDs. As discussed above, two HRDs – journalist Heng Serei Odom and environmental activist Chut Wutty – were killed in 2012. For many HRDs, threat of physical violence and harassment poses a serious and frequent threat that has obviously detrimental effects on their safety and work.

Arrest without charge: high threat

The arrest of HRDs, especially activists taking part in demonstrations, is common. As noted above, ADHOC reported that at least 201 land activists were arrested in 2012. It is a trend that the authorities will arrest and temporarily detain HRDs, often without charges. The frequency that this threat materialises and the seriousness of the threat is considered to be high.

Legislative and judicial harassment: high threat

As outlined above, the legal framework in Cambodia represents one of the main threats to HRDs and their work. A variety of human rights organisations, both national and international, have documented numerous cases of judicial harassment of HRDs, which is often made possible due to vague and restrictive legislation¹⁵⁴ or through the fabrication of criminal acts.¹⁵⁵ Legislative and judicial harassment is a reality for all HRDs in Cambodia. In some cases HRDs are merely called to the court for questioning but they are not even charged. It is difficult to predict how the authorities will proceed with a case, however the initial threat of legislative and judicial harassment is real, serious, common and has a high impact on the security of HRDs.

Obstruction to career and livelihood: medium threat

Several of the threats identified in the previous section are particular to certain groups of HRDs, and relate to their ability to continue their jobs, such as the potential loss of parliamentary immunity faced by outspoken parliamentarians, disbarment faced by human rights lawyers, activist monks being disrobed, and the threat of suspension faced by NGOs. While the loss of parliamentary immunity or disbarment might not have immediate and harmful effects to the safety and security of the HRD receiving the threat, it can result in the loss of a professional protection and can prevent the HRD from making a livelihood.

Information security on the Internet: low threat

Information security awareness is low amongst Cambodian HRDs, especially with regards to communication over the Internet. The rise in the use of the Internet to disseminate independent news, opinion and debate has led to attempts by the authorities to curtail Internet freedoms. Several NGO workers for example have reported having their emails monitored and blocked. In 2012 the RGC announced the planned adoption of a cyber law in Cambodia in order to prevent “ill-willed people... from spreading false information”.¹⁵⁶ The law is still in its drafting stage and no indication has been made as to when a version would be made public. However, the threat to information security on the Internet is currently relatively low due to the low level of Internet penetration in Cambodia. In December 2012, the Ministry of Posts and Telecommunications estimated that there were 2.7 million Internet users in

¹⁵⁴ See section on Legal Protections above.

¹⁵⁵ See previous section for more details on the cases of Mam Sonando, Yorm Bopha and Tim Sakmony.

¹⁵⁶ Bridget Di Certo and Kim Yuthana, ‘The “ill-willed spark cyber law”: officials’ *The Phnom Penh Post* (24 May 2012) <<http://www.phnompenhpost.com/2012052456372/National/the-ill-willed-spark-cyber-law-officials.html>>

Cambodia, accounting for 18 percent of the population. This is a significant improvement from World Bank estimates in 2011, which reported a penetration rate of only 3.1 percent.¹⁵⁷ CCHR and ARTICLE 19 note that this particular threat is likely to increase over time as more Cambodians utilise the Internet for HRD work, and as the authorities develop more sophisticated mechanisms to confront online activism.

THREAT SCALE

HIGH	Physical violence or harassment
HIGH	Arrest without charge
HIGH	Legislative or judicial harassment
MEDIUM	Loss of parliamentary immunity
MEDIUM	Being disbarred
MEDIUM	Being disrobed
MEDIUM	Suspension of activities
LOW	Violation of information security on the internet

¹⁵⁷ CCHR, “Freedom of Expression and Internet Censorship in Cambodia” (Briefing Note) (April 2013) <<http://www.cchrcambodia.org/admin/media/analysis/analysis/english/2013-04-29-Internet-Censorship-Briefing-Note-eng.pdf>>

Vulnerability

If HRDs cannot prevent threats, they can reduce vulnerability to threats by increasing their capacity to handle threats through several practical measures, which will be discussed in the “Conclusion and Recommendations” section below.

