



# **FREEDOM OF EXPRESSION IN CAMBODIA: THE ILLUSION OF DEMOCRACY**

A LICADHO REPORT  
December 2010



សិទ្ធិមនុស្ស  
សម្ព័ន្ធនៃលើក្រឹត្យនិងការការពារសិទ្ធិមនុស្ស សិទ្ធិមនុស្ស  
**LICADHO**  
CAMBODIAN LEAGUE FOR THE  
PROMOTION AND DEFENSE OF HUMAN RIGHTS

# **FREEDOM OF EXPRESSION IN CAMBODIA: THE ILLUSION OF DEMOCRACY**

---

A LICADHO Report

December 2010



សម្ព័ន្ធនៃការលើកកម្ពស់សិទ្ធិមនុស្ស លីកាដូ

L I C A D H O

CAMBODIAN LEAGUE FOR THE PROMOTION  
AND DEFENSE OF HUMAN RIGHTS

## **Cambodian League for the Promotion and Defense of Human Rights (LICADHO)**

LICADHO is a national Cambodian human rights organization. Since its establishment in 1992, LICADHO has been at the forefront of efforts to protect civil, political, economic and social rights in Cambodia and to promote respect for them by the Cambodian government and institutions. Building on its past achievements, LICADHO continues to be an advocate for the Cambodian people and a monitor of the government through wide ranging human rights programs from its main office in Phnom Penh and 12 provincial offices.

LICADHO pursues its activities through two programs:

### **Monitoring and Protection Program:**

- **Monitoring of State Violations and Women's and Children's Rights:** monitors collect and investigate human rights violations perpetrated by the State and violations made against women and children. Victims are provided assistance through interventions with local authorities and court officials.
- **Paralegal and Legal Representation:** victims are provided legal advice by a paralegal team and, in key cases, legal representation by human rights lawyers.
- **Prison Monitoring:** researchers monitor 18 prisons to assess prison conditions and ensure that pre-trial detainees have access to legal representation.
- **Medical Assistance:** a medical team provides assistance to prisoners and prison officials in 12 prisons, victims of human rights violations and families in resettlement sites.
- **Social Work:** staff conduct needs assessments of victims and their families and provide short-term material and food.

### **Promotion and Advocacy Program:**

- **Training and Information:** advocates raise awareness to specific target groups, support protection networks at the grassroots level and advocate for social and legal changes with women, youths and children.
- **Public Advocacy and Outreach:** human rights cases are compiled into a central electronic database, so that accurate information can be easily accessed and analyzed, and produced into periodic public reports (written, audio and visual).

### **For More Information Contact:**

Dr. Pung Chhiv Kek, President  
LICADHO (Cambodian League for the Promotion and Defense of Human Rights)  
#16, Street 99  
Phnom Penh, Cambodia

Tel: (855) 23 727 102/364 901

Fax: (855) 23 727 102/217 626

E-mail: [contact@licadho-cambodia.org](mailto:contact@licadho-cambodia.org)

Web: <http://www.licadho-cambodia.org>

# Contents

<b>INTRODUCTION.....</b>	<b>1</b>
<b>I. ABOUT THIS REPORT .....</b>	<b>3</b>
CLASSIFICATION OF STORIES.....	3
<b>II. INTERFERENCE WITH PEACEFUL PUBLIC ASSEMBLIES .....</b>	<b>5</b>
CASE STUDY 1: THE VILLAGERS OF CHI KRENG – THE LONG WALK & ITS AFTERMATH.....	5
AN ORGANIZED CRACKDOWN: FROM BRUTALITY TO BUREAUCRATIC TYRANNY .....	7
<b>III. USE OF THE LEGAL SYSTEM TO INTIMIDATE AND SILENCE CRITICS.....</b>	<b>17</b>
CASE STUDY 17: LEANG SOKCHOUEN – ATTACKING THE MESSENGER.....	17
TIPPED SCALES: THE COURTS AS A WEAPON OF INJUSTICE.....	19
<b>IV. EXTRAJUDICIAL THREATS, ATTACKS AND KILLINGS .....</b>	<b>27</b>
CASE STUDY 26: PICH SOPHON – DYING FOR LAND IN BATTAMBANG.....	27
DEAD-END INVESTIGATIONS AND IMPUNITY.....	28
<b>V. POLITICAL INTIMIDATION.....</b>	<b>32</b>
CASE STUDY 35: HO VANN – ‘INCITING PEOPLE TO LOSE THEIR MIND’ .....	32
NO ROOM FOR POLITICS.....	34
<b>VI. DIPLOMATIC INTIMIDATION.....</b>	<b>39</b>
CASE STUDY 46: CAMBODIA – ‘WE ARE NOT A BANANA REPUBLIC’ .....	39
HAVING THEIR CAKE AND EATING IT TOO .....	40
<b>VII. THE JOURNALIST EXTORTION CASES.....</b>	<b>43</b>
THE ILLEGAL LOGGING CRACKDOWN .....	43
THE CRACKDOWN ON REPORTING .....	45
<b>VIII. CONCLUSION AND RECOMMENDATIONS .....</b>	<b>50</b>
RECOMMENDATIONS .....	51
<b>ANNEX I: OLD (UNTAC) PENAL CODE PROVISIONS USED TO LIMIT EXPRESSIVE FREEDOMS.....</b>	<b>53</b>
<b>ANNEX II: NEW PENAL CODE PROVISIONS WHICH MAY BE USED TO LIMIT EXPRESSIVE FREEDOMS.....</b>	<b>56</b>



*A nation that is afraid to let its people judge the truth and falsehood in an open market is a nation that is afraid of its people. - John F. Kennedy*

## INTRODUCTION

In a remote corner of Siem Reap province is a village of 200 families who have lost their land. The government has seized it on behalf of a well-connected private company. Twelve villagers are imprisoned for resisting, and the others want to attend the trial. Police learn of their plans and surround their village, armed with automatic weapons. Authorities later try to defrock their spiritual leader, a Buddhist monk who champions their cause.

In Takeo, four men are charged for allegedly distributing political leaflets criticizing Vietnam's historical involvement in Cambodia. A Vietnamese official visits Cambodia and publicly requests that the government crack down on activities that criticize the good relationship between the two countries. Four weeks later, three of the men are convicted and sentenced to two years imprisonment. The judge finds that their expression of political opinion led to the disturbance of the "public peace."

In a distant Battambang village, a community organizer is murdered by four unknown assailants wielding AK-47s. The man was organizing his community in a long-standing land dispute involving the military. He had just returned from collecting thumbprints from fellow villagers; they had planned to file a complaint. The perpetrators have yet to be arrested.

In Phnom Penh, an opposition parliamentarian criticizes the qualifications of 22 military officers. His parliamentary immunity is promptly stripped, and he is charged with criminal defamation. Two journalists at the newspaper which reported the comment are also charged. He is acquitted, but nearly finds himself embroiled in another defamation suit after he criticizes a senior lawmaker.

In the lead-up to the passage of the new anti-corruption law, the head of the UN calls for a "transparent" process. The government responds by threatening to expel him from the country. Weeks later, the Ministry of Foreign Affairs sends a reminder to all diplomatic missions: Do not interfere in our internal affairs, the letter says. "Cambodia is not a 'BANANA REPUBLIC.' "

And nationwide, a heavily-publicized campaign against illegal logging coincides with the arrest of at least 16 journalists. They are charged with trying to extort money from loggers, and in some situations those charges appear legitimate. But the arrest and prosecution of illegal loggers is negligible.

These seemingly disparate stories, from all corners of the country, are not isolated incidents. In the six-month period covered in this report, LICADHO documented nearly 50 cases involving violations of expressive rights in Cambodia. These cases follow patterns, and their similarities are not coincidental. They have the markings of a systematic crackdown.

The targets range from community leaders to union representatives to opposition politicians, but anyone who speaks out against the interests of the elite is at risk. As the government has consolidated power, it is growing increasingly intolerant of criticism, more topics are becoming taboo, and the space for dissent is shrinking. The end result is that Cambodians are being prevented from participating in their own democracy.

The methods of the crackdown vary, but not by much. Crude tactics such as death threats, physical assaults and intimidation remain prevalent. Public protests can evoke similarly brutal responses. Participants throughout the country are still regularly beaten, blocked from reaching protest sites, retaliated against, arrested and forcibly removed.

But by and large, the authorities' preferred tactic is to hide behind the law – or use it as a weapon. Permits for disfavored protests are denied on false pretenses; people who speak out on sensitive subjects can be prosecuted for anything from defamation to robbery; and contrary political opinions are deemed to be a threat to national security. Meanwhile, judicial subservience to the executive ensures that targeted defendants have no chance at a fair trial.

Freedom of expression is essential to the proper functioning of democracy. This statement is perhaps self-evident, but its rationale bears repeating: Democracy is based upon citizen self-government. For a democratic system to function properly, it requires the full and unrestricted participation of the citizens.

“Participation” is not limited to the simple act of casting a vote. Restrictions on the free flow of information and opinions must be held to a minimum, so that the electorate is informed. People must be permitted to express its hopes and desires, without fear of recrimination, so as to guide the decisions of their democratic representatives. Voters must also be able to criticize, organize, assemble, move, petition and ultimately influence the decisions of the government they have elected.

Without these rights, the act of voting becomes a charade – a mere rubber stamp for the authorities who control political discourse. In other words, the concept of democracy becomes an illusion.

□□□

## I. ABOUT THIS REPORT

This report is a collection of stories about the current state of freedom of expression in Cambodia<sup>1</sup>.

The people in these stories hail from every corner of Cambodia, and come from all walks of life – they are politicians, NGO workers, academics, journalists, community representatives, and ordinary citizens. What they have in common is that governmental authorities have thwarted them in their attempts to exercise expressive freedoms – their rights to **organize, assemble, move, speak, petition and influence government decisions**.

The stories are drawn from a six-month period in 2010 (April 1 to September 30), during which LICADHO undertook intensive monitoring of Khmer- and English-language media. The bulk of the incidents documented in this report were reported on by the media during this period<sup>2</sup>. The remaining stories are based on LICADHO's own investigations.

There is nothing particularly unusual about this six-month period – there were no elections, armed conflicts or national emergencies. Rather, we believed that focusing on a short period would illustrate the magnitude of Cambodia's freedom of expression problem. The results are not encouraging: A mere six months of monitoring produced the nearly 50 stories that appear in this report.

### Classification of Stories

It is difficult to classify violations of freedom of expression neatly by "type." The concept of freedom of expression includes a number of distinct rights – speech, assembly, movement, etc. – which often intersect. Classifying incidents by victim can be problematic for similar reasons. Moreover, using these more conventional methods may lead the reader to overlook patterns that the authorities may use to crack down on expressive activities.

For that reason we have chosen to classify these stories by the **tactic or goal** used by authorities. We believe this method is best suited to illustrate patterns in the ongoing crackdown against expressive freedoms.

The categories we have used in this report are:

- Unwarranted **interference with peaceful public assemblies**.
- **Judicial intimidation** against individuals exercising an expressive right, including investigation, arrest, filing of charges, detention and prosecution.
- **Extrajudicial intimidation, threats and physical attacks** against individuals exercising an expressive right.

---

<sup>1</sup> We assume the reader's familiarity with basic international and domestic legal protections regarding freedom of expression in Cambodia. See, e.g., Universal Declaration of Human Rights, Articles 13, 19 and 20; International Covenant on Civil and Political Rights, Articles 12, 19 and 21; Constitution of Cambodia, Articles 35, 37, 40, 41, 42 and 80. For a more comprehensive discussion on the legal issues surrounding freedom of expression in Cambodia, please see "Cambodia Gagged: Democracy at Risk? Report on Freedom of Expression in Cambodia," Joint NGO report coordinated by the Cambodian Center for Human Rights, Sept. 2010 (available at:

[http://www.cchrcambodia.org/English/add\\_report/reports/joint\\_report\\_on\\_foex.10sept.eng.pdf](http://www.cchrcambodia.org/English/add_report/reports/joint_report_on_foex.10sept.eng.pdf))

<sup>2</sup> In some cases, the initial violation of expressive rights occurred outside the April to September period, but the media reported upon further developments in the case during this six-month – a trial, verdict, appeal, continued harassment, etc. In such cases, we provide background from outside the reporting period in order to put the most recent developments in context.



- **Political intimidation** (government oppression of any kind against individuals expressing political opinions or performing political duties).
- **Diplomatic intimidation** (intimidation directed towards representatives of international organizations and foreign governments in retaliation for their public comments on Cambodian government policies).

Of course even this system is not perfect. In some cases the authorities may have resorted to more than one tactic when silencing critics. We have attempted to classify such cases according to the most prominent violation of expressive rights.

Finally we examine a **sixth category**, the increasing number of journalists being arrested for alleged extortion from timber brokers and other businesses. Although some of these incidents could be classified under “judicial intimidation,” there is reason to believe that these cases deserve their own category.

LICADHO has investigated a number of journalist extortion cases – past and present – and concluded that some unethical journalists do indeed seek bribes from timber traders. In other cases, however, it appears that people conducting legitimate journalistic work have been falsely accused.

Regardless of each individual journalist’s guilt or innocence, we believe the timing of the crackdown is notable. Beginning in January 2010 the government embarked upon a large and highly-publicized campaign against illegal logging. The campaign has netted some 3,000 cubic meters of confiscated timber, but there have been few arrests of significant figures involved in the trade. Meanwhile, at least 16 journalists reporting on this issue were arrested between April and September 2010. The final section of this report examines some of these cases and explores possible links with the anti-logging campaign.

□□□

## II. INTERFERENCE WITH PEACEFUL PUBLIC ASSEMBLIES

### CASE STUDY 1: THE VILLAGERS OF CHI KRENG – THE LONG WALK & ITS AFTERMATH<sup>3</sup>



*Venerable Luon Sovath uses photography and video to document and publicize human rights abuses in Cambodia.*

The villagers of Chi Kreng had a simple request.

They were embroiled in a heated land dispute. On March 22, 2009, government forces moved in to seize their land on behalf of a private company. The villagers emerged to protest, and during the fracas, three villagers were shot. Nine more were arrested. They were with physical assault and theft of rice they had grown with their own hands. The court in Siem Reap said it would announce the verdicts on October 27.

The villagers wanted to attend – or at least wait outside the courtroom – as is their right under the

Cambodian Constitution<sup>4</sup>. But in Cambodia, such matters are not always so simple.

The evening before the verdict some 50 armed police officers surrounded the village and the pagoda of their de facto leader, the Venerable Luon Sovath. They made a show of loading their weapons. The message was clear: The villagers could not go to Siem Reap. The police stayed overnight to enforce the order, three of them inside Sovath's pagoda.

Then came more bad news: The trucks Sovath had hired as transport called to say they had been threatened by the police and could not come. Sovath called a meeting with villagers and asked what they wanted to do. The community decided to wake early and try to walk, even though the courtroom lay almost 90 kilometers away, a practically impossible task.

The next morning, Sovath woke at 4 a.m. He quietly left his pagoda, undetected by police, and slipped into the village. He went door-to-door, waking each family, until he had assembled a group of over 50 citizens – the elderly, the young, even children and pregnant women. They set out across the rice fields in the direction of the main road.

Two hours later, the police realized they had been duped and drove off on motorbikes to locate the villagers. They found them 10 kilometers away, just short of the main road. A half-dozen officers erected a makeshift roadblock with their bikes about 50 meters ahead of the group.

<sup>3</sup> "We Are All Human Rights Defenders," LICADHO profile, May 9, 2010 (available at: <http://www.licadho-cambodia.org/articles/20100509/111/index.html>); LICADHO internal documents.

<sup>4</sup> See Constitution of Cambodia, Article 40 (freedom of movement). See also Constitution of Cambodia Article 31, incorporating Universal Declaration of Human Rights, Article 11 (right to public trial); and ICCPR Article 14 (which allows the public to be excluded from "all or part of a trial for reasons of morals, public order or national security." The authorities offered no clear explanation as to why the exclusion of the defendants' friends and family was necessary in this case.)

Sovath switched on his video camera and the group continued walking.

"You are not allowed to go!" one officer yelled.

The group was now 20 meters from the police.

"Why?" Sovath said. "I have a right to go where I want."

Sovath now stood face to face with the angry officer. He reached out to confiscate Sovath's camera.

"Don't record us," the officer said.

"Recording is also my right," Sovath replied. "I am recording the road. If you don't want to be recorded, move away from the road."

As Sovath argued with police, the group managed to pass. One roadblock was cleared, but there would be many more obstacles.

From the roadside, Sovath called every taxi in Chi Kreng, but all refused to come. They too had been threatened by police.

The group kept walking. The police followed, setting up roadblocks every 100 to 200 meters. Hitchhiking wasn't working – all of the drivers were warned against picking them up. Finally a taxi stopped to pick up some in the group, but 100 meters on the police flagged it down, detained the driver and confiscated his keys. Sovath had to intervene to convince the police that it was his fault, not the driver's. The taxi was forced to turn back in the direction it had come from.

The group kept walking and its ranks began to thin. Sovath hailed several more taxis and trucks, but it was not until they had walked 20 kilometers that they began to have any luck. The villagers broke into smaller groups and took several trucks. Some made it, others were turned back.

Sovath himself was finally picked up by NGO workers at about 10 a.m. after walking 30 kilometers. It was almost 11 a.m. before he arrived at the courthouse. By then the verdict was three hours old: Two villagers had been convicted on charges of assault and robbery, jailed for one year and fined US\$750. Seven were acquitted, but remained in prison pending fresh charges and an appeal from the prosecutor.

\* \* \*

Over the next year, Sovath continued working with the villagers. As their fellow villagers were brought to trial, he continued to organize gatherings outside the courthouse in Siem Reap.

On August 20, 2010, he attended yet another trial for a group of Chi Kreng community leaders. He gathered with two communities and one union outside the court, where they released balloons holding messages calling for the release of the Chi Kreng detainees and justice for Chi Kreng.

The gathering was peaceful, but tense. Police were out in force, and there was talk beforehand that authorities would attempt to arrest and defrock Sovath that day. But he showed up regardless.

At mid-morning 40 monks arrived at the court to confront him. Twenty other police were on the scene.

The monks presented Sovath with a letter. It accused him of violating Monk Proclamation No. 403/07, a 2007 order which prohibits Buddhist monks in Cambodia from “creating or participating in” demonstrations or strikes that harm security or public order<sup>5</sup>.

The letter also contained their orders: Stop Luon Sovath from participating in the demonstration in Siem Reap, and arrest him if he refuses.

Sovath couldn't see how he was harming anyone's security or public order, and so he refused to leave. The authorities moved in.

The villagers surrounded Sovath in an attempt to shield him from arrest. The tactic worked and the authorities backed down, presumably because they didn't want to provoke a scene. After the verdicts were announced, Sovath was able to leave in an NGO van.

But the van didn't get far before it was stopped by traffic police. After five minutes of negotiations, the van was allowed to continue, but it was stopped again minutes later, this time by the provincial police. They ordered the driver to take the van to a local pagoda where religious authorities were waiting. The police provided an escort.

The Chi Kreng villagers got word of what had happened and also headed for the pagoda, arriving just as the monk authorities were descending on Sovath's van.

One of the head monks raced to the van and tried pull Sovath out. The villagers erupted. The owner of the van closed the door and villagers surrounded it. Elderly women sat on the road to block the senior monks, begging them to leave Sovath alone. Others cried and screamed hysterically.

The villagers had succeeded in creating another impasse. Two hours later, the police ordered the NGO worker to move her van. Sovath and the villagers were free to return to Chi Kreng.

The religious authorities have not yet executed the defrocking order, and Sovath remains active. However the order stands as an open-ended threat.

