

# CAMBODIA: ATTACKS ON FREEDOM OF EXPRESSION & POLITICAL RIGHTS

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**LICADHO**

CAMBODIAN LEAGUE FOR THE PROMOTION  
AND DEFENCE 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 the rights in Cambodia and to promote respect for civil and political rights by the Cambodian government and institutions. Building on its past achievements, LICADHO continues to be an advocate for the 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 its six program offices:

- The Human Rights Education Office provides training courses to target groups such as government officials, students, monks and provides dissemination sessions to the general public.
- The Monitoring Office investigates human rights violations and assists victims in the legal process. Specially trained staff also monitors 18 prisons to assess prison conditions and ensure that pre-trial detainees have access to legal representation.
- The Medical Office provides medical assistance to prisoners and prison officials in 18 prisons and provides medical care and referrals to hospitals for victims of human rights violations.
- Project Against Torture provides comprehensive rehabilitation services to victims of torture and conducts advocacy against torture.
- The Children's Rights Office educates the public on children's rights, creates child protection networks at the grassroots level, and investigates children's rights violations.
- The Women's Rights Office educates the public about women's rights, investigates women's rights violations and advocates for social and legal changes.

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### ***Background Information***

Freedom of expression and other democratic rights are under dire threat in Cambodia, as the government continues to use the judiciary to imprison its critics and political opponents. Prominent human rights activists, journalists and trade unionists, as well as opposition members of parliament, have been targeted in a series of government-initiated prosecutions.

At time of writing, four individuals are in prison in Phnom Penh awaiting trial on criminal defamation charges related to the expression of opinions about the government or its leaders, and a fifth one was detained but later released on bail. At least six others have fled Cambodia, or have not returned from scheduled trips abroad, in order to avoid arrest on similar charges. The opposition party leader – who fled Cambodia nearly a year ago after his parliamentary immunity was lifted – was recently sentenced *in absentia* to 18 months' imprisonment for defamation. In addition, a senior opposition parliamentarian is serving a seven-year prison sentence after his widely-criticized conviction by a military tribunal for plotting to create an illegal army.

The defamation prosecutions – and widespread rumors of further imminent arrests and detentions – have had a chilling effect, as civil society organizations and others grow increasingly fearful of expressing opinions about the government.

The arrests have heightened long-standing concerns about government interference in the judiciary in Cambodia. All of the recent criminal defamation charges have been based on complaints filed by the government or its leaders. Most relate directly to opinions expressed about Prime Minister Hun Sen of the dominant Cambodian People's Party (CPP), and in particular to criticisms of his government over controversial Cambodia-Vietnam border issues.

The crackdown on freedom of expression, which follows three years of severe restrictions on freedom of assembly, marks a continuing backward slide in Cambodia's democratization and efforts to promote human rights, rule of law and judicial independence. The hard-won steps which have been made toward human rights and pluralistic democracy – including an active civil society, a vibrant news media, and a political opposition which is a vital part of any democracy – are in danger of being lost.

### ***Persons arrested to date:***

- **Mam Sonando**, owner and director of the independent Beehive Radio station, was arrested October 11, 2005 for broadcasting an interview with a Cambodian activist in France who criticized a Cambodia-Vietnam border treaty to be signed by Prime Minister Hun Sen. The interview was broadcast September 20, prior to Hun Sen's signing of the treaty October 10. During the interview, which he conducted himself, Mam Sonando did not express criticism of the treaty and at times challenged the views of the interviewee. Mam Sonando was initially charged under Cambodian criminal law with defamation<sup>1</sup> (which carries a maximum one-year prison sentence) and later with disinformation (up to three years in prison) and "incitement of others to commit a criminal offense without the offense being committed" (one to five years' imprisonment). The charges result from complaints filed against him by the government and the National Assembly.

Peter Leuprecht, the then UN Secretary-General's Special Representative for



**MAM SONANDO**  
Beehive Radio Owner  
and Journalist

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<sup>1</sup> The government filed a defamation complaint under the 1992 penal code (known as the UNTAC law), rather than a civil complaint under the subsequent Press Law. The government's use of the criminal defamation provisions against news media has attracted criticism in the past; advocates for freedom of the press have argued that the civil Press Law contains adequate provisions - including court-ordered retractions and monetary compensation - to redress legitimate grievances against the press.