Grassroots land rights activists: high vulnerability

Grassroots land rights activists face the majority of threats. They are often working in remote areas, have little access to the media or international community, lack the resources for legal protection, and are not formally collectivised with adequate security protocols. Furthermore, they are working on an issue for which the RGC and private companies are particularly sensitive and defensive.

They are at high risk of physical violence and harassment, and are frequently harassed and beaten by authorities, especially since they frequently participate in demonstrations. Grassroots land rights activists are also highly vulnerable to arrest without charge and legislative/judicial harassment.

Union activists: high vulnerability

Union activists face a very similar level of vulnerability to grassroots land rights activists due to their frequent participation in demonstrations, and the lack of security protocols. This leads to high vulnerability to the threat of physical attacks.

Legislative and judicial harassment of union activists is also common. Their vulnerability to this threat is high due to lack of access to legal protection, lack of knowledge surrounding the threats, lack of links to NGOs or links to international partners. The risk of arrest without charge is also relatively high due to the frequent participation in demonstrations.

Women land rights activists: high vulnerability

As mentioned above, the authorities’ treatment of women activists appears similar to the treatment of male activists. However given that women are traditionally the caretakers of their families, there is an added element of vulnerability. Furthermore, the vulnerability for pregnant HRDs is incredibly high due to the likelihood for physical attacks and harassment to adversely impact the pregnancy.

Due to frequent participation in demonstrations for women activists, the risk of arrest without charge and judicial harassment is high. As evidenced in the Borei Keila arrest mentioned previously, the women land rights activists were arrested and arbitrarily detained along with their children.

Journalists and media professionals: medium to high vulnerability

Journalists and media professionals often face legislative and judicial harassment as a result of their work spreading free and independent news and opinion. There are no real protection mechanisms in place for journalists and they often carry out work

in remote areas unaccompanied. The modest socio-economic levels of Cambodian journalists and media professionals can also prohibit them from having access to adequate legal protection.¹⁵⁸

Journalists and media professionals are also frequently physically harassed when attempting to report on news stories that are critical of the government, or they are sometimes subject to violence due to the nature of their work, such as reporting on a protest or a land dispute.

The authorities employ strong intimidation tactics upon journalists and media professionals in an attempt to silence any form of dissent, thereby creating a chilling effect and a culture of self-censorship.

Human rights lawyers: medium vulnerability

Human rights lawyers mainly face threats of legislative and judicial harassment and of being disbarred. Human rights lawyers are vulnerable to legislative and judicial harassment, especially if they are not affiliated with an NGO, and especially if the BAKC enforces stricter rules for lawyers interacting with the media. There is also the real threat of being disbarred. As seen in the previous section, the BAKC is politicised¹⁵⁹ and therefore it can be risky for lawyers to take on sensitive cases if they want to protect their own source of livelihood. The number of lawyers who have been disbarred recently may be relatively low, although the political nature of the BAKC means that lawyers are still highly vulnerable.

Since the start of this project, CCHR and ARTICLE 19 have not documented any recent cases of physical violence against human rights lawyers.

NGOs: medium vulnerability

NGO workers are relatively well protected from physical attacks and harassment due to their networks, and awareness of and preparedness for the security situation. However, although NGO workers are somewhat protected by their NGOs and links to international donors and embassies, the nature of the role of NGO workers and the political nature of the judiciary leaves them highly vulnerable to legislative and judicial harassment.

The other principal threat faced by NGO workers is the threat to their information security on the Internet. NGO workers usually have protection of their information security via their NGOs but not always in their homes. Their vulnerability to digital insecurity is medium.