### **An Organized Crackdown: From Brutality to Bureaucratic Tyranny**

The Chi Kreng story offers a rare glimmer of hope. Despite overwhelming efforts by the authorities, the villagers successfully exercised their rights to move freely and assemble. They stood up in the face of the authorities' intimidation tactics, and the Venerable Luon Sovath remains active.

But describing Chi Kreng as “hopeful” speaks volumes about the state of freedom of expression in Cambodia. The villagers lost their land, and police shot three unarmed villagers. The officers escaped prosecution while Chi Kreng villagers have been faced dozens of criminal charges spread over more than a year and five separate trials. At least 12 villagers are in prison or pretrial detention at the time of writing. Sovath, too, could be arrested at any time.

---

<sup>5</sup> See Mission Letter from Siem Reap Provincial Cults and Religion Department, No 47/010, dated Aug. 7, 2010.

But the fact is that some Cambodians have fared even worse in their attempts to publicly assemble.



*Community representatives rally for land rights in Phnom Penh on June 15, 2010. Armed police blocked the intended path for their march.*

Some are unable to assemble at all. It has become increasingly common for gatherings to be ended preemptively. In rural areas, the authorities' tool of choice is often simply to deny citizens their right to movement. Villages are surrounded, roadblocks are set up and people are forcibly prevented from gathering.

In urban areas, the favored tactic is to deny permits. The authorities' tool of choice is the 2009 Law on Peaceful Demonstration, which requires organizers to notify the government of all public gatherings<sup>6</sup>. The law also allows officials to ban peaceful demonstrations on the grounds of security, safety or public order<sup>7</sup>.

While this requirement may seem reasonable in the abstract, it is frequently abused in Cambodia, where the government is inclined to view all opposing political views as a threat to public order.

In July 2010, for example, elected officials from the opposition Human Rights Party attempted to organize a public forum on "Freedom of Expression" in Takeo. Authorities shut it down because organizers had failed to obtain proper authorization<sup>8</sup>.

It is also common for authorities to delay permission until the last possible moment, apparently hoping fewer people will participate if there is uncertainty whether their event will go forward. This was the case in July 2010, when authorities initially denied permission for a labor union to conduct a wage protest in Phnom Penh<sup>9</sup>. The government claimed the protest would threaten public order and cause property damage, but the organizers vowed to go forward. Finally the ban was lifted on the morning of the event.

<sup>6</sup> Law on Peaceful Demonstrations of 2009, Article 5.

<sup>7</sup> *Ibid.*, Article 9.

<sup>8</sup> See Case Study 5

<sup>9</sup> LICADHO joint media statement, 25 July 2010; RFA News, 21 July 2010.

Even when consent is obtained, many events are interrupted by police, who typically object to the size of the groups, the routes of the marches, or the locations of the activities. Participants are sometimes arrested on charges of incitement or disrupting the peace – even if the protests are, by all appearances, peaceful.

In the worst cases, police use force to clear protesters – and show little restraint in doing so. In August, for example, a group of 50 villagers travelled from Battambang to stage a peaceful sit-in outside the Prime Minister's residence in Phnom Penh<sup>10</sup>. They were confronted by police who physically forced them to board buses back home. But the harassment didn't end there: An organizer was arrested in Battambang the following day, and their village was subsequently surrounded by armed military police to prevent future disruptions.

Despite frequent use of violence by police against protesters, Cambodia has never prosecuted a police officer using excessive violence at a protest. This is true even for cases – such as Chi Krenng – where there is video evidence that officers fired upon unarmed civilians without provocation.

□□□

---

<sup>10</sup> "Excessive use of force against peaceful gathering of villagers in Phnom Penh," LICADHO Press Release, Aug. 8, 2010 (<http://www.licadho-cambodia.org/pressrelease.php?perm=225&pagenb=&filter=>).

**The case studies below provide further examples of government interference with Cambodians attempting to participate in peaceful public assemblies:**

▶▶▶  
1 May 2010  
Phnom Penh

**CASE STUDY 2**

**Screening of Chea Vichea documentary prevented by police<sup>11</sup>**

- The screening of the documentary “Who Killed Chea Vichea?” outside Wat Lanka in Phnom Penh by the Sam Rainsy Party and the Cambodian Confederation of Unions on May 1, 2010 was broken up by police officials.
- The documentary, directed by Bradley Cox, investigates the murder on January 22, 2004, of Chea Vichea, former leader of the Free Trade Union of Workers of the Kingdom of Cambodia. The film is critical of the investigation conducted after the murders, and suggests that Cambodian government officials were involved in a cover-up of the murder and the scapegoating of two men who were imprisoned for the crime.
- Authorities gave various and inconsistent reasons for banning the screening. Initially, Minister of Information Khieu Kanharith said the government would have no “political objections” to the screening. But Phnom Penh officials then demanded that organizers obtain approval from “relevant ministries”. A Ministry of Interior spokesman then said the film had been “illegally imported”. The Ministry of Culture and Fine Arts further stated that it must approve all films screened in Cambodia. In the end, permission was not granted.
- SRP representatives announced on May 5, 2010, that they would screen the documentary at their headquarters in the near future.

▶▶▶  
24-25 May 2010  
Svay Rieng

**CASE STUDY 3**

**Police block villagers on way to representative’s court hearing<sup>12</sup>**

- Authorities attempted to prevent two groups of villagers from Romeas Haek District from marching to the Svay Rieng provincial court. Some 50 villagers made their way to the court to demand the release of their community leader from pretrial detention.
- The villagers have been involved in a land dispute with An Mady Group’s Peam Chaing Rubber Company since 2007. The community leader was detained following years of threats and intimidation from local authorities.
- The initial group of 50 villagers, led by a Buddhist monk, was stopped by military police at a bridge in Kampong Trach district. Authorities forced the monk to thumbprint a document promising he would not lead such a march again. The group was then allowed to proceed.
- Later, a second group of villagers started walking toward the courthouse. They were stopped and harassed by authorities at a second roadblock. Ultimately an estimated 200 villagers made it to the courthouse.

▶▶▶  
4 July 2010  
Takeo

**CASE STUDY 5**

**Authorities ban Human Rights Party forum<sup>13</sup>**

- Authorities in the Kos Andet district of Takeo banned a “Freedom of Expression” forum organized by the Human Rights Party on July 4, 2010.
- Authorities argued that the forum did not obtain the proper legal permissions in order to take place. The Human Rights Party decried the

<sup>11</sup> Meas Sokchea, “SRP to screen Chea Vichea documentary,” Phnom Penh Post, 5 May 2010; Meas Sokchea, “Who censored Chea Vichea?” Phnom Penh Post, May 7, 2010; Koh Santepheap Newspaper, May 2, 2010.

<sup>12</sup> “Case Studies on Restriction of Movement and Assembly Against Communities in Six Provinces,” LICADHO briefing paper, Summer 2010; May Titthara, “Arrests feared in Svay Rieng,” Phnom Penh Post, May 25, 2010.

<sup>13</sup> RFA News, July 4, 2010.

action, saying that authorities were preventing them from carrying out their parliamentary duties.



12 June 2010  
Phnom Penh &  
Kampong Cham

#### CASE STUDY 6

##### **Authorities obstruct villagers' path to Phnom Penh; bust up protest<sup>14</sup>**

- Some 100 villagers travelled to Phnom Penh to bring attention to a longstanding land dispute with a military officer in Kampong Cham's Memot District.
- The villagers reported to LICADHO that district authorities had previously prevented them from marching to Phnom Penh. To avoid detection this time they departed in several smaller groups at night. Using this technique, 100 villagers made it to Phnom Penh. Others who left later were blocked by authorities.
- Two days after their arrival in Phnom Penh, Daun Penh district authorities removed the villagers from their protest site and told them to return home.
- A month prior to the march, authorities arrested two community members. They were subsequently released after signing documents in which they agreed to give up their land.



15 June 2010  
Phnom Penh

#### CASE STUDY 7

##### **Land protest blocked by police<sup>15</sup>**

- About 350 community representatives from 24 provinces and municipalities – including ethnic minority communities – gathered near Wat Botum pagoda to rally for land rights. The protest was organized by the Cambodia Peace Network (CPN), a grassroots organization that aims to draw attention to land disputes.
- Most of the representatives were engaged in land disputes with companies who had received economic land concessions from the government. Some face eviction while others are being prevented from entering waters where they make their living as fishermen. The rally aimed to draw attention to their plight and to gather petitions to be delivered to Prime Minister Hun Sen.
- About 80 representatives were from Memot District, Kampong Cham, who had arrived in Phnom Penh days earlier [see Case Study 6].
- The CPN group intended to march from Wat Botum pagoda towards Hun Sen's house, but about 25 military and municipal police – armed with batons, shields, tear gas rifles and pistols – blocked their path. Approximately 50 armed military and civilian police, led by district governor Sok Sambath, stood watch nearby.
- During the assembly, monk Luon Sovath [see Case Study 1] was targeted by authorities for taking photographs. Police accused him of not being a real monk and took his photograph. Finally, they delivered a message from a high-ranking monk that Sovath had to return to his pagoda. Sovath refused and continued taking pictures. Authorities then attempted to arrest him before he finally left the scene.
- A representative from the Prime Minister's office ultimately accepted the three boxes of petitions and asked the representatives to return home.
- Hun Sen later criticized Cambodian rights groups, calling them "shadowy organizations" and accusing them of organizing the march.

<sup>14</sup> "Case Studies on Restriction of Movement and Assembly Against Communities in Six Provinces," LICADHO briefing paper, Summer 2010.

<sup>15</sup> "Communities Leaders Rally for Land Rights in Phnom Penh," LICADHO, June 21, 2010 (available at: <http://www.licadho-cambodia.org/articles/20100621/118/index.html>); see also Reuters, "Cambodian PM deplors UN official's 'disrespect,'" June 21, 2010.





13 July 2010  
Phnom Penh

**CASE STUDY 8**

**Government withholds authorization for peaceful rally<sup>16</sup>**

- The Ministry of Interior withheld authorization for a nationalist rally planned by the Cambodia Watchdog Council (CWC) on July 15, 2010. The rally was to be held in front of Wat Botum in Phnom Penh. Ministry spokesperson Khieu Sopheak said that the rally, organized to denounce Thai interference at the disputed Preah Vihear temple, was not productive.
- The rally proceeded anyway, but 150 soldiers and police – outnumbering the protesters – forced the gathering to disperse and relocate.
- The ceremony was moved to a private office in Chamkarmon district, but remained under heavy police guard.



12-14 July 2010  
Phnom Penh

**CASE STUDY 9**

**Five disabled veterans arrested after land demonstration<sup>17</sup>**

- Some 160 protesters gathered outside Hun Sen's Phnom Penh villa to demand that the government follow through on a 4,000-hectare land concession promised to 620 families in Kratie Province. The families are all headed by disabled military veterans. Local officials said in April that the land was going to private companies instead.
- Government representatives took thumbprints from the protesters and vowed to resolve the issue, which convinced the men to leave. But five men were arrested as they were making their way home.
- A representative from the NGO ADHOC said that police threatened villagers to stop their protests before apparently releasing them.
- On August 30, two more veterans were arrested at their village in Kratie. They were charged with "threatening wildlife officials," and placed in pretrial detention pending an investigation.
- The complaint alleged that the two men were "ringleaders and incited about 500 people to grab land". The men face up to five years in prison if found guilty.



21 July 2010  
Phnom Penh

**CASE STUDY 10**

**Peaceful garment worker demonstration banned by authorities<sup>18</sup>**

- Phnom Penh Municipal authorities denied a request by the Cambodian Labour Confederation (CLC) and Cambodian National Confederation (CNC) to conduct a protest in front of Wat Botum temple on July 25, 2010. On July 21, 2010, the Municipality explicitly forbade the gathering on the grounds that it would: **i) affect public order, ii) threaten public safety, and iii) cause damage to public property.** Two days later, the Ministry of Interior confirmed the ban.
- The demonstration was organized to protest the recently-approved \$5 increase of the minimum wage for garment workers, which union members claimed was insufficient to meet the rising cost of living.
- The ban on the demonstration was lifted at the last minute. On July 25, 2010 between 3,500 and 4,500 workers demonstrated peacefully in front of the National Assembly, in spite of roadblocks and other strategies employed by police to prevent demonstrators from gathering.
- There were no reports of property damage or disruptions to public order.

<sup>16</sup> Kim Yuthana, "Watchdog to proceed with rally," Phnom Penh Post, 13 July 2010; Kim Yuthana and Thet Sambath, "Police quash anti-Thai gathering," Phnom Penh Post, July 16, 2010.

<sup>17</sup> May Titthara, "Five vets arrested after protest for land," Phnom Penh Post, July 14, 2010; Chhay Channyda, "Disabled veterans arrested in Kratie," Phnom Penh Post, Aug. 31, 2010.

<sup>18</sup> LICADHO joint media statement, 25 July 2010; RFA News, 21 July 2010.

▶▶▶  
27 July 2010  
Phnom Penh  
**CASE STUDY 11**

**Nine garment workers beaten by police during protest<sup>19</sup>**

- At least nine female garment workers were injured on July 27, 2010, when police beat them with electric batons and shields. Over 100 police had moved in to break up a protest organized by striking workers.
- Some 3,000 union workers participated in the strike, which called for the reinstatement of a sacked union representative. Police moved in with riot gear and assault rifles to try and compel the women to return to work. They were attempting to enforce a court order to clear roads and force the women back to work.
- The factory is owned by PCCS Garments, a Malaysian-owned company that produces apparel for top international labels including Gap, Benetton, Adidas and Puma.

▶▶▶  
8 August 2010  
Phnom Penh  
**CASE STUDY 12**

**Excessive use of force against peaceful gathering in Phnom Penh<sup>20</sup>**

- A group of nearly 50 Battambang villagers were violently dispersed near Hun Sen's Phnom Penh villa while attempting to raise awareness about a long-standing land dispute.
- The villagers had peacefully assembled 100 meters from the Prime Minister's villa. The group included women, children and babies. The trip was organized to raise awareness about a longstanding land dispute between the villagers and local authorities, including members of the Royal Cambodian Armed Forces. The dispute involves over 400 families in the Doun Ba commune, Kos Krolor district, in Battambang.
- The group spent the night at Wat Botum, and walked to the Prime Minister's residence, where they were confronted by police and military police. The villagers then staged a peaceful sit-in. The group demanded that a representative of the Prime Minister's cabinet hear their grievances, and issued a letter calling on authorities to resolve the land conflict.
- Government officials – alongside a swelling number of police, military police and security guards – replied by declaring that the villagers had no right to assemble in this public space. They insisted that the villagers return to Battambang and let local authorities resolve the conflict. Shortly before noon, a large bus arrived at the sit-in site. When the villagers refused to board, police then physically forced them onto the bus.

▶▶▶  
9 August 2010  
Battambang  
**CASE STUDY 13**

**Authorities arrest man in apparent retaliation for land protest<sup>21</sup>**

- Battambang Provincial authorities arrested a land protester on robbery charges after he returned from attending a land protest in Phnom Penh [See Case Study 11].
- The protestor, Mr. Nga Mok, had recently traveled with other villagers to Phnom Penh, where they staged a protest in front of the Cabinet Ministry building. They spent two days in the capital in an attempt to bring attention to a land dispute in Battambang's Kos Krolor District. He was arrested upon his return.
- Another villager reported that military and civilian forces had since surrounded their village, preventing anyone from leaving to protest.

<sup>19</sup> Prak Chan Thul, "Cambodian Garment Workers Clash with Police," Reuters, July 27, 2010; Richard Shears, Striking female workers paid just £1 a day at factory which makes clothes for Gap and Adidas are beaten by riot police," The (UK) Daily Mail, July 27, 2010.

<sup>20</sup> "Excessive use of force against peaceful gathering of villagers in Phnom Penh," LICADHO Press Release, Aug. 8, 2010 (<http://www.licadho-cambodia.org/pressrelease.php?perm=225&pagenb=&filter=>).

<sup>21</sup> RFA News, Aug. 11, 2010.



19-26 August 2010  
Phnom Penh

#### CASE STUDY 14

#### Authorities crack down on striking Sunly Fong garment workers<sup>22</sup>

- At least 160 garment workers at the Sunly Fong factory in Phnom Penh's Meanchey district walked out of work on August 19, 2010, demanding improved working conditions.
- Four days into the protest – and prior to the issuance of the court order – police warned protesters that their security could not be “guaranteed” if they continued the strike.
- The strike continued for roughly a week until August 26, when authorities presented a court order that declared the strike illegal and ordered employees back to work. The order also gave the factory permission to fire the union organizers responsible for the strike.
- Three union leaders – Ien Pov, Heng Bora and Nun Chamnan – later faced criminal charges of incitement and destruction of private property. Their cases are pending.



23 August 2010  
Phnom Penh

#### CASE STUDY 15

#### Police break up meeting of Boeung Kak residents facing eviction<sup>23</sup>

- Some 200 municipal police officers broke up a meeting of Boeung Kak Lake-area residents, who had gathered to discuss the environmental impact of developing the lake.
- The meeting was to take place at the National Training Institute compound, next to the Prime Minister's residence. The agenda included a discussion of increasingly serious flooding due to early rains and the filling-in of the lake. Development firm Shukaku, Inc., has partially filled in the lake and begun work on a 133-hectare commercial development. The firm is trying to force most families living in the area to resettle, but residents say they are not being offered fair compensation. Shukaku Inc. is headed by Cambodian People's Party Senator Lao Meng Khin.
- Gen. Touch Naruth, Chief of Municipal Police, said that he had a responsibility to “secure public order”.
- About 100 residents then moved to protest at the Independence Monument. They were met by armed forces – with riot gear, batons and assault rifles – who shut down the march.
- In September residents reported that local authorities and “masked employees of Shukaku had resorted to using scare tactics in a bid to force them to accept inadequate compensation packages and leave their homes”.

<sup>22</sup> Tep Nimol, “Garment pay strike continues,” Phnom Penh Post, Aug. 23, 2010; Tep Nimol, “Court gives Sunly Fong Staff 48 hours to get back to work,” Phnom Penh Post, Aug. 26, 2010; Chhay Channyda, “Witnesses called in strike probe,” Phnom Penh Post, Sept. 13, 2010.

<sup>23</sup> RFA News, Aug. 23, 2010 (8:30 p.m. edition); “Boeung Kak Residents Denied Freedom of Assembly,” Housing Rights Task Force Press Release, Aug. 23, 2010. Phnom Penh Post, Aug. 23, 2010; Khouth Sophakchakrya, “Lakeside residents report scare tactics,” Phnom Penh Post, Sept. 14, 2010.



September 2010  
Phnom Penh

## CASE STUDY 16

### **Garment manufacturers use courts to bust unions following strikes<sup>24</sup>**

- Tens of thousands of garment workers nationwide walked out of work on September 13, 2010, in a bid to increase the minimum wage. The walkout came in response to the government's decision in July to raise the minimum wage to US \$61 per month (a US \$5 increase); most unions were seeking a raise to US \$93 per month. Union leaders informed factories and the government of their plans more than two months in advance.
- The strike was scheduled to last five days, but union leaders called it off on September 16 after the Ministry of Social Affairs invited employers and union representatives to meet on September 27 to discuss "benefits" on top of the minimum wage.

The protests were largely peaceful, but at least two workers were injured – a 28-year-old female employee of the Top World Factory in Kandal province, and a 29-year-old male employee and union official from Kbal Koh factory in Kandal. The latter was also arrested.

