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Cambodian Center for Human Rights (CCHR) Releases Annual Report Outlining Key Findings from its Court of Appeal Monitoring

Today, CCHR’s Fair Trial Rights Project releases its annual report on “Fair Trial Rights in Cambodia, Monitoring at the Court of Appeal” covering the period of 1 November 2016 to 31 October 2017. It analyzes the data gathered through the daily monitoring of 340 randomly selected criminal cases at the Court of Appeal in Phnom Penh, using a specifically designed trial-monitoring checklist in order to assess adherence to fair trial rights as set out in international and Cambodian law.

The Report finds that a number of key fair trial rights were guaranteed before the Court of Appeal – including the protections against double jeopardy and against non-retroactivity, the right to understand the nature and cause of the charges, the right to have adequate time and facilities to prepare one’s defense, as well as the right to a public judgment. Regrettably however, the monitoring also uncovered a lack of compliance with some fundamental fair trial rights. CCHR’s monitoring showed that the presumption of innocence was not fully respected, and insufficient attention was given to allegations that a confession – which often form the basis for convictions – was obtained under duress or violence, despite 40 defendants making such allegations before the Court of Appeal. In more than 65% of the cases monitored, the judge also failed to inform and explain the defendant about his right to remain silent. Furthermore, the right to have legal representation was not always respected, as 21% of the defendants were not represented by a lawyer. The lack of respect for the right to a reasoned judgement remains one of the most concerning findings in the Report. In virtually all the hearings monitored by CCHR, the judges failed to cite the legal provisions and evidence upon which they relied to reach their verdict. Instead, they only stated that the first instance court’s judgment was upheld or overturned, without explaining why. Last but not least, the rights of juvenile defendants, who should be given special protection under international human rights law and in Cambodian law, are often ignored: no specific measures are put into place to protect the rights of juveniles, and all but two of the 35 juveniles whose cases were monitored by CCHR had been held in pre-trial detention. The Report ends with key thematic recommendations for the Court of Appeal to address the shortcomings identified in the Report and improve respect for fair trial rights throughout Cambodia.

CCHR’s Fair Trial Rights Project Coordinator, Hun Seang Hak, comments:

“While there have been some significant improvements regarding respect for Fair Trial Rights at the Court of Appeal, some fundamental human rights are still not being respected. We hope that the data, analyses and recommendations set out in the Report will help facilitate an increased respect for fair trial rights in Cambodia. We also urge the authorities to promptly take all appropriate steps to ensure that fair trial rights, and particularly the presumption of innocence, the right to a reasoned judgment, and the protection of juvenile’s privacy, are vigorously protected. Finally, I wish to extend our thanks to the President of the Court of Appeal for his ongoing collaboration and commitment to continue improving respect for fair trial rights.”

The report is available on CCHR’s website in Khmer and in English, and the underlying data can be found on CCHR’s Trial Monitoring Database.

For more information, please contact CCHR’s Fair Trial Rights Project Coordinator, Mr. HUN Seang Hak via e-mail at seanghak.hun@chrcambodia.org or telephone at +855 (0) 12 40 30 50.

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Notes to the Editor:

About the Fair Trial Rights Monitoring Project

CCHR’s Fair Trial Rights Project was set up in 2009 to monitor criminal trials in Cambodian courts, and to assess their adherence to international and Cambodian fair trial standards. The Project uses the findings to promote increased respect for fair trial rights, to advocate for improvements in court practices, and to increase understanding and knowledge of the concept of fair trial rights among the public. The overall goal of the Project is to improve the procedures and practices of courts in Cambodia, resulting in full adherence to fair trial standards in criminal trials and to increase understanding and knowledge of the concept of fair trial rights among the public. For more information, please visit our website as well as our Fair Trial Rights Monitoring Database. Other publications from the project can be found here.

About the Cambodian Center for Human Rights

CCHR, founded in 2002, is a non-aligned, independent, non-governmental organization that works to promote and protect democracy and respect for human rights throughout Cambodia. CCHR is a member of International Freedom of Expression Exchange (IFEX), the global network for freedom of expression, of the World Organization Against Torture (OMCT), OECD-Watch, the SOS-Torture Network and the Southeast Asian Press Alliance (SEAPA).