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Cambodian Center for Human Rights

The State of Freedom of Expression, Press Freedom, and Access to Information in Cambodia

Annual Report: 1 September 2021 – 31 August 2022

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Cambodian Center for Human Rights

The Cambodian Center for Human Rights ("CCHR") is a non-aligned, independent, non-governmental organization ("NGO") that works to promote and protect democracy and respect human rights – in particular civil and political rights – throughout the Kingdom of Cambodia ("Cambodia"). CCHR's vision is of a peaceful Cambodia in which all people can enjoy the fundamental human rights to which they are entitled, all are subject to the rule of law without impunity, all are treated equally without discrimination, all are empowered to participate fully in the democratic process, and all can share in the benefits of Cambodia's sustainable economic development. CCHR's logo – a dove flying in a circle of blue sky – represents the twin principles of peace and freedom.

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About this report

This report is a joint output of CCHR's *Advancing Rights in Cambodia: Advancing Access to Information* ("ARC") project and *Promoting and Protecting Freedom of Expression and Independent Media* ("FoEx") project. Both projects were launched in September 2020. The ARC project seeks to strengthen and promote access to information and press freedom in Cambodia. The FoEx project aims to create a widened space for freedom of expression and a pluralistic and independent environment for free media, and to enhance opportunities for citizens to engage and participate in democratic processes and make informed decisions.

This report is the second annual report produced by the ARC and FoEx project. The first report, released in April 2022, can be found on CCHR's website.

Queries and feedback

Should you have any questions or wish to provide feedback on this report, please email CCHR at info@cchrcambodia.org. This report, along with all other publications by CCHR, is available online on CCHR's website, www.cchrcambodia.org, or on the award-winning Cambodian Human Rights Portal, www.sithi.org, which is hosted by CCHR. Alternatively, please contact CCHR at:
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List of Acronyms and Abbreviations

ARC	Advancing Rights in Cambodia
Cambodia	Kingdom of Cambodia
Constitution	Constitution of the Kingdom of Cambodia
CCHR	Cambodian Center for Human Rights
CSO	Civil Society Organization
FoEX	Freedom of Expression
FFMP	Fundamental Freedoms Monitoring Project
HRD	Human Rights Defender
ICCPR	International Covenant on Civil and Political Rights
LGBTIQ+	Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer
MoI	Ministry of Information
MoJ	Ministry of Justice
MPTC	Ministry of Post and Telecommunications
NGO	Non-governmental Organization
NIG	National Internet Gateway
OHCHR	United Nations Office of the High Commissioner for Human Rights
Reporting Period	1 September 2021 – 31 August 2022
RFA	Radio Free Asia
RGC	Royal Government of Cambodia
RSF	Reporters Sans Frontières/Reporters Without Borders
TRC	Telecommunication Regulator of Cambodia
UDHR	Universal Declaration on Human Rights
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHRC	United Nations Human Rights Committee
VOA	Voice of America
VOD	Voice of Democracy

Scope and Methodology

Scope

The present report outlines key information pertaining to the rights to freedom of expression, press freedom, and access to information and findings regarding the state of these rights in the Kingdom of Cambodia ("Cambodia") over a period of a year, starting from 1 September 2021 to 31 August 2022 (the "Reporting Period"). This annual report focuses more specifically on the right to freedom of expression of journalists and human rights defenders ("HRDs") as well as on access to information of journalists, and the general public in Cambodia.

Methodology

The information contained in this report was compiled using data systematically recorded from several sources. To report on the current situation regarding the rights to freedom of expression, press freedom, and access to information, desk research was conducted to present the international and domestic legal framework pertaining to these rights. A desk review in the form of legal analysis of the *Sub-Decree on the Management and Use of National Domain Names on the Internet* ("Sub-Decree on National Domain Names") was also carried out to assess its compliance with international human rights standards.

The data used in the report was gathered through daily media monitoring and through the collection of incident reports by CCHR's Fundamental Freedoms and Monitoring Project ("FFMP"). This data was complemented with additional data recorded by the ARC and FoEX projects whenever needed. The report also includes case studies on key violations of freedom of expression, press freedom, and access to information, for which information was gathered from available internet sources.

In addition, interviews of journalists and HRDs were conducted to collect their views on the current state of freedom of expression, press freedom, and access to information, and their experiences and challenges in exercising these rights while conducting their reporting duties or activism. CCHR staff interviewed 18 journalists, including 8 women, as well as five HRDs, including two Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer ("LGBTIQ+") individuals. The interviews were conducted both in person and online. Follow-up interviews were conducted virtually to clarify some of the answers provided or obtain additional information. As requested by the interviewees, the names of the journalists and HRDs and the publications and organizations involved remain confidential. However, the value of their testimony lies in the views and experiences they have to share rather than in their identity.

Limitations

It should be noted that the collected data and the reported cases are not exhaustive, as some instances of violation of freedom of expression, press freedom or access to information may go unreported.

Executive Summary

The right to freedom of expression is an umbrella right that also encompasses the right to press freedom and the right to access information. These three rights are intertwined and interdependent. Their realization is fundamental to an equitable and free society in which democracy can flourish and thrive.

Freedom of expression, and with it press freedom and access to information, is protected under both international and Cambodian law. However, Cambodian legislation sets numerous barriers to the full enjoyment of freedom of expression in Cambodia. Legislative developments frequently deal new blows to freedom of expression, as they fail to align with international human rights standards. During the Reporting Period, the Royal Government of Cambodia ("RGC") adopted the *Sub-Decree on the Management and Use of National Domain Names* in December 2021. This piece of legislation lacks clarity and could be used by the authorities as another tool to further chip away at an already severely curtailed freedom. In the same way, while legislation protecting access to information is encouraged, the RGC's draft *Law on Access to Information* ("draft law on A2I") does not fully comply with international human rights standards and would benefit from amendments bringing it better in line with such standards[1]. In addition, the RGC has been delaying its adoption despite calls from civil society to promptly legislate on the matter.

Repressive laws are just one of the many tools that the RGC has been wielding to crackdown on freedom of expression in recent years. Intimidation, surveillance, threats, or judicial harassment are also used on a regular basis to target those who dare to speak up, with journalists and HRDs being the primary targets of the RGC's witch hunt against critical voices. The right to freedom of expression of HRDs and press freedom continued to be undermined between 1 September 2021 and 31 August 2022, with at least 20 journalists and 13 HRDs bearing the brunt of the RGC's ongoing repression and zero-tolerance policy towards criticism. Similarly, Cambodia still has a long way to go before the right to access information is fully upheld.

This report outlines the state of freedom of expression, press freedom, and access to information within this period. It contains key data on the state of freedom of expression and its corollaries collected during the Reporting Period, which shows multiple instances of legal harassment of journalists and HRDs, the revocation of several media licenses, and the various challenges in accessing information in Cambodia. This data is complemented by testimonies of journalists and HRDs on the challenges they face in exercising their legitimate work in an increasingly dangerous environment.

In this context, this report provides various recommendations to the RGC to take concrete measures to fulfill its international human rights obligations to protect and promote freedom of expression, press freedom, and access to information in Cambodia.

[1] For a full legal analysis on the draft law on A2I, see CCHR, "The state of freedom of expression, press freedom, and access to information in Cambodia: Annual Report 1 September 2020-31 August 2021" (CCHR, April 2022).

Introduction

Freedom of expression is a key pillar of a flourishing democracy.[2] Yet, it is frequently suppressed globally[3] and has experienced an accelerated deterioration since the beginning of the COVID-19 pandemic in 2020.[4] Similarly, its corollaries – press freedom and access to information – have dramatically declined due to pandemic restrictions.[5] This has contributed to causing an unprecedented blow to global democracy in 2020[6] and made it fall to a new low in 2021, with the percentage of the world's population living in a democracy concerningly falling well below 50%.[7]

Cambodia is no stranger to the deterioration of freedom of expression. The country continues its worrying trend of over-policing free speech and silencing critical voices, a repression that has been exacerbated by COVID-19. Since 2017, the human rights situation has continued to deteriorate and the civic space to shrink, with the sustained targeting by the RGC of all those who dare express opinions and ideas that are contrary to those of Cambodian leaders, including independent media and HRDs. CCHR's most recent FFMP Report shows that freedom of expression is regularly stifled in Cambodia, with journalists frequently interfered with when reporting on issues deemed "sensitive" and lawful online speech continuously restricted.[8] In addition, the right to access information is far from being upheld in the Kingdom. Obtaining information from public bodies remains challenging in a country in which opacity reigns and in which there is little accountability of government institutions.

As a result, Cambodia ranked 142nd out of 180 countries assessed by Reporters Without Borders ("RSF") in its 2022 World Press Freedom Index,[9] classifying the press freedom situation as "difficult." Similarly, Freedom House's 2022 Freedom in the World Report[10] classified Cambodia as being "not free," with a poor global freedom score of 24 out of 100, and its 2022 Freedom on Net Report[11] classified it as a "partly free" country with an internet freedom score of 43 out of 100. Finally, the Economist Intelligence Unit's 2021 Democracy Index[12] ranked Cambodia 134th out of 167 countries assessed, defining it as an

[2] See UNHRC, "Views on Rafael Marques v. Angola" (UN Doc. CCPR/C/83/D/ 1128/2002, 29 March 2005), para.6.8.
[3] Adrian Shahbaz & Allie Funk, "The Global drive to control big tech" (Freedom House, 2021).
[4] Adrian Shahbaz & Allie Funk, "The pandemic's digital shadow" (Freedom House, 2020).
[5] RSF, "2021 World Press Freedom Index" (RSF, 2021).
[6] The Economist, "Global democracy has a very bad year" (The Economist, 2021).
[7] The Economist, "A new low for global democracy"(The Economist, 9 February 2022); The Economist Intelligence Unit, "Democracy Index 2021: The China Challenge" (EIU Democracy Index 2021), page 3-4, (EIU, 2022).
[8] CCHR, "Cambodia Fundamental Freedoms Monitor: Six Annual Report January-December 2021" p. 21 – 24, (CCHR, 2022).
[9] RSF's World Press Freedom Index evaluates the situation for journalists each year in over a hundred countries and territories, giving them a score out of 100 and classifying them into different categories. The 2022 World Press Freedom Index classifies the press freedom situation of the assessed countries into five categories: good, satisfactory, problematic, difficult, and very serious. See 2022 World Press Freedom Index for more details about Cambodia.
[10] The Freedom in the World Report published by Freedom House assesses the global freedom of countries and territories around the world, giving them a score out of 100 and classifying them in three categories based on their score: free, partly free, or not free countries. See Cambodia's 2022 Freedom in the World Country Report for more details.
[11] The Freedom on the Net Report is an annual survey and analysis of internet freedom around the world conducted by Freedom House. It gives the assessed countries a score out of 100 and classifies them into three categories based on their scores: free, partly free, or not free. See Cambodia's 2022 Freedom on the Net Country Report for more details.
[12] The Democracy Index published by the Economist Intelligence Unit (EIU) assesses the state of democracy worldwide. The Index gives assessed countries a score on a zero to ten scale and classifies them into four categories based on the scores: full democracies, flawed democracies, hybrid regimes, and authoritarian regimes. See the EIU Democracy Index 2021, page 40.

"authoritarian country".[13] The 2021 Democracy Index also highlighted the constant decline of democracy in Cambodia between 2006 and 2021,[14] leading to its demotion from a hybrid to an authoritarian regime in the last decade.

2022 Freedom in the World	2022 Freedom on the Net	2022 World Press Freedom	2021 Democracy Index
Global Freedom Score:	*Internet Freedom Score:*	*Press Freedom Score:*	*Democracy Score:*
24/100	43/100	43.48/100	2.90/10
Not free	**Partly free**	**Difficult situation**	**Authoritarian**

[13] EIU Democracy Index 2021, page 34.
[14] *Ibid*, page 34.

I. The importance of freedom of expression, press freedom, and access to information

The right to freedom of expression is an umbrella right also encompassing the rights to press freedom and access to information. These three rights are intertwined and interdependent, meaning that no right can be realized in the absence of the other. To create a more equitable and free world, the ability for individuals to speak their minds and share and receive information is essential. It allows them to challenge harmful norms and ideologies and to ensure that democracy thrives. Digital technologies have accelerated the rate at which individuals see and consume information and express themselves and have rendered the realization of these rights even more important. They have, however, also provided repressive governments with the rife opportunity to curtail them seemingly without limit.