#### ***The courts step in, prompting renewed strikes***

- Workers returned to their factories the next day, only to find that hundreds of union organizers had been suspended from their jobs. Factory owners had deemed the strike "illegal".
- The union suspensions were backed by court-orders. In the initial wave of suspensions, at least six different Cambodian judges issued orders authorizing factory owners to suspend nearly 200 union representatives. The orders were issued just after union leaders peacefully negotiated an early end to their strike.
- At least 10 factories also filed lawsuits against the unions, requesting compensation for lost revenues, estimated at US \$14 million.
- This turn of events prompted a second walkout from thousands of workers, who demanded that union leaders be allowed back to work.
- Factories also obtained court orders declaring the second strike illegal and requiring workers to return to their jobs or face termination. By September 21, thousands of workers had flouted the order. They were given 48 hours to return to work or face termination.

#### ***Threats and intimidation***

- Police used force to crack down on the second wave of strikes. On September 18, 12 workers were injured in clashes with police outside factories in Phnom Penh and Kandal province. One female employee of the River Rich factory was hospitalized with heart problems after police hit her with an electric baton.
- Following the strikes, at least three labor leaders claim they received threats via phone and SMS. They also claim they were harassed and followed by unidentified men on motorbikes.

#### ***Moving toward a resolution***

<sup>24</sup> LICADHO internal case files; Kampuchea Thmey News, Aug. 20, 2010; Mom Kunthear, "Thousands join national strike," Phnom Penh Post, Sept. 13, 2010; Kim Yuthana and Brooke Lewis, "Strike called off early," Phnom Penh Post, Sept. 16, 2010; Kunthear and Nguon Sovan, "Police clash with garment workers," Phnom Penh Post, Sept. 19, 2010; Nguon Sovan, "\$US14 million lost from strikes," Phnom Penh Post, Sept. 20, 2010; Mom Kunthear and Brooke Lewis, "Govt workers defy court," Phnom Penh Post, Sept. 21, 2010; Mom Kunthear, "Workers continue to protest," Phnom Penh Post, Sept. 21, 2010; Mom Kunthear, "State queries union leaders about threats," Phnom Penh Post, Sept. 23, 2010; Mom Kunthear, "New group to address strikes," Phnom Penh Post, Sept. 27, 2010; Mom Kunthear, "Workers fired for illegal strike," Phnom Penh Post, Sept. 27, 2010; Mom Kunthear, "Thousands told not to come back to work," Phnom Penh Post, Sept. 28, 2010; Mom Kunthear, "22 union reps back at work," Phnom Penh Post, Oct. 13, 2010.

- At the September 27 meeting proposed by the Ministry of Social Affairs, the government called upon factories to reinstate suspended employees and drop legal charges in exchange for the unions promising not to strike. The unions agreed to this in principle.
- Subsequently 3,000 garment-workers in Kandal were fired for their participation in the second wave of strikes, though most were reportedly allowed back to work. But the Coalition of Cambodian Apparel Workers Democratic Union reported that as of mid-October, there were still 106 suspended union representatives and 677 workers from 16 factories who had not been allowed to return to work.

***A bizarre turn abroad***

- In a related development, Amnesty International called upon its supporters to protest threats to union leaders by writing to Cambodia's Ambassador to the United Kingdom. The Embassy replied to several people with the following e-mail: "To all of idiots! Don't sell your soul to buy peanuts for the monkeys or if you look at the mirror you see a parrot! It is none of your business! Please report to your clown boss to stop this childish game and stop this circus at once?[sic] Thank you."
- A British labor activist followed-up, demanding a more coherent response, and received the following reply: "*Please go to the moon and stay there until you get an answer. Cambodia is not part of the British Empire.*"<sup>25</sup>

□□□

---

<sup>25</sup> See [http://www.unionbook.org/profiles/blog/show?id=6287332%3ABlogPost%3A17145&commentId=6287332%3AComment%3A17380&xg\\_source=activity](http://www.unionbook.org/profiles/blog/show?id=6287332%3ABlogPost%3A17145&commentId=6287332%3AComment%3A17380&xg_source=activity); James O'Toole and Mom Kunthear, "Try the Moon," Phnom Penh Post, Oct. 10, 2010.

### III. USE OF THE LEGAL SYSTEM TO INTIMIDATE AND SILENCE CRITICS

#### CASE STUDY 17: LEANG SOKCHOUEN – ATTACKING THE MESSENGER<sup>26</sup>

Leang Sokchouen never saw it coming.

It was a Saturday morning, 6:15 a.m., and he was home sleeping. Saturday was his day off from his job as a messenger at LICADHO, and that is the day the police came to get him.

No one had previously interviewed him, and he wasn't aware of an outstanding warrant. The police didn't tell him why they had come; they simply took him to the headquarters of the National Police Commissioner in Phnom Penh where he was held *incommunicado* for 33 hours.

They asked him about his involvement in the distribution of "anti-government leaflets" in Takeo on January 4. Sokchouen was confused. He had never distributed any leaflets. He was in Phnom Penh on January 4.



*Leang Sokchouen on August 30, 2010, during a break in his trial.*

But that was not the answer police were looking for. They wanted a confession.

So far they had only a printout of a phone record suggesting someone had used a phone registered to Sokchouen to call one of the alleged "masterminds" of the plot. The police did not have the contents of the call – or much else. Their entire investigation had taken less than a day, and the investigating judge had declined to interview witnesses prior to ordering the arrest.

Then there were the leaflets themselves: They concerned the "liberation day" holiday of January 7, which marks the defeat of the Khmer Rouge in 1979 by liberation forces. The leaflets reportedly stated that January 7 was not a day of

liberation, but the day Cambodia became "abused and occupied" by Vietnam.

It was the expression of this opinion that constituted the alleged crime.

Sokchouen's family and lawyer made repeated requests to see him, but were refused. Finally, on May 30, Sokchouen emerged. He was brought before a judge in Takeo and charged with disinformation.

Sokchouen's lawyers requested bail. They noted that the "order to bring" issued by the court named another individual: "Leang Sokly, called Chouen, a Vietnamese national, residing in Russei Keo district." Leang Sokchouen is a Khmer national who at that point resided in the Sen

<sup>26</sup> Meas Sokchea, "Four sentenced over leaflets," Phnom Penh Post, Aug. 31, 2010; Cheang Sokha, "SRP points finger at Vietnam," Phnom Penh Post, Sept. 3, 2010.

Sok district. In addition, the charge was a misdemeanor. Cambodian law states that provisional detention is an exceptional measure, reserved only for special cases<sup>27</sup>.

The judge ordered him detained anyway.

Sokchouen lingered in pretrial detention for three months. Police arrested two other men: Thach Vannak, a former Khmer Krom monk, and Thach Le, a motorbike-taxi driver and ethnic Khmer Krom. A third suspect, so-called “mastermind” Tach Khong Phoung, was not present at trial. He is also a Khmer Krom monk.



*Sokchouen fainted after hearing his trial verdict. His mother tries to revive him.*

The involvement of two Khmer Krom monks was significant. Khmer Krom – or Lower Khmer – is the name given to ethnic Khmers living in southern Vietnam, which was once part of Cambodia. Khmer Krom activists, including monks, are vocal about their perception that Vietnam exerts undue influence upon the Cambodian government.

The topic is sensitive for both Cambodian and Vietnamese leaders. Just four weeks before the trial, Vietnam’s vice minister of public security visited Phnom Penh and publicly urged the Cambodian government to “reduce” Khmer Krom activities and “minimize” information that criticized the good relationship between the two countries<sup>28</sup>.

The President of Vietnam, Nguyen Minh Triet, followed up with a personal visit to Cambodia<sup>29</sup>. He left just two days before Sokchouen’s trial started.

The trial took place on August 30, 2010. The only uncontested evidence presented against Sokchouen was the phone call – not the contents of the phone call, but the mere fact the phone call was made.

One of the co-defendants initially told police that Sokchouen was involved in distributing the fliers. But he retracted part of his statement during the trial, saying that he only implicated Sokchouen because of false promises made by police interrogators. The judge dismissed the retraction without further investigation.

The prosecution produced no in-court witness testimony or evidence. The judge relied entirely on written statements and four alleged witness statements transcribed by police officers. None of these individuals was called to court for questioning by the investigating judge, either before or during the trial.

Sokchouen’s lawyers, on the other hand, provided extensive in-court testimony, including evidence that Sokchouen was in Phnom Penh - not Takeo - on January 4, 2010.

<sup>27</sup> Code of Criminal Procedure, Article 203.

<sup>28</sup> VOA News, Aug. 3, 2010; RFA News, Aug. 4, 2010

<sup>29</sup> Nokorwat News, Aug. 21, 2010; VOA News, Aug. 24, 2010

The judge dismissed the in-court testimony – including statements from the accused – as untrustworthy.

Then he moved onto the issue of the leaflets themselves: They contained a political statement regarding the January 7 holiday. The authors felt that the day was shameful, and should not be viewed as one of liberation.

The judge ruled that expressing this opinion is a crime in Cambodia, that it constituted “false, fabricated [or] falsified” information that was likely to lead to the disturbance of public peace<sup>30</sup>. He concluded that the defendants’ “actions affect the national leaders and create unrest in society”.

All four defendants were found guilty of disinformation. They were sentenced to two years in prison, though one defendant remains on the run. Sokchouen has filed an appeal.

### **Tipped Scales: The Courts as a Weapon of Injustice**

Cases like Sokchouen’s were disturbingly common over the six-month period studied in this report. The courts have become perhaps the most effective weapon for government officials and well-connected individuals who wish to silence critics or legitimize shady business deals. They are aided by favorable laws, biased judges, and politically-affiliated prosecutors.

The courts are not instruments of law, but of power, influence, money and party allegiance. Those who lack these critical elements do not stand a chance. But the courts offer a full menu of possibilities for those with access:

**Criminal defamation** has long been among the most popular choices<sup>31</sup>. Opposition politicians, activists and members of the media are often accused of defamation for publicizing information deemed to be threatening to the elite. Defamation carried a prison sentence until 2006, when it was amended to require punishment by fine<sup>32</sup>. But the failure to pay that fine could still result in a prison sentence of up to two years<sup>33</sup>.

Sometimes so-called “defamatory” comments themselves are quite innocuous on the face of it, and the threat is not immediately apparent. In March 2010, for example, the editor of an opposition newspaper was sued for defamation after reporting that a university was grossly overcharging students for a scholarship application form. The scholarship’s sponsors, the government of Japan and Prime Minister Hun Sen, were not responsible for the charge<sup>34</sup>. Apparently someone else was pocketing the money.

---

<sup>30</sup> UNTAC Penal Code, Article 62 (superseded by the new Cambodian Penal Code of 2009 [hereinafter “Penal Code”], which came into full effect in December 2010)

<sup>31</sup> UNTAC Penal Code, Article 63. The new Penal Code maintains defamation as a criminal offense, but it remains punishable only by a fine. It allows individuals to be prosecuted for defaming institutions, as well, such as government ministries. See Penal Code, Article 305 (defamation). In addition, the new Anti-Corruption law includes a separate criminal defamation provision punishable by up to six months imprisonment. See Anti-Corruption Law of 2010, Article 41. Details of the new code are discussed in Annexes I and II.

<sup>32</sup> UNTAC Penal Code 63.

<sup>33</sup> Cambodian Code of Criminal Procedure (hereinafter “Code of Criminal Procedure”), Articles 525, 530.

<sup>34</sup> RFA News, March 21, 2010; Deum Ampil News, March 21, 2010; Deum Ampil News, March 22, 2010; Chrann Chamroeun, “Editor in court over accusations,” Phnom Penh Post, May 23, 2010.



One might expect that the exposure of such corruption would prompt the university president to be outraged and demand an investigation. Instead it prompted criminal charges against the journalist. The university president first sued the editor privately for defamation; the public prosecutor later brought criminal disinformation charges.

It helped that the university president also serves as a secretary of state at the Ministry of Foreign Affairs.

The addition of the **disinformation** charge was serious, as conviction can bring a prison sentence of up to three years<sup>35</sup>. A conviction can also carry a fine, with the failure to pay resulting in additional prison time.

Disinformation is, in theory, more difficult to prove than defamation because it requires the publication or transmission of “false, fabricated, falsified or untruthfully attributed to a third person ... in bad faith and with malicious intent”.<sup>36</sup> The law also requires a showing that the distribution of this information *has disturbed or is likely to disturb the public peace*. But the “public peace” provision is broadly interpreted – when convenient<sup>37</sup>.

In November 2009, for example, journalist Ros Sokhet was convicted of disinformation after he forwarded “disparaging text messages” to a well-known pro-government TV anchor – who happened to be an advisor to the Prime Minister – and four other people. The messages allegedly questioned the anchor about corruption charges. At trial, the judge concluded that the messages

**OLD LAW VS. NEW LAW:  
TWO STEPS FORWARD, NINE STEPS BACK**

The substantive provisions of Cambodia’s new Penal Code officially come into effect on Dec. 10, 2010. Admittedly, the law takes at least two steps forward: the oft-abused disinformation provision has been abolished, and the code requires that media defamation cases be handled under the Press Law.

But the new code also takes several steps backwards. Nine to be precise. LICADHO has identified nine crimes – including five entirely new provisions – that pose a serious threat to Cambodians’ expressive freedoms. Some merely pose the potential for abuse. Others are alarming on their face, such as those banning criticism of court decisions and public statements “leading to serious turmoil in society.” The latter appears to be an even more restrictive version of the UNTAC disinformation statute.

The new code also makes most fines mandatory and adds an array of “supplementary punishments” ranging from indefinite suspension of unspecified “civil rights” to revocation of the right to practice a profession. The chart below compares the new penal code with the former UNTAC code. A detailed analysis of both laws is found in Annexes I and II.

CRIME	OLD CODE	NEW CODE
Defamation	Art. 63	Art. 305
Disinformation	Art. 62	FREE
Public insult (libel)	Art. 63	Art. 307
Slandorous denunciation	FREE	Art. 311
Incitement (leading to or not leading to a crime)	Art. 59-60	Art. 495
Incitement to discrimination	Art. 61	Art. 496
Contempt	FREE	Art. 502
Public comment to influence judiciary	FREE	Art. 522
Discrediting judicial decision	FREE	Art. 523
False denunciation to judicial authorities	FREE	Art. 524
<b>NUMBER OF CRIMES</b>	<b>5</b>	<b>9</b>

<sup>35</sup> UNTAC Penal Code, Article 62.

<sup>36</sup> UNTAC Penal Code, Article 62. This article has been superseded by the Penal Code of 2009 as of December 2010, but the new code retains offenses which carry prison sentences and could be used in similar circumstances. See Articles 495 (“incitement with and without effect,” punishable by up to five years imprisonment).

<sup>37</sup> *Ibid.*

“dishonored” the anchor and “caused problems for society”. This was deemed sufficient to meet the wording of the disinformation statute.

Sokhet was one among at least 10 journalists who faced legal charges during the period of May 2009 to May 2010, according to a study by the Club of Cambodian Journalists<sup>38</sup>. Most faced defamation and disinformation charges relating to their work. It is perhaps no surprise, then, that Cambodia was ranked a dismal 128<sup>th</sup> out of 178 countries in Reporters Without Borders global press freedom index for 2010<sup>39</sup>.

The authorities have also punished certain types of free expression by labeling it **incitement** under the UNTAC criminal code. These laws, set out in Articles 59 and 60 of the UNTAC code, were intended to punish expression which incites people to commit, or attempt to commit, crimes. Similarly, Article 61 prohibits incitement of racial hatred.

Judges and prosecutors have taken an expansive view of “crime” when interpreting the incitement laws. They have recently applied incitement laws in cases involving union leaders who organized strikes<sup>40</sup>; opposition politicians<sup>41</sup>; and community members speaking out against perceived abuses by an NGO linked with the government<sup>42</sup>.

Still **other criminal charges** have no apparent connection to freedom of expression at all. They are simply retaliatory barbs against activists who need to be removed from the picture. The villagers in Chi Krong, for example, faced **robbery** charges after harvesting rice on disputed land. They had planted the rice themselves, but private businessmen later asserted ownership of the land. Authorities targeted community representatives and male breadwinners for the charges, with the aim of weakening the village’s will to continue the land dispute.

In reviewing the stories of judicial intimidation over the six-month period, one somewhat subtle detail is worth noting: In many cases, there appears to be a lack of follow-up by the authorities. A suspect may be arrested, called in for questioning and even charged. But in a number of cases, the suspect is then released pending “investigation.” The story then disappears from the press.

This is not necessarily the result of lazy reporting by the newspapers. It is often an intentional tactic used by authorities.

In many cases, there will be no further investigation as long as the suspect “behaves”. Sometimes criminal charges alone – without a conviction or pretrial detention – are sufficient to silence someone. Human rights defenders, in particular, are often arrested on bogus charges and then released on bail, with the condition that they cease certain activities. The charges can then linger for the duration of the statute of limitations – up to 15 years in the case of a felony<sup>43</sup>. During this time, the threat of renewed prosecution and imprisonment never disappears.

This tactic is perhaps even more effective than a conviction, due to the psychological trauma involved in such a close brush with imprisonment. The accused emerges with his freedom, but also with an intimate sense of what it feels like to lose that freedom. The fear may then spread to fellow citizens and activists and effectively neutralize the threat.

<sup>38</sup> Kampuchea Thmey, “24 journalists arrested and 10 sued in one year in Cambodia,” May 3, 2010 (citing study released by the Club of Cambodian Journalists)(English translation available at: <http://ki-media.blogspot.com/2010/05/24-journalists-arrested-and-10-sued-in.html>)

<sup>39</sup> Matt Lundy, “Press freedom: Cambodia drops in global index,” Phnom Penh Post, Oct. 21, 2010.

<sup>40</sup> See Case Study 14.

<sup>41</sup> See Case Study 36.

<sup>42</sup> See Case Study 23.

<sup>43</sup> See Code of Criminal Procedure, Articles 7, 10.

And it is certainly more efficient: Why try and convict someone when they can be silenced with the minimal exertion of law enforcement, judicial and prison resources?

While Cambodia's statute books may contain myriad ill-conceived laws, bad legal drafting is not the primary culprit in limiting Cambodians' freedom of expression. The bigger problem is the judiciary's uneven, erratic, and vindictive application of these laws. This is a problem that would continue under any set of laws.

Despite nearly two decades worth of statutes, proclamations and regulations – many of which were drafted with international assistance – justice is never assured inside a Cambodian courtroom. As the United Nations Special Rapporteur for Human Rights, Surya Subedi, noted in September 2010, “the executive branch dominates the judiciary”.<sup>44</sup>

“Everybody ...  
knows that the  
courts are not  
independent”

-Opposition leader Kem Sokha

Opposition party leader Kem Sokha came to a similar conclusion after his arrest on defamation charges in 2005, when the offense still carried a prison term. He told Newsweek: “After the judge questioned me, he actually looked scared; he knew that there was nothing to charge me with. He went to meet his boss, and when he came back, he said he had decided to arrest me.”

“Everybody ... knows that the courts are not independent.”<sup>45</sup>

The judiciary's lack of independence from the executive makes it vulnerable to private corruption as well, so long as the private party's interests do not conflict with the executive. The result is a system in which the rich and powerful are able to exploit any law to their advantage, whether it meets international standards or not.

This system is also anything but a problem for the rich and powerful who use the law against critics and economic competitors. Rather, it is a prerequisite – and defining feature – for a society ruled by power rather than by the law. The judiciary is a tool, and is necessary for their continued grip on power.

Below is a sample of incidents in which the courts have been used to silence critics of Cambodia's powerful and elite. *The sample size is small because numerous other incidents throughout this report also include instances of judicial intimidation.* These cases are not included in this section because those incidents were classified according to other features – i.e., the involvement of a political dimension, the disruption of a protest, physical threats, or the allegation of extortion against loggers.