¹⁵⁸ Anne Lemaistre, UNESCO Representative and James Heenan, Deputy Representative and Officer-in-Charge of the Office of the United Nations High Commissioner for Human Rights in Cambodia, "World Press Freedom Day 2012: Promoting Responsible Journalism in Cambodia" (Op-Ed) *The Phnom Penh Post* (3 May 2012) <http://www.un.org.kh/index.php?option=com_content&view=article&id=559:world-press-freedom-day-2012-promoting-responsible-journalism-in-cambodia&catid=47:features&Itemid=88>

¹⁵⁹ LICADHO, 'Restrictions on the Legal Profession by the Bar Association: A Threat to Free and Independent Legal Aid in Cambodia' (Briefing Paper) (December 2007) <<https://www.licadho-cambodia.org/~licadho/reports.php?perm=114&pagenb=4&filter=-1>>

Apart from NGO workers being threatened as individuals, NGOs themselves are sometimes targeted, like in the cases of STT, BABC and NGO Forum described in the previous subsection. Human rights NGOs regularly take a strong line against human rights violations perpetrated by or directly linked to the RGC. This means that human rights NGOs may face the real risk of suspension. This threat has a serious impact on the work of NGOs and their survival. However, the strategy of targeting individual NGO workers is far more common. In the instances where an entire Cambodian NGO is targeted, donors and international partners of the respective NGO are likely step in to pressure the RGC to cease all intimidation tactics. Taking into account international support, along with the suspension of the LANGO, the vulnerability of entire NGOs is currently low.

Opposition parliamentarians: low to medium vulnerability

Opposition parliamentarians are usually high up on the socio-economic scale, are well known and have security protocols in place, therefore the vulnerability to physical violence and arrest is low. Additionally opposition parliamentarians are likely to have information protection in place, lowering their vulnerability in this respect.

However, due to the nature of their work in challenging the ruling party, one of the main threats faced by opposition parliamentarians is the removal of parliamentary immunity, which is easily achieved by the CPP. This means that opposition parliamentarians are quite vulnerable to this threat and subsequently become highly vulnerable to legislative and judicial harassment.

Buddhist monks: low vulnerability

The biggest threat for Buddhist monks is the threat of being disrobed. As a result of his activism, Loun Sovath has been banned from entering his home at Ounalom pagoda and other pagodas around Phnom Penh. The leadership of the Cambodian Buddhist fraternity allegedly has close ties to the ruling CPP, which increases the vulnerability for activist monks.¹⁶⁰ Therefore, Buddhist monks who support community activists are in real danger of being disrobed. The vulnerability of activist monks to this threat is high.

However, there are currently no other recorded incidents of physical attacks and harassment, or legislative and judicial harassment, of monks to comment on an overall trend.

¹⁶⁰ CCHR, 'Case Study Series: Loun Sovath' (Factsheet) (July 2011)
<http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=factsheet_detail.php&fsid=5&id=5>

VULNERABILITY SCALE

HIGH	Grassroots land rights activists
HIGH	Unionist activists
HIGH	Women land rights activists
MEDIUM TO HIGH	Journalists and media
MEDIUM	Human rights lawyers
MEDIUM	NGOs
LOW TO MEDIUM	Parliamentarians
LOW	Monks

Conclusion and recommendations

It is clear that Cambodian HRDs face a dangerously high level of risk in the context of their work. The threats against HRDs are manifold as well as often unpredictable. The lack of proper means to assess and address the current threats against HRDs magnifies these threats. Additionally, the lack of preparedness, awareness and knowledge amongst HRDs in relation to threats and risk mitigation substantially increases their vulnerability. It must also be noted that the security situation appeared to deteriorate in 2012, in comparison to previous years. This decline can be attributed in part to the imminence of the National Assembly elections in July 2013, as well as growing unrest as a result of land and labour rights violations.

The following recommendations, directed at HRDs, human rights organisations, the general human rights community in Cambodia, and the RGC, strive towards the reduction of the risks faced by HRDs – as identified by the risk assessment above – and the improvement of the overall security situation of HRDs in Cambodia. HRDs are an integral part of a democratic society. When HRDs can carry out their work with minimum risk, the overall human rights situation in Cambodia will be vastly improved.

Recommendations

Human rights defenders:

- Self-identify as an HRD publicly, use the terminology and publicise the fact that your work is protected by international law. This will ensure that authorities and society better understand your role and the level of protection that it is afforded.
 - o Identify yourself as an HRD on all forms of identification, such as your business cards, official letters, and biographies in social media networks.
 - o When carrying out your work, always carry a credential and/or letter identifying yourself as an HRD, detailing your duties and mandate, and/or linking yourself to an organisation.