Freedom of expression

Freedom of expression covers all forms of expression, including spoken and written expression, and a broad range of means, such as books, posts, banners, audio-visual, electronic and other internet-based models of expression. It also encompasses individuals' right to engage in many discussions, including political discourse, discussions on human rights, or journalism.[15] It is a core pillar of a well-functioning, inclusive and pluralist democracy, allowing individuals to form their own opinions on issues of public importance, disagree with those in power, and expose corruption or wrongdoing. It also enables transparency in both the public and private sectors. When freedom of expression is not guaranteed, citizens cannot challenge the power structures of government or corporate institutions. Freedom of expression is also the foundation for the protection of other human rights,[16] such as the rights to freedom of thought, conscience and religion, freedom of assembly, and freedom of association.

Press freedom

A free and uncensored press enables the dissemination of knowledge, views, and ideas that are necessary for individuals to develop viewpoints, be informed on issues of public interest and governmental decision-making, and exercise their rights.[17] It is essential to ensure that freedom of expression is realized and that democracy flourishes. An independent and diverse media relies on journalists' research, writing, and investigatory skills that allow them to uncover truths and disseminate important information to the public. This ensures that the information citizens receive is reliable, objective, and not biased by external interests. A free press means that no topic is off-limits out of fear of reprisals, thus equipping citizens with knowledge on all pertinent social, political, and economic issues and allowing them to develop opinions on these issues and advocate for change without fear of repercussions.

[15] UNHRC, "General Comment No. 34 – Article 19: Freedoms of opinion and expression" (UN Doc. CCPR/C/GC/34, 12 September 2011), para.2 (UNHRC, General Comment No. 34).
[16] *Ibid*, para. 11 and 12.
[17] Norway Ministry of Foreign Affairs, "International efforts to promote freedom of expression and independent media," (MFA, 30 November 2020).

Furthermore, the press plays a vital role as a government watchdog, ensuring transparency and accountability and exposing government abuses and wrongdoing.[18] Without press freedom, there would be little to no checks on government activities, which could lead to widespread corruption, injustice, and government overreach into the lives of individuals. Thus, the media must be able to freely communicate and comment on information or ideas without censorship or restraint.

Access to information

Citizens have a right to seek and receive information in the public domain.[19] The right to access information also guarantees that the media has access to information on public affairs or of public importance.[20] Access to information ensures transparency of governmental bodies, facilitates the participation of citizens in public life, and increases dialogue and trust between the government and society.[21] If it is limited, transparency and accountability of the government or public officials are unattainable, and citizens' ability to actively participate in decision-making processes is stifled. Since democracy is rooted in the free flow of information and ideas, access to information is what distinguishes democratic governments from regimes that seek to operate free from accountability and conduct their activities surrounded by a veil of secrecy.

[18] UN, "Press freedom more important than ever, as UN condemns killing of 59 media workers," (UN News, 23 Dec. 2020).
[19] Frank La Rue, "Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression", (UN Doc A/68/362, 4 Sept.2013), para 2.
[20] UNHRC General Comment No. 34, para 18.
[21] Andrew Ecclestone, "Suggestions on Strategy for Freedom of Information in Cambodia" (September 2008).

II. Legal framework on freedom of expression, press freedom, and access to information

Several international instruments ratified by Cambodia guarantee the right to freedom of expression, and its two key components. While freedom of expression is one of the keystones of every free and democratic society,[22] it is not absolute and can be restricted in narrow circumstances defined under international human rights law.

3.1. International law related to freedom of expression

International Law Protecting Freedom of Expression[23]	Legitimate Restrictions on Freedom of Expression
Article 19 (2) of the Universal Declaration of Human Rights ("UDHR"): guarantees everyone the right to freedom of expression, including the right to seek, receive, and impart information and ideas through any media and anywhere. ***"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."***	**Article 19 (3) of the ICCPR** allows for restrictions on freedom of expression if three cumulative conditions are met. ***"The exercise of the rights provided for in paragraph 2 [the rights to freedom of expression and access information] carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals."***

[22] UNHRC, General Comment No.34, para.1.
[23] The list provided in the table is non-exhaustive.

Article 19 of the International Covenant on Civil and Political Rights ("ICCPR"): guarantees everyone the right to freedom of opinion and expression, including the right to seek, receive, and impart information and ideas of all kinds, anywhere and in any form.

> ***"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."***

- As the right to freedom of expression is broad in scope, the United Nations Human Rights Committee ("UNHRC"), which oversees the implementation of the ICCPR, has provided further details on what this right entails in **its General Comment No. 34.**[25]

Other international instruments such as:

- Article 5 (viii) of the International Convention on the Elimination of All Forms of Racial Discrimination;
- Article 21 of the Convention on the Rights of Persons with Disabilities;
- Article 13 of the Convention on the Rights of the Child;
- Article 16 of the Universal Declaration on the Rights of Indigenous Peoples.

Any restriction on freedom of expression must therefore:[24]

1. **Be provided by law**: the law must be sufficiently precise and clear when determining what types of expression are restricted, not confer unfettered discretion to authorities, and provide sufficient guidance for them to determine which sorts of expression can legitimately be restricted or not. General bans are therefore forbidden.
2. **Pursue the legitimate aims of guaranteeing the respect of the rights or reputations of others or the protection of national security, public order, public heath, or morals**: measures prohibiting interference with citizens' privacy or unlawful attacks on their reputation, such as defamation laws, are permitted if the two other conditions are met. However, such measures must not suppress freedom of expression. Defamation should be decriminalized whenever possible and laws prohibiting defamation, insult, and threats to the monarchy (*lèse-majesté*) must be repealed. The prohibition of any propaganda for war or incitement to national, racial, or religious hatred is however compatible with international law.
3. **Be strictly necessary and proportionate to the legitimate aim pursued**: States must sufficiently demonstrate that the restriction on freedom of expression they wish to impose is necessary to target the precise nature of the threat by establishing a direct and immediate connection between the expression and the threat. In addition, the restriction cannot go further than what is strictly necessary to achieve the legitimate aim. Overbroad restrictions or general prohibitions on the dissemination of information based on vague and ambiguous ideas, including "false news" or "non-objective information" are incompatible with international human rights law.

[24] See UNHRC, Comment No.34 for more details; See also CCHR Annual FoEx Report 2020-2021, p. 12-15.
[25] See UNHRC, Comment No.34; See also CCHR, "The state of freedom of expression, press freedom, and access to information in Cambodia – Annual Report 1 September 2020 – 31 August 2021," (CCHR, April 2022) p. 10-11 (CCHR Annual FoEx Report 2020-2021).

3.2. Cambodian law related to freedom of expression

Freedom of expression, press freedom, and access to information are also guaranteed in Cambodian law.

Cambodian Law Protecting Freedom of Expression
Cambodian Constitution[26] • **Article 41**: guarantees the right of all Khmer citizens to have freedom of expression, press, and publication. ***"Khmer citizens shall have freedom of expression, press, publication, and assembly […]."*** • **Article 35**: guarantees all Khmer citizens the right to participate actively in the political, economic, social, and cultural life of the nation. • **Article 31**: makes international human rights instruments ratified by Cambodia directly applicable in Cambodia's law. In 2007, the Cambodian Constitutional Council confirmed that international human rights norms recognized by Cambodia are directly applicable in Cambodian courts.[27]
1995 Law on the Press[28] • **Article 1:** guarantees freedom of the press and freedom of publication in line with article 31 and 41 of the Cambodian Constitution. • **Article 3:** prohibits pre-publication censorship. • **Article 5:** guarantees the right for the press to access information in government-held records. • **Article 20:** prohibits holding anyone criminally liable for the expression of an opinion.

However, the Cambodian legal framework also contains multiple legislative barriers to these rights, with increasingly repressive laws passed by the RGC in recent years. The list provided below is not exhaustive and only highlights the laws that can have an impact on freedom of expression as exercised by the media and HRDs.

Cambodian Law Illegitimately Restricting Freedom of Expression

[26] Constitution of the Kingdom of Cambodia, English Translation.
[27] Constitutional Council of the Kingdom of Cambodia, Dec. No. 092/003/2007 (CCC, 10 July 2007), p.2: "*The term "Laws" as above referred to means the national laws, including the Constitution which is the supreme law, all the laws that remain in force, and the international laws already recognized by the Kingdom of Cambodia*."
[28] Law on the Press, English Translation. In 2019, the MoI announced that he had begun reviewing the press law to bring some articles "*in line with the current situation and the need of the country*." The law is still under revision to date. See Voun Dara, "Gov't to amend Press Law to be 'in line with current reality'" (*Phnom Penh Post*, 6 May 2019) and "Review of Press Law begins" (*Phnom Penh Post*, 27 August 2019).

1995 Law on the Press[29]

- Prohibits a wide array of legitimate publications and uses vague terms, opening the door to broad interpretation and the unlawful censorship of media outlets;
- Provides the RGC with publication confiscation and suspension power with no judicial review nor appeal recourse, making this law a potential tool for the authorities to stifle the media for political ends;
- Sets up a licensing procedure for the press entirely managed by the RGC and provides the MoI with unchecked power to grant and revoke media licenses without any independent overview mechanism; and
- Provides an exhaustive list of exceptions to the right to access information contained in government-held records with no recourse for requests for information denied by the government.

2015 Law on Telecommunications & 2018 Prakas on Social Media and Website Control[30]

- The Telecommunications Law institutionalizes the surveillance of online expression, creates a series of criminal offenses related to the use of telecommunications devices and punishable by imprisonment and significant fines, causing a chilling effect on individual expression of opinion through telecommunications.[31]
- The 2018 Prakas on Social Media and Website Control vastly broadens the intrusive powers to monitor telecommunications, including internet use, granted to the RGC by the Telecommunications Law. It notably allows the executive branch power to manage information published on the internet and to shut down social media pages or websites, severely impacting FoEx online.

2009 Cambodian Criminal Code[32]

- The *lèse-majesté* offense introduced in 2018 (Article 437-bis) prohibits anyone from defaming, insulting, or threatening the King through any means of expression.[33]
- Articles 305 and 306 criminalize defamation.
- Articles 494 to 497, which criminalize incitement, and Article 502, which criminalizes insults, are regularly used to silence independent and critical voices in Cambodia.

2020 Law on the Management of the Nation in State of Emergency[34]

- Article 5 (11) restricts the right to information as it gives the RGC power to "*prohibit or restrict news sharing or media,*" which can discourage transparent reporting. It further empowers the authorities to prohibit any speech or expression that could "*cause people panic or chaos or bring damage to the*

[29] For a more detailed analysis of the Press Law, see CCHR, "Briefing Note on Media regulation and freedom of expression in Cambodia"(CCHR, February 2014).
[30] Law on Telecommunications, English translation; Prakas No. 170 Br.K/Inter-ministerial, 'Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia' (28 May 2018), English translation.
[31] For more details, see CCHR "Protecting Fundamental Freedoms: A Desk Review of Domestic Legislation and its Compliance with International Law"(CCHR, December 2019), p. 37; See also LICADHO, "Cambodia's Law on Telecommunications: A legal analysis" (LICADHO, March 2016), p. 1-2.
[32] Criminal Code of the Kingdom of Cambodia, English translation.
[33] For more details, see CCHR, "Briefing note: the criminalization of defamation and freedom of expression in Cambodia" (CCHR, May 2014).
[34] For more details, see CCHR, "Cambodia Fundamental Freedoms Monitor, Fifth Annual Report April-December 2020" (CCHR, April 2021), p. 12-13.

national security" or that could "*cause confusion*" among the public, a restriction that is overly broad and in contravention of Article 4 of the ICCPR.

2021 Sub-Decree on the Establishment of a National International Gateway ("NIG Sub-Decree")[35]

- The soon-to-be operational NIG will require all internet communications and data, both domestic and international, to first be filtered through the NIG before they are sent to an end user. The NIG, especially its Article 6, does not meet the three conditions of Article 19 (3) of the ICCPR and is of grave concern for freedom of expression and other rights in Cambodia.[36]

[35] Sub-Decree on the Establishment of a National International Gateway, English translation.