□□□

<sup>44</sup> Sebastian Strangio, “UN diplomat denounces court system,” Phnom Penh Post, Sept. 21, 2010.

<sup>45</sup> Eric Pape, “Freed Cambodian Dissident: ‘Yes, I am Afraid,’ ” Newsweek, Jan. 21, 2006 (available at <http://www.msnbc.msn.com/id/10960823/site/newsweek/>)

**The case studies below provide further examples of government interference with Cambodians attempting to participate in peaceful public assemblies:**

▶▶▶  
5 May 2010  
Phnom Penh

**CASE STUDY 18**

**Pardon requested for imprisoned journalist<sup>46</sup>**

- The Press Council of Cambodia (PCC) announced on May 5, 2010, that it plans to request a pardon for journalist Ros Sokhet, who was imprisoned on disinformation charges after sending “disparaging text messages”.
- Ros Sokhet was sentenced to two years imprisonment on November 6, 2009, for sending the text messages to well-known pro-government CTN anchor and occasional Bayon radio commentator, Soy Sopheap.
- The sentence, handed down by Judge Chhay Kong of the Phnom Penh Municipal Court, was criticized by the International Federation of Journalists (IFJ), which stated that complaints of this type should be dealt with under civil law, not criminal law.
- Ros Sokhet appealed his conviction, but claimed in August that police requested a bribe of USD\$1,000 in order to tell him the date of his hearing. Numerous hearing dates were set and cancelled throughout the summer; the appeal was finally heard on October 19, 2010, and the court reduced Sokhet’s sentence to one year. He was released from prison on October 29, 2010.

▶▶▶  
25 May 2010  
Kampong Chhnang

**CASE STUDY 19**

**Company sues activist for radio comments on land dispute<sup>47</sup>**

- A company owned by the wife of a government minister filed a complaint accusing an ADHOC employee of disinformation. The company, KDC International, is involved in a land dispute with local villagers. The firm is owned by Chea Kheng, who is the wife of the Minister of Industry, Mines and Energy, Suy Sem.
- The target of the suit, Sam Chankea, said the complaint concerned a December 2009 interview he gave to Radio Free Asia. During the interview he stated that the company had begun illegally clearing land belonging to villagers. The company denies clearing the land, but says it bought the land in 1996. It began asserting ownership in 2007, but over 100 families did not agree to sign over their property.
- The complaint marked the sixth time that KDC International has used the legal system to intercede in the dispute. The five other complaints were against villagers, including one in which a village chief was convicted of forging residents’ thumbprints on a complaint letter detailing claims that villagers had never sold their land to KDC.
- Sam Chankea said the complaint was an attempt to intimidate him, because he had recently urged the court to investigate allegations of fraud in KDC’s dealings.

<sup>46</sup> Cheang Sokha, “Pardon requested for journalist,” Phnom Penh Post, May 6, 2010; Chhay Channyda, “Jailed journalist reports graft,” Phnom Penh Post, Aug. 3, 2010.

<sup>47</sup> May Titthara and Irwin Loy, “KDC sues activist in land row,” Phnom Penh Post, June 23, 2010; Kampuchea Thmey News, June 21, 2010.



5 July 2010  
Phnom Penh

## CASE STUDY 20

### Opposition paper closes after editor imprisoned for disinformation<sup>48</sup>

- The Khmer Machas Srok, a prominent Khmer opposition newspaper, ceased publication due to lack of funding on July 5, 2010.
- Editor Chum Sophal indicated that sales of the newspaper, its sole source of revenue, plummeted after the editor-in-chief Hang Chakra was imprisoned on June 26, 2009, on disinformation charges. Hang Chakra was charged for articles published in the Khmer Machas Srok, accusing officials close to Deputy Prime Minister Sok An of corruption.
- Chum Sophal indicated that Khmer Machas Srok journalists toned down criticism of the government after Hang Chakra's arrest, fearful that they might be arrested themselves. Sales dropped after the criticisms abated.
- Hang Chakra was released after a royal pardon on April 13, 2010, and pledged to continue criticizing the government. In an interview with LICADHO on July 5, 2010, he explained that the financial difficulties of his newspaper were caused primarily by lack of advertisers or sponsors, all of which were intimidated away by government officials.
- Chakra resumed publication of the newspaper online in fall 2010, and has said he plans to resume the print version by December 2010. A reporter for the paper stated that he would be happy to work for Khmer Machas Srok, but also "a bit scared."



6 July 2010  
Phnom Penh

## CASE STUDY 21

### Government withdraws suit against royalist newspaper after publisher 'corrects' criticism of Hun Sen<sup>49</sup>

- The Ministry of Information withdrew a lawsuit against the royalist-aligned Khmer Amatak newspaper after its publisher promised to correct an article marking the 13th anniversary of July 1997's bloody factional fighting.
- Bun Tha, publisher of the Khmer Amatak, indicated that Minister for Information Khieu Kanharith agreed to drop the lawsuit after Bun Tha offered to publish a correction for an article entitled "The 13th anniversary of the 5-6 July 1997 coup d'état signals Hun Sen's grabbing of monopolistic power."
- The Ministry of Information argued that the article amounted to "intentional misinformation" as it did not quote government opinions on the 1997 events. Tith Sothea, head of the Press and Quick Reaction Unit at the Council of Ministers, said the lawsuit had been intended to "remind all journalists to re-examine and improve their code of conduct".
- This was not the first time Bun Tha and Khmer Amatak had been targeted by the government. Bun Tha was also threatened by a defamation lawsuit for an article alleging corruption issues linked to scholarship applications at the University of Cambodia, launched by the Ministry of Foreign Affairs. [See Case Study 22]. And in October 2007, the newspaper's license was suspended by the government over a story about the deputy prime minister.

<sup>48</sup> Sam Rith, "Opposition Paper Closes," Phnom Penh Post, July 6, 2010; Sam Rith, "Opposition paper targets end of year for official relaunch," Phnom Penh Post, Aug. 18, 2010.

<sup>49</sup> Kim Yuthana, "Officials drop suit against royalist paper," Phnom Penh Post, July 19, 2010; RFA News, 18 July 2010; Debory Li, Asia Media Archives, "CAMBODIA: Local newspaper's license suspended," Oct. 18, 2007, at <http://www.asiamedia.ucla.edu/article.asp?parentid=80026>

▶▶▶  
25 July 2010  
Phnom Penh

## CASE STUDY 22

### Editor faces defamation and disinformation charges<sup>50</sup>

- An editor was accused of disinformation and defamation after his newspaper published a story alleging corruption at the University of Cambodia.
- Bun Tha, editor of the opposition-aligned Khmer Amatak newspaper, was charged in relation to an October 2009 story in his newspaper. The newspaper reported that university officials were charging students 20,000-25,000 riels (US \$4.71 to US \$5.88) for a scholarship application forms that cost only 500 riels to produce. The scholarship was sponsored by the Japanese government and Hun Sen.
- The university's president, Dr. Kao Kim Hourn, subsequently sued Bun Tha for defamation and requested US \$100,000 in compensation. Dr. Kao Kim Hourn also serves as Secretary of State at the Ministry of Foreign Affairs. Bun Tha was also charged with criminal disinformation, which carries a prison term.
- Bun Tha avoided pretrial detention after a Phnom Penh court refused to issue a provisional detention order on March 22, 2010.
- In late July, Bun Tha reportedly agreed to publish a correction regarding the articles in hopes that the case would be dropped. But RFA news reported on July 25 that the lawsuit would go forward.

▶▶▶  
6 September 2010  
Preah Vihear

## CASE STUDY 23

### Villagers charged with incitement over protest<sup>51</sup>

- Three villagers in Preah Vihear were placed in pretrial detention and charged with inciting protests against the Drugs and AIDS Research and Prevention Organization (DARPO), an NGO that received a 556-hectare land concession, ostensibly to aid families in the region. They were also charged with disinformation and forgery. The land is located in the province's Choam Ksan district.
- The three were later released from pretrial detention.
- DARPO was supposedly set up to support economically disadvantaged families in the area, but villagers and other NGOs say that the organization had forced families living on disputed land to leave their homes under fear of "threats, rape and torture."
- The charged villagers – Srey Sophon, Sath Voeun and Kim Sophal gathered thumbprints for a complaint that was submitted to the Ministry of Interior.
- DARPO Director Pen Loem, a one-star general and adviser to Senate and CPP President Chea Sim, said that the villagers were gathering thumbprints to "accuse" him of an unspecified offense. He predicted that the ministry "will not believe" the accusations against him.
- At a press conference in Phnom Penh on September 6, a villager accused a security guard working for DARPO of raping her 13-year-old daughter, and said unidentified men beat her after she filed a complaint.

<sup>50</sup> RFA News, March 21, 2010; Deum Ampil News, March 21, 2010; Deum Ampil News, March 22, 2010; Chrann Chamroeun, "Editor in court over accusations," Phnom Penh Post, May 23, 2010; RFA News, July 10, 2010; RFA News, July 25, 2010.

<sup>51</sup> Chhay Channyda, "Villagers face incitement allegation," Phnom Penh Post, Sept. 7, 2010; Chhay Channyda, "NGOs unite in call for rights probe," Phnom Penh Post, Sept. 7, 2010; Chan Chamnan, Moneaksekar Khmer News, Sept. 18, 2010; Thet Sambath, "Court to question two in DARPO case," Phnom Penh Post, Oct. 1, 2010.



15 September 2010  
Kampong Speu

**CASE STUDY 24**

**Conservation NGO head jailed after accusing officials of corruption<sup>52</sup>**

- An NGO director was arrested and placed in pretrial detention after he reportedly filed an anti-corruption complaint against 241 government officials.
- Chea Hean, director of the Natural Resource and Wildlife Preservation Organisation, says that he filed the anticorruption complaint on August 30. He claimed the officials had been turning a blind eye to illegal logging in Kampong Speu.
- One of the officials allegedly named in the complaint, Chhun Chhea Heng, the head of the Oral Mountain Animal Refuge in Oral district, responded by filing a complaint with the provincial court. The complaint accused Chea Hean of illegal logging and extortion. Eight other members of Hean's NGO were also summoned for questioning.
- Chea Hean was detained after being summoned for preliminary questioning by the court on September 15. His lawyer claimed that the court did not listen to his answers.
- Chea Hean had previously filed three complaints accusing Chhun Chhea Heng of illegal logging. He also recently filed a court complaint demanding that Chhun Chhea Heng and six other officials be imprisoned and fined for their involvement in illegal logging.



30 September 2010  
Bantey Meanchey

**CASE STUDY 25**

**Court summons CTN TV employee over disinformation charges<sup>53</sup>**

- The Banteay Meanchey provincial court has summoned Lay Ly, a journalist at CTN TV, for questioning over a disinformation charge. Ly was scheduled to appear on October 11, but did not attend the hearing.
- The alleged disinformation offense occurred in early September 2010, and was linked to a land dispute involving ARP-OITC Group. A representative for the group said that the TV station's reporting had harmed the company's "honor" because the company bought the land from villagers, but still allowed them to plant rice on the land.
- Part of the disputed land is also claimed by Lay Saran, the Royal Cambodian Armed Forces deputy commander in Phnom Srok district.

□□□

<sup>52</sup> Meas Sokchea, "Court detains NGO director," Phnom Penh Post, Sept. 16, 2010; Meas Sokchea, "Graft suspect labels accuser illegal logger," Phnom Penh Post, Sept. 10, 2010.

<sup>53</sup> Nokorwat News, Sept. 30, 2010; May Titthara, "CTN journalist summoned," Phnom Penh Post, Oct. 1, 2010; Chhay Channyda, "CTN journalist fails to testify on public holiday," Phnom Penh Post, Oct. 12, 2010.

## IV. EXTRAJUDICIAL THREATS, ATTACKS AND KILLINGS

### CASE STUDY 26: PICH SOPHON – DYING FOR LAND IN BATTAMBANG<sup>54</sup>



*Sim Mey, a friend and neighbor of Pich Sophon, was also shot just three weeks before the murder.*

It is a staggering statistic: Since 2004, nearly 300,000 Cambodians have been the victims of land-grabbing. That's roughly one out of every 50 Cambodian citizens.

Sixty-year-old Pich Sophon didn't want to become a statistic.

The community representative from Battambang Province's Samlot district had lived on his land for years when the government decided to sell it off. One parcel went to a South Korean company, while the other two went to the Region 5 office of the Royal Cambodian Armed Forces (RCAF). The compensation offered to the villagers would have left Pich Sophon and his neighbors destitute, so they refused. That is when the problems started.

Military officials started making visits with the company in 2007, trying to convince the villagers to leave. Pich Sophon responded by organizing. In all, the dispute affected 141 families. His leadership and outspokenness helped them

stand firm. The soldiers tried again, leading to clashes with the villagers, and the situation started to deteriorate rapidly.

On April 4, two would-be assassins shot Pich Sophon's fellow community representative, Sim Mey. That was apparently enough for Sophon, who chose to bring his case to the provincial authorities by filing a complaint against the company and RCAF. On April 26, 2010 he set out to obtain thumbprints for the petition from his fellow villagers.

On his way back home, he was shot dead.

His assailants, using AK-47 rifles, shot him at least four times. Witnesses told LICADHO investigators that Sophon was actually shot eight times – seven bullets in the chest and one in his face.

It seems a clear case of retaliation: Pich Sophon was a key community representative. He organized the petition, prevented excavators from clearing land, and provided his house for community meetings. He was also the only witness to speak to police about the attempted murder of Sim Mey.

The authorities, meanwhile, continue to harass the villagers. On July 5, 2010, soldiers opened fire on a group of 60 farmers cultivating disputed land in Samlot district. No one was injured, but the same soldiers subsequently beat two villagers who refused to stop farming. An RCAF Region 5 deputy commander said he would investigate, but added that it was not clear "who used violence against whom".

<sup>54</sup> May Titthara, "Villagers say slaying tied to land disputes," Phnom Penh Post, April 28, 2010; May Titthara, "Soldiers accused of beating farmers," Phnom Penh Post, July 6, 2010; see also LICADHO Case No. BB029AK10, BB035K10.



### **Dead-End Investigations and Impunity**

Police have not arrested anyone in connection with Pich Sophon's death or Sim Mey's shooting, and past practice suggests it is unlikely that they will.

Law enforcement in Cambodia is a tool of the powerful, and impunity is the norm for those who commit crimes on their behalf. Attacks and threats against journalists, NGO workers, community activists and others routinely go uninvestigated or unpunished.

The most glaring statistic in this respect is that 10 journalists have been murdered in Cambodia since 1993, the latest in summer 2008<sup>55</sup>. None of their killers has been brought to justice<sup>56</sup>. Likewise, three prominent labor union activists have been murdered since 2004<sup>57</sup>. Their real killers have not been brought to justice, but in two cases, the government framed a total of three individuals, and convicted all of them despite a complete lack of evidence. Two of the three later saw their convictions overturned by the Supreme Court, but face possible retrials.

During 2008 and 2009 LICADHO documented approximately 30 cases involving violence or threats of violence against human rights defenders<sup>58</sup>. Many of the victims in these cases were exercising their rights to public assembly, free speech, free press, and to petition the government.

The situation in 2010 is no better.

Journalists appear to be the most at-risk group. At least seven of them reported serious threats, beatings or attempted attacks over the brief period covered in this report. These included three death threats, three physical assaults and one attempted murder.

Even media consumers are at risk: In one village, a man was beaten by authorities for listening to independent radio stations Radio Free Asia (RFA) and Voice of America (VOA)<sup>59</sup>.

□□□

---

<sup>55</sup> "Restrictions on Freedom of Expression in Cambodia's Media," LICADHO briefing paper, May 2009, p. 17-19.

<sup>56</sup> *Ibid.*

<sup>57</sup> "Cambodia: Freedoms of expression, association and assembly: a shrinking space," The Observatory report, September 2010, p. 26-27.

<sup>58</sup> "Attacks & Threats Against Human Rights Defenders in Cambodia 2008-09," LICADHO, September 2010.

<sup>59</sup> RFA News, Aug. 4, 2010

**Below are summaries of cases involving extrajudicial threats, attacks and killings against individuals exercising their expressive rights:**

▶▶▶  
6 April 2010  
Banteay Meanchey

**CASE STUDY 27**

**Journalist beaten by soldier while investigating; charges dropped<sup>60</sup>**

- On March 1, 2010, while researching an article on illegal gambling in the Kpal Spean village of Poipet commune, Raksmeay Kampuchea journalist Vong Tho was confronted and beaten by three people. The individuals were later identified as Ngem Trem, his son Lim Hy and his wife Lim Lang. Ngem Trem is a soldier in RCAF border battalion 503. The attackers wanted to prevent a story involving them in illegal gambling practices from being made public.
- The suspects were later arrested by police and spent one month in pre-trial detention. Vong Tho agreed to withdraw his complaints after receiving a letter of apology and payment of an unspecified sum from Ngem Trem and his family. In April, the Banteay Meanchey provincial prosecutor also agreed to drop criminal charges filed against the journalist.

▶▶▶  
8 April 2010  
Siem Reap

**CASE STUDY 28**

**Journalist beaten after attempting to photograph corrupt officials<sup>61</sup>**

- Keng Phon, a journalist with the Sthabna Cheat Khmer newspaper, from Siem Reap province, was summoned to appear in court on April 8, 2010, after he tried to photograph two Forestry Administration officials who were allegedly accepting bribes. The incident occurred in March 2010.
- The journalist attempted to take pictures of forestry officials when they stopped three carts carrying timber out of the Kampong Kleng commune. He claimed to have seen the officials accepting 40,000 riel (US\$10) bribes to allow the illegal logging.
- When he tried to question the officials, they grabbed him violently and deleted the pictures from his camera.
- Forestry officials then filed an unspecified complaint in court against Keng Phon. Keng Phon also filed a complaint against the forestry officials with the Siem Reap Provincial Court prosecutor, Ty Soveinthal, for destroying his documents and threatening him.
- In a meeting with the prosecutor's clerk on April 8, 2010, Keng Phon was pressured to drop the charges against the forestry officials, but refused to do so.

▶▶▶  
9 July 2010  
Kratie

**CASE STUDY 29**

**Military officer assaults, threatens to kill journalists investigating illegal logging story<sup>62</sup>**

- A military police officer in Kratie Province threatened to kill two journalists after they took photographs of an allegedly illegal logging operation.
- The journalists, Mr. Ork Ngon and Mr. Thon Sok Kong, identified the officer as Mr. Chea Saing Hong. Khmer-language newspapers did not identify the name of the news outlet that the pair worked for.
- The journalists claim that following their investigation, the officer and his colleagues came into their office, punched Thon Sok Kong in the face, and threatened that they would "disappear" if they continued their investigation. The group later returned and threw rocks at the journalists'

<sup>60</sup> Kim Yuthana, "Trio freed after striking deal with Reporter," Phnom Penh Post, April 7, 2010; LICADHO case No. BM041PA10.

<sup>61</sup> May Titthara, "Journalist summoned to court over photos," Phnom Penh Post, April 8, 2010; Rann Reuy, "Siem Reap reporter testifies," Phnom Penh Post, April 9, 2010.

<sup>62</sup> Nokorwat News, July 29, 2010



13 July 2010  
Ratanakkiri

**CASE STUDY 30**

office, destroying some equipment.

- On July 28, 2010 the journalists filed a complaint in court against Chea Saing Hong accusing him making death threats. It appears that no further action has been taken on the case thus far.

