

# CAMBODIA

NGO assessment of the follow-up actions of the State party in implementing UN Human Rights Committee's recommendations

## Name of assessing NGO(s)

- **Cambodian Human Rights Action Committee (CHRAC)**
  - **Cooperation Committee for Cambodia (CCC)**
  - **Cambodian Human Rights and Development Association (ADHOC)**
- **Housing Rights Task Force (HRTF)**

23 February 2016

The **2nd periodic report of Cambodia** on the State's compliance with the International Covenant on Civil and Political Rights (ICCPR) was **reviewed by the UN Human Rights Committee** (the Committee) at the Committee's 113<sup>th</sup> session in **March 2015**. As the result of the review, the Committee issued its Concluding Observations (CCPR/C/KHM/CO/2) with recommendations to the State party. The Concluding Observations also states in paragraph 30 that *"In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 11, 13 and 21"*.

The recommendations made in these three paragraphs are selected by the Committee for its follow-up procedure ("**follow-up recommendations**"), as they are **implementable within a year** and/or **require immediate attention**.

Information provided by the State party on the implementation of the follow-up recommendations (**due in March 2016**) will be further assessed by the Committee, whereby grades are also given to the action / reply of the State party (see the grades and criteria of the HR Committee at the end of this document).

This assessment form was developed by the Centre for Civil and Political Rights (CCPR) in order to facilitate civil society assessment of the implementation of follow-up recommendations by the State party and more effectively contribute to the Committee's follow-up procedure. Information was compiled on behalf of above listed Cambodian NGOs by In-Country Consultant **Mr Billy Chia-Lung TAI** and Research Assistant **Ms Helena KOPECKÁ**. Over 20 local NGOs were consulted in the preparation and research of this assessment.

### Current situation

Date of examination of the State Report by the HR Committee	17 and 18 March 2015
Deadline for the submission of the follow-up report by the State Party	31 March 2016
Calendar for the follow-up procedure of the HR Committee	

## Summary of the assessment

<b>Recommendation in par. 11</b>	<b>Overview</b>
<p>The Committee recalls its previous recommendation (CCPR/C/79/Add.108, para. 11) that the State party has an obligation to investigate all cases of past human rights violations, in particular violations of article 6 of the Covenant, prosecute the perpetrators and, where appropriate, punish them and provide compensation to the families of the victims.</p>	<p>There has been very little progress in the investigation of the journalists' deaths outlined in the Human Rights Committee's Concluding Observations. No new development has been made by the RGC in the investigation of the rest of the twelve cases of journalist killings since 1994 that remain unsolved.</p>
<b>Recommendation in par. 13</b>	<b>Overview</b>
<p>The State party should establish an independent complaints mechanism with the authority to investigate all reported allegations of and complaints about acts of torture and ill-treatment.</p>	<p>Despite provisions in Cambodian laws that establish the right of all prisoners to complain about cases of torture or ill-treatment, the situation has not changed since the publication of the Concluding Observations.</p>
<p>It should also ensure that alleged perpetrators of these crimes are prosecuted and that the victims are adequately compensated.</p>	<p>No progress can be seen. There are still no legislative frameworks that will compensate any victims of torture and ill-treatment. Interior Ministry Spokesman KHIEU Sopheak assured that the government is taking action against perpetrator of torture, while the Director-General of the General Department of Prisons flatly denies there are any ill-treatments or torture being committed in Cambodian prison "from the past up to now".</p>
<p>The State party should take the steps necessary to ensure that confessions obtained under torture or ill-treatment are inadmissible in court in all cases, in line with its domestic legislation and article 14 of the Covenant.</p>	<p>Confessions obtained under torture and ill-treatment are still used in court and judges often do not believe that confessions were obtained by torture or ill-treatment.</p>
<p>The State party should speedily establish or designate a national preventive mechanism for the prevention of torture, as provided for in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.</p>	<p>No progress has been made towards the establishment of an independent NPM.</p>
<b>Recommendation in par. 21</b>	<b>Overview</b>
<p>(a) Take immediate action to investigate complaints of killings, and provide effective protection to journalists, human rights defenders and other civil society actors, who are subjected to intimidation and attacks due to their professional activities;</p>	<p>No action has been taken, while incidents are still happening. Attacks and intimidation seem to be increasing against opposition members.</p>
<p>(b) Refrain from prosecuting journalists, human rights defenders and other civil society actors as a means of deterring or discouraging them from freely expressing their opinions;</p>	<p>There are still numerous cases of prosecution and judicial harassment reported. Between July and August 2015, 21 individuals were detained or convicted for criticism against the government. As of January 2016, there are 24 individuals detained for exercising their right to freedom of expression.</p>
<p>(c) Consider decriminalizing defamation and bring any other relevant provisions of the Criminal Code into line with article 19 of the Covenant;</p>	<p>Given the increase in the number of cases since 2015, no plan or even intention can be seen from the RGC to implement the Committee recommendation.</p>
<p>(d) Review its current and pending legislation, including the draft laws on cybercrimes and on associations and non-governmental organizations, to avoid the use of vague terminology and overbroad restrictions, to ensure that any restrictions on the exercise of freedom of expression and association comply with the strict requirements of article 19, paragraph 3, and 22 of the Covenant.</p>	<p>Contrary to the Committee's recommendation, the State party enacted the LANGO without any further reviews and consultations. Small community based groups have already been affected by and threatened under LANGO by local authorities. Draft laws on Trade Unions; Cybercrimes; and Telecommunications, together with the RGC's initiative of "Cyber War Team", are further sources of concern that can gravely restrict the freedoms of association and expression.</p>