Human Rights in Cambodia, described Mam Sonando's arrest as procedurally illegal,<sup>2</sup> as it was made on the basis of a "writ of *habeas corpus*" issued by Phnom Penh Municipal Court. Such writs can only be lawfully issued when an accused fails to appear before the court after having received a properly-communicated summons, which did not occur. The UN Representative also noted that Mam Sonando was detained in prison on the order of a judge who did not provide the legal grounds for that decision, as required by Cambodian law.

Questions have also been raised about the additional charge of criminal incitement filed against Mam Sonando. Under Cambodian law, a charge of incitement must relate to a specific crime covered by the penal code. It is unclear what crime Mam Sonando is alleged to have incited; at no point in his interview with the Cambodian activist in France did either man urge anyone to commit a crime.

- **Rong Chhun**, president of the Cambodian Independent Teachers Association, was arrested October 15, 2005 in Banteay Meanchey province while trying to cross into Thailand to seek asylum. He was arrested in connection with an October 11 press statement signed by him and three other members of the Cambodia Watchdog Council, a coalition of trade unions and associations. The statement related to Hun Sen's signing of the Cambodia-Vietnam border treaty. Rong Chhun was charged with defamation and incitement of others to commit a crime without that crime being committed. The government filed the complaint against him and three other signatories of the October 11 statement.



**RONG CHHUN**  
*Teachers' Association  
President*

Peter Leuprecht, the UN Special Representative for Human Rights, described Rong Chhun's arrest as procedurally illegal, for the same reasons as that of Mam Sonando. The UN envoy also questioned why Rong Chhun was charged with incitement, noting that "the [Cambodia Watchdog Council] statement of October 11 does not contain references to any acts that could be construed as amounting to a criminal offence".<sup>3</sup>

- **Kem Sokha**, president of the Cambodian Center for Human Rights (CCHR), a non-government organization, was arrested in Phnom Penh on December 31, 2005. He was arrested in connection with a banner displayed at a CCHR booth at International Human Rights Day celebrations held in Phnom Penh on December 10. The banner, which had previously been circulated around CCHR public forums held around the country around the time of the 2003 national elections, contained small hand-written comments by Cambodian villagers expressing political opinions. One such comment allegedly criticized Hun Sen and referred to Cambodian land being lost to Vietnam.



**KEM SOKHA**  
*CCHR President*

Kem Sokha was arrested in the same manner as Mam Sonando and Rong Chhun, on the basis of a writ of *habeas corpus* issued by Phnom Penh Municipal Court. He has been charged with defamation, based on a complaint made by the government. (As well as defamation, the government alleged he had committed incitement; it is unclear whether he may also be charged with this in the future.)

- **Yeng Virak**, executive director of the Community Legal Education Center (CLEC), arrested the same day as Kem Sokha for the same reason. Yeng Virak was chairman of the organizing committee of civil society groups which arranged the December 10 International Human Rights Day celebrations. He was arrested on basis of a writ of *habeas corpus*, following a government complaint, and has been charged with defamation.



**YENG VIRAK**  
*CLEC Executive  
Director*

<sup>2</sup> October 20, 2005 statement by Peter Leuprecht, Special Representative of the Secretary-General for Human Rights in Cambodia.

<sup>3</sup> October 20, 2005 statement by Peter Leuprecht.

- **Pa Nguon Teang**, director of CCHR's radio division, who was arrested in Stung Treng province near the Laos border on January 4, 2006, in connection with the banner displayed at International Human Rights Day. He was reportedly arrested on the orders of the Ministry of Interior, and no court-ordered arrest warrant or writ of *habeas corpus* was shown. A government spokesman said Pa Nguon Teang was brought in for "questioning and consultation", adding that he had not been charged with any crime at the time of arrest. Pa Nguon Teang was taken to Phnom Penh Municipal Court the following day, where he was charged with defamation.



All but one of the individuals above are currently detained in Phnom Penh's Prey Sar prison awaiting trial. Bail applications for Mam Sonando, Rong Chhun and Kem Sokha have been refused by the Phnom Penh Municipal Court (and by the Court of Appeal in the cases of Mam Sonando and Rong Chhun). Yeng Virak was released on bail January 11, 2006, following strong international and domestic criticism of the wave of arrests. At time of writing, a bail application had yet to be made for Pa Nguon Teang.

The arrests have attracted widespread condemnation, including from UN officials, the United States and other governments, the World Bank, and international and Cambodian non-government organizations.