- Build a solidarity and security network.
 - o Identify colleagues, organisations and even public officials that could provide help in case of an emergency, bearing in mind that an early activation of solidarity may prevent further violations and abuses.
 - o Seek regular legal advice from a trusted lawyer or NGO.
 - o Ensure that legal representation is available should you face judicial harassment, if you need to file a complaint to the court, or if you are arrested and detained.

- Create tailored emergency plans and security protocols.
 - o Understand and analyse the legal and political implications of your work, and identify the possible threats due to gender, ethnicity, religious background etc. and adopt concrete security protocol and measures to counteract them, such as information security, property security, and personal security.
 - o Constantly observe changes in the security environment (e.g. the passage of new laws, upcoming elections, or the increase in arrests) in order to prevent threats from materialising and to be prepared for when they do materialise.
 - o Should a threat occur, be prepared to file a formal complaint before the authorities (if it is possible and safe to do so).

- Develop contingency plans for participation in protests and demonstrations, and in case of arbitrary arrest. (This is particularly important for women land rights activists and union activists.)
 - o Determine with colleagues and partners which information should not be revealed during questioning or interrogation, in order to not further jeopardise your safety and that of your colleagues.
 - o During detention, make sure that someone from your solidarity/security network knows of your whereabouts, conditions, and charges. You should also have a clear understanding of your rights in order to detect and prevent further abuses.
 - o Clearly establish your role during a demonstration, as a participant or as a monitor, and prepare plans accordingly.
 - o When monitoring demonstrations, inform colleagues outside the demonstrations with details of abuses and any information of detainees.

- When documenting in situ abuses, make sure to have the support of a colleague while filming or taking pictures, and make sure to carry empty memory cards in case the police try to seize the recorded material.
 - When uploading the evidence of abuses to the Internet, make sure to erase the metadata and to protect the identity of the victims.
- Maintain constant communication with trusted networks.
- Make sure to frequently communicate your whereabouts to other colleagues, especially when working in remote areas. Make sure to have mobile phone or any other mean of communication at all times with colleagues and relatives. This is particularly important for grassroots land activists and media workers reporting on the issue.

Human rights organisations:

- Adopt collective security protocols and security plans in conjunction with all staff members and partners, with the main objective of minimising the impact of threats and to ensure a rapid and effective response in case of an emergency. Some elements that should be included:
 - Risk assessment and prevention measures
 - Rapid response for legal representation
 - Emergency and crisis management plans to ensure the continuance of its operation in case of any eventuality
 - Documentation and analysis of all security incidents and, whenever possible, to file formal complaints before the authorities regardless of the expected results of the investigations.
 - Allocation of the necessary resources to empower staff members to adopt the required measures for self-protection, including training, personalised security assessment and equipment in order to mainstream security and safety principles in their overall operations.
- Establish protocols in case of illegal and/or arbitrary detentions and forced disappearances of staff or collaborators, with the aim to ensure a rapid response. Some elements to be included are:
 - A list of detention centres, relevant authorities and lawyers or organisations that could ensure a rapid and effective response.
 - When reacting to such scenarios, the organisation should be able to provide partners, donors and rest of the solidarity network with details within hours about the charges and physical and detention conditions of the detainees.
- Provide staff members or collaborators with proper credentials and identification affiliated to the organisation.
- Conduct regular and periodic briefings with donors, UN and foreign representatives on the security situation faced by each organisation in order to strengthen the organisation's solidarity and security network. Donors should be encouraged to fund projects which aim to prevent and combat crimes against freedom of expression.