**Journalist's home attacked by armed men<sup>63</sup>**

- On July 13, 2010, at 3:15 a.m., a group of four armed men opened fire on the house of Mr. Sok Kim San, a journalist with Bayon TV and Newspaper. The incident occurred in Laban Seak Sangkat, Banglung City, Ratanakkiri Province.
- No injuries were reported, and the four men fled on motorbikes in the direction of the airport after firing.



16 July 2010  
Phnom Penh

**CASE STUDY 31**

**Opposition author-journalist receives death threats after book ban<sup>64</sup>**

- Pen Puthsaphea, an author and Sam Rainsy Party radio journalist, received a death threat after two of his books were banned by the government.
- An anonymous man called Puthsaphea's mobile phone and warned, "Don't be too strong; and be careful, otherwise you'll be killed."
- The student exam preparation books raised the issue of government corruption and the authorities' failure to respect human rights. Education Minister Im Sithy formally banned the books two days before the death threat.
- One of the textbooks asked questions such as, "In the near future, will Cambodia be able to develop? Why?" and "What do you think of the practice of human rights and freedom in Cambodian society?" The suggested answers state that Cambodia will not be able to develop under the current leadership due to pervasive corruption.



19 July 2010  
Svay Rieng

**CASE STUDY 32**

**Authorities beat man for listening to independent radio stations<sup>65</sup>**

- A deputy village chief and his brother beat a man unconscious in Svay Rieng Province after he was found listening to Voice of America (VOA) and Radio Free Asia (RFA) radio stations. The independent stations are occasionally targeted by Cambodia's ruling-party authorities.
- The attack took place in Keo Ches village, Bantey Trieng Commune, Kampong Rou District. The suspects were identified as village official Mr. Khim Min and his brother, Mr. Khim Ron. The victim was identified as Mr. Oeun Sahouy.
- Mr. Khim Sokha, a Deputy Chief of the district police said his office was investigating.



26 August 2010  
Phnom Penh

**CASE STUDY 33**

**Khmer Krom monk threatened over publication of newspaper<sup>66</sup>**

- Venerable Thach Prey Chea Khoeun, a Khmer Krom Buddhist Monk in Phnom Penh, was threatened by a chief monk and a representative of the Ministry of Interior over his involvement in publishing Prey Nokor, a Khmer Krom-oriented newspaper.
- The monk, who was staying temporarily at Orng Taming Temple in the capital, had his passport confiscated by a chief monk.

<sup>63</sup> RFA News, July 13, 2010.

<sup>64</sup> LICADHO Case No. PP079TH110.

<sup>65</sup> RFA News, Aug. 4, 2010.

<sup>66</sup> RFA News, Sept. 1, 2010; LICADHO research.

- The Ministry of Interior representative told the monk that he needed to stop publishing the newspaper, and asked him to sign a document agreeing to do so.
- The newspaper had already stopped publishing months before in response to prior threats from the authorities.



30 September 2010  
Kampong Speu

### CASE STUDY 34

#### **Union rep hospitalized after being beaten by unknown assailants<sup>67</sup>**

- Union representative Phao Sak was beaten by two men on September 30, 2010 after he tried to negotiate worker bonuses for the Pchum Ben holiday.
- Phao Sak, who was trying to negotiate bonuses for workers at the Generation clothing factory in Kampong Speu province, was attacked while riding his motorbike to the factory. Two unidentified men hit him repeatedly over the head with boards.
- Phao Sak was hospitalized following the attack. He is affiliated with the Free Trade Union, whose leader, Chea Vichea, was assassinated in 2004. The current president of the union, Chea Mony, called the attack “an attempted assassination of a Free Trade Union representative”.
- No suspects have been arrested, but Samrong Thong District Police Chief Khuth Sophal denied the case was an attempted murder. He suggested that it was a “drunken altercation”.

□□□

<sup>67</sup> Heng Reaksmeay, VOA Khmer, “Union rep hospitalized after assault,” Sept. 30, 2010 (available at <http://www.voanews.com/khmer-english/news/Union-Rep-Hospitalized-After-Assault-104097563.html>)

## V. POLITICAL INTIMIDATION

### CASE STUDY 35: HO VANN – ‘INCITING PEOPLE TO LOSE THEIR MIND’<sup>68</sup>

You could say that Ho Vann isn't much for the status quo, but as an opposition party member of parliament, that is probably not surprising.

The Phnom Penh representative, a member of the opposition Sam Rainsy Party, campaigned in 2003 on a platform of change. After his election, he took that pledge to heart, championing the causes of some of his most beleaguered constituents, among them the residents living around Boeung Kak Lake.

The Phnom Penh lake, part of which was a famous backpacker refuge featuring cheap guesthouses and beautiful sunsets, was slated for big changes. The 133-hectare area had been handed over Shukaku Inc., a company belonging to CPP Senator Lao Meng Khin. Shukaku had plans to develop the land, which involved filling in the lake and destroying homes. The fate of the 4,000 families who lived there were in limbo.

This was not the kind of change Ho Vann was thinking of.

He thought there was a risk that filling in the lake would cause regular flooding in Phnom Penh, and wanted an environmental impact carried out before the project went forward. And then there was the issue of his constituents: The company benefiting from this lucrative project was obligated to ensure that the lake residents were resettled.

A local CPP official, Chhay Thirith, responded by lodging a complaint against Ho Vann, accusing him of incitement and of holding an election campaign ahead of schedule and against the election law.

"First, he is inciting the people causing them to lose their mind, lose their security in the local precinct," Chhay Thirith said in 2007, "Second, it is not election time yet, he took the opportunity to hold an election campaign to gain vote."

Ho Vann responded that listening to the concerns of his constituents was his duty as an MP.

\* \* \*

Ho Vann escaped serious consequences for that incident, but shortly before the 2008 general election he was trying to erect a Sam Rainsy Party sign in Russei Keo district when he was met by police forces, who were captured on film tearing down the sign. Ho Vann also claims police beat him with a stick and publicly distributed photos of his bruised leg<sup>69</sup>.

<sup>68</sup> Mondol Keo, "SRP officials accused of holding an election campaign prior to schedule," RFA News, Feb. 18, 2007 (translation available at: <http://www.khmerfuture.com/index.php?name=News&file = article&sid=2488& theme=Printer>); Sok Serey, "Cambodia Daily editor-in-chief convicted for defamation," RFA News, Sept. 22, 2009; Meas Sokchea and James O'Toole, "Court exonerates Ho Vann," Phnom Penh Post, Sept. 23, 2009.

<sup>69</sup> Chiep Mony, "SRP lawmaker files suit for assault", VOA Khmer, March 25, 2008 (translation available at <http://ki-media.blogspot.com/2008/03/srp-lawmaker-files-suit-for-assault.html>); see also KI Media, Police destroyed SRP banner sign and beat up SRP MP Ho Vann as the election approaches (photos of SRP sign being destroyed) (available at: <http://ki-media.blogspot.com/2008/03/police-destroyed-srp-banner-sign-and.html>).

In April 2009, he was targeted again.

On its face, the incident seemed more bizarre than serious: Ho Vann was interviewed by the English-language *Cambodia Daily* and commented on the educational qualifications of 22 military officers. The men had studied in Vietnam, and a quote attributed to Ho Vann questioned the quality of their training.

Ho Vann claimed the paper had misquoted him; he also wrote a letter to the editor stating as much. Nonetheless, on June 22, 2009, the National Assembly voted to strip Ho Vann of his parliamentary immunity from criminal prosecution. The same day, the Assembly also stripped the immunity of fellow SRP MP Mu Sochua so that she could be sued for defamation in a separate case.

On August 9, 2009, Ho Vann was charged with criminal defamation. Two journalists at the *Cambodia Daily* were also charged for printing his comments. At trial, the government prosecutor told the court that Ho Vann had “hurt the reputation of defense officials who are protecting the country and affected the country’s solidarity”.

Under heavy pressure from civil society and international donors, the court acquitted Ho Vann on September 9, 2009. The foreign-born editor of the *Cambodia Daily* was convicted, however, and ordered to pay a fine of 4 million riel (US \$1,000).

But by August 2010, Ho Vann was back in the news.

This time there were rumors that National Assembly deputy Nguon Nhel – a member of the ruling CPP – had 71 “personal advisors” on his staff, including at least one relative<sup>70</sup>. The lawmakers claimed their salaries totaled US \$26,730 per month.

The accuracy of the salary figure may be beside the point, however. Cambodian Centre for Human Rights president Ou Virak told the *Phnom Penh Post* that the sheer number of advisors was a waste of public money. “Everybody in Cambodia knows that these people don’t really report to work – they don’t advise,” he said.

Ho Vann joined 12 other SRP lawmakers in writing to National Assembly President Heng Samrin; they wanted an investigation.

In an interview with the media, Nguon Nhel declined to disclose the number of advisors he employs. He did, however, clearly tell the media that he was considering filing a defamation complaint against the lawmakers.

Meanwhile, Heng Samrin responded to the request by saying that having advisers is “according to the law, the indisputable right of all officials at the leadership level.” Nguon Nhel then backtracked from his threat to sue.

Ho Vann said he was only seeking information.

“We asked so that transparency can be ensured for the National Assembly, parliamentarians and citizens,” he told the *Phnom Penh Post*. “It was only a request for explanation.”

---

<sup>70</sup> Thet Sambath and James O’Toole, “NA deputy responds to opposition barb,” *Phnom Penh Post*, Aug. 31, 2010; Tep Nimol, “Heng Samrin defends deputy,” *Phnom Penh Post*, Sept. 3, 2010.

## No Room for Politics

Ho Vann has yet to be convicted of any offense, but the ruling party has sent him a clear message: Opposition politicians should not count on the shield of parliamentary immunity when they make controversial statements, even if those statements represent political opinions. Political discourse has its bounds, even for elected representatives.

Indeed, Ho Vann's immunity – which should have been automatically restored by virtue of his acquittal<sup>71</sup> – was not returned until March 2010, some six months after his trial.

Ho Vann is not the only parliamentarian to have been stripped of immunity in 2009. Fellow SRP members Sam Rainsy and Mu Sochua also lost their immunity following controversial statements. The intensity of the government's campaign against Sam Rainsy Party members in mid-2009, combined with judicial intimidation tactics against journalists, NGO staff and lawyers, led Human Rights Watch to conclude that the Cambodia was "imposing its most serious crackdown on freedom of expression in recent years" and morphing into an "increasingly authoritarian government."<sup>72</sup>



*Mu Sochua, Member of Parliament from the Sam Rainsy Party.*

Things have only got worse since then. Opposition leader Sam Rainsy has had a number of spurious legal claims directed at him. By September 2010 he had racked up 12 years in prison and thousands of dollars in fines as the result of his conviction in two separate cases (both of which related to the same "border post" incident on the Vietnam border). He still faces a recently-revived defamation lawsuit, which was filed by a CPP official two years ago<sup>73</sup>. A conviction in that suit could result in still more prison time if he refuses to pay court-imposed fines. His convictions, if upheld, render him ineligible to hold a seat in the National Assembly.

Mu Sochua was convicted of defaming prime minister Hun Sen in mid-2009, and lost all successive appeals. She refused to pay the court-imposed fine, and only

escaped imprisonment after the National Assembly was ordered to withhold the amount from her pay.

Meanwhile, the founder of the only other opposition party of note – the Human Rights Party – is also at risk of losing his parliamentary immunity. Kem Sokha, who previously founded the Cambodian Center for Human Rights (CCHR), faces breach of trust charges relating to his previous work at CCHR<sup>74</sup>. The charge was brought by a former CCHR employee who has no apparent connection to the government.

<sup>71</sup> See Law on the Status of Assembly Members (2006), Article 16.

<sup>72</sup> Human Rights Watch, "Cambodia: End Assault on Opposition, Critics," News Release, July 14, 2009 (available at: <http://www.hrw.org/en/news/2009/07/14/cambodia-end-assault-opposition-critics>). Other incidents between June and July 2009 included: (1) the conviction of Hang Chakra, owner of the opposition newspaper *Khmer Machas Srok*, (2) the forced defection to the CPP of Kong Sam Onn, one of the few lawyers who was willing to represent opposition SRP members in court; he was sued by Hun Sen for defamation and threatened with disbarment, which led him to drop representation of Mu Sochua and Ho Vann; (3) the closure of Dam Sith's newspaper, *Moneaksekar Khmer*, one of Cambodia's oldest and most influential opposition papers; he closed his newspaper to avoid criminal prosecution for criticism of government officials; and (4) the conviction of Moeung Sonn, president of the NGO Khmer Civilization Foundation, who was sentenced to two years imprisonment on charges of disinformation after he raised concerns about the effect of installing lights at Angkor Wat.

<sup>73</sup> See Case Study 44.

<sup>74</sup> See Case Study 42.

But the stripping of parliamentary immunity is not the only tactic used to limit political discourse and diversity.

In Kampong Thom, an SRP activist was arrested and charged with forgery after submitting a petition thumbprinted by villagers demanding that authorities return their land<sup>75</sup>. This comes on the heels of the high-profile conviction of SRP commune council member Tout Saran in 2009, also in Kampong Thom. Saran was wrongly convicted of illegally confining a former SRP politician in the run-up to the 2008 elections<sup>76</sup>.

Elsewhere, a local SRP official was charged with defamation and disinformation for criticizing a road work plan – he thought public funds were being used for the benefit of one of the local elites<sup>77</sup>.

Authorities also cracked down on individuals with suspected involvement in two separate distributions of political leaflets<sup>78</sup>. The leaflets criticized the government's relationship with Vietnam, a subject often touched upon by the political opposition.

**Below are summaries of cases involving oppressive government action against individuals who were expressing political opinions or performing political duties:**

<p>▶▶▶ Ongoing - 2010 Svay Rieng</p> <p><b>CASE STUDY 36</b></p>	<p><b>Rainsy convicted of racial incitement after uprooting border posts<sup>79</sup></b></p> <ul style="list-style-type: none"> <li>▪ Opposition party president Sam Rainsy was convicted in absentia on charges of racial incitement and destruction of public property for uprooting marker posts along the Cambodia-Vietnam border. He was sentenced to two years imprisonment. Two Svay Rieng villagers were also convicted and received one-year sentences.</li> <li>▪ Cambodia and Vietnam are in the process of marking their historically vague border, but Rainsy claims that the new frontier caused Cambodian villagers to lose their land. On August 25, 2009, he held a press conference in Svay Rieng Province's Kos Kban Kandal Village. At the event, he joined two villagers in publicly uprooting Border Marker No. 185, which he claimed was illegal.</li> <li>▪ Rainsy's appeal was delayed at numerous points throughout summer 2010, until it was finally denied on October 12, 2010. His two co-defendants saw their sentences reduced by two months on appeal.</li> <li>▪ Sam Rainsy also faces disinformation and forgery charges relating to the incident: he distributed maps showing a Cambodia-Vietnam border line that differed from official government documents [see Case Study 45].</li> <li>▪ He also faces another defamation charge stemming from comments he made about high-ranking government officials in 2008 and 2009 [see Case Study 44].</li> </ul>
--	---

<sup>75</sup> See Case Study 39.

<sup>76</sup> United Nations Office of the High Commissioner for Human Rights in Cambodia, "OHCHR statement on the case of Tout Saran," March 30, 2009, (available at [http://cambodia.ohchr.org/WebDOCs/DocStatements/\\_/2009/032009/StatementOnToutSaran\\_30032009E.pdf](http://cambodia.ohchr.org/WebDOCs/DocStatements/_/2009/032009/StatementOnToutSaran_30032009E.pdf)). The UN statement described the conviction as a "miscarriage of justice decided not on its merits but under political influence."

<sup>77</sup> See Case Study 41.

<sup>78</sup> See Case Studies 17 & 40.

<sup>79</sup> Kampuchea Thmey News, June 6, 2010; Guy De Launey, "Cambodia sentences Sam Rainsy," BBC News, Dec. 22, 2005; Human Rights Watch, "Cambodia: Opposition Leader Sam Rainsy's Trial a Farce," Jan. 28, 2010 (available at: <http://www.hrw.org/en/news/2010/01/28/cambodia-opposition-leader-sam-rainsy-s-trial-farce>); Meas Sokchea, "Sam Rainsy conviction upheld," Phnom Penh Post, Oct. 13, 2010.





9 July 2010  
Kampong Thom

### CASE STUDY 37

#### SRP activists accused of terrorism after filing complaint<sup>80</sup>

- A court in Kampong Thom re-opened a six-year-old case charging four members of the opposition Sam Rainsy Party with terrorism. The accused are Mr. Kim Hong, a Kraya commune councilor; Mr. Ouk Thorn, a councilor in Prasat Balang district; Mr. Kuy Koeun, a Kraya North commune councilor; and Mr. Choum Chiev, also a Kraya North commune councilor.
- The four were initially charged with terrorism in July 2004 after they collected villagers' thumbprints for a petition detailing a rumor that a group called the "Paper Tigers" was planning to inject people with an unidentified substance as they slept. The four called on the Interior Ministry to investigate, but instead were accused of being members of the group.
- The court took no further action until May 2010, when the four were summoned for questioning.
- Rights groups condemned the action as a "clear attempt to intimidate the political opposition". An SRP spokesman said that the four were targeted due to their success in mobilizing local support for the Sam Rainsy Party.



July 2010  
Phnom Penh

### CASE STUDY 38

#### Opposition MP Mu Sochua faces jail for 'defaming' Prime Minister<sup>81</sup>

- The Supreme Court upheld Sam Rainsy Party MP Mu Sochua's conviction for defaming Prime Minister Hun Sen.
- Mu Sochua, an MP from Kampot Province, sued Hun Sen in 2009 after he referred to an unnamed woman from Kampot in a disparaging manner in a public speech. The Prime Minister then filed a counter complaint, claiming Mu Sochua's lawsuit constituted defamation. Mu Sochua was then stripped of her parliamentary immunity.
- The opposition lawmaker's complaint was dismissed, but the Prime Minister's proceeded and resulted in Mu Sochua's conviction in 2009.
- The conviction did not carry prison time, but she was ordered to pay roughly 8.5 million riel (US \$2,000) in compensation to Hun Sen and another 8 million riel in fines. Mu Sochua refused to pay, and was facing up to six months in prison. Ultimately, the money was deducted from her parliamentary salary, and she avoided prison time.



9 August 2010  
Kampong Thom

### CASE STUDY 39

#### Opposition activist arrested on charges of counterfeiting petition<sup>82</sup>

- A Sam Rainsy Party activist was arrested and charged with forgery after submitting a petition thumbprinted by villagers demanding that authorities return their land.
- Mrs. Lem Nat, was arrested by Kampong Thom provincial authorities, who claimed the 400 thumbprints on the petition were fake. Lem Nat currently lives in Leap Tong Village, Banteay Stoung commune, Stoung District. The land was seized by authorities in 2007.
- An SRP spokesman blasted the case as "political" and said that some of the villagers who thumbprinted the petition had since passed away.

<sup>80</sup> Vong Sokheng, "Groups urge court to drop terrorism inquiry," Phnom Penh Post, July 26, 2010; Moneakseka Khmer News, July 8, 2010; VOA News July 9, 2010.

<sup>81</sup> RFA, July 1, 2010; Meas Sokchea, "Sochua fine to be docked from pay," Phnom Penh Post, Aug. 12, 2010; "Mu Sochua Verdict: Another blow to Cambodian Democracy," LICADHO press release, Aug. 4, 2009.

<sup>82</sup> Rasmei Kampuchea News, Aug. 11, 2010.