#### *Persons in danger of arrest if they return to Cambodia:*

The following six persons, who are currently not in Cambodia but will almost certainly be arrested and detained if they return, have also been charged with defamation and/or related charges following complaints filed by the government:

- **Ear Channa**, deputy secretary general of the Student Movement for Democracy, who signed the October 11 Cambodia Watchdog Council statement along with Rong Chhun and others. Ear Channa fled to Thailand to seek refugee status with UNHCR, and the Cambodian government has filed a request for Thailand to extradite him back to Cambodia to face charges.
- **Men Nath**, president of the Cambodian Independent Civil Servants Association, who also signed the October 11 statement. Men Nath fled to Thailand; the Cambodian government is seeking his extradition.
- **Chea Mony**, president of the Free Trade Union of Workers of the Kingdom of Cambodia<sup>4</sup>, the fourth signatory to the October 11 press release. He escaped arrest because he was in Europe attending a human rights defenders conference at the time of the complaint against him, and remains abroad.
- **Sean Pengse**, the Cambodian activist living in France whose interview on Beehive Radio by Mam Sonando led to the latter's arrest. Sean Pengse is a former Cambodian Minister of Industry and president of the Cambodia Borders' Committee, a Paris-based private organization that monitors border issues.
- **Prince Sisowath Thomico**, private secretary to former King Norodom Sihanouk, who wrote a commentary on border issues posted on King Sihanouk's website. Prince Thomico has fled to China.
- **Dr. Say Bory**, a former member of Cambodia's Constitutional Council and a former president of the Cambodian Bar Association. The Phnom Penh court has reportedly issued an order for police to

4 Chea Mony succeeded his brother Chea Vichea, who was assassinated in January 2004, as union president. In August 2005, two men were convicted of Chea Vichea's murder in a trial widely criticized for lack of evidence. The convictions were based almost entirely on an initial confession given by one of the accused, which he later recanted, saying that police had beaten it out of him. At the trial, multiple witnesses provided an alibi for this accused, stating that he was at a village more than 50km from the murder scene on the day of the crime. He and his co-accused were nevertheless convicted and sentenced to 20 years' imprisonment.

detain Dr. Say Bory for questioning on a charge of complicity in disinformation, in connection to alleged comments he made about the Cambodia-Vietnam border. He is currently overseas.

***Prosecutions of opposition Sam Rainsy Party officials:***

Since the 2004 formation of a new coalition government by the CPP and FUNCINPEC<sup>5</sup>, the Sam Rainsy Party (SRP) has been targeted for criminal prosecutions. The immunity of three SRP parliamentarians, including leader Sam Rainsy, was lifted in February 2005 and prosecutions mounted against each of them:

- **Cheam Channy** was convicted and sentenced to seven years imprisonment in August 2005 for the alleged creation of an illegal army. The prosecution related to the SRP's formation of shadow government ministries, modeled on those established by opposition parties in the UK, Australia and other parliamentary democracies, to monitor government performance. Cheam Channy headed the shadow ministry covering military and security affairs, which the prosecution alleged constituted an illegal armed force. No evidence of the possession of arms or the plotting of any violent act was presented at his trial. He was illegally tried in Cambodia's Military Court, which has no jurisdiction over civilians such as him. The trial judge refused to permit defense witnesses to testify or to allow the defense to cross-examine prosecution witnesses. The UN Working Group on Arbitrary Detention has stated that Cheam Channy's detention is arbitrary and violates the International Covenant on Civil and Political Rights. Cheam Channy is serving his sentence in Cambodia's Military Prison, where other inmates include notorious Khmer Rouge leader Ta Mok.
- **Sam Rainsy**, the opposition leader who fled Cambodia when his immunity was lifted and has not since returned for fear of arrest, was convicted *in absentia* of criminal defamation on December 22, 2005. He was sentenced to a total of 18 months imprisonment and US\$14,000 in fines and compensation, on two charges of defamation. The first charge related to a lawsuit he had filed against Hun Sen alleging he was responsible for a deadly grenade attack on a SRP rally in Phnom Penh in 1997. The second related to Rainsy's public allegations that FUNCINPEC president Prince Norodom Ranariddh had accepted bribes in order to agree to form a coalition government with CPP following the 2003 elections.
- **Chea Poch** currently faces a charge of defamation related to alleged comments he made about Prince Norodom Ranariddh accepting bribes to form a coalition government. He remains at liberty pending trial.

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<sup>5</sup> The new government was formed in July 2004 after a year-long political deadlock during which the royalist FUNCINPEC party - which has formed coalition governments with the CPP since 1993 - aligned itself with the opposition SRP and rebuffed CPP efforts to form a new coalition. FUNCINPEC eventually relented, broke with the SRP and formed a government with CPP.