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

Phnom Penh, 21 October 2019

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 1 November 2017 to 31 October 2018. It analyzes the data gathered through daily monitoring of 213 randomly selected criminal cases at the Court of Appeal in Phnom Penh, using a specifically designed trial-monitoring checklist 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 during the reporting period – including the right to have adequate time and facilities to prepare one’s defense and the right to a public judgment. In addition, the Court of Appeal upheld the protections against double jeopardy and against non-retroactivity. Notably, 2017/2018 showed a significant improvement in the enforcement of the protection against self-incrimination (the right not to be compelled to confess guilt).

Regrettably however, the monitoring also uncovered that some fundamental fair trial rights are not fully respected. The right to a public hearing is not fully respected, as none of the hearings monitored by CCHR had a notice posted on the public board outside the courtroom, precluding people from being informed of about the hearing. Further, the right to understand the nature and cause of the charges is, unlike in 2016/2017, are considered not to be fully respected, since the percentage of cases where the defendants were informed of the nature and cause of the charges decreased from 86% to 69% when compared to last year’s monitoring. The right to have legal representation in misdemeanor cases was not always respected, however domestic law does allow judges to proceed with hearings in cases where the defendant is not a juvenile. This practice is not in line with international human rights law which enshrines the right to legal representation before a court for all criminal offences. About 25% of defendants in misdemeanor cases (not involving minors) monitored by CCHR were not represented by a lawyer. Further, in 34 out of the 213 cases monitored by CCHR, the judges failed to inform the accused about her/his right to legal representation, a concerning trend. Similarly, the presumption of innocence is not fully respected 26% of defendants appearing in the same prison uniform as convicts.

Much like in previous years, the respect for the right to a reasoned judgement remains problematic. In virtually all the hearings monitored by CCHR where a judgment was rendered at the time that CCHR was monitoring, the judges failed to cite in detail the legal provisions and evidence upon which they relied to reach their verdict. Instead, they only stated that the Court of First Instance’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, particularly their privacy.

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.
Ms. Chak Sopheap, Executive Director, Cambodian Center for Human Rights, 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 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 understand the nature and cause of the charges, the right to a reasoned judgment, and the protection of juvenile’s privacy, are vigorously protected. Finally, we wish to extend our thanks to 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@cchrcambodia.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).