Human rights community:

- Raise awareness and increase communication among authorities and the general public about the importance of HRDs, their work, and their security.
 - o Create a dialogue mechanism with authorities at the national and local level to address concerns over the safety of HRDs and discuss the necessary legal reforms and political actions needed to avoid the repetition of abuses.
- Establish an early warning system to release information on violations against HRDs.
- Coordinate efforts amongst various stakeholders to increase effectiveness of security trainings, information collection and dissemination, and protection of HRDs.
 - o Establish a joint mechanism that HRDs, NGOs, and other activists may rely upon for the defence of human rights, including legal assistance, and emergency protection measures for them and their families. Special action should be implemented to reach those who may not know of themselves as human rights defenders, or who may not be affiliated to an organisation.
 - o Establish a mechanism to exchange information on security issues between HRDs and human rights organisations in a more systematic and strategic manner, with special attention paid to HRDs and organisations based in remote areas.
 - o Join efforts and resources to deliver training on security issues, legal safety and the elaboration of security protocols and emergency plans.
- Advocate for the establishment of an independent NHRI to monitor the situation of HRDs and to provide security advice, assistance and protection to HRDs.

The Royal Government of Cambodia:

- Acknowledge the importance of HRDs and human rights organisations, and the need for their protection.
 - o Although several opposition parliamentarians in Cambodia also happen to be HRDs, HRDs are in general neutral. They are not aligned with the opposition – they call for human rights to be upheld by any party that is in power, not by a particular party. It is important to recognise these parliamentarian's calls for human rights protection as an apolitical matter.
 - o Condemn attacks committed in reprisal to the exercise of freedom of expression and refrain from making statements that are likely to increase the vulnerability of those who are targeted for exercising their right to freedom of expression.

Put in place special measures to protect HRDs who are likely to be targeted for their work, and ensure that HRDs who have suffered crimes and human rights violations have access to appropriate remedies.

- Work closely and cooperate with the UN Special Rapporteur on the situation of human rights in Cambodia in order to receive the necessary guidance and assistance to strengthen the security conditions of HRDs.
- Establish an independent NHRI to monitor the overall situation of HRDs and to provide them with protection, and with a presence in remote areas of the country.
 - o Release periodic reports on the security conditions for HRDs and developments on the legal procedures around abuses that have taken place.
- Commence a wide consultation within civil society to receive the necessary inputs to amend legislation that restricts human rights and is therefore incompatible with the Cambodian Constitution as well as international human rights obligations.
- Address corruption in the government and the judiciary in order to uphold the rule of law, including the effective investigation of abuses against HRDs, especially on those entailing grave human rights violations.
 - o Create an impunity commission to oversee the investigations with the presence and assistance of national and international organisations.
 - o Allow the media access to the courts.
- Ensure the police, military and private security guards – any representative of authority that has dealings with HRDs – are fully trained in human rights and the illegality of the use of disproportionate force. The police and military should be used to protect the Cambodian people, not to protect the interests of an elite few.
 - o Proper training to police forces to safeguard the human rights of protestors and to facilitate the work of HRDs while monitoring demonstrations.
 - o Establish a special procedure to guarantee that organisations and lawyers are able to visit HRDs in detention to ensure their well-being and safe prison conditions.

Appendix: acronyms

ACSC	ASEAN Civil Society Conference
ADHOC	Cambodian Human Rights and Development Association
AGPA	ASEAN Grassroots People's Assembly
AHRD	ASEAN Human Rights Declaration
APF	ASEAN People's Forum
ASEAN	Association of South East Asian Nations
BABC	Bridges Across Borders Cambodia
BAKC	Bar Association of the Kingdom of Cambodia
CCHR	Cambodian Center for Human Rights
CNRP	Cambodian National Rescue Party
CPP	Cambodian People's Party
EU	European Union
ELC	Economic Land Concession
HRC	Human Rights Council
HRD(s)	Human rights defender(s)
ICC	International Criminal Court
ICCPR	The International Covenant for Civil and Political Rights
LANGO	Law on Associations and Non-Governmental Organisations Cambodian
LICADHO	League for the Promotion and Defense of Human Rights
Mol	Ministry of the Interior
NHRI	National Human Rights Institute
NGO	Non-governmental organisation
OHCHR	UN Office of the High Commissioner for Human Rights
RGC	Royal Government of Cambodia
SRP	Sam Rainsy Party
STT	Sahmakum Teang Tnaut
UN	United Nations
UDHR	Universal Declaration of Human Rights