▶▶▶  
11 August 2010  
Phnom Penh

#### CASE STUDY 40

##### **Police pursue opposition activists suspected of distributing leaflets<sup>83</sup>**

- Police said two Sam Rainsy Party activists were suspected of distributing anti-government political leaflets near Wat Phnom and Hun Sen Park. The leaflets criticized the ruling Cambodian People's Party and said officials were controlled by Vietnam.
- The two activists, Chea Socheab and his wife Chea Daly, later fled to Thailand, but continued to deny involvement in the incident.

▶▶▶  
20 August 2010  
Prey Veng

#### CASE STUDY 41

##### **SRP official to be tried for disinformation after criticizing road work plans<sup>84</sup>**

- A local Sam Rainsy Party official was charged with defamation and disinformation after he made critical comments regarding authorities' plans to expand a public road.
- Mr. Un Sam Ouen, provincial chief of SRP Youth, was due to stand trial on Aug. 20, 2010 but said he would not attend. However, in public comments, he claimed that the road in question runs by the house of a powerful local Okhna, who is pushing for the work. Sam Ouen claims the expansion will encroach on the land of villagers.
- Mr. Hem Hun, chief of Sdoa Kuang Commune, Bar Phnom District, said that Sam Ouen's comments disparaged the commune council.

▶▶▶  
30 August 2010  
Phnom Penh

#### CASE STUDY 42

##### **Opposition party founder faces criminal charges<sup>85</sup>**

- The founder of the opposition Human Rights Party may be stripped of his parliamentary immunity and forced to stand trial on charges stemming from four years ago.
- Kem Sokha, who also founded the Cambodia Center for Human Rights (CCHR), has been accused of embezzling donor funds during his time as head of CCHR. He faces a possible charge for breach of trust, which carries a prison sentence of up to five years.
- The initial complaint was filed by a former CCHR employee who has no apparent connection with the government. However, members of parliament are ordinarily immune from criminal prosecution. The prosecutor in the case has requested that National Assembly strip Kem Sokha of this privilege. National Assembly President Heng Samrin said the parliament must "respect ... legal procedure".
- The Cambodian Constitution states that parliamentarians cannot be prosecuted unless the National Assembly passes a two-thirds vote to suspend their immunity.
- The case was originally filed in 2006, but laid dormant. A fresh complaint was filed on August 30. Sokha was summoned on the same day and denied any wrongdoing, but noted that it was unusual for the court would act so quickly on the complaint. He appeared in court to answer questions on October 21, 2010. Details of the case remained scarce.
- Kem Sokha was previously arrested on charges of criminal defamation after he co-organized a celebration for International Human Rights Day in December 2005. He spent 17 days in prison and was released after pressure from the international community.

<sup>83</sup> RFA News, Aug. 12, 2010; Nokorwat News, Aug. 14, 2010; Meas Sokchea, "Couple flees country over leaflet accusation, Phnom Penh Post, Aug. 19, 2010.

<sup>84</sup> Kampuchea Thmey News, Aug. 20, 2010.

<sup>85</sup> Kampuchea Thmey News, Aug. 31, 2010; Meas Sokchea, "Kem Sokha could lose immunity," Phnom Penh Post, Sept. 7, 2010; Eric Pape, "Freed Cambodian Dissident: 'Yes, I am Afraid,'" Newsweek, Jan. 21, 2006; Meas Sokchea, "Kem Sokha to appear in court," Phnom Penh Post, Oct. 21, 2010; Meas Sokchea, "Kem Sokha appears at court," Phnom Penh Post, Oct. 22, 2010.



2 September 2010  
Phnom Penh

#### CASE STUDY 43

##### **Opposition MP summoned in 2004 defamation case<sup>86</sup>**

- A Phnom Penh Court summoned Sam Rainsy Party MP Chea Poch to appear in court in connection with a 6-year-old criminal defamation complaint, despite his constitutional immunity from prosecution.
- Deputy prosecutor Ek Chheng Huot ordered Chea Poch to appear in court on September 29, but the appearance was cancelled and continued to a later, unspecified date.
- The case stems from an incident in 2004, when former royalist politician Prince Norodom Ranariddh sued Chea Poch and SRP president Sam Rainsy for allegedly stating that he had accepted bribes in exchange for forming a coalition government with the Cambodian People's Party.
- The National Assembly suspended both lawmakers' parliamentary immunity in February 2005, forcing them to flee the country. They returned in 2006 following a political settlement.
- Chea Poch stated that the Assembly restored his immunity and acquitted him of the charges years ago.



9 September 2010  
Phnom Penh

#### CASE STUDY 44

##### **Sam Rainsy summoned in two-year-old defamation case<sup>87</sup>**

- The Phnom Penh Municipal Court has summoned opposition leader Sam Rainsy to face a two-year-old defamation lawsuit brought by Foreign Minister Hor Namhong.
- The comments in question were printed initially in Sam Rainsy's autobiography; he allegedly accused the foreign minister of heading the Khmer Rouge prison at Boeung Trabek. Rainsy repeated the comments during a speech at the Choeung Ek killing fields site on April 17, 2008. The complaint was filed soon after, but the court never acted.
- Sam Rainsy's lawyer said he was curious why the court had suddenly begun processing the case.
- Rainsy has been living in self-imposed exile overseas since 2009.



22 September 2010  
Phnom Penh

#### CASE STUDY 45

##### **Sam Rainsy convicted for more offenses related to Vietnam border<sup>88</sup>**

- Opposition leader Sam Rainsy was convicted in absentia on disinformation and forgery charges for publicly disputing the location of the Cambodia-Vietnam border. The court sentenced him to 10 years imprisonment and a US \$16,000 fine.
- Rainsy was convicted for distributing maps in 2009 that had a different border between Cambodia and Vietnam than the one the government uses. The government prosecutor argued during trial that this amounted to disinformation and falsifying of public documents.
- The maps were distributed in connection with a 2009 incident where Rainsy and two villagers removed posts marking Cambodia's border with Vietnam. Rainsy claimed the border encroached on the villagers' land [see Case Study 36]
- This was Rainsy's second conviction related to the border-post incident. He was earlier convicted of incitement – also in absentia – and was sentenced to two years in prison on that conviction. His appeal was denied on October 12, 2010. Rainsy remains in exile.

<sup>86</sup> Khmer Machas Srok, Sept. 21, 2010; Meas Sokchea, "Lawmaker summoned over old case," Phnom Penh Post, Sept. 22, 2010; Nokorwat News, Sept. 30, 2010.

<sup>87</sup> Meas Sokchea, "Rainsy called back to court," Phnom Penh Post, Sept. 20, 2010.

<sup>88</sup> Meas Sokchea, "Sam Rainsy gets 10 years," Phnom Penh Post, Sept. 23, 2010; Robert Carmichael, "Exiled Cambodian leader sentenced to 10 years in jail," VOA News, Sept. 23, 2010.

## VI. DIPLOMATIC INTIMIDATION

### CASE STUDY 46: CAMBODIA – ‘WE ARE NOT A BANANA REPUBLIC’

The letter was short, but its meaning was clear.

On April 26, 2010, the ministry of foreign affairs wrote to all diplomatic missions accredited to the Kingdom of Cambodia. Their message: Foreign diplomats have a duty not to interfere in the internal affairs of their host state.

“There have been many occasions in which some Heads of diplomatic missions behaved like a ‘Proconsul’ of his/her country to the Kingdom of Cambodia,” the letter stated. “They indulged themselves to criticize or to give lessons to the Royal Government of Cambodia. Such behaviours [sic] are not acceptable ....

“Cambodia is not a ‘BANANA REPUBLIC.’ ”<sup>89</sup>

The letter was distributed not long after the passage of Cambodia’s anti-corruption law, whose lightning-quick passage through the National Assembly was criticized by some international observers, including the UN. Lawmakers were given a week to review the law’s text, and the final vote was taken after less than two days of parliamentary debate. Opposition members walked out, and said the law had little to do with corruption, and everything to do with “political control.”

In this context, UN Resident Coordinator Douglas Broderick issued a statement calling for a more “transparent and participatory” legislative process. Cambodia responded by threatening to kick him out. In a letter to Broderick, Foreign Minister Hor Namhong said the statement was a “flagrant and unacceptable interference in the internal affairs of Cambodia”. The letter went on to say that the repetition of such behavior would result in Broderick being declared “persona non grata” and expelled from the country<sup>90</sup>.

An anonymous source in the Foreign Ministry, meanwhile, told *the Cambodia Daily* that the “Banana Republic” letter was issued in response to remarks about illegal logging made by US Ambassador Carol Rodley. The Ambassador told reporters on April 24, 2010, that she would “welcome government action on forestry destruction. ... I hope that these actions will lead to the arrest and punishment in court of any person who breaks the law.”<sup>91</sup>

Foreign Ministry spokesman Koy Koung said that the letter was not issued to anyone in particular, but rather to remind all diplomats not to “exceed the limit of their mandate”.<sup>92</sup>

The unnamed Foreign Ministry source told the *Cambodia Daily* that Cambodia “has to deal with the logging issue and we don’t need foreign people to tell us”.

<sup>89</sup> Letter from Cambodian Ministry of Foreign Affairs and International Cooperation to “All Diplomatic Missions accredited in the Kingdom of Cambodia,” dated April 26, 2010, No. 807 MFA-IC/DC.

<sup>90</sup> Agence-France Presse, “Cambodia threatens to expel UN envoy,” March 22, 2010; Robert Carmichael, “Cambodia rushes anti-corruption law through parliament,” Radio Australia, March 12, 2010.

<sup>91</sup> *Ibid.*

<sup>92</sup> Agence France-Presse, “Cambodia tells diplomats it is no ‘banana republic,’” April 27, 2010; Andrew Burmon, “Government Warns Diplomats To Avoid Interference, Again,” *The Cambodia Daily*, April 29, 2010.

## Having their Cake and Eating it Too

The statements from Rodley and Broderick were hardly controversial. They were closer to diplomatic platitudes – restrained, carefully-worded, and reflective of conventional wisdom.

Yet the Royal Cambodian Government was clearly perturbed. They felt threatened by a foreign diplomat's calls for the "arrest and punishment" of criminals; by calls for "transparency" and "participation;" and by calls for rule of law. The reaction is telling.

It is true that foreign diplomats normally have limited space in which to publicly criticize domestic affairs of their host country. But the situation in Cambodia is slightly different: Diplomats from large donor countries have good reason to be watchful. The international community has invested enormous sums of money in the reconstruction, development and democratization of Cambodia. It has been estimated that foreign donors contributed over \$5.5 billion in development assistance to Cambodia between 1998 and 2008<sup>93</sup>. In 2010 alone, donors pledged \$1.1 billion<sup>94</sup>.

Many donor nations have invested taxpayers' money in programs to aid Cambodia's democratization, development, rule of law and human rights. They have an interest – indeed an obligation – to ensure the best possible outcomes for these programs.

The United Nations' role, meanwhile, is even clearer: The mandates of the various UN agencies operating in Cambodia call for more direct involvement in the country's domestic affairs. This includes monitoring and reporting on the country's progress in areas such as adherence to international human rights standards. It is hard to argue that Broderick's exceedingly tame comments were outside this mandate.

Unfortunately, the government's reaction to the comments of Rodley and Broderick was not an isolated incident. We documented a handful of other cases during the six-month monitoring period. We are concerned that the current crackdown on freedom of expression is expanding to include the international community, and encroaching upon donor nations' ability to offer constructive criticism of Cambodian government policies.

Successful intimidation of international stakeholders would be disastrous for domestic civil society in Cambodia. International pressure on the government is critical in times of crisis, and in the past has led to the reversal of unpopular, unjust, and unlawful decisions. It is important that the international community stand up to the government's threats.

Moreover, backing down serves no constructive purpose.

When the UN cannot call for "transparency" without being threatened, then perhaps it is time to call the government's bluff.

That time may be coming sooner rather than later. On October 27, 2010 – as this report was being finalized – UN Secretary-General Ban Ki-moon visited Phnom Penh. Prime Minister Hun Sen welcomed him with an ultimatum: Remove Christophe Peschoux from his position as head of the UN's Office of the High Commissioner for Human Rights in Cambodia (OHCHR), or shut down the entire office<sup>95</sup>.

Phil Robertson, Human Rights Watch's deputy director of the Asia division, said the move to eliminate OHCHR was part of Hun Sen's plan to ensure "total impunity for himself and [to]

<sup>93</sup> Brookings Institution, "Aid Effectiveness in Cambodia," Executive Summary, December 2008 (available at [http://www.brookings.edu/papers/2008/12\\_cambodia\\_aid\\_chanboreth.aspx](http://www.brookings.edu/papers/2008/12_cambodia_aid_chanboreth.aspx))

<sup>94</sup> Robert Carmichael, "Foreign donors pledge record sum for Cambodia," Radio Australia, June 4, 2010.

<sup>95</sup> Zsombor Peter and Phorn Bopha, "No More Khmer Rouge Trials, Premier Tells Ban," The Cambodia Daily, Oct. 28, 2010.

consolidate authoritarian power. ... I expect it will only be a matter of time before Hun Sen uses threats and laws to go after and ultimately silence the remaining vocal NGOs, human rights defenders and independent trade unionists who continue to assert their rights and call for justice."<sup>96</sup>

**Below are summaries of cases in which the Royal Government of Cambodia used intimidation tactics against foreign governments and aid organizations in retaliation for their criticism of government policies:**

- |  |   |
|--|---|
| <p>▶▶▶<br/>21 June 2010<br/>Phnom Penh</p> <p><b>CASE STUDY 47</b></p> | <p><b>Prime Minister lashes out at UN Special Rapporteur for "disrespect"<sup>97</sup></b></p> <ul style="list-style-type: none"> <li>▪ Hun Sen blasted the UN Special Rapporteur for Human Rights as "disrespectful" after the envoy said he was "disappointed" that their meeting was cancelled due to the Prime Minister's illness. The Prime Minister also said he would meet with the Rapporteur only once a year in the future, rather than the previous three times per year.</li> <li>▪ Surya Subedi, the UN's Special Rapporteur on Human Rights in Cambodia, paid a visit to the country from June 8-18, 2010. The focus of his visit was the Cambodian judiciary. He was slated to meet with Hun Sen toward the end of the trip, but the meeting was cancelled due to the Prime Minister's illness. A journalist asked if Subedi was "disappointed," and he said that he was.</li> <li>▪ Hun Sen accused Subedi, who is from Nepal, of wanting to "colonize" his country. "I hope he will hear this," Hun Sen said. "I'm ill, I don't need to report to you."</li> <li>▪ Hun Sen said that Subedi should have used the word "regret".</li> </ul> |
| <p>▶▶▶<br/>6 July 2010<br/>Phnom Penh</p> <p><b>CASE STUDY 48</b></p>  | <p><b>Government warns United Nations representative over criticisms<sup>98</sup></b></p> <ul style="list-style-type: none"> <li>▪ The Ministry of Foreign Affairs accused the United Nations Office of the High Commissioner for Human Rights (OHCHR) of exceeding its mandate by criticizing the deportation on July 5, 2010, of two Thai "red shirt" activists.</li> <li>▪ The Ministry warned UNHRO country representative Christophe Peschoux that he had no right to criticize the deportation and that any further criticism would lead to a reevaluation of the agency's presence in Cambodia. Koy Koung, Foreign Ministry spokesperson, indicated that a letter was sent to Peschoux to remind him to adhere to the terms of the Memorandum of Understanding between the UN and the Cambodian government.</li> <li>▪ Peschoux came under fire again in October when Hun Sen ordered the UN to remove him or to close the entire UNOHCHR office [see above].</li> </ul>   |

<sup>96</sup> *Ibid.*

<sup>97</sup> Reuters, "Cambodian PM deplors UN official's 'disrespect,'" June 21, 2010; Sebastian Strangio and Cheang Sokha, "Hun Sen says UN envoy 'lacks respect,'" Phnom Penh Post, June 22, 2010.

<sup>98</sup> Sam Rith and Sebastian Strangio, "Govt warns UN rights head over criticisms," Phnom Penh Post, 9 July 2010; VOA News, July 9, 2010



15 July 2010  
Phnom Penh

**CASE STUDY 49**

**Government warns United Nations to stay out of Mu Sochua case<sup>99</sup>**

- A Cambodian government official lashed out at Navi Pillay, the United Nations High Commissioner for Human Rights, who criticized the Cambodian judiciary's handling of legal proceedings against Sam Rainsy Party lawmaker Mu Sochua. Sochua was convicted in August 2009 of defaming Prime Minister Hun Sen and ordered her to pay a total of 16.5 million riels (around US\$3,928) in fines and compensation.
- The comments were actually made by the spokesman for the High Commissioner. The spokesman stated that Pillay was concerned that the courts were being used as a "blunt instrument" to silence freedom of expression. He went on to say that Sochua's "highly politicized case appears to show an alarming erosion of both freedom of expression and the independence of the judiciary in Cambodia."
- Mr. Phay Siphon, a spokesman for Cambodia's Council of Ministers, rejected the criticism, stating that there was a difference between expressing opinions and defamation. The Sochua case "could happen anywhere in the world," he said.
- A spokesman for the Foreign Ministry said the matter was an "internal affair" and that the UN should refrain from interfering.

□□□

---

<sup>99</sup> RFA News, July 13 & 14, 2010; Phnom Penh Post, July 15, 2010.

## VII. THE JOURNALIST EXTORTION CASES

### The Illegal Logging Crackdown

The details have filled the papers for the better part of a year, but the story is far from clear.

In January 2010, Prime Minister Hun Sen launched a public crackdown on illegal logging in Cambodia<sup>100</sup>. He directly implicated the involvement of senior military leaders and other elites. He named names. He promised harsh sanctions. He called the perpetrators “national traitors.”<sup>101</sup>

The initial action was swift: Authorities announced timber raids almost weekly. The media publicized them. In the first four months of 2010, authorities conducted over 100 raids and confiscated more than 3,000 cubic meters of illegal timber – more than was seized for all of 2009<sup>102</sup>. In April, the Prime Minister went a step further and fired Ty Sokun, the chief of the forestry administration.<sup>103</sup>

But despite the flurry of activity and carefully orchestrated media blitz, authorities consistently remained vague on one subject: The arrest and prosecution of loggers.

In fact, when the sawdust settled and the raids slowed, a paradoxical picture emerged: Between April and July, the Phnom Penh Post reported the arrest of at least 16 journalists and a handful of local officials who were ostensibly investigating illegal logging. These individuals were charged with crimes ranging from extortion to fraud to defamation.

Meanwhile, authorities were uniformly vague about the arrests of timber traders. Despite the crackdown – which presented a perfect opportunity to publicize law enforcement successes – information was scarce.

In March 2010, for example, RCAF deputy commander-in-chief Chea Dara reported the seizure of 400 cubic meters of illicit timber and some luxury vehicles in a handful of provinces<sup>104</sup>. But regarding arrests, he only noted they had apprehended “some offenders.” He did not name names, but noted that authorities were “still hunting for the stubborn high-ranking officials involved in illegal logging.” These individuals were apparently not among “some offenders” arrested.

Perhaps the most notable action came in late March, with the arrests of Chea Sophal – son of Fourth Region Army Commander Chea Morn – and alleged logging kingpin Yeay Mab – also known as Duch Savoeun – in Siem Reap<sup>105</sup>.

But the outcome in their cases was mixed: Media outlets initially reported that Chea Sophal was arrested for illegal logging. Then the story suddenly changed: Later reports stated he was actually arrested for sentencing in a 5-year-old robbery case. His term was 6½ years, but he appealed and was released approximately six months later. We were unable to locate media stories updating

<sup>100</sup> Vong Sokheng and Sam Rith, “PM points finger at corrupt army chiefs,” Phnom Penh Post, Jan. 29, 2010.