**Detailed Assessment****Paragraph 11:**

11. The Committee is concerned by reports that no one has been held accountable for the extrajudicial killings, allegedly mainly perpetrated by the army, police and gendarmerie, in Cambodia since the 1991 Paris Agreements (art. 6).

Recommendation of the HR Committee	Key events since March 2015 / Action taken by the State	Measures needed additionally / Other comments
<p>The Committee recalls its previous recommendation (CCPR/C/79/Add.10 8, para. 11) that the State party has an obligation to <b>investigate all cases of past human rights violations, in particular violations of article 6 of the Covenant, prosecute the perpetrators and, where appropriate, punish them and provide compensation to the families of the victims.</b></p>	<p>There has been <b>very little progress</b> in the investigation of the journalists' deaths outlined in the Human Rights Committee's Concluding Observations. Notable development in the two recent cases would suggest that the provincial courts are actively trying to close the cases by any mean possible.</p> <p>In March 2015, the Provincial Court in Kampong Chhnang upheld an earlier conviction<sup>1</sup> and sentenced six men to 13 years imprisonment of the murder of <b>SUON Chan</b>, a local reporter who died after being attacked by a group of about 10 local fishermen on 31 January 2014.<sup>2</sup> Chan was investigating illegal fishing activities in the region. It is important to note that five of the six convicted persons remain at large and were never apprehended by the police despite their whereabouts being reported to the police by their family. This is also the only case out of the 14 cases of journalist killings pointed out by the NGO groups in its submission to the HRC that did not involve prominent commercial or state interests in the case.</p> <p>In the case of <b>TAIANG Try</b>,<sup>3</sup> a reporter gunned down in October 2014 while investigating illegal logging activities in Kratie and Mondulhiri provinces, three people were arrested and confessed to the crime; however, by December 2014, two of the suspects were freed on 'bail' while local police claiming they were only involved in 'misdemeanour' crimes of supplying the vehicle and gun to the murderer. One of the freed suspects was a former commune police chief in Mondulhiri province and the other was a military police offered stationed in Phnom Penh.<sup>4</sup> This brings to the question of the integrity of the investigation being made by the Kratie police and without a fully transparent publication of the investigation process, seems to suggest that perpetrator of serious crimes</p>	<p>State party should install an independent body to conduct prompt, transparent, and independent investigation into the killings of all existing cases of journalists since 1993 and allow public access to all relevant information arising out of the investigation. State party should work with journalist associations to implement a system where journalists can reach in time of crisis or danger.</p>

<sup>1</sup> For detailed report, see Cambodian Human Rights Action Committee, *Civil Society Report on the Implementation of the ICCPR Submitted for the Review at the 113<sup>th</sup> Session of the Human Rights Committee*, contribution from the Cambodian Center for Independent Media, page 28, 20 February 2015 <http://bit.ly/1Xd5PXc> accessed 5 February 2016

<sup>2</sup> Radio Free Asia, *Cambodian Court Upholds Jail Sentence of Suspect in Reporter's Murder*, 25 March 2015 <http://bit.ly/1PJGeDQ> accessed 05 February 2016.