[36] For more details, see CCHR, "Cambodia Fundamental Freedoms Monitor, Fifth Annual Report April-December 2020" (CCHR, April 2021), p. 12 – 13. See also, CCHR Annual FoEx Report 2020-2021, p. 18-19.

IV. Legal analysis of the latest legislative development

Adopted on 31 December 2021, the *Sub-Decree on Management and Use of National Domain Names on the Internet* ("Sub-Decree") poses a potential threat to freedom of expression.

A domain name is the unique address of a website that is associated with a physical Internet Protocol ("IP") address.[37] A domain name is usually an easy-to-remember name that helps Internet users find a website easily. It consists of a website name and an extension (such as .com or .net) called a top-level domain ("TLD"). TLDs that are attached to a country (such as .fr for France or .kh for Cambodia) are called country code TLDs ("ccTLDs") or national domains. The government of the country that the ccTLD represents is not formally required to be involved in the management of the ccTLD, but it can be.[38] The Cambodian country code .kh is managed by the Telecommunication Regulator of Cambodia ("TRC").[39] While the TRC's website mentions it is an "independent institution," its gov.kh domain name designates it as a governmental institution.[40] According to the Internet Corporation for Assigned Names and Numbers, the management of a ccTLD is almost entirely a local matter, in line with the principle of subsidiarity.[41] Governments must, however, comply with their domestic and international human rights obligations when adopting legislation or enforcing decisions that impact the management of ccTLDs.[42]

The Sub-Decree names the Ministry of Post and Telecommunications ("MPTC") and the TRC as the two authorities in charge of managing and regulating the use of national domain names. The Sub-Decree determines what national domain names can be used, regulates the use of national domain names, and requires some entities to register their domain names. The rules set out in the Sub-Decree appear to unduly restrict freedom of expression.

Three-part test of Article 19 ICCPR		
To be legitimate according to international standards, restrictions on freedom of expression must:		
Part 1: Be provided by law **(legality requirement)**	**Part 2:** Pursue one of the set legitimate aims **(legitimate aim requirement)**	**Part 3:** Be necessary in a democratic society and proportionate to the legitimate aim **(necessity and proportionality requirement)**

Lack of clarity as to which entities are required to register a national domain name

[37] Domantas G. & Hasna A., "What Is a Domain Name? A Beginner-Friendly Guide" (Hostinger).
[38] Internet Corporation for Assigned Names and Numbers (ICANN), "Frequently Asked Questions about Country Code Top Level Domains", (ICANN), p.4 (ICANN FAQ about Country Code Top Level Domains); ICNL, Legal analysis of Cambodia's Sub-Decree on National Domain Names (22 June 2022).
[39] Internet Assigned Numbers Authority, "Root Zone Database", (INANA); ICNL, Legal analysis of Cambodia's Sub-Decree on National Domain Names (22 June 2022).
[40] See Art. 5.C of the Sub-Decree. The TRC's website is: https://trc.gov.kh/en/.
[41] ICANN FAQ about Country Code Top Level Domains, p.5.
[42] ICNL, Legal analysis of Cambodia's Sub-Decree on National Domain Names (22 June 2022).

Article 7 of the Sub-Decree stipulates that "*legal persons registered in the Kingdom of Cambodia shall provide electronic addresses containing national domain names […] at the annual declaration concerning the status of the company at the Ministry of Commerce.*" This Article implies that legal persons registering at the Ministry of Commerce – meaning for-profit companies[43] – are required to have and register a national domain name. Whether this requirement applies to other entities is unclear.

Article 6 provides that "*ministries and governmental institutions which intend to use the national domain name […] shall submit an application to TRC.*" The use of the term "intend" suggests that having a national domain name is not mandatory for ministries and governmental institutions. However, Article 22 seems to articulate the opposite, as it requires ministries and governmental institutions that are using other domain names to change them to national domain names within twelve months of this Sub-Decree coming into effect.[44]

As for entities other than for-profit companies, ministries, and governmental institutions, they appear to be covered by Article 9, which stipulates that "*any person who intends to use national domain name can file an application with TRC through an automated system or with the registrar.*" Once more, the use of the term "intend" implies – perhaps erroneously, like for ministries and governmental institutions – that having a national domain name is not mandatory for these other entities. More concise language is needed to ensure that the Sub-Decree is not open to various interpretations and, thus, to arbitrary or inconsistent enforcement by authorities.[45] In its current version, the Sub-Decree is not sufficiently clear to allow entities other than for-profit companies, ministries, and governmental institutions to understand whether they are required to register a national domain name.

The Sub-Decree restricts freedom of expression by prohibiting website content

The fact that for-profit companies, ministries, and governmental institutions – and possibly other entities such as associations, organizations, and trade unions – are required to register a national domain means that, as registrants, they are subject to obligations contained in the Sub-Decree. These obligations restrict their ability to impart information, a key component of the freedom of expression, and do not appear to be in compliance with international standards around the freedom of expression.

Article 11 of the Sub-Decree stipulates that entities that have registered their domain names cannot use them to communicate information that affects "*culture, morality, traditions, customs, individual rights, consumer rights, public legal interests, national security, or social order,*" thus amounting to a restriction of the freedom of expression. The terms "*culture, morality, traditions, customs, individual rights, consumer rights, public legal interests [and …] social order*" are highly subjective, making it difficult for registrants to clearly understand what content would be in breach of Article 11, and thus preventing them

[43] CSOs register with the MoI, while other types of legal entities register with other ministries.

[44] Art. 22 of the Sub-Decree: "*All ministries and governmental institutions that are using other domain names and/or are storing data outside the Kingdom of Cambodia shall change to use national domain names and transfer the data to store in the Kingdom of Cambodia within 12 (twelve) months after this Sub-Decree comes into effect unless otherwise stated by the Government*."

[45] The need for clarity as to which entities are required to register a national domain name is exemplified by the fact that, despite the language of the Sub-Decree suggesting that registration is not mandatory for entities other than for-profit companies, ministries and governmental institutions, interviews conducted by ICNL reveal that several CSOs have been told by officials that they are required to have a national domain name and must register for one.

from tailoring their conduct to ensure compliance with their obligations as registrants. As for the specific reference to "*national security,*" the Human Rights Council has explicitly stated that "*vague and overbroad justifications, such as unspecific references to "national security" do not qualify as adequately clear laws.*"[46] Article 11, therefore, fails to meet the first requirement of Article 19's three-part test, which requires that a law prescribing restrictions to freedom of expression meet a certain level of clarity. Considering the broadness and ambiguity of these terms, nearly all content – including innocuous content – could be deemed to affect "*culture, morality, traditions, customs, individual rights, consumer rights, public legal interests, national security, or social order.*" Article 11 thus effectively permits the RGC – through telecommunications authorities – to arbitrarily decide when national domain names are used for improper reasons and to punish the entities using these national domain names, in violation of the freedom of expression.

Article 15, read in conjunction with Article 4, provides that failure to comply with the obligations of Article 11 could result in the deletion, by the TRC, of the entity's domain name from the national domain name management system. For for-profit companies whose legal status is contingent upon having a registered national domain name,[47] this sanction could mean they would no longer be able to legally operate in Cambodia. Due to the severe consequences it could have, this penalty appears to be excessive, especially considering less severe measures could be implemented to pursue one of Article 19's legitimate aims. Article 15 thus violates the third requirement of Article 19's three-part test requiring restrictions to be necessary and proportionate to the legitimate aim pursued.

The Sub-Decree restricts freedom of expression by prohibiting some domain names

Article 8.D provides that domain names "*harming morality, tradition, religion and contravening the laws and applicable regulations*" are unregistrable. Domain names are a way for entities to ensure their website is easily found by web users. As such, a domain name might contain a combination of keywords to create a unique, creative name that can tell users and search engines what the website is about and can be a means of expression in itself. By prohibiting domain names that affect "*morality, tradition, and religion,*" the Sub-Decree could prevent entities from freely choosing their domain names. It therefore appears that Article 8.D unduly restricts the freedom of expression.

The terms "*morality*" and "*tradition*" are not sufficiently precise to prevent their subjective interpretation. The TRC could broadly interpret these terms to justify its refusal to grant an entity the domain name it has chosen. Due to its use of ambiguous words, this provision violates the first requirement of Article 19's three-part test requiring a law prescribing restrictions on the freedom of expression to meet a certain level of clarity. As for the reference to "*religion,*" this appears to be problematic as well. The UNHRC has previously found that prohibiting the expression of a lack of respect for a religion is not compatible with the ICCPR,[48] provided that such expression does not amount to "*advocacy of […] religious hatred that constitutes incitement to discrimination, hostility or violence.*"[49] In other words, the prohibition of domain

[46] UN Human Rights Council, "The right to privacy in the digital age" (UN Doc. A/HRC/39/39, 3 August 2018), para 35.
[47] Article 7 of the Sub-Decree.
[48] UNHRC, General Comment No. 34, para 48.
[49] ICCPR, Art. 20, para. 2.

names "*harming*" religion is too broad and not in compliance with international standards on freedom of expression.

Adding to these concerns is the fact that the responsibility of determining which national domain names are prohibited lies with the TRC, a governmental institution. The Sub-Decree, therefore, requires entities to come up with a domain name whose registrability can only be determined by the RGC. This gives rise to concerns that the RGC could abuse the undue discretion it enjoys to refuse domain names for arbitrary reasons, thus censoring the entities that submitted them and infringing on their freedom of expression.

V. State of freedom of expression, press freedom, and access to information in Cambodia

Between 1 September 2021 and 31 August 2022, the rights to freedom of expression, press freedom, and access to information remained under attack in Cambodia, with a sustained targeting of journalists and HRDs for legitimately exercising these rights in their crucial reporting and advocacy work. The table below summarizes the state of the three rights during the Reporting Period:

State of Press Freedom	State of Freedom of Expression of HRDs	State of Access to Information
• Four media licenses were revoked; • 20 journalists faced legal action: four were summoned; nine were questioned; 15 were arrested and one had an arrest warrant issued against them; 14 were detained; two were charged; two were convicted; and one had their conviction upheld.	• 13 HRDs faced legal action: three were summoned, four were questioned, four were arrested; four were detained; four were charged; four were convicted; and four saw their convictions upheld by a high court.	• 20 judgments were published but judiciary transparency still leaves much to be desired; • Discussions took place about the ECCC's archives and how to uphold the public's right to know about past events concerning the perpetration of heinous crimes; • Journalists continued to struggle to access information held by public officials; • The adoption of the law on A2I continued to face delays.

5.1. State of press freedom[50]

During the Reporting Period, the MoI reiterated its commitment to upholding press freedom.[51] Other developments unfortunately highlighted how press freedom continues to be curtailed throughout Cambodia. The trends identified below illustrate this curtailment and echo the United Nations Office of the High Commissioner for Human Rights ("OHCHR") in Cambodia's recent finding that the country's media is in a perilous state.[52]

In **2021** in Cambodia, there were **2,017** media outlets, including **706** news websites, **81** video news outlets, **447** newspapers, **193** magazines, **221** radio stations, **eight** digital TV stations, **210** TV stations in the provinces, **two** satellite TV service providers, and **50** media associations.

[50] Information in the text box about the number of media outlets is from: Sam Sopich, "Growth in Online News Outlets Sees Calls for More Independent, Quality Media" (*Cambodianess*, 11 January 2022); Orm Bunthoeurn, "Kingdom boasts over 2,000 print, online and TV outlets" (*Phnom Penh Post*, 6 January 2022) and RSF, 2022 World Press Freedom Index.
[51] "Cambodia reiterates commitment to uphold press freedom" (*Khmer Times*, 29 April 2022).
[52] OHCHR Cambodia, "State of Press Freedom in Cambodia" (OHCHR, August 2022), p. 27.

Threats faced by journalists while performing their investigative duties and exercising their freedom of expression were recorded. These threats include the revocation of media outlets, judicial harassment, barriers when reporting on sensitive issues leading to self-censorship, threats against their physical integrity, as well as discrimination and harassment suffered by female reporters.