<sup>101</sup> Cheang Sokha and Sebastian Strangio, “Timber raids a success: officials,” Phnom Penh Post, March 30, 2010.

<sup>102</sup> “Officials hail success of logging crackdown,” Phnom Penh Post, Feb. 24, 2010; “Timber raids a success: officials,” Phnom Penh Post, March 30, 2010.

<sup>103</sup> Cheang Sokha and Chhay Channyda, “Hun Sen fires forestry director,” Phnom Penh Post, April 7, 2010.

<sup>104</sup> Tep Nimol, “RCAF crack down on logging,” Phnom Penh Post, March 22, 2010.

<sup>105</sup> “Son of 2-star general Chea Morn arrested ... for robbery,” Everyday.com.kh via KI-Media, March 26, 2010 (available at <http://ki-media.blogspot.com/2010/03/son-of-2-star-general-chea-morn.html>); “Army Commander’s Son Arrested For Logging,” DAP News, March 25, 2010; “Alleged Logging Kingpin Nabbed,” DAP News, March 24, 2010. The DAP News stories reported that 12 people had been arrested, with six in pretrial detention, but only named Chea Sophal and Yeay Mab.



Yeay Mab's case, though the Siem Reap prosecutor told the Phnom Penh Post in August that his office did not have any outstanding illegal logging cases<sup>106</sup>.

Days later, then-Forestry Administration Director Ty Sokun stated that numerous cases would go to the courts eventually, but that officials were still investigating the owners of the confiscated wood<sup>107</sup>. Raids had already implicated prominent businessmen, including tycoon Sok Kong, senator and businessman Lao Meng Khin and Ang Try, the owner of the Tiger Beer license for Cambodia<sup>108</sup>. But Ty Sokun immediately made clear that these individuals would not face prosecution. Sok Kong had the proper hardwood licenses, and law enforcement had already determined that there was insufficient evidence against the others<sup>109</sup>.

In April 2010, a raid on a warehouse in Siem Reap uncovered hundreds of cubic meters of suspected illegal wood<sup>110</sup>. The warehouse was located on the grounds of the Cambodian Cultural Village, which is owned by Canadia Bank PLC<sup>111</sup>. No arrests were reported.

Ty Sokun claimed in April that prosecutions were pending against "more than 100 government officials and businessmen," but that only 14 had been arrested<sup>112</sup>. Identities were scarce, however. They included two unnamed "low-ranking military police officers,"<sup>113</sup> three unidentified Pursat forestry officials<sup>114</sup> and three day laborers caught logging, who claimed their boss promised them "impunity".<sup>115</sup> Two other forestry officials – and two staff from a conservation NGO – were summoned by a court in Koh Kong for questioning in June, but were apparently not arrested<sup>116</sup>. A court official in Ratanakkiri also claimed to have summoned "various forestry officials" for questioning in June, but declined to name them<sup>117</sup>.

In some provinces, officials openly admitted that they had made no arrests. More than 20 logging raids in Preah Vihear resulted in zero prosecutions or arrests as of June 2010<sup>118</sup>. In Ratanakkiri, 45 raids also netted zero<sup>119</sup>. The chief prosecutor in Mondulakiri refused to state how many people had been arrested<sup>120</sup>.

In August, Agriculture Minister Chan Sarun made a speech blaming the courts for the lack of prosecutions. He claimed 70 percent of cases had not been to trial<sup>121</sup>. He did not say how many cases were pending.

Court officials, however, contradicted the minister's claims. Chiv Keng, head of the Phnom Penh Municipal Court, said his court and others had "tried almost all the cases."<sup>122</sup> Siem Reap

More than 20  
logging raids in  
Preah Vihear  
resulted in zero  
prosecutions.  
In Ratanakkiri,  
45 raids also  
netted zero.

<sup>106</sup> *Ibid.*

<sup>107</sup> Cheang Sokha and Sebastian Strangio, "Timber raids a success: officials," Phnom Penh Post, March 30, 2010.

<sup>108</sup> *Ibid.*

<sup>109</sup> *Ibid.*

<sup>110</sup> Rann Reuy, "More timber seized in Siem Reap," Phnom Penh Post, April 6, 2010.

<sup>111</sup> *Ibid.*

<sup>112</sup> Cheang Sokha and Chhay Channyda, "Hun Sen fires forestry director," Phnom Penh Post, April 7, 2010.

<sup>113</sup> Cheang Sokha and Sebastian Strangio, "Timber raids a success: officials," Phnom Penh Post, March 30, 2010.

<sup>114</sup> Cheang Sokha and Tep Nimol, "Govt officials arrested in logging bust," Phnom Penh Post, April 5, 2010.

<sup>115</sup> Mom Kunthear, "Loggers say they were promised impunity," Phnom Penh Post, Feb. 10, 2010.

<sup>116</sup> Chrann Chamroeun and Cameron Wells, "Forestry officials summoned," Phnom Penh Post, June 8, 2010

<sup>117</sup> Thet Sambath and Chrann Chamroeun, "Forestry changes planned for Siem Reap," Phnom Penh Post, June 14, 2010

<sup>118</sup> Chrann Chamroeun and Cameron Wells, "Logging raids net no charges in PVihear," Phnom Penh Post, June 9, 2010.

<sup>119</sup> *Ibid.*

<sup>120</sup> *Ibid.*

<sup>121</sup> Khouth Sophakchakrya, "Forestry, fisheries crimes lost in red tape: minister," Phnom Penh Post, Aug. 3, 2010.

provincial court prosecutor Ty Soveinthal told the Phnom Penh Post in August 2010 that his court did not have any outstanding illegal logging cases<sup>123</sup>. He also did not know exactly how many had been tried, but earlier said that most of the raids would not lead to prosecutions because they uncovered only stockpiled timber<sup>124</sup>. Stockpiling unlicensed timber is punishable only by a fine; he said that criminal prosecution would require proof that the wood was illegally procured<sup>125</sup>. He did not explain how illegal timber could be “legally” procured, or whether illegal timber was even considered evidence of illegal procurement.

Meanwhile, despite the crackdown, at least some Cambodians continued to claim that their reports of illegal logging were ignored by the authorities<sup>126</sup>.

### The Crackdown on Reporting

In contrast to the timber raid stories, those detailing the arrest of journalists were usually detailed. The journalists’ names and newspapers were used, as were statements from the alleged victims claiming extortion.

Almost uniformly, these “journalists” were accused of trying to extort money from timber traders. The legal status of these traders was not reported by the authorities, and nor were any of the logging “victims” arrested.

This is not to say that all of these journalists are innocent. Quite the contrary. LICADHO has investigated a number of these cases, some of which involved legitimate journalists falsely accused of extortion. But it is clear that extortion does happen in Cambodia’s forests, and most commonly involves journalists with questionable credentials, some of whom may enter the profession for the sole purpose of extortion. Their targets can extend beyond timber traders<sup>127</sup>.

But extortion by journalists – or phony journalists – is not new in Cambodia nor unique to the timber trade, and LICADHO has documented this phenomenon in the past<sup>128</sup>. What is interesting about the rash of arrests was the timing and scale.

The journalists likely saw an opportunity to exploit the Prime Minister’s call for a crackdown. The authorities’ motives, meanwhile, could have been any number of things:

- There may be an aspect of **legitimate law enforcement**. Extortion among journalists is reportedly quite common, and it is a serious offense – even if the victim is engaged in illegal activity. But does it deserve this level of law enforcement attention during what is supposed to be a crackdown on illegal loggers? More importantly, why are there not more prosecutions of illegal loggers (and others) who beat and threaten legitimate journalists, as has also been

<sup>122</sup> *Ibid.*

<sup>123</sup> *Ibid.*

<sup>124</sup> *Ibid.*

<sup>125</sup> Rann Reuy, “More timber seized from hotels in Siem Reap as raids continue,” Phnom Penh Post, April 13, 2010.

<sup>126</sup> Chhay Channyda and Tep Nimol, “NGOs call for crackdown on illegal logging to be widened,” Phnom Penh Post, April 12, 2010 (quoting a community representative as saying “Some of our villagers have been threatened when we try to protect the forest.”).

<sup>127</sup> See, e.g., Vong Sokheng, “Smuggling Claim: Journalists accused of extortion,” Phnom Penh Post, Aug. 5, 2010 (three journalists arrested in Kampong Cham while investigating a story on cross-border pig smuggling; the reporters were accused of blackmailing a pig vendor and trying to take a policeman’s weapon. A journalists’ group accused police of conspiring with the pig vendor to set up the journalists).

<sup>128</sup> “Reading Between the Lines: How Politics, Money & Fear Control Cambodia’s Media,” a LICADHO report, May 2008, p. 12 (describing so-called “blocking newspapers,” which use blackmail to extort money from prominent figures or businessmen not to publish stories, especially when illegal logging, smuggling, corruption or extramarital affairs are involved. For major scandals the pay-offs can be high – as much as USD\$1,000 for a blocked story according to one senior editor. Some pseudo-journalists will go as far as printing up a few copies of the story on newsprint to clearly show the damaging story. Others take on-the-spot bribes to turn a blind eye to misdeeds.”); see also p. 21, describing the result of a survey among Cambodian journalists; many acknowledge participating in – or knowing of their colleagues’ participation in – corruption.

documented in the media and in this report<sup>129</sup>? And why focus scarce law enforcement resources on the extortion cases alone. Why, for example, were none of the extortion targets investigated or arrested for illegal logging activities?

- There may have been concern that too much media attention would disrupt the carefully orchestrated PR campaign surrounding the crackdown. The government wanted to control the story at all costs. The anti-logging campaign was clearly motivated by a desire to improve Cambodia's image domestically and in international conservation circles.
- And there may have even been a desire to discredit journalists and continue the status quo. Journalists do have a poor reputation among the Cambodian public, and it is consequently not difficult to turn public opinion against them. A campaign to discredit journalists reporting on illegal logging also allows authorities to control the message. They can make it appear that the crackdown is progressing well, when the truth may be somewhat different. Loggers and authorities have certainly tried other ways of controlling journalists, including threats and physical assaults<sup>130</sup>. The use of criminal charges is yet another tool.

What was the real reason for the journalist crackdown? This report does not purport to answer that question. Rather, we simply believe that such a broad crackdown on journalistic activities involving one subject – even if some cases involved criminal activity – deserves to be documented, examined and debated.

To that end, we have provided a collection of journalist-extortion incidents reported in the media during from April to September 2010. This list is not necessarily comprehensive, but it includes a significant portion of the stories reported in the press. Note that the list only includes incidents where journalists were accused of allegedly extorting loggers. It does not include other incidents between journalists and loggers, such as assaults or threats made against journalists. Those incidents are included elsewhere in this report.

□□□

---

<sup>129</sup> See Case Studies 27, 28 & 29.

<sup>130</sup> "Reporters urge govt protection," Phnom Penh Post, Jan. 4, 2010 (reporting on the case of 11 reporters in Oddar Meanchey province who claimed they were detained at gunpoint by RCAF soldiers while investigating a story on illegal logging. The reporters had taken photos of the soldiers loading two trucks with fallen trees. Rak Dou, one of the detained reporters, said it was dangerous to write stories about illegal logging "because the loggers are so powerful."). See also Case Studies 28 & 29.

**Below are summaries of cases involving assault or threats against journalists**

<p>▶▶▶ 5 April 2010 Kampong Cham</p> <p><b>CASE STUDY 1A</b></p> <p><i>Arrested:</i> 4 journalists 1 provincial official</p>	<p><b>Journalists arrested in Kampong Cham after wood vendor claims extortion<sup>131</sup></b></p> <ul style="list-style-type: none"> <li>▪ Four journalists were arrested in Stung Trong district after a wood vendor accused them of attempted extortion. Chea Lyheang, Tong Sophon and Thorng Kimhuoth and Chhy Hok Kimsrean were arrested along with Chhy Hok Kimsrean, the head of Kampong Cham's Rural Development Committee.</li> <li>▪ The vendor, Mey Kim Huon, claimed the journalists threatened to publish stories accusing her of selling illegal wood unless she paid them US\$300. The journalists eventually did publish a story two days later, which alleged Mey Kim Huon's operation was illegal.</li> <li>▪ The journalists deny any wrongdoing and say they were tipped off by a local farmer. They say authorities did nothing to seize the allegedly illegal wood.</li> <li>▪ On May 18, 2010, the five accused filed a defamation lawsuit against Mey Kim Huon. The lawyer for the group also said that her clients intended to file a lawsuit against Mey Kim Houn and six other vendors accusing them of trading in illegal timber.</li> </ul>
<p>▶▶▶ 9 April 2010 Siem Reap</p> <p><b>CASE STUDY 2A</b></p> <p><i>Arrested:</i> 1 journalist</p>	<p><b>Journalist placed in pre-trial detention on extortion and fraud charges<sup>132</sup></b></p> <ul style="list-style-type: none"> <li>▪ Sim Samnang, a journalist for the Koh Santepheap newspaper, was placed in pre-trial detention for accusations of extortion and fraud.</li> <li>▪ The Siem Reap provincial court prosecutor, Ty Soveinthal, indicated that Sim Samnang was suspected of threatening to expose the illegal activities of a timber warehouse unless he was paid a bribe.</li> <li>▪ Sim Samnang proclaimed his innocence, indicating that he had only asked the warehouse owner for the gasoline expenses of other journalists.</li> <li>▪ No trial date was set for the case.</li> </ul>
<p>▶▶▶ 6 April 2010 Siem Reap</p> <p><b>CASE STUDY 3A</b></p> <p><i>Arrested:</i> 1 journalist</p>	<p><b>Journalist held in pretrial detention, suspected of extortion and fraud<sup>133</sup></b></p> <ul style="list-style-type: none"> <li>▪ Khorn Bora, reporter for the Ponleu Thmey newspaper, was held in pretrial detention on April 26, 2010, by order of the Siem Reap provincial court. He was accused of extorting \$300 from the owner of a timber warehouse.</li> <li>▪ A second, unnamed reporter was being sought in connection with this case, by order of Siem Reap deputy court prosecutor Heng Pheng.</li> <li>▪ Hun Pho, the 51-year-old owner of the timber warehouse, complained that Khorn Bora and the other reporter had threatened to tell local authorities she was involved in illegal logging activities unless she paid them a \$1,000 bribe. She said she paid them \$300.</li> <li>▪ Um Sarin, president of the Cambodian Association for the Protection of Journalists (CAPJ), indicated that Khorn Bora denied the allegations.</li> </ul>

<sup>131</sup> Khouth Sophakchakrya, "Wood seller to be sued for defamation," Phnom Penh Post, May 19, 2010.

<sup>132</sup> Rann Reuy, "Reporter charged in bribery case," Phnom Penh Post, April 9, 2010.

<sup>133</sup> Chrann Chamroeun, "Reporter held on suspicion of extortion," Phnom Penh Post, April 26, 2010.

▶▶▶  
24 May 2010  
Siem Reap

#### CASE STUDY 4A

Summoned:  
1 journalist

#### Raksmei Kampuchea Daily journalist summoned to testify at court<sup>134</sup>

- Siem Reap-based journalist Mr. Chea Sros faced charges ranging from kidnapping to extortion after he published a story alleging that a timber trader and soldiers of Brigade No. 5 were involved in illegal logging. Chea Sros works for *Raksmei Kampuchea Daily*.
- He was summoned to appear in Siem Reap-Oddar Meanchey provincial court on June 2, 2010, to answer questions. The article appeared on May 12, 2010. Charges include kidnapping, extortion, physical assault, and disinformation.
- The incident occurred in Prey Kuy village, Sangkat Ampil, Siem Reap Municipality/province.

▶▶▶  
13 July 2010  
Siem Reap

#### CASE STUDY 5A

Arrested:  
4 journalists

#### Four journalists arrested after villagers claim extortion<sup>135</sup>

- Four local journalists were arrested in Siem Reap province on charges that they were trying to extort money from villagers whom they accused of engaging in illegal logging. An investigating judge in Siem Reap ordered them to pretrial detention the next day.
- The journalists were: Chan Saroeum (*Ko Sieng Sin Newspaper*), Moa Sareth, (*Ko Sieng Sin Newspaper*), Norodom Rithy Vong (*Ko Sieng Sin Newspaper*) and Hiem San (*Ta Prom Newspaper*).
- The four journalists were reporting a story on illegal wood trafficking. Villagers claim that they arrived at their homes and asked for cash payments ranging from 30,000 riels to US \$50. The families refused to pay. One of the journalists later reported the villagers to a senior police officer with the Ministry of Interior, claiming that they were hiding 100 cubic meters of illegal timber. Siem Reap authorities investigated and claimed that they found only a small amount of wood.

▶▶▶  
20 July 2010  
Kampong Thom

#### CASE STUDY 6A

Arrested &  
convicted:  
1 journalist

#### Newspaper publisher convicted for using unauthorized license plate<sup>136</sup>

- A newspaper publisher in Kampong Thom was convicted of fraud and extortion for using a press license plate not registered with the Ministry of Interior. He was arrested on July 20, 2010, and convicted on Aug. 4, 2010.
- Khuon Bunhuor, the military police chief in Kampong Thom's Baray District, said the journalist set up "checkpoints" where he would stop wood vendors and demand money. The police said that Horn Dara Huol told vendors he would write damaging stories about them if they did not pay. Police also said that the journalist set up his checkpoints next to police "many times."
- The court sentenced Horn Dara Huol to 24 months imprisonment, with 23 months suspended. However, the prosecutor appealed the verdict, and Huol remains in prison. He publishes the monthly Chhanteak Kuon newspaper.

▶▶▶  
21 July 2010  
Kratie

#### CASE STUDY 7A

#### More journalists arrested on charges of extorting illegal loggers<sup>137</sup>

- seven men were arrested in Kratie Province on July 21, 2010, as part of an apparent crackdown on journalists who extort money from illegal loggers. The seven men included five journalists and two government forestry administrators: Heang Sokun (reporter, Rasmey Isan newspaper), Prak Tha (publisher, Rasmey Isan newspaper), Chhean Bo (reporter, Rasmey Isan

<sup>134</sup> Kampuchea Thmey Daily, May 27, 2010.

<sup>135</sup> Kampuchea Thmey Daily, July 16, 2010

<sup>136</sup> Rasmei Kampuchea News, July 22 & 24, 2010; May Titthara, "Publisher accused of fraud and extortion," Phnom Penh Post, July 23, 2010; May Titthara, "Road regulations: Publisher sentenced for car plate," Phnom Penh Post, Aug. 5, 2010.

<sup>137</sup> Nokorwat News, July 24, 2010; Vong Sokheng, "Journalists complain of illegal detention," Phnom Penh Post, Aug. 16, 2010.

Arrested:  
5 journalists  
2 forestry officials

newspaper), Pin Ra (reporter, Rasmeay Isan newspaper), Yin Sovannara (reporter, Rasmeay Isan newspaper), Sim Tol (Forestry Administration staff), and Theng Sos (Forestry Administration staff).

- Prak Tha claimed that his group was traveling to an area in Chroy Banteay commune where he was told people were loading boats with illegal timber. They came upon suspected illegal loggers and stopped to question them, but were arrested before they could speak. Police also confiscated his car and equipment.
- In August, the Press Council of Cambodia filed a complaint on behalf of Prak Tha, seeking 10 million riel (US \$2,353) in compensation for “loss of honor.” The Council decried the arrest as an undue restriction on press freedom.