<sup>3</sup> see Cambodian Human Rights Action Committee, *Civil Society Report on the Implementation of the ICCPR Submitted for the Review at the 113<sup>th</sup> Session of the Human Rights Committee*, contribution from the Cambodian Center for Independent Media, page 27, 20 February 2015 <http://bit.ly/1Xd5PXc> accessed 5 February 2016

<sup>4</sup> Cambodia Daily, *Kratie Court Frees Two Men Accused of Killing Reporters*, 8 December 2014 <http://bit.ly/1Xd5PXc> accessed 5 February 2016.

	<p>continues to enjoy impunity in Cambodia if they are well connected to government or commercial interests in this country.</p> <p><b>No new development has been made by the RGC in the investigation of the rest of the twelve cases of journalist killings since 1994 that remain unsolved.</b></p>	
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**Paragraph 13:**

13. The Committee is concerned at reports of torture and ill-treatment of detainees by law enforcement personnel, especially in the context of police custody and for the purpose of obtaining confessions. In this regard, it regrets the absence of comprehensive and disaggregated data on complaints, investigations, prosecutions and convictions in cases of torture and ill-treatment. The Committee is concerned that confessions obtained under coercion or torture cannot be ruled out without evidence and that judges use such confessions until evidence is determined in court proceedings. It is further concerned that there is no independent complaints authority to deal with such complaints, nor is there an effective system for the prevention of torture (art. 7, 10 and 14).

Recommendation of the HR Committee	Key events since March 2015 / Action taken by the State	Measures needed additionally / Other comments
<p>The State party should <b>establish an independent complaints mechanism with the authority to investigate all reported allegations of and complaints about acts of torture and ill-treatment.</b></p>	<p>Despite provisions in Cambodian laws that establish the right of all prisoners to complain about cases of torture or ill-treatment, <b>the situation has not changed</b> since the publication of the Concluding Observations.</p> <p>There is still no procedural process in the legislative framework that instructs how prisoners and detainees can complain about acts of torture and ill-treatment in prison or police detention. This is tacitly acknowledged by foreign missions operating in Cambodia, with the UK Embassy advising any UK citizens who finds themselves being subjected to acts of torture or ill-treatment to 'advise the 'Embassy's consular staff'. The information provided by the UK embassy does not include any Cambodian government complaint process other than informing the prison governor.<sup>5</sup></p>	<p>The State party should establish and make publicly available comprehensive complaint procedures that will enable victims of torture and ill-treatment while in custody a opportunities to access the process in an independent and external manner. The current process of reporting internally to the prison governor or local police chief is clearly contradictory to the interests of the victims.</p>
<p>It should also <b>ensure that alleged perpetrators of these crimes are prosecuted and that the victims are adequately compensated.</b></p>	<p>Currently there remain <b>no legislative frameworks that will compensate any victims</b> of torture and ill-treatment while they are in detention or prison.</p> <p>It is clear that when someone makes an allegation of ill-treatment or torture, they are not adequately investigated or followed up on. A recent report released by human rights organisation LICADHO detailed some of the acts of torture and ill-treatments being committed by prison officials and police against prisoners and suspects in custody.<sup>6</sup> The RGC provided conflicting responses to the publication of LICADHO's report, with <b>Interior Ministry Spokesman KHIEU Sopheak assuring the government is taking action against perpetrator</b> of torture, while the <b>Director-General of the General Department of Prisons flatly denies there are any ill-treatments or torture being committed in Cambodian prison "from the past up to now"</b>.<sup>7</sup></p>	<p>State party should consider to enact specific anti-torture law or incorporate into existing criminal code the definition of torture as set out in the Convention Against Torture. The law should include clear definition of the crime of torture and ill-treatment that are in line with the Convention. It should also expressly forbid the use of 'exceptional circumstances' as a justification for torture or ill-</p>

<sup>5</sup> British Embassy Phnom Penh, *Information Pack for British Prisoners in Cambodia Prison*, 14 May 2015 <http://bit.ly/1SYJYCq> Accessed 05 February 2015.