RSF ranked Cambodia 142nd out of 180 countries assessed in its 2022 World Press Freedom Index,[53] illustrating that press freedom, a crucial component of democracy and the rule of law, is under threat in the country.

Impact of the National Internet Gateway on press freedom

On 16 February 2021, the *Sub-Decree on the Establishment of a National Internet Gateway* ("NIG Sub-Decree") was adopted.[54] This Sub-Decree creates a national internet gateway ("NIG") which will require all internet communications and data, both domestic and international, to first be filtered through the NIG before it is sent to an end user. Civil society organizations ("CSOs") have denounced this proposed NIG as threatening the online exercise of fundamental freedoms, including freedom of expression.[55] The implementation of the NIG Sub-Decree, originally scheduled for February 2022, was postponed due to "technical difficulties" according to the MPTC.[56] In September 2022, the NIG had yet to enter into force. Despite its delayed implementation, the effects of the NIG are already being felt. One journalist interviewed by *VOA* expressed concerns for his personal safety and the increased risk of monitoring. He added that the NIG Sub-Decree has had a direct impact on his work, forcing him to adopt a more cautious approach, and making it harder for him to report.[57]

Revocation of media licenses

Just days after a senior official of the MoI refuted criticism about press freedom in Cambodia and touted improvement in the media and broadcasting sector,[58] the MoI announced the revocation of the licenses of three media outlets. *Khmer Cover TV*, *Cambodia Today*, and *Bayong Times* all had their licenses revoked due to an alleged violation of journalistic professional ethics and contracts.[59] According to RSF, the MoI reportedly told the editors of the three publications that they could recover their licenses if they amended or deleted certain content.[60] Both the publisher of *Bayong Times* and the editor-in-chief of *Cambodia Today* said that the revocations came after their respective outlets reported on corruption. Touch Yuthea from *Cambodia Today* stated that he suspected his outlet's license was rescinded in retaliation for

[53] RSF, 2022 World Press Freedom Index.
[54] For a complete analysis of the Sub-Decree's impact on fundamental freedoms, including freedom of expression, see CCHR, Solidarity Center & ADHOC, Cambodia Fundamental Freedoms Monitor – Sixth Annual Report (April 2022), p. 8-10.
[55] CCHR & others, "Joint Statement: Discard the Sub-Decree on the Establishment of the National Internet Gateway, set to detrimentally impact human rights online in Cambodia" (18 February 2021).
[56] Seng Thai, "Government puts controversial Internet Getaway on hold" (*VOD*, 15 February 2022).
[57] Mony Say, "Cambodia's Internet Gateway ushers in silence, media say" (*VOA*, 19 October 2021).
[58] Voun Dara, "Official refutes press freedom report" (*Phnom Penh Post*, 14 March 2022).
[59] Ngay Nai, "Three online media outlets have had their licenses revoked"(*CamboJA News*, 25 March 2022).
[60] RSF, "Three Cambodian news sites stripped of their licence to publish" (*RSF*, 28 March 2022).

publishing an article in early February 2022 about procurement fraud and corruption at the Ministry of Labor.[61]

These revocations not only constitute a gross violation of the freedom of the press[62] but might also lead to self-censorship among journalists. Tel Samuth from *Bayong Times* voiced this concern when he said these revocations could "*scare many other outlets into ceasing to report the truth*".[63]

Another media outlet, *SBT News*, had its license revoked in August 2022 after the *SBT News* publisher, San Bunthoeun, made a livestream in which he appeared drunk, smashed dishes and cursed.[64] His license was cancelled for "*committing immoral [acts], cursing and insulting, affecting social morale, honor and the dignity of professional journalists*" and for violating the contract he had with the MoI. Prime Minister Hun Sen said about the case that "*everyone has the right to speak out, but the right to swear is not included*" and called on the MoI to revoke the licenses of journalists who use foul language.[65]

Judicial harassment of journalists

Recent years have seen authorities crack down on the media, in a bid to prevent or punish unfavorable reporting. In particular, legal action has been – and continues to be – relied on by authorities to intimidate journalists and restrict their rights and freedom to report. Of the 18 journalists interviewed for this report, ten cited the threat of legal action as one of the biggest threats to press freedom in Cambodia nowadays.

Between 1 September 2021 and 31 August 2022, the RGC initiated **legal actions against at least 20 journalists**, a sharp increase from the number of journalists (nine) who faced legal action during the previous reporting period. Among these journalists:

- Four were summoned;
- Nine were questioned;
- Fourteen were detained;
- One was forced to sign an agreement, pledging he would "stop" presumably taking videos of authorities in public;
- One had a warrant issued for his arrest;
- Fifteen were arrested;
- Two were charged, one with incitement to discriminate (articles 494 and 496 of the Criminal Code) and public defamation (article 305 of the Criminal Code), and one with incitement to commit a felony (articles 494 and 495 of the Criminal Code);
- Two were convicted; and
- One had their conviction upheld by a higher court.

[61] Nat Sopheap, "Information Ministry revokes licenses for three digital publications" (*VOD*, 16 March 2022).
[62] Hul Reaksmey, "Watchdog condemns Cambodia for revoking media licenses" (*VOA*, 4 April 2022).
[63] RSF, "Three Cambodian news sites stripped of their licence to publish" (*RSF*, 28 March 2022).
[64] Mech Dara, "PM Bodyguard Fired for Phnom Tamao Criticism" (*VOD*, 22 August 2022).
[65] Orm Bunthoeurn, "Abusive online content intolerable, Hun Sen warns" (*Phnom Penh Post*, 24 August 2022).

Two journalists were convicted for their reporting between 1 September 2021 and 31 August 2022

YOUN CHHIV – On 30 September 2021, the Koh Kong Provincial Court convicted Chhiv, Director of *Koh Kong Hot News*, of incitement to commit a felony under articles 494 and 495 of the Criminal Code, and sentenced him to one year in prison and to a fine of two million riels[66] for making Facebook posts in which he criticized authorities for evicting residents and destroying crops (including his own) in the Botum Sakor National Park.

KAO PISETH – The *Siem Reap Tanhetkar* journalist was arrested in July 2021 in Battambang province after he posted three social media posts criticizing the Cambodian government and the effectiveness of the Chinese-made COVID-19 vaccine. In December 2021, he was convicted of incitement to commit a felony under articles 494 and 495 of the Criminal Code, as well as obstruction of the implementation of COVID-19 measures under article 11 of the *Law on measures to prevent the spread of COVID-19 and other serious, dangerous and contagious diseases*. The Battambang Regional Court of Appeal upheld his sentence on 5 July 2022.[67]

These cases illustrate the challenges journalists must deal with for conducting their job. Many of them face arbitrary detention and questioning while on duty, but also bogus criminal charges and convictions, as authorities appear determined to use criminal law against them rather than provisions from the *Law on the Press*.

Five journalists interviewed for this report mentioned the specific threat of imprisonment as a major risk to freedom of the press in Cambodia. This could be due to high-profile cases of journalists being imprisoned in recent years on spurious charges for their legitimate reporting activities.[68] Such cases illustrate how arbitrary imprisonment is used as a tool to intimidate journalists, and to discourage them from reporting on issues deemed sensitive or related to powerful officials.

Challenges when reporting on issues considered sensitive, leading to self-censorship

This year, several incidents in which the authorities restricted or pressured journalists not to report on specific topics were recorded. The main issues on which journalists were prevented from registering include:

Land issues: Land issues, such as land disputes or environmental destruction, have long been an issue of contention in Cambodia. Data collected during the Reporting Period shows that reporting on such issues is a challenge. In nine separate incidents, journalists faced interferences for collecting information on or writing about land issues.

[66] Khuon Narim & Chea Sokny, "Digital news publisher convicted, sentenced to prison for Koh Kong dispute" (*CamboJA News*, 30 September 2021).
[67] Ngay Nai, "Appeal Court upholds sentence against journalist who criticized vaccines" (*CamboJA News*, 5 July 2022).
[68] See for instance CCHR, "Four years of judicial harassment for former Radio Free Asia journalists" (CCHR, November 2021); Sun Narin, "Cambodia's Sentencing of Journalist Over COVID-19 Comment a Threat to Freedoms, Media Groups Say" (*VOA*, 9 October 2020).

Journalists reporting on land issues faced a wide array of restrictions between 1 September 2021 and 31 August 2022

HARASSMENT – On 4 September 2021, *VOD* reporter **Pok Kheuy** was harassed by authorities while covering a land dispute opposing villagers and the company in charge of the construction of Phnom Penh's new International Airport. Pok Kheuy said that while he was interviewing villagers at the site of the land dispute, plain clothes authorities approached him, and took pictures of him and his motorbike. As he was driving his motorbike back to Phnom Penh, Kheuy noticed two people following him. Moments later, five uniformed police officers attempted to pull him over, but Kheuy continued to drive away.[69]

THREATS AND INTIMIDATION – On 4 September 2021, **Luos Seng**, the owner of online news station *LSN News TV*, planned to cover the ongoing land dispute opposing villagers and Phnom Penh's new International Airport land development project. However, Seng received a call from one of the villagers' representatives, warning him that many authorities had been deployed to the site and that if he attempted to cover the dispute, he would be arrested. Seng had reportedly been warned and threatened previously by authorities after he livestreamed a protest conducted by this community.[70]

Five journalists including **Ouk Mao** (from *Mohahong News*), **Dea Mech** (from *Morodok Kmeng Wat News*), **Hen Sophat, Hen Tola** and **Lim** (from *Koh Ekareah News*), were prevented from entering Prey Lang forest to report on illegal logging practices on 29 January 2022. Environmental officials from Stung Treng province refused to allow them to enter, claiming they needed permission from the provincial environmental department. The officials threatened to handcuff and arrest the journalists if they attempted to enter.[71]

On 28 July 2022, citizen journalist **Top Sovann** took pictures and videos of an illegal timber trader loading wood into his boat in Stung Treng province. When the trader saw Sovann filming, he grabbed Sovann's phone and threw it into the river, as well as his journalist card and a mission letter.[72]

LEGAL ACTION – *VOD* reporter **Pok Kheuy** was summoned for questioning at the security department of the Ministry of Interior on 21 September 2021 after *CamboJA News* released a statement detailing the harassment he faced while he attempted to cover the land dispute over the construction of the new Phnom Penh international airport.[73]

On 26 September 2021, the National Defense Minister instructed local authorities to take legal action against **Youn Chhiv**, an online news publisher and journalist of the *Koh Kong Hot News* website, for making a Facebook post accusing authorities of evicting residents in Koh Kong. He was accused of defaming the Koh Kong deputy governor, and forced to write an apology letter. Four days later, Chhiv

[69] Sorn Sarath, "Journalists covering mega airport project face threat and harassment" (*CamboJA News*, 9 September 2021).
[70] Sorn Sarath, "Journalists covering mega airport project face threat and harassment" (*CamboJA News*, 9 September 2021).
[71] Incident Report (29 January 2022).
[72] Incident Report (28 July 2022).
[73] Incident Report (21 September 2021).

was charged and convicted of incitement to commit a felony. He was sentenced to one year in prison and to a fine of two million riels.[74]

Sous Chamroeun, an online journalist and head of *CHR TV Online*, as well as other journalists, were summoned to appear before the MoI on 8 November 2021. This summons came after the outlet published a series of articles exposing corruption and accusing military officials in Preah Vihear province of selling military land. The MoI said the summoned individuals had undermined the dignity and honor of the Royal Cambodian Armed Forces. Chamroeun said he considered the summons to be aimed at intimidating and discouraging journalists from publishing the truth.[75]

An arrest warrant was issued against **Try Sophal**, a journalist for *Everyday*, in April 2022. He claimed he was falsely accused of stealing and making threats, and that the warrant was instead meant to punish him for filming and reporting on land clearing in Preah Vihear in late 2021.[76]

On 16 August 2022, five *VOD* journalists – **Morm Moniroth, Hean Rangsey, Keat Soriththeavy, Hy Chhay** and **Danielle Keeton-Olsen** – were arrested by members of the Prime Minister's bodyguard unit while they were inspecting the reforestation efforts of Phnom Tamao following its clearing the week before. Authorities accused them of entering an area that was restricted, despite no information about this restriction being public at the time of their arrest. The journalists were first taken to a military camp before being detained for seven hours at the district police station and questioned. Authorities confiscated their material but handed it back to them upon their release.[77]

PHYSICAL VIOLENCE – During the incident involving the five *VOD* journalist on 16 August 2022, one of the journalists was slapped by a member of the Prime Minister's bodyguard unit.[78]

In addition to these cases, a journalist interviewed for this report revealed that they were once summoned for questioning after reporting on deforestation and the timber trade. In a separate incident, that same journalist received a call, warning them they would "*face issues*" if they reported about a land issue involving state land. The journalist never released the story and did not file a complaint out of fear of reprisals.

