The Cambodian Center for Human Rights ("CCHR") Releases Fair Trial Rights Annual Report Outlining Key Findings from its Court of Appeal Monitoring
Phnom Penh, 7 October 2020

Today, CCHR’s Fair Trial Rights Project releases its annual report “Fair Trial Rights in Cambodia, Monitoring at the Court of Appeal”, covering the period 1 November 2018 to 31 October 2019. This Report analyzes data gathered through the daily monitoring of 239 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 complied with – 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 protected against double jeopardy and against non-retroactivity.

However, the monitoring also uncovered a lack of compliance by the Court of Appeal with some fundamental fair trial rights. Contrary to the last reporting period, the right not to be compelled to confess guilt has been classified as not fully respected due to the remaining high number of defendants who have faced violence or torture at the judicial police stage to force them into confessing to the alleged crime (15 defendants out of 352 defendants parties to the monitored cases). Further, the fundamental right to a public hearing was not fully respected, as none of the 239 hearings monitored by CCHR had a notice posted on the public board outside the courtroom prior to the hearing, precluding people from being informed about it.

The right to understand the nature and cause of the charges continues to be considered not fully respected, since the percentage of cases where the defendants were adequately informed of the nature and cause of the charges against them did not improve compared to last year’s monitoring (only 67.4% this reporting period compared to 69% in 2017/2018). Moreover, the right to have legal representation was not always respected – just over 25% of the defendants accused of misdemeanor crimes were not represented by a lawyer. In accordance with international law standards, everyone who is charged with a criminal offense is entitled to legal assistance, however the domestic law does not comply with this, as it allows for the trial of misdemeanor crimes without legal representation.

Further, in 20 out of the 239 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 remains not fully respected, with judges failing to inform defendants about their right to remain silent in 66% of the monitored cases, and 21.9% of defendants appeared in court in the same prison uniform as convicts.

Much like in previous years, the lack of respect for the right to a reasoned judgement remains problematic. In 47.5% of monitored cases where a judgment was rendered, the judges failed to cite 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 are entitled to special protection under international human rights law and Cambodian law, are often ignored - no specific measures are in 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 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 public hearing, 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. In addition, the Court of Appeal should fully consider all statements from defendants relating to violence or torture and reinvestigate those cases. The authorities have to take all steps to eliminate the use of violence and torture to obtain confessions, and thoroughly investigate and address all allegations of this practice. Finally, we wish to extend our sincere thanks to the Court of Appeal for their 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.

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).