<sup>6</sup> Cambodian League for the Promotion and Defense of Human Rights (LICADHO), *Rights at a Price: Life inside Cambodia's prisons*, January 2015 page 17, <http://bit.ly/1J89qaV> accessed 5 February 2016.

<sup>7</sup> Ibid.

		<p>treatment as this have been invoked on several occasions by the judiciary as well as police and prison officials. The State party should provide adequate dissemination and training to all prison and police officials.</p> <p>The State party should ensure that the laws are strictly and effectively enforced and to publicly reaffirm its commitment to end impunity for any officials committing these crimes.</p> <p>The State party should also enact in its legislative framework a scheme to compensate and rehabilitate the victims of torture and ill-treatment while in custody. This should include medical, psychological, and social needs, as well as assistance to legal assistance in seeking judicial redress.</p>
<p>The State party should <b>take the steps necessary to ensure that confessions obtained under torture or ill-treatment are inadmissible in court in all cases</b>, in line with its domestic legislation and article 14 of the</p>	<p><b>Confessions obtained under torture and ill-treatment are still used in court. Judges often do not believe that confessions were obtained by torture or ill-treatment.</b> In April 2015, four imprisoned members of the Khmer National Liberation Front (KNLF) told the Appeal Court that confessions given were extracted by force. The accused said to the Court that Police tortured them to confess; one of them was slapped, dragged by the hair, handcuffed and beaten. Nevertheless, Presiding Judge TITHSOTHY Boraleakh said it was unlikely that police had used violence against the men.<sup>8</sup> <b>No creditable investigation was ordered by the presiding judge or the government</b> on the claim of the defendants before the judge made that ruling.</p> <p>They were convicted of the crime of plotting to overthrow the government largely based on the confessions obtained by police while the 13 defendants</p>	<p>The State party should ensure that judges and prosecutors are sufficiently trained to apply the current law against forced confession. Confessions should not be admissible as evidence in court unless it was made under strict safeguards, including in the presence and under consultation of a defence lawyer, and that police questioning of a suspect should be recorded.</p>

<sup>8</sup> Cambodia Daily, *KNLF Group Claim Confessions Came by Torture*, 28 April 2015 <http://bit.ly/1PyBtth> accessed 8 February 2016.

Covenant.	were in custody.	The State should amend or repeal article 98 of the Cambodia Code of Criminal Procedure, which allows for a 24 hours windows after a suspect is arrested and put in police custody before the presence of a lawyer is required. The suspect should be informed of their rights to access legal assistance as soon as practical after arrest in accordance with the rights under Article 14 of the ICCPR.
The State party should <b>speedily establish or designate a national preventive mechanism for the prevention of torture</b> , as provided for in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.	<p>The RGC was required under the OPCAT to establish an independent National Preventative Mechanism (NPM). The RGC has so far established an Inter-Ministerial Committee in 2009, and the UN Committee Against Torture expressed its concerns in their Concluding Observations after Cambodia's first review that <i>"the inter-governmental committee, consisting of senior officials and chaired by the Deputy Prime Minister and Minister of Interior, does not comply with the requirements of the Optional Protocol, in particular with regard to its independence and the lack of participation from civil society"</i>.<sup>9</sup> International group Association for the Prevention of Torture published similar criticism of the NPM.<sup>10</sup></p> <p>Despite RGC acknowledging its shortcomings of the current governmental mechanism in previous UN meetings, <b>no progress has been made towards the establishment of an independent NPM</b>. As the OHCHR office filed their report to the UN Secretary General in September 2015, this remained the case.<sup>11</sup></p>	<p>The State party should fulfil their commitment under the OPCAT and establishes a truly independent NPM that can monitor and investigate allegations of unlawful acts committed by law enforcement and prison officials in Cambodia. The NPM should be made up of appropriately qualified external experts who are free from political and government influence and pressure. The NPM should include broad consultation with NGO groups both nationally and internationally.</p> <p>The State party should also allow regular unannounced visits by independent national and</p>

<sup>9</sup> United Nations Committee Against Torture, *Concluding Observation of the Committee Against Torture for Cambodia* CAT/C/KHM/CO/2 20 January 2011 [30] <http://bit.ly/20QJeSp> accessed 5 February 2016.