Considering how sensitive the topic of land issues is in Cambodia, all these cases seem to suggest the authorities' attempt to prevent unwanted attention to land concerns and discourage unfavorable reporting by journalists. This is perhaps best exemplified by a comment made by the chief of the Bodyguard Unit that arrested the five *VOD* journalists in August 2022: the next day, he said the area was open to visitors – contradicting the authorities' earlier claim that the journalists were trespassing – but

[74] Khuon Narim & Chea Sokny, "Digital news publisher convicted, sentenced to prison for Koh Kong dispute" (*CamboJA News*, 30 September 2021).
[75] Khuth Sokun, "Ministry of Information summons media owner for questioning after covering corruption of military officials" (*VOD Khmer*, 6 November 2021).
[76] Nhim Sokhorn, "Journalist faces arrest warrant after filming land clearing" (*VOD*, 13 April 2022).
[77] Keat Soriththeavy, Danielle Keeton-Olsen & Pa Sokheng, "Hundreds from Bodyguard Unit take over Phnom Tamao reforestation efforts" (*VOD*, 17 August 2022).
[78] Khuon Narim & Sovann Sreypich, "Journalists and environmental activists detained, beaten" (*CamboJA News*, 16 August 2022).

that they had to use the front entrance to see the authorities' replanting efforts. He said that pictures of the cleared area could "*cause a problem*" and added "*We want [people] to take pictures of what we already planted. The place near the hill is not yet finished so it looks bad when they shoot it*".[79]

When asked if there were specific topics that they did not dare report about, three journalists interviewed for this report answered "*land issues*". Two of them described land and forest issues as "*heated topics*" and said they had reduced their reporting on such issues. The third said they refused to write about the deforestation of a specific forest because a "*powerful individual*" was behind its clearing.

The NagaWorld strike: in at least 12 instances, journalists faced restrictions for attempting to cover the NagaWorld strike.[80] Throughout the months-long strike – which was still ongoing at the time of writing – authorities were frequently criticized for using excessive violence against the strikers. The fact that authorities hindered journalists while they were monitoring the protests held as part of the strike suggests an attempt by authorities to preemptively avoid media coverage of their wrongdoings.

The authorities frequently interfered with journalists while they were covering the NagaWorld strike

The interferences that were recorded include – but are not limited to – authorities threatening a journalist with legal action unless he identified himself and left the area,[81] banning reporters from attending a press conference by the police on the strike,[82] harassing journalists and forcing them to delete pictures and videos,[83] preventing them from reaching the site of the strike,[84] and threatening to confiscate their material if they took pictures.[85]

Corruption: on various occasions during the Reporting Period, journalists were interfered with for reporting on corruption. The incidents described below appear to show the authorities' attempts to discourage journalists from reporting on issues that paint authorities in a negative light.

SOUS CHAMROEUN – The online journalist and head of *CHR TV Online* was summoned along with other journalists to appear before the MoI on 4 November 2021 after the outlet published a series of articles detailing corruption by military officials and accusing military officials in Preah Vihear province of selling

[79] Keat Soriththeavy, Danielle Keeton-Olsen & Pa Sokheng, "Hundreds from Bodyguard Unit take over Phnom Tamao reforestation efforts" (*VOD*, 17 August 2022).
[80] In April 2021, the NagaWorld casino laid off over 1,300 employees, citing a decline in income caused by the COVID-19 pandemic. Many of the terminated workers were union members and leaders. After several failed negotiation attempts with the casino and unsuccessful complaints to relevant authorities, the Labor Rights Supported Union of Khmer Employees of Naga World ("LRSU") notified the authorities of their plan to start a peaceful strike in December 2021. At the time of writing (end of September 2022), the strike was still ongoing.
[81] Tran Techseng & Michael Dickison, "NagaWorld Strikers Instructed to Stay Hom for 7 Days" (*VOD*, 5 February 2022).
[82] Mech Dara, "Some Journalists Barred From Police Press Conference on NagaWorld Arrests" (*VOD*, 4 January 2022).
[83] Pa Sokheng, "Authorities say they did not force journalists to delete photos of NagaWorld strikers" (*VOD Khmer*, 14 March 2022).
[84] Khe Sonang, "Authorities force NagaWorld strikers to get out of strike" (*RFA Khmer*, 27 March 2022).
[85] Incident Report (24 February 2022).

military land. Chamroeun said he considered the summons to be aimed at intimidating journalists and discouraging them from reporting the truth.[86]

BAYONG TIMES and **CAMBODIA TODAY** – On 15 March 2022, the MoI announced it was revoking the license of the media outlets *Bayong Times* and *Cambodia Today*, alleging they had violated journalistic professional ethics and contracts. *Bayong Times* publisher, Tel Samuth, said he believed that the revocation was in retaliation to previous articles published by *Bayong Times* in which government officials were accused of corruption.[87] Similarly, the editor-in-chief of *Cambodia Today* said he thought a critical article published a month earlier about corrupt bidding processes at the Ministry of Labor, which he refused to take down after officials of the MoI asked him to, could be the reason for the revocation of his outlet's media license.[88]

SUON VUTHA – Traffic police officers threatened citizen journalist Suon Vutha with arrest and legal action on 10 April 2022, after he took videos of the officers taking bribes to turn a blind eye to breaches of the traffic law at a checkpoint in Kandal province. Vutha was detained and questioned for more than an hour. The authorities also ordered him to delete the videos he had taken and to sign an agreement saying he would "*stop*", presumably recording the authorities' actions. The district governor defended the police's actions and instead blamed the journalist for failing to request "*cooperation*" from the authorities and for "*sneaking up*" on the "*unprepared*" officers. The MoI spokesman later contradicted the district governor's statement, saying anyone could take photos or videos in public and that authorities had overstepped and infringed on the journalist's work.[89]

THAI BUNRITH – The *TCN TV* producer was charged with incitement to discriminate and public defamation by the Kandal provincial court on 29 May 2022 after he made a Facebook live via his *TCN TV* channel in which he said that provincial authorities had received bribes to ignore illegal gambling operations.[90]

Self-censorship

The incidents highlighted throughout this section illustrate that journalists are no longer free to gather information and to report on issues deemed sensitive by the RGC. As a consequence of the intimidation, threats and criminal sanctions that journalists must contend with merely for doing their jobs, many media professionals self-censor and avoid publishing information that could anger the ruling elite. Of the 18 journalists who were interviewed for this report, seven reported they self-censor.

[86] Khuth Sokun, "The Ministry of Information summoned a media owner for questioning after covering the corruption of military officials" (*VOD Khmer*, 6 November 2021).
[87] Nat Sopheap, "Information Ministry Revokes Licenses for Three Digital Publications" (*VOD*, 16 March 2022).
[88] Ngay Nai, "Three online media outlets have had their licenses revoked" (*CamboJA News*, 25 March 2022).
[89] Pa Sokheng, "Journalist Alleges Threats After Filming Traffic Police Taking Money" (*VOD*, 14 April 2022).
[90] Buth Reaksmey Kongkea, "TV producer charged over defamation" (*Khmer Times*, 30 May 2022).

Topics that interviewed journalists said they refuse to write on for fear of repercussions include any topic related to the Prime Minister and his family, land issues, criticism of the authorities, drug trafficking and political issues.

Attacks and threats of physical violence against journalists

Due to their role as watchdogs and whistleblowers, journalists worldwide often face attacks and threats to their physical safety. Seven journalists interviewed for this report mentioned they were concerned about their personal safety and/or that of their families, because of their line of work. Another journalist specifically mentioned the "*threat to journalists' lives*" as one of the biggest threats to press freedom in Cambodia.

During the Reporting Period, one journalist was slapped while he was being forcefully arrested by a member of the Prime Minister's bodyguard unit for conducting his investigative work.[91] Another journalist received death threats from an individual after he wrote about a conflict involving the individual.[92] One of the interviewed journalists revealed they were the victim of multiple attacks – including being hit by a motorcycle on three separate incidents, experiencing violence while covering the NagaWorld strike, and having individuals break into their home – as some of the restrictions they faced because of their journalistic work.

Challenges faced by female journalists

Of the eight female journalists who were interviewed for this report, six reported facing difficulties carrying out their journalistic work due to their gender. These difficulties took many forms, ranging from snide comments from the authorities to sexual harassment and challenges in gathering information.

One said that a police officer asked her why she was a journalist instead of a garment worker – a profession mainly occupied by women. Another mentioned an instance of sexual harassment by a male journalist, and said that male journalists often look down on female journalists' capabilities. One journalist reported that government officials were more likely to answer the questions of a male journalist rather than those of a female journalist. She also added that female journalists face challenges "*when travelling alone*", which was echoed by another interviewed journalist. Similar sentiments were expressed by two others who said it was more difficult for female journalists than for male journalists to collect information in the field, "*far from home*" or "*at night*".

These examples seem to show that gender stereotypes continue to stand in the way of female journalists being recognized as equals to male journalists. As for the threat of gender-based violence, while not specific to the journalistic field, it appears to act as a barrier to female journalists being able to carry out their investigative and information-gathering duties, an essential component of their work.

[91] Khuon Narim & Sovann Sreypich, "Journalists and environmental activists detained, beaten" (*CamboJA News*, 16 August 2022).
[92] Leang Khun, "Be careful, if you walk across that home, and if you dare to hit the dog, the owner of dog will kill you" (*CEN*, 18 January 2022).

5.2. State of freedom of expression for HRDs

Judicial harassment of HRDs for exercising their freedom of expression

In addition to journalists, HRDs remain targets of choice for a government allergic to criticism and divergent views. Between September 2021 and August 2022, they continued to be judicially persecuted for exercising their freedom of expression to conduct their legitimate human rights work. Judicial harassment remained one of the biggest threats to the freedom of expression of HDRs in the country that the HRDs interviewed for this report cited, along with government surveillance, thus creating a dangerous environment in which to exercise their freedom of expression.

The crackdown on HRDs that intensified at the end of July 2020, following the arrest of prominent union leader Rong Chhun for voicing his opinion regarding Cambodia-Vietnam border issues on the radio, continued to be felt during the Reporting Period. Several of the Mother Nature Cambodia environmental activists who were convicted in the previous reporting period for raising environmental concerns and natural resources violations in the country saw their convictions upheld by a higher court.

According to the data collected through media monitoring, the regular judicial harassment of HRDs by the RGC resulted in the following legal action taken against **13 HRDs, including four women,** for exercising their freedom of expression between 1 September 2021 and 31 August 2022:

- three HRDs were summoned;
- four HRDs were questioned;
- four HRDs were arrested;
- four HRDs were detained;
- four HRDs were charged with incitement, false declaration, or intentional damage to property;
- Four HRDs were convicted for incitement, false declaration, malicious denunciation and defamation, or assault; and
- Six HRDs saw their incitement convictions upheld by a higher court.

The vast majority of the targeted HRDs during the Reporting Period were land or environmental activists, reflecting the intensification of the repression led against those speaking out about land disputes and environmental destruction in the Kingdom, two matters deemed particularly sensitive by the Cambodian authorities.