▶▶▶  
2 August 2010  
Siem Reap

#### CASE STUDY 8A

Summoned:  
1 journalist

#### Journalist to face charges of extorting owner of lumber warehouse<sup>138</sup>

- A journalist was ordered to appear in court on charges of trying to extort US \$24 from a lumber warehouse owner in 2009. The journalist, Phlong Ret, also faces criminal disinformation charges for publishing articles about the warehouse owner. Phlong Ret formerly worked for Ta Prom newspaper.
- The alleged extortion occurred on December 22, 2009, when about 20 journalists photographed a logging truck that was being escorted by a military vehicle. The warehouse owner, Chan Bol, claims Phlong Ret then asked him for US \$24.
- The journalist, however, alleges that he was beaten by two RCAF Brigade 5 soldiers after taking photos of the trucks.
- Phlong Ret appeared in court on Sept. 16, 2010, and proclaimed his innocence. He said that the complaint was an attempt at revenge after he took the photograph. The case is still pending.

▶▶▶  
17 August 2010  
Kratie

#### CASE STUDY 9A

Convicted:  
2 journalists

#### Publisher fined for defamation after alleging military official was involved in illegal logging<sup>139</sup>

- Two journalists from Kratie Province were convicted of defaming a local military official, and fined 2 million riel (US \$471). They were also ordered to pay 4 million riel (US \$941) in compensation to the plaintiff.
- Neither of the journalists – Chea Chan Prakad (publisher of *Meatophoum* newspaper) and Sun Sophal (the paper’s editor) – appeared in court.
- The pair published an article in April 2009 which was critical of Mr. Meas Sopheap, chief of military Battalion 204, which is stationed in Snoul District, Kratie Province. The article claimed that Meas Sopheap was involved in the illegal timber trade and thus had no incentive to crack down. Meas Sopheap filed a complaint with the court in May 2009 alleging that the journalist violated Article 10 of the Press Law of 1995.
- Om Chandara, president of the Khmer Journalists Friendship Association, said the decision would discourage other journalists from publishing stories about illegal logging.
- At least two other newspapers later published articles detailing Meas Sopheap’s involvement in the timber trade. (*Khmer Amatak News* “Commander of Battalion No. 204, used Army Camp for Keeping Timber,” Jan. 14, 2010 and *Deum Ampil News* “Red Eagle still Transporting Logs without Fear,” March 23, 2010.)

<sup>138</sup> Rann Reuy, “Court calls journalist accused of extortion,” Phnom Penh Post, Aug. 2, 2010; Rann Reuy, “Journalist called to court over extortion,” Phnom Penh Post, Sept. 17, 2010; LICADHO Case No. SP012PA10.

<sup>139</sup> Chrann Chamroeun, “Journalists face fine for defamation,” Phnom Penh Post, Aug. 18, 2010; Khmer Journalist Friendship Association handout.

## VIII. CONCLUSION AND RECOMMENDATIONS

*"This government is testing the international community. When they charged Sam Rainsy and others before me, the reaction from the international community was weak. Many countries said nothing."<sup>140</sup>*

The above words were spoken by Kem Sokha in 2006 after his arrest – and after Sam Rainsy's conviction – on defamation charges. It is remarkable to see how little has changed in 2010: Sam Rainsy has been convicted again, Kem Sokha faces new charges, and a handful of other opposition party politicians face criminal charges as well. It is as if the producers of Cambodia's political theater have resorted to airing re-runs.

But the sense of *déjà vu* is not limited to politics. Police continue violent crackdowns on public protests; journalists are arrested and charged with crimes when they challenge the elite; and community activists face threats, intimidation, and even murder when they speak out.

And things may get worse in the coming months: As this report goes to press, the government is readying a new law to regulate associations and NGOs. Although the government has not released a full draft of the law, excerpts released to the public indicate that the law is designed to control and restrict NGO activities. Depending on its precise content, the law may pose a serious threat to human rights NGOs' ability to speak out against government abuses, and hinder grassroots communities' ability to organize.



*Workers organized a large march in Phnom Penh on May 1. In a hopeful sign, the event was conducted peacefully and without significant interference from the authorities.*

LICADHO and other civil society organizations have warned for years of Cambodia's narrowing space for political discourse. That space is not widening. Cambodia's leadership is increasingly fearful of dissent. The reason for their fear is not hard to deduce.

The ruling elite have consolidated power and harnessed it for their benefit – and the benefits have been lavish. They are loath to part with their privileges, no matter the cost. Rule of law has been supplanted by rule of the powerful. Voting is a charade, and democracy has become an illusion.

But there remain positive signs.

Cambodians may be jaded by generations of corruption, nepotism and tragedy. But they do retain a sense of justice and continue their fight to attain it. The stories in this report are a testament to that fact.

The journalists, NGO leaders, politicians, community leaders, unionists and others profiled in the report knew the risks of their activities. They feared the consequences and faced them. They continue to persevere, nonetheless.

<sup>140</sup> Eric Pape, "Freed Cambodian Dissident: 'Yes, I am Afraid,'" *Newsweek*, Jan. 21, 2006.

"Many are afraid that I will betray my ideals," says journalist and publisher Heng Chakra, who was imprisoned for exposing government corruption.

"To this, I have only one answer: I will try to maintain my position until the end of my life." Chakra and others know the world is watching. They retain their sense of hope, and the belief that Cambodia's democracy does not belong to one group of people or to one political party. It is theirs for the taking.

## Recommendations

LICADHO recommends the following steps to ensure that Cambodians' expressive rights are respected, and that democracy will flourish:

- The Royal Government of Cambodia should that **ensure proper investigations and criminal prosecutions** are conducted in all cases where violence is used to retaliate against Cambodians for exercising their expressive rights. The government must ensure that these **investigations are unencumbered by external interference**.
- Officials and other public figures should demonstrate tolerance of criticism and respect the right to freedom of expression by journalists and others, and **refrain from filing criminal complaints** against them.
- The government must allow and encourage **legitimate police and judicial investigations** into all murders of journalists, human rights defenders, union activists and others whose deaths were related to expressive activities in Cambodia which have occurred since 1993.
- The National Assembly must **refrain from lifting the parliamentary immunity** of members who are exercising their democratic duties or expressing political opinions.
- The government should take steps to **reduce or eliminate the practice of imprisoning individuals who fail to criminal pay fines and monetary judgments**. These provisions discriminate against the poor, and allow prison sentences to be imposed for acts which have been supposedly "decriminalized," i.e., defamation. These laws also unnecessarily burden the prison system, which is already operating at nearly double its intended capacity. Possible solutions include:
  - The **total abolition** of the practice of imprisoning individuals who do not pay criminal fines or monetary judgments;
  - **scaling of fines** based on income, net wealth or ability to pay;
  - instituting gradual **payment plans** and allowing defendants time to pay before resorting to imprisonment; and
  - imposing **community service** or other non-custodial measures in lieu of prison for failure to pay.
- The government must ensure that the **Demonstration Law is not used in a discriminatory fashion**, to prevent certain disfavored groups from peacefully assembling or voicing opinions which run contrary to the ruling party's views. A peaceful gathering to voice disagreements with those in power should not be automatically viewed as a threat to "public order" or "national security." Such terms, along with "good customs of national society," should be narrowly defined when determining whether to authorize a public gathering.



- Local and national authorities should **guarantee that Cambodians' constitutional right to freedom of movement is respected**. Cambodians have a right to travel to attend court hearings and peaceful protests.
- The government should **refrain from publicly airing its private grievances** with the international community. The government's practice of lobbing crude threats and insults at foreign critics only damages Cambodia's standing in the international community.
- The government should take steps to ensure that the ongoing crackdown on illegal logging activities does not result in the arrest of journalists conducting legitimate investigations.

□□□

## ANNEX I: Old (UNTAC) Penal Code Provisions Used to Limit Expressive Freedoms

### Incitement leading to the commission of a felony (Article 59 of the UNTAC Law)

Elements	Prison	Fine <sup>141</sup>	Successor Law/Notes
<p>1) speech, shouts or threats in a public place or meeting, or by writings, publications, drawings, engravings, paintings, emblems, films or any other mode of writing, speech, or film that is sold, distributed, offered for sale or displayed in a public place or meeting, or by signs or posters displayed in public, or by any other means of audiovisual communication;</p> <p>2) that directly incites one or more persons to commit or attempt to commit a felony.</p>	Yes (creates liability as accomplice to the underlying felony or attempted felony)	Yes (depends on underlying felony)	Article 495

### Incitement not leading to the commission of a felony or misdemeanor (Article 60 of the UNTAC Law)

Elements	Prison	Fine	Successor Law/Notes
<p>1) Incitement of the commission of a felony or misdemeanor;</p> <p>2) without the offense actually being committed;</p> <p>3) by the means listed in Article 59.</p>	Yes (1 to 5 years)	Not specified	Article 495

<sup>141</sup> The UNTAC penal code permitted fines to be imposed in addition to or in lieu of a prison term.

**Incitement to discrimination (Article 61 of the UNTAC Law)**

Elements	Prison	Fine	Successor Law/Notes
1) Provocation of national, racial or religious hatred;	1 month to 1 year	1 million to 10 million riel	Article 496
2) constituting incitement to discrimination, hostility or violence;			
3) by the means in Article 59.			

**Disinformation (Article 62 of the UNTAC Law)**

Elements	Prison	Fine	Successor Law/Notes
1) Publication, distribution or reproduction of;	6 months to 3 years	1 million to 10 million riel	<p>Abolished in name, however Article 495 (Incitement to Commit a Crime) permits prosecution for similar acts. Article 495 may, in fact, make some prosecutions easier because it does not contain a requirement that the information be “false, fabricated or falsified” and that the distribution be done in bad faith with malicious intent.</p> <p>Article 495 merely requires that a person (1) to directly provoke the commission of a crime <i>or an act that creates serious turmoil in society</i>, (2) by means of a) speech taking place in public place or a public meeting, b) a writing or drawing shared to the public <i>or exposed to the public view</i>, c) audiovisual telecommunication intended for the public.</p> <p>Article 62’s “disturbance of the public peace” has been broadly defined by the courts, as demonstrated by several case studies in this report. The phrase “serious turmoil” in Article 495 of the new code seems susceptible to a similarly broad interpretation.</p>
2) information which is false, fabricated, falsified or untruthfully attributed to a third person;			
3) done in bad faith and with malicious intent;			
4) publication, distribution or reproduction has disturbed or is likely to disturb the public peace.			

**Defamation and libel (Article 63 of the UNTAC Law)**

<b>Elements</b>	<b>Prison</b>	<b>Fine</b>	<b>Successor Law/Notes</b>
<p><b>Defamation:</b></p> <p>1) Bad faith allegation or imputation of a given fact;</p> <p>2) which harms the “honor or reputation” of an individual.</p> <p><b>Libel:</b></p> <p>1) Any insult, contemptuous remark or abusive language;</p> <p>2) which does not claim to impute fact.</p>	<p>No (except for unpaid fine: up to 6 months for 10 million riel; max term of 2 years if total fine/compensation is 50 million riel or more)</p>	<p>1 million to 10 million riel [for defamation made by means specified in Art. 59, e.g., public speech, writings, publications]</p>	<p>Articles 305 (defamation) &amp; 307 (libel)</p>

□□□

## ANNEX II: New Penal Code Provisions which May be Used to Limit Expressive Freedoms

### Public defamation (Article 305)

Elements	Prison	Fine <sup>142</sup>	Notes & supplementary punishments
<p>1) Bad faith allegation or imputation of a fact;</p> <p>2) which harms the “honor or reputation” of an individual <i>or an institution</i>;</p> <p>3) by means of: a) speech taking place in public place or in a public meeting, b) a writing or drawing shared to the public <i>or exposed to the public view</i> c) audiovisual telecommunication intended for the public.</p>	No	100,000 to 10 million riels	<p>For defamation against government officials, public servants or citizen with a public mandate, prosecution will occur upon their complaint <i>or</i> a complaint from their attached ministry.</p> <p>In case of defamation against a private citizen, prosecution will only occur upon the complaint by the defamed person. However, a prosecution can be triggered by the prosecutor if the defamation is committed against a private citizen’s ethnicity, nation, race or religion.</p> <p>The phrase “exposed to the public view” implies that an individual could face criminal prosecution for private comments which were later “exposed” to the public without his knowledge or consent. This phrase recurs throughout the code.</p>

### Public insult (Article 307)

Elements	Prison	Fine	Notes & supplementary punishments
<p>1) Outrageous terms, expression of contempt or invective;</p> <p>2) with a nonfactual imputation;</p> <p>3) communicated by means of a) speech taking place in public place or in a public meeting, b) a writing or drawing shared to the public <i>or exposed to the public view</i> c) audiovisual telecommunication intended for the public.</p>	No	100,000 to 10 million riels	See note re “exposed to the public view” above.

<sup>142</sup> All fines listed in this section are mandatory and are levied *in addition to* the prison sentence. This is a departure from the UNTAC code, which gave judges the option of imposing fines, but did not require them. This is significant, given that the Code of criminal procedure authorizes up to an additional two years of imprisonment for unpaid fines. In addition, the fine remains after service of the additional prison term. The person may not be re-imprisoned, but they must still pay the fine.

**Slanderous denunciation (Article 311)**

Elements	Prison	Fine	Notes & supplementary punishments
<p>1) Denunciation by communication of a fact known to be false;</p> <p>2) which could lead to penal or disciplinary sanctions;</p> <p>3) addressed to a competent authority (e.g. prosecutor, judicial police officer, employer) or any person capable of filing a complaint with the relevant authority.</p>	1 month to 1 year	100,000 to 2 million riels	<p>Prosecution must occur within one year from the date the competent authority received the complaint or the day the complaint was filed.</p> <p>In the event that the denunciation triggers penal procedures, the slanderous denunciation investigation shall be suspended until the conclusion of said penal procedures.</p>

**Incitement to commit a crime (Article 495)**

Elements	Prison	Fine	Notes & supplementary punishments
<p>1) to directly provoke the commission of a crime <i>or an act that creates serious turmoil in society</i>;</p> <p>2) by means of a) speech taking place in public place or a public meeting, b) a writing or drawing shared to the public <i>or exposed to the public view</i>, c) audiovisual telecommunication intended for the public.</p>	<p>6 months to 2 years (for incitement <u>not</u> leading to crime);</p> <p>2 to 5 years (for incitement leading to crime)<sup>143</sup></p>	<p>1 million to 4 million riels (incitement <u>not</u> leading to crime)</p> <p>4 million to 10 million riels (incitement leading to crime)</p>	<p><u>Supplementary punishments</u> include indefinite suspension of "certain" unspecified "civil rights". LICADHO is concerned that these could include the rights to vote, public speech, movement, and so on.</p> <p>Incitement under the prior code specifically required a crime, an attempted crime (or at least an apparent intent to incite a crime). The new code requires only the incitement of "turmoil in society." In this way it is similar to the former disinformation provision, which criminalized certain "malicious" disturbances of "the public peace" (see UNTAC Code Article 62).</p>

<sup>143</sup> No term of imprisonment for "incitement leading to a crime" (or incitement "with effect") was provided in the final Khmer version of the code we obtained. This punishment is taken from earlier version of the French translation. The code has not yet been translated into English. Note that the final Khmer version of the code does provide separate fines for incitement leading to a crime and not leading to a crime.

### Incitement to discrimination (Article 496)

Elements	Prison	Fine	Notes & supplementary punishments
<p>1) to directly provoke discrimination, hatred, or violence against a person or a group in relation to their ethnicity, nation, race, or religion;</p> <p>2) by means of a) speech taking place in public place or in a public meeting, b) writing or drawing shared to the public <i>or exposed to the public view</i>, c) audiovisual telecommunication intended for the public.</p>	<p>Incitement “with effect”: Not specified [see note]</p> <p>1 year to 3 years (incitement “without effect”)</p>	<p>incitement “with effect”: Not specified [see note]</p> <p>2 million to 6 million riels (incitement “without effect”)</p>	<p><u>Supplementary punishments</u>: Same as Art. 495.</p> <p>The Khmer and French versions of the code both specify punishments only for incitement “without effect.” Neither version lists a punishment for incitement “with effect.” This would appear to be an oversight on the part of the drafters or a printing error.</p> <p>Further complicating matters, a conviction under Article 496 does not require the commission of a crime, so there is no clear delineation between what would be racial incitement “with” and “without” effect. The provision itself does not specify elements for two separate crimes.</p> <p>One clue could lie in the first portion of the text, i.e., the requirement that a defendant must “provoke discrimination, hatred, or violence.” Discrimination and violence are objective and observable events. “Hatred” is less so, and could perhaps be considered racial incitement “without effect.” Still, it is unclear how courts will determine whether a defendant “provoked hatred,” a subjective emotional response.</p>

### Contempt (Article 502)

Elements	Prison	Fine	Notes & supplementary punishments
<p>1) An act, a gesture, a writing, a drawing or an object that affects the dignity of a person;</p> <p>2) must be addressed to a public official or a citizen with a publicly elected mandate.</p>	<p>1 to 6 days</p>	<p>1,000 to 100,000 riels</p>	<p>The elements of the crime are vague and highly subjective; taken to the extreme the article essentially criminalizes all acts which hurt the feelings of public officials.</p> <p>LICADHO is concerned that this provision may be used in land evictions to briefly detain community activists – who may well insult police trying to evict them – while their land is seized.</p>

**Publication of comments intended to influence a court (Article 522)**

Elements	Prison	Fine	Notes & supplementary punishments
<p>1) Publication of comments to pressure a court with the view of influencing its decision;</p> <p>2) must take place before a definitive judicial decision.</p>	1 to 6 months	100,000 to 1 million riels	<p><u>Supplementary punishments</u> include indefinite suspension of “certain” unspecified “civil rights”. LICADHO is concerned that these could include the rights to vote, public speech, movement, and so on.</p> <p><u>Other supplementary punishments</u> include: (1) Expulsion from a profession if the crime occurred in the course of duties in that profession; and (2) confiscation of instruments, material or any object that aided the commission of the crime. LICADHO is concerned that this law could be used to improperly remove teachers, lawyers, journalists and others from their profession. The confiscation clause could lead to retaliatory seizures of items such as computer equipment, vehicles, printing presses and just about any property owned by the offending party.</p> <p>The provision could effectively criminalize public advocacy by NGOs and others, who frequently make statements regarding pending trials.</p>

**Discrediting a judicial decision (Article 523)**

Elements	Prison	Fine	Notes & supplementary punishments
<p>1) Criticizes a judicial act or decision;</p> <p>2) which aims to affect public order or endanger Cambodian institutions.</p>	1 to 6 months	100,000 to 1 million riels	<p><u>Supplementary punishments</u>: Same as Art. 522.</p> <p>This provision quite simply aims to criminalize criticism of court decisions. The requirement that the statement “affect public order or endanger Cambodian institutions” is exceedingly vague and susceptible to manipulation by the courts.</p> <p>The definition of “judicial act” is not clear, but is distinct from “judicial decision,” listed separately. We are concerned that courts will stretch this provision to include literally anything the judiciary does, and thus criminalize all criticism of the judiciary. Under this interpretation, UN Special Rapporteur Surya Subedi could become an outlaw if he continues his criticism of the Cambodian judiciary.</p>



**False denunciation to judicial authority (Article 524)**

Elements	Prison	Fine	Notes & supplementary punishments
1) act of delivering a false denunciation;  2) to a judicial or administrative authority.	1 to 6 months	100,000 to 1 million riels	<p data-bbox="1205 268 2051 303"><u>Supplementary punishments:</u> Same as Art. 522.</p> <p data-bbox="1205 335 2051 534">LICADHO is concerned that this provision will be abused to punish whistleblowers, whether they are exposing corruption, filing a criminal complaint against a powerful person, or accusing police of torture during interrogation sessions. Given the corruption still pervasive in Cambodia's judiciary, any of these acts exposes the complaining individual to possible prosecution.</p>