<sup>10</sup> Association for the Prevention Against Torture, *Cambodia OPCAT Status* 10 January 2014 <http://bit.ly/1SDLETB> accessed 5 February 2016.

<sup>11</sup> United Nations, *Report of the Secretary-General to the Thirtieth Human Rights Council Role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights* (2015) A/HR/30/30, [37] at page 9 <http://bit.ly/1KCdegl> accessed 8 February 2016.

		international monitors to access and investigate freely incidences of torture and ill-treatment in prisons and detention centres.
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**Paragraph 21:**

21. The Committee is concerned by reports of killings of journalists, human rights defenders and other civil society actors. It is also concerned about reports of harassment and intimidation of journalists, human rights defenders, trade union workers, land and environmental activists, and other civil society actors, as well as members of the political opposition, who continue to be prosecuted for their activities, in particular through the criminalization of defamation and other vaguely formulated offences. Moreover, the Committee is concerned about restrictions on freedom of expression imposed by the amended Law on the Election of Members of the National Assembly. While the Committee notes with appreciation that online communication and NGO activity have been relatively unimpeded in the State party, it is concerned about reports that a draft Cybercrimes Law and the draft Law on Associations and Non-Governmental Organizations may contain provisions restricting online communication and imposing excessive restrictions on NGOs (art. 6, 7, 19 and 22).

The State party should **ensure that everyone can freely exercise their right to freedom of expression and association**, in accordance with articles 19 and 22 of the Covenant and the Committee's general comment No. 34 (2011) on freedoms of opinion and expression. In doing so, the State party should:

Recommendation of the HR Committee	Key events since March 2015 / Action taken by the State	Measures needed additionally / Other comments
<p>(a) <i>Take immediate action to investigate complaints of killings, and provide effective protection to journalists, human rights defenders and other civil society actors, who are subjected to intimidation and attacks due to their professional activities;</i></p>	<p>In a joint statement,<sup>12</sup> Cambodian civil society called for an end to impunity for crimes perpetrated against journalists. The statement highlighted the recent case of two VOD journalists, <b>KHUT Sokun and HENG Vichet</b>, who were threatened and assaulted by Phnom Penh security guards while covering a protest by Boeung Kak land rights activists.<sup>13</sup> At the time of the joint statement, <b>no investigation has taken place into the actions of the security personnel</b>. On the cases of <b>SUON Chan</b> and <b>TAIANG Try</b>, please also refer to the information provided above regarding the Committee recommendation 11.</p> <p>An alarming development in 2015 was the increased attacks and intimidation tactics perpetrated by government aligned agencies against opposition lawmakers. This was highlighted by two incidents first in July 2015, where <b>UM Sam An</b>, opposition lawmaker was banned from the National Assembly and had his salary cut for two months for allegedly 'insulting' National Assembly President. This was done despite the constitutional guarantee of immunity afforded to all members of Parliament in Cambodia.<sup>14</sup> Then in October 2015, two opposition lawmakers, <b>NHAY Chamroeun and KONG Sophea</b> were attacked outside the National Assembly building in Phnom Penh by pro-government protesters</p>	<p>The State party should take action and conduct immediate, thorough and independent investigations to determine the action of government funded 'security guards' during protest and their attack on journalists.</p>

<sup>12</sup> LICADHO, *CSOs call for an End to Impunity in Cambodia on the International Day to End Impunity for Crimes Against Journalists*, 2 November 2015 <http://bit.ly/1Ldf7LY> accessed 8 February 2016.

<sup>13</sup> The Phnom Penh Post (online), *Press clubs denounce attack on journalists*, 7 August 2015 <http://bit.ly/1JPRsDS> accessed 8 February 2016.

<sup>14</sup> The Phnom Penh Post (online), *CNRP lawmaker hit in pocket for Samrin comments*, 25 July 2015 <http://bit.ly/1PLwWHb> accessed 8 February 2016.