Four HRDs were convicted and six HRDs saw their convictions upheld by a higher court between 1 September 2021 and 31 August 2022:

CHAN THOEUN – On 16 September 2021, Chan Thoeun, a Prey Lang Community Network ("PLCN") activist, was tried *in absentia* by the Kampong Thom Provincial Court on charges of attempted murder of businessman Pak Yangkoung, who filed against him in 2020. The businessman alleged that Thoeun attempted to stab him during a scuffle in July 2020. The activist's defense lawyer claimed that these allegations were fabricated and that it was Yangkoung who attacked first and that Thoeun was merely trying to protect himself. Thoeun claimed that Yangkoung threatened him with a knife after he saw

Thoeun taking pictures of him carrying timber in the protected Prey Lang forest in Sandan district, Kampong Thom province. Thoeun believes that Yangkoung is a timber trader and that he filed a complaint against him in retaliation for the July 2020 scuffle and his attempts to report his illegal timber transportation activities. The PLCN activist stated that he had to flee his home in October 2021 when the military police came to arrest him, a day after he posted a picture on Facebook of timber being transported.[93] On 12 October 2021, the Kampong Thom Provincial Court convicted Thoeun of assault, after downgrading the charge from attempted murder to intentional violence with aggravating circumstances, and sentenced him to two years in prison. According to his lawyer, the Court also suspended the sentence. Thoeun was not present at the trial as he was in hiding. He commented that the decision was unfair as he was the victim, not the aggressor, and that timber traffickers were not prosecuted for their crimes. [94]

MOTHER NATURE CAMBODIA ACTIVISTS: LONG KUNTHEA, PHOUN KEOREASMEY, THUN RATHA, ALEXANDRO GONZALEZ-DAVIDSON – On 5 November 2021, the Phnom Penh Court of Appeal upheld the convictions of Long Kunthea, Thun Ratha, and Phuon Keoreaksmey but suspended the remainder of their sentences.[95] All three were released from prison on 12 November 2021 and placed under judicial supervision for three years.[96] On 12 November 2021, the Phnom Penh Court of Appeal also upheld the conviction and sentence of Mother Nature Cambodia co-founder Alexandro Gonzalez-Davidson.[97] On 3 May 2022, the Supreme Court upheld a lower court verdict convicting Alejandro Gonzalez-Davidson *in absentia* for incitement and sentencing him to 20-month of imprisonment and a $1,000 fine.[98] Mr. Gonzalez-Davidson was not present at the trials as he has been systematically denied entry to Cambodia since his deportation in 2015. The four activists were convicted for incitement by the Phnom Penh Municipal Court in May 2021 over Facebook posts about their plan to organize a one-woman march to the Prime Minister's residence in order to raise awareness about the environmental impact of filling in the Boeung Tamok Lake.[99]

RONG CHHUN – On 13 November 2021, the Phnom Penh Court of Appeal upheld the conviction of prominent union leader Rong Chhun but suspended the remainder of his sentence, leading to his release from prison the same day. However, Chhun was placed under judicial supervision for three years.[100] He was arrested in July 2020, convicted of incitement by the Phnom Penh Municipal Court on 18 August 2021 and sentenced to two years in jail over comments he made about border issues

[93] Khuon Narim, "Prey Lang activist trialled for 'attempted murder' after reporting forest crimes (*CamboJA News*, 16 September 2022).
[94] Khan Keakhena, "Prey Lang activist handed two-year suspended sentence" (*VOD*, 12 October 2021).
[95] Buth R. Kongkea, "Mother nature activists convictions upheld, sentences reduced"(*Khmer Times*, 5 November 2021).
[96] Mech Dara & Ouch Sony, "Mother Nature activists, Rong Chhun among 18 released in flurry of verdicts, reunions" (*VOD*, 12 November 2021).
[97] Buth R. Kongkea, "Alexandro Gonzalez-Davidson's sentence upheld by Appeal Court" (*Khmer Times*, 13 November 2021).
[98] VOD, "Briefs: Army commander takes center stage at press freedom event, Mother Nature in Supreme Court" (*VOD*, 3 May 2022).
[99] Khuon Narim, "Mother Nature activists found guilty, jailed for planning one-woman march" (*CamboJA News*, 5 May 2021); RFA, "Cambodian Environmental Activists arrested before protest over development on lake" (*RFA*, 3 September 2020).
[100] RFA, "Cambodian authorities release labor union in surprise move" (*RFA*, 12 November 2021).

between Cambodia and Vietnam on the radio.[101] His arrest spurred a wave of protests, which led to the arrests of multiple activists who had gathered to call for his release from prison,[102] marking an intensification of the government's crackdown on HRDs for exercising their fundamental freedoms.[103]

VOEUN VEASNA – On 3 February 2022, the Phnom Penh Municipal Court convicted Prey Lang activist and ex-CNRP member Voeun Veasna of incitement and sentenced him to two years imprisonment as well as a two million riel fine ($500).[104] His conviction stems from a poem he posted on the Prime Minister's Facebook page in which he notably criticized the country leader for allowing the destruction of Cambodia's forests.[105] Veasna was previously residing in Thailand but was arrested and deported by Thai authorities in November 2021 after the Cambodian Prime Minister labeled his poem "extremist" and ordered his arrest.[106] Veasna highlighted that he did not have a lawyer representing him at his trial because the court had failed to notify his lawyer of the hearing.[107] The Phnom Penh Court of Appeal upheld his conviction on 13 May 2022.[108]

DETH HUOR – On 20 July 2022, Deth Huor, a community representative of Chi Khor Loeu commune, Sre Ambel district, Koh Kong province, was convicted of malicious denunciation and defamation and sentenced to a year in prison and a two million riel ($500) fine by the Koh Kong Provincial Court. However, she was not detained as the Court did not issue any arrest warrant against her. The complaint that led to Huor's conviction was filed by tycoon Heng Huy. Huor reported that the defamation complaint came after she posted a photo of the tycoon and a message criticizing him for encroaching on her community's land. Heng Huy reportedly filed complaints against other community members for protesting against his company for encroaching on their land. Hundreds of families from Chi Khor Loeu and Chi Kor Krom communes have been involved in a land dispute with Heng Huy since 2007. The affected families traveled to Phnom Penh to protest and seek the Land Ministry's intervention on various occasions in the past. However, in 2019, the Land Ministry rejected their appeal and called for legal action against the community representatives for inciting the families to protest.[109]

CHEN BAORONG – On 30 August 2022, Chen Baorong, a human trafficking rescuer from the Cambodia-China Charity, was convicted of incitement to discriminate and false declaration, and sentenced to two years in prison by the Preah Sihanouk Provincial Court. He was also ordered to pay a four million riel ($1,000) fine.[110] Chen was arrested and charged in March 2022 alongside his assistant, a doctor, and an alleged trafficked victim after the latter told the media their blood was forcibly harvested after they

[101] Ouch Sony, "Updated: Rong Chhun sentenced to two years in jail for Vietnam comments" (*VOD*, 18 August 2021).
[102] CCHR, "Timeline of activists arrested for protesting for Rong Chhun's release" (CCHR, July 2021).
[103] CCHR's FoEX Annual Report 2020-2021, p. 32.
[104] Khan Leakhena, "Government Critic sentenced to two years in prison" (*VOD*, 3 February 2022).
[105] RFA, "Cambodia's Hun Sen orders arrest of exiled activist over poetry" (*RFA*, 13 October 2021).
[106] Tran Techseng, "Two opposition activists extradited from Thailand" (*VOD*, 11 November 2021).
[107] Khan Leakhena, "Government Critic sentenced to two years in prison" (*VOD*, 3 February 2022).
[108] Buth Reaksmey Kongkea, "Appeal court upholds verdict in Prey Land activist case" (*Khmer Times*, 16 May 2022).
[109] Kuth Sokun, "Koh Kong land protester sentenced to jail, but not detained" (*VOD*, 20 July 2022).
[110] Mech Dara, "Wife says trafficking rescuer sentenced to two years in prison" (*VOD*, 30 August 2022); Teng Yalirozy, "Four jailed for blood slave hoax" (*Cambodianess*, 30 August 2022).

refused to work in a scam compound in Sihanoukville, a story that attracted the attention of foreign media but that the Cambodian authorities deemed fabricated.[111]

Three of the five HRDs interviewed for this report reported having experienced restrictions on or violations of their freedom of expression by authorities while exercising their advocacy work. However, none of them filed complaints to relevant institutions or courts. One of the interviewees explained that the authorities accused them of inciting people after meeting with members of a land community to discuss the land dispute that was affecting the community. They were threatened with arrest and had to go into hiding out of fear for their safety. The interviewee said they had reported their situation to OHCHR Cambodia. Another interviewee reported that in 2019, while they were conducting a training session in Siem Reap, the authorities showed up and ended the training session. They also said that a friend of theirs, who is a government official, had informed them that they were on the government's radar and on a sort of blacklist, thus being a government target. The third interviewee stated that they had experienced restrictions on their freedom of expression in the past, notably summonses and questioning by local authorities after expressing themselves. The fourth interviewed HRD said that they did not experience any restrictions or violations of their freedom of expression by authorities but had already received threats from other citizens for expressing themselves on LGBTIQ+ rights, against whom they filed a complaint. The last interviewee, while reporting not having experienced restrictions on or violations of their freedom of expression by state authorities so far, commented that a government official that they know advised them not to join the current organization they are working for because they would face problems and be accused of being a dissenter if they did.

Physical attacks against HRDs

In addition to the judicial harassment they regularly face, HRDs in Cambodia operate in a dangerous and unsafe environment. During the Reporting Period, two physical attacks against HRDs, both women, were recorded.

TOUCH SREY NICH – On 26 September 2021, Khmer Thavrak activist Touch Srey Nich was attacked by several unknown assailants while driving down a road in Phnom Penh. The assailants allegedly crashed into her motorbike with their bikes and began hitting her, causing her to fall off her motorbike. She was left with serious injuries to her head, arms, and legs but could not go to the hospital for medical treatment because she could not afford to pay for care. Srey Nich later reported that she had noticed that someone was monitoring her activities four days before she was attacked. The attack came after she gave an interview to the media outlet Radio Free Asia ("RFA") on 24 September 2021 in which she commented on the restrictions and persecution of youth activists in Cambodia. Despite the physical assault suffered, Srey Nich commented that she remained determined to continue protecting the interests of society.[112]

[111] Mech Dara, "Human trafficking rescuer provisionally charged with incitement" (*VOD*, 3 March 2022); Teng Yalirozy, "Four charged over 'blood slave' hoax" (*Cambodianess*, 4 March 2022).
[112] Rithi, "A young Khmer Thavrak activist was hit by a stranger and hit by a motorbike, causing serious injuries" (RFA Khmer, 27 September 2021).

ENG MALAI – On 19 April 2022, youth activist Eng Malai suffered serious injuries to her head, wrists, and left shoulder after an unknown assailant on a motorbike crashed into hers from behind at a roundabout in Phnom Penh. She reported that he laughed at her before fleeing the scene. She was treated and examined by a local human rights NGO's doctor. Malai considers the attack to be in retaliation for her continued activism. The attack came a few months after she was released from prison in November 2021 after serving more than a year for participating in peaceful gatherings calling for the release of Rong Chhun from prison in 2020. Malai is known for her activism and outspokenness. Shortly after her release from prison, she told the media that she remains undeterred and was not afraid. "[…] *I have to dare to speak the truth, and dare to find what is bad and change it to good […]. If we don't dare to talk, others will also not dare to talk*" she added.[113] She reiterated her determination to continue her activities despite her assault.[114]

26 April 2022 also marked the tenth anniversary of the murder of environmental activist Chut Wutty, who was shot dead while accompanying two journalists investigating a forestry crime near a protected area in Koh Kong province. Wutty, who was the director of the Natural Resource Protection Group, was known for his engagement in protecting Cambodia's forests and natural resources and exposing environmental crimes, including those involving Cambodian authorities. His case was quickly declared closed by the Koh Kong Provincial Court in October 2012, without any transparent nor independent investigation conducted by the authorities, depriving Wutty and his family of justice.[115] Ten years later, CSOs continued to reiterate their call for relevant government institutions to undertake a credible and thorough investigation to bring the perpetrators of his murder to justice.[116]

Similarly, July 2022 marked six years since the murder of prominent political commentator and HRD Kem Ley. The activist, known for speaking what others would not, was shot in a gas station in Phnom Penh in July 2016, with no thorough and independent investigation conducted and his murderer(s) yet to be held to account.[117] These two most recent unsolved or unsatisfactorily solved cases are reminders of the dangers to which HRDs continue to be exposed for conducting their legitimate work and exercising their fundamental freedoms, and of the rampant impunity that continues to plague Cambodia and enables attacks against HRDs to continue to occur.

As a result, many HRDs do not feel free to carry out their work freely and fear repercussions. Four of the five interviewed HRDs reported having concerns for their physical security when conducting their human rights work and being particularly careful about what they write or say to journalists, especially regarding politics. One even mentioned murder as being one of their concerns. However, the fifth interviewed HRD stated that they are not afraid of exercising their freedom of expression because they have a good

[113] Ouch Sony, "Another activist released: 'If we don't dare to talk, others will not'" (*VOD*, 8 November 2021).
[114] Tin, "Unidentified man attempted to kill a motorcyclist in Phnom Penh resulting in serious injuries" (RFA Khmer, 19 April 2022).
[115] CCHR, "Press release: two years on, CCHR mourns environmental activist Chut Wutty and denounces the continued culture of violence and impunity in Cambodia" (CCHR, 26 April 2014).
[116] CSOs, "Open letter to mark the tenth anniversary of the murder of Chut Wutty" (CCHR, 26 April 2022).
[117] CCHR, Infographic "Impunity in Cambodia" (CCHR, July 2021).

understanding of human rights and an established network that can support them. They expressed being able to answer journalists' interview questions without fear of repercussion.

This unsafe environment has led many HRDs to adapt and adjust to continue to perform their essential work in the safest way possible. One interviewee reported never writing posts about political issues on social media or being careful when taking photos with opposition members as they want to remain neutral. Another said they were particularly vigilant when working on cases involving jailed opposition activists. Other adjustments that the HRDs interviewed by CCHR had to make include being careful with the words used, understanding their rights better to ensure their personal safety and conduct their work in accordance with the law, and complying with their organization's policies, showing politeness, openness and flexibility with the authorities, without compromising their values and principles as HRDs, or keeping a low profile and having someone accompany them when carrying out their activities. Despite these difficulties, none of the interviewees reported refusing to lead advocacy efforts on human rights issues deemed too sensitive.

Freedom of expression of LGBTIQ+ and Women Human Rights Defenders ("WHRDs")

In an environment hostile to critical voices, LGBTIQ+ HRDs and WHRDs are not spared the many challenges that activists face in Cambodia. Of the 13 HRDs who faced legal action for exercising their freedom of expression during the Reporting Period, **four** were women.

Two of them, Mother Nature Cambodia activists Long Kunthea and Phoun Keoreaksmey, had their incitement convictions upheld by the Phnom Penh Court of Appeal in November 2021. They were released following the appeal verdict after receiving a reduced sentence. However, they were placed under judicial supervision for three years. In addition, both were also charged with plotting and *lèse-majesté* in June 2021 and face up to ten years in prison if convicted. As of September 2022, over a year after these additional charges were laid, no trial date has been set, keeping them in a state of uncertainty as to their future. Land community representative Deth Huor from Kok Kong's Chi Khor Loeu commune was convicted by the Koh Kong Provincial Court for malicious denunciation and defamation and handed an imprisonment sentence for exercising her freedom of expression online to report a tycoon's encroachment activities on her community's land. Similarly, land activist Oum Sophy from the Lor Peang community was arrested, detained, and charged with intentional damage, charges claimed to have resulted from posting about the land dispute her community is embroiled in on social media. Finally, as previously highlighted in this report, two WHRDs – Touch Srey Nich and Eng Malai – suffered physical attacks that are believed to have been motivated by their activism.

OUM SOPHY – On 29 January 2022, Oum Sophy, a representative of the Lor Peang community, was arrested and detained by the Kampong Chhnang provincial police alongside her husband and community representative Snguon Nhoeun, community member Tuong Seng, and their one-year-old grandson.[118] They were interrogated by the police over accusations of destruction of property. However, their arrests came after Sophy and her husband live-streamed an argument the authorities and villagers were having over a disputed plot of land.[119] Sophy and Nheun were released on bail afterward, while Seng was sent to pre-trial detention.[120] The three appear to have been charged with intentional damage to property.[121] However, reports on this case differ, and one source reports that the pair were charged with stealing property from the plaintiff, with one of them potentially charged with making a death threat, but it is unclear who received this charge.[122] He was granted bail by the Supreme Court on 24 June 2022 and released from prison a few days later, on 27 June 2022.[123]

Oum Sophy

Cambodian LGBTIQ+ HRDs and WHRDs also experience many other challenges stemming from entrenched societal norms, which impact their freedom of expression. One of the two interviewed LGBTIQ+ HRDs reported experiencing discrimination in exercising their freedom of expression. They notably said that it was difficult to advocate when being seen as abnormal for not having determined yet with which gender they identify. They reported being laughed at sometimes and their opinions not being valued because of their LGBTIQ+ status.

> **"[…] *I have to dare to speak the truth, and dare to find what is bad and change it to good. […] If we don't dare to talk, others will also not dare to talk."***
> Khmer Thavrak Youth Activist Eng Malai

5.3. State of access to information

Publication of judgments

The right to a public judgment means that judgments rendered in civil and criminal proceedings must be made public. The UNHRC has found that, save for some exceptions, "*the judgment, including the essential findings, evidence and legal reasoning must be made public*"[124] even in cases in which the public is excluded from the trial. The transparency of court procedures is as much an issue of fair trial rights as it is

[118] Net Sopheap & Khan Leakhena, "Lands activists arrested in Kampong Chhang" (VOD, 31 January 2022); Khuon Narim, "Kampong Chhnang land activists charged after livestreaming dispute" (*CamboJA News*, 31 January 2022).
[119] *Ibid*.
[120] keang Sokhmean, "Kampong Chhnang land activist on bail, case details remain murky" (VOD, 28 June 2022).
[121] Lor Peang community activists granted bail after live-streaming land conflict" (*CamboJA News*, 4 February 2022).
[122] Khuon Narim, "Kampong Chhang land activists charged after livestreaming dispute" (*CamboJA News*, 31 January 2022).
[123] Keang Sokmean, "Kampong Chhang land activist on bail, case details remain murky" (*VOD*, 28 June 2022).
[124] Human Rights Committee, General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial, (UN Doc. CCPR/C/GC/32), 2007.

an issue of access to information: the right to a public judgment is key to ensuring transparency and accountability, as it limits the judges' ability to act arbitrarily, but it is also important in terms of access to legal information, as it allows the public to know what type of behavior is prohibited under the law. Transparency International therefore considers that, although subject to exceptions, the right of access to court files is a manifestation of the right to information.[125]

Judiciary transparency still leaves much to be desired in Cambodia. Except for the Constitutional Council which regularly publishes its decisions[126] and the Extraordinary Chambers in the Courts of Cambodia ("ECCC") which has widely disseminated its judgments, verdicts from other courts remain largely impossible to access. Addressing this shortcoming was one of the goals of Phase V of the Legal and Judicial Development Project, implemented by the Ministry of Justice ("MoJ") and the Japan International Cooperation Agency ("JICA") from 1 April 2017 to 31 March 2022. The project sought to improve the quality of civil court decisions by establishing a process of disclosure of these decisions.[127] Following the publication of 44 verdicts from civil litigation cases on 31 December 2020,[128] 20 additional judgments were published on the MoJ's website on 13 January 2022. In a press release, JICA said that the publication of these judgments aimed "*to increase the transparency of the courts' public service and to develop public accountability of judges and the judiciary as a whole*".[129]

While this is undoubtedly a step in the right direction, the number of published judgments is extremely low. More needs to be done to ensure that all judgments, both in civil and criminal cases, are published, thereby ensuring individuals' access to information pertaining to the functioning of courts.

Preservation of archives

According to the International Council on Archives, "*by guaranteeing citizens' rights of access to official information and to knowledge of their history, archives are fundamental to identity, democracy, accountability and good governance*".[130] The right to knowledge of history and the important role that archives play in upholding this right have also been recognized by the UN. In the its *Updated Set of principles for the protection and promotion of human rights through action to combat impunity*, the UN have stated that "*every people has the inalienable right to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes*".[131] To give effect to this right to know, the UN have called on States to take various measures, which include ensuring the preservation of and the access to archives concerning violations of human rights and humanitarian law.[132]

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[125] Transparency International, "Transparency of court proceedings" (Transparency International, 30 September 2019), p. 1.
[126] Website of the Constitutional Council of Cambodia.
[127] JICA, Outline of the Legal and Judicial Development Project (Phase V).
[128] Niem Chheng, "Courts' decisions now published as reference source" (*Phnom Penh Post*, 4 January 2021).
[129] JICA, Project News: Disclosed 20 new judgments on the Ministry of Justice website (JICA, 13 January 2022).
[130] Website of the International Council on Archives.
[131] UN, "Updated Set of principles for the protection and promotion of human rights through action to combat impunity" (UN Doc. E/CN.4/2005/102/Add.1, 8 February 2005), Principle 2.
[132] *Ibid*, Principle 5.

A notable development pertaining to archives documenting violations of human rights took place during the Reporting Period in Cambodia.

In August 2021, the RGC and the UN signed an Addendum to the UN-RGC Agreement on the ECCC. Through this Addendum, the ECCC – tasked with prosecuting the Khmer Rouge leaders and those most responsible for the crimes committed during the Khmer Rouge regime from 1975 to 1979 in Cambodia – received residual powers that would come into effect upon the completion of its judicial work. In Article 3 of the Addendum, which focuses on archives, the UN and the RGC agree that the preservation of the archives of the ECCC is "*vital*" and that they must be "*as broadly accessible as possible*".[134] The Addendum was passed by the National Assembly in late October 2021 and promulgated by King Norodom Sihamoni in November 2021. On 12 January 2022, it was announced that it had officially entered into force.[135]

> "*We still need to prepare an* ***archive of all tribunal documents*** *and set up a place for them to be* ***stored and displayed for the benefit of the younger generations of Cambodians*** *who will one day themselves take up the* ***responsibility of preventing genocide's return***". – National Assembly member Chheang Vun, in November 2021.[133]

After the ECCC pronounced its final ruling on 22 September 2022, ECCC spokesman Neth Pheaktra confirmed that creating a system of management and preservation of the ECCC archives figured amongst the ECCC's two remaining tasks to be carried out in the next three years.[136] This system will allow the public to access the records, freely and easily.[137]

It remains to be seen what system will be adopted. In September 2019, the *Opinion Study on the Disposition and Custody of the ECCC's Archives* revealed that 96% of respondents reported that it was essential for the ECCC's archives to be stored in a safe and secure location. The study also found that "*respondents were strongly of the view that the institution that maintains the archives must not be politically connected or influenced*"[138] in order to prevent the documents from being altered, adjusted or destroyed.[139]

Journalists struggle accessing information held by public officials

Interviews conducted with journalists for this report reveal that journalists are working in an environment that is fraught with difficulties when attempting to access information. 16 of the 18 interviewed journalists reported that they struggled to access information needed to write their articles. 14 of them said that they experienced difficulties obtaining information from the relevant authorities, with one saying it is

[133] "Cambodian king promulgates law to end Khmer Rouge tribunal" (*UCA News*, 5 November 2021).
[134] "Addendum to the Agreement between the Royal Government of Cambodia and the United Nations concerning the prosecution under Cambodian law of crimes committed during the period of Democratic Kampuchea on the Transitional Arrangements and the Completion of Work of the Extraordinary Chambers" (ECCC, August 2021), Article 3.
[135] ECCC, "Press release: Addendum to the UN-RGC Agreement enters into force" (ECCC, 12 January 2022).
[136] Lay Samean, "Justice served : Khmer Rouge tribunal closes final legal case" (*Phnom Penh Post*, 22 September 2022).
[137] Voun Dara, "ECCC closing final case by year's end" (*Phnom Penh Post*, 7 July 2022).
[138] Niem Chheng, "Survey: ECCC archives should be stored in 'neutral' institution" (*Phnom Penh Post*, 6 September 2019); Say Mony, "Survey Shows Majority Want Independent Organization To hold ECCC Archives" (*VOA*, 25 September 2019).
[139] Ly Livsier, "Tug-of-war over ECCC archives" (*Khmer Times*, 12 September 2019).

"*extremely difficult*" to access information from public officials. According to some of the interviewed journalists, public officials are especially reluctant to provide journalists with information on topics deemed sensitive, such as land issues, illegal gambling, and corruption.

CCHR also noted that spokespersons contacted by journalists during the Reporting Period were frequently unable or unwilling to provide information or comment on cases. For instance, when government spokesman Phay Siphan was contacted by a *VOD* reporter about the privatization of hundreds of hectares of state land that were granted to well-connected individuals in April 2022, he referred certain questions to the Phnom Penh City Hall and the Land Ministry, none of which could then be reached for comment.[140] Similarly, when Kampot provincial spokesman Oeng Chhay was asked by a *VOD* reporter about the privatization of hectares of sea for the construction of a multi-million port in Kampot, he said he was not the right person to talk to about the project.[141] Journalists were also frequently told by public officials that they were "in a meeting" or too busy to deal with inquiries.

Tactics such as these, employed by public officials to dismiss journalists, prompted criticism from many media workers, who denounced the authorities for refusing to respond when asked tough questions or for discriminating against independent journalists in favor of journalists from government-aligned outlets. In response to such criticism, in March 2022, Minister of Information Khieu Kanharith told officials to cooperate with and not discriminate against journalists, to increase their communication with the media, and to provide timely comments when contacted so that the press can report accurate information.[142]

The issue of timeliness was raised by two journalists interviewed for this report: both said they struggled to access information from public officials and that when they did receive the requested information, it was often no longer relevant. In September 2021, the government issued a rebuke to complaints by journalists that spokespersons were not providing them with the answers they needed in a timely manner. Government spokesperson Phay Siphan attempted to shift the blame, citing journalists' lack of professionalism as a possible reason for the spokespersons' delayed answers. He also explained the government's reluctance to answer journalists by saying that political activists sometimes impersonated journalists to contact spokespersons in order to later criticize the government.[143] However, a few months later, he appeared to backtrack when he acknowledged "*discrimination of journalists amongst officials*" and said that "*even as spokespersons, officials do not do their jobs – they avoid the media*".[144]

A positive development should however be noted: the organization of the annual Government Spokesperson Unit press conference which, for the last two years, has offered journalists "*an opportunity to query the challenges and achievements of government ministries and institutions*".[145] While the goal of

[140] Mech Dara, "Hun Sen's Sister, Canadia Bank, Senator's Family Receive State-Land Plots" (*VOD*, 1 April 2022).
[141] Mech Dara, "600 Hectares of Sea Privatized for Kampot Port Project" (*VOD*, 9 August 2022).
[142] Roseanne Gerin, "Cambodia information minister tells state spokespeople to work with independent media" (*RFA*, 25 March 2022).
[143] Yin Soeum, "Gov't denies lack of response by spokespersons" (*Khmer Times*, 3 September 2021).
[144] Nov Sivutha, "Siphan: Access to Information law will oblige spokespersons to face the press" (*Phnom Penh Post*, 10 February 2022).
[145] *Ibid*.

such a press conference is commendable, it cannot act as a substitute to the regular and timely exchange of information between public officials and media actors.

Developments towards the adoption of a law on access to information

Many years have passed since the RGC publicly declared its commitment to the right to access information. Strongly encouraged by donor countries and civil society, the RGC acknowledged the need for a freedom of information law and developed an access to information draft policy in 2007, with the goal of creating a transparent government, reducing corruption and promoting confidence in the government.[146] A decade and a half later, a law on access to information has yet to be adopted in Cambodia. However, a draft of the law appears to be closer than ever to finally being approved.

Key ministries concluded their revision of the draft law on A2I in August 2019.[147] In May 2021, the MoI pledged to finish its consultations on the draft law with the MoJ "*soon*" and said the draft would be submitted to the Council of Ministers and the National Assembly for approval before the end of 2021.[148] In late 2021, the MoI said that the process of drafting the law was in its final stage, and that its completion would be expedited so that it could be submitted to the Council of Ministers.[149]

Six months into 2022, the representatives of 33 CSOs gathered to submit a petition to Prime Minister Hun Sen in which they called for lawmakers to take CSOs' input into consideration,[150] to revise the draft, and to speed up the completion of the law.[151] In response to the petition, the MoI held a meeting to review the draft law on 1 July 2022, and announced that progress on the draft law would therefore be slowed.[152] Two days later, a spokesman for the MoI said that only the final approval from the Minister of Justice and the Minister of Information was needed before the draft law was submitted to the Council of Ministers.[153]

In September 2022, a spokesman for the MoI said there were three reasons that explained the delay in adopting the draft law: the fact that stakeholders were still providing input, the necessity to make sure that the law complies with the national and international legal framework, and the challenges caused by the COVID-19 pandemic. He reiterated the MoI's commitment to finalizing the draft law and getting it approved as soon as possible.[154] In late October 2022, the MoI announced that the draft law had been sent to the Council of Ministers for review. It however did not provide information on the timeline for the law's approval.[155]Only time will tell whether 2022 will finally be the year during which the right to access information will become enshrined in Cambodia's domestic legal framework.

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[146] MoNASRI, "Access to Information: A clear policy framework for Cambodia" (22 July 2007) p. 4; Advocacy and Policy Institute, "Introduction to Access to Information in Cambodia" (August 2010) p. 11.
[147] Voun Dara, "Information access law to be finalized next month" (*Phnom Penh Post*, 21 August 2019).
[148] Ry Sochan, "Access to information law set to be approved this year, ministry pledges" (*Phnom Penh Post*, 28 May 2021).
[149] Sar Socheath, "Information access draft law in final stage and to be expedited" (*Khmer Times*, 5 November 2021).
[150] Khuon Narim, "Civil Society Organizations Call for Access to Information Law to be Approved" (*CamboJA News*, 16 June 2022).
[151] Lay Samean, "CSOs calling for prompt info access law drafting" (*Phnom Penh Post*, 16 June 2022).
[152] "Another review of access to Information Draft Law coordinated" (*Khmer Times*, 3 July 2022); "Draft information access law on hold for re-evaluation" (*Phnom Penh Post*, 2 July 2022).
[153] Voun Dara, "Ministry: Draft law on access to information in 'final' stage" (*Phnom Penh Post*, 5 July 2022).
[154] Voun Dara, "Ministry explains progress on 'access to information' law drafting" (*Phnom Penh Post*, 2 September 2022).
[155] Khuon Narim, "Long-awaited information access law awaits council of ministers approval" (*CamboJA News*, 28 October 2022).

VI. Conclusion and Recommendations

The rights to freedom of expression and press freedom continued to be undermined during the Reporting Period, with journalists and HRDs being frequent victims of the RGC's ongoing bid to silence critics. Judicial harassment, physical attacks, self-censorship, and intimidation are just some of the threats faced by those who dare to speak out about sensitive issues or voice opinions critical of the RGC. As for the right to access information in Cambodia, improvement is needed in many areas for this right to be realized. While the RGC's draft Law on A2I is a step in the right direction, too many barriers remain for this right to be fully respected and protected, and Cambodia still has a long way to go before the right to access information is upheld. This unsatisfactory situation is concerning in light of the fast-approaching general elections of 2023. While freedom of expression, press freedom, and access to information must be upheld and respected at all times, they take on a special significance during election periods, a time during which citizens must be able to exercise their fundamental freedoms, including their freedom of expression, and access reliable information, in order to meaningfully participate in their country's political life and make informed decisions about their leaders.

Human rights can only be upheld and a flourishing democracy can only thrive if every citizen is free to exercise their right to freedom of expression which is, along with its two corollaries – press freedom and access to information – a catalyst for other rights. In 1991, Cambodia signed the Paris Peace Agreements, pledging to protect human rights and fundamental freedoms and promote democracy in the Kingdom. Thirty years later, such a promise has not been fulfilled and Cambodians long for a just society in which their rights, including the right to freedom of expression, are fully upheld.[156] It is therefore paramount that the RGC urgently redresses the declining situation of freedom of expression in Cambodia. Concrete action is needed to turn these commitments into reality.

CCHR, therefore, encourages the RGC to take concrete measures to fulfill its international human rights obligations and makes the following **recommendations:**

1	Discard the NIG Sub-Decree, in line with Cambodia's obligations under the Constitution and international human rights law to ensure that the rights to freedom of expression and to access information of all individuals are protected in Cambodia.
2	Undertake inclusive and legitimate consultations with stakeholders to amend the State of Emergency Law to bring it into compliance with Cambodia's human rights obligations.
3	Consult all relevant stakeholders on the draft Law on A2I to ensure that its final version aligns with international human rights standards regarding access to information and fully upholds access to information in Cambodia, and promptly adopt it. Similarly, review all other existing laws that illegitimately undermine freedom of expression to bring them in line with international human rights law, such as the Press Law or the recent Sub-Decree on the Management and Use of National Domain Names.

[156] CCHR, "Briefing Note: Cambodia's Fulfillment of the Paris Peace Agreements, 30 Years later" (CCHR, October 2021).

4	Remove the *lèse-majesté* offense from the Criminal Code as it constitutes an impermissible restriction on the freedom of expression according to international human rights standards and undermines freedom of expression and press freedom.
5	Cease all judicial harassment against journalists and HRDs for exercising their freedom of expression and ensure an enabling environment in which they can freely carry out their legitimate activities without fear or undue hindrance, obstruction or judicial harassment, and other forms of harassment.
6	Immediately release all journalists and HRDs imprisoned for exercising their freedom of expression and drop charges against them, such as the recently convicted Mother Nature Cambodia environmental activists, among others.
7	Ensure that attacks and crimes committed against journalists and HRDs are concretely, thoroughly and independently investigated, and that perpetrators are brought to justice to put an end to impunity for crimes committed against journalists and HRDs, and enable them to work safely.
8	Cease threatening and intimidating journalists who report on issues deemed "sensitive" such as the COVID-19 pandemic, land issues or corruption to ensure that journalists can conduct their essential role of informing the public on any matter of public interest, regardless of how the RGC perceives these issues.
9	Encourage media pluralism and diversity by permitting independent media outlets to investigate and report on all issues of public importance without fear of repercussions from the government, to create an open media landscape where divergent opinions and ideas can circulate freely and be accessible to the public.
10	Abolish the requirement for media outlets to obtain a license from the MoI before being able to publish, and establish an independent media regulatory body that is separate from the RGC to ensure media regulation is conducted in respect of press freedom and in all impartiality.
11	Ensure that all government departments, public bodies, and private bodies with public functions adhere to the principle of maximum disclosure and approve requests for information disclosure, particularly from journalists, from government-held records to enable information of importance to the public interest to circulate freely in the country and increase transparency and accountability of the RGC's actions.
12	Take meaningful steps to eliminate discriminatory attitudes towards female journalists, women and LGBTIQ+ HRDs through *inter alia* gender-sensitivity trainings and educational campaigns, to enable them to exercise their freedom of expression and conduct their legitimate work free of discrimination.

VII. Annex

ANNEX I: INTERVIEW QUESTIONNAIRES

Questions for journalists

1. What do you think are the biggest threats to press freedom and access to information in Cambodia nowadays?
2. Have you personally experienced restrictions / violations of your right to freedom of expression as a journalist by the RGC and/or by third parties? If so, did you file a complaint? If you did, did you obtain redress?
3. Do you feel you can do your job freely and without fear of repercussions?
4. What are some adjustments you have had to make to account for this increasingly dangerous environment for journalists?
5. Do you struggle accessing information for your articles? If so, can you please give us some examples?
6. Are there some topics you refuse to write on? If so, why?
7. Have you ever been at a disadvantage while exercising your freedom of expression as a journalist because of your gender? (for female interviewees)

Questions for HRDs

1. What do you think are the biggest threats to freedom of expression in Cambodia nowadays?
2. Have you personally experienced restrictions / violations of your right to freedom of expression as human rights defenders by the RGC and/or by third parties? If so, did you file a complaint? If you did, did you obtain redress?
3. Do you feel you can do your job freely and without fear of repercussions?
4. What are some adjustments you have had to make to account for this increasingly dangerous environment for HRDs?
5. Are there some human rights issues you refuse to advocate on? If so, why?
6. Have you ever been at a disadvantage while exercising your freedom of expression as a HRD because of your gender? (for female interviewees)