	<p>demanding the resignation of the KHEM Sokha, opposition First Vice President to the National Assembly.<sup>15</sup> <b>Despite promise made by Prime Minister HUN Sen that perpetrators will be caught and the incident investigated, there has been no action from the government to date.</b></p> <p>Alarming, more than two years after the January 2014 garment factory workers protest where five people lost their lives, the Cambodian police stated in the Court of Appeal “that authorities used no weapons during the crackdown”, contrary to the evidence from video and eyewitnesses.<sup>16</sup></p>	
<p>(b) <i>Refrain from prosecuting journalists, human rights defenders and other civil society actors as a means of deterring or discouraging them from freely expressing their opinions;</i></p>	<p>There have been <b>numerous cases of prosecution and judicial harassment</b> of opposition members, human rights defenders, community activists, trade union leaders, and other civil society actors. In a single month <b>between July and August 2015, 21 individuals were detained or convicted for criticism against the government.</b><sup>17</sup> <b>As of January 2016, there are 24 individuals detained for exercising their right to freedom of expression</b> according to human rights organisation LICADHO.<sup>18</sup> Some of the key cases are summarised below:</p> <p><b>January 2015:</b> The Court of Appeal in Phnom Penh upheld the verdicts against ten women housing rights activists and a monk for their participation in peaceful protests in November 2014. They were arrested during the protest, then subsequently charged, tried and convicted all within 72 hours time period with no proper fair trial process was followed in their conviction.<sup>19</sup> The appeal case against the 12 took place in less than half a day and was described by observers as a trial that “shows the lack of integrity of the Cambodian court system”.<sup>20</sup></p> <p><b>July 2015: 11 members and supporters of the Cambodia National Rescue Party (CNRP)</b> were convicted for “insurrection” relate crimes based on events that occurred during a series of demonstrations organised by the CNRP in July 2014. The three judges at the Phnom Penh Municipal Court took just 15 minutes after the close of proceedings on July 21, 2015 to sentence the CNRP members to 7-20 years in prison on charges of “insurrection”. Given the serious nature of the allegation it was concerning to see that many of the 11 defendants were</p>	<p>State party should ensure that the law provides for clear definition of crimes such as defamation, insult, disinformation and incitement and ensure that there are qualified exception to these crimes, including reports or expressions that are in the public interests.</p> <p>State party should ensure that information relating to all prosecution and trial proceedings are made publicly available to ensure transparency in any ensuing criminal proceedings.</p>

<sup>15</sup> Radio Free Asia, *Two Cambodian Opposition Lawmakers Attacked by Protesters*, 26 October 2015 <http://bit.ly/1WeVMPJ> accessed 8 February 2016.

<sup>16</sup> The Phnom Penh Post (online), *Veng Sreng Protesters' Appeal Rejected* 5 February 2016 <http://bit.ly/1PMTVBY> accessed 9 February 2016.

<sup>17</sup> Human Rights Now, *Written statement submitted by the Human Rights Now to the Human Rights Council A/HRC/30/NGO/122* 8 September 2015 <http://bit.ly/1W9IGDW> accessed 8 February 2016.

<sup>18</sup> LICADHO, *Joint Letter to US Secretary of State John F. Kerry*, January 2016 <http://bit.ly/1W9K9dx> accessed 8 February 2016.

<sup>19</sup> Civil Rights Defenders, *Court Upholds Wrongful Verdicts Against Housing Rights Defenders in Cambodia* 26 January 2015, <http://bit.ly/1Ta5JAs> accessed 8 February 2016.

<sup>20</sup> Ibid.

unrepresented during the one-day trial and that they were not given the opportunity to prepare an adequate defence.<sup>21</sup>

**August 2015:** The serving opposition Senator **HONG Sok Hour** was arrested after the Prime Minister accused him of treason for a Facebook post relating to the sensitive border issue between Cambodia and Vietnam. The arrest was made despite the fact that serving politicians are protected under the constitution and have immunity against arrest.<sup>22</sup> Bail was denied to the Senator and he remains in pre-trial detention more than eight months awaiting trial.<sup>23</sup>

**August 2015: KONG Raya**, President of the Cambodia Student Network, was detained for “incitement to commit a felony” after posting critical comments on Facebook and calling for a “color revolution.”<sup>24</sup> As of 1 February 2016, KONG Raya remain in pre-trial detention awaiting trial over incitement charges, a crime that carries a maximum terms of three years in prison.<sup>25</sup>

**October 2015:** Human rights defender **VEIN Vorn**, a member of the environmental NGO Mother Nature, was arrested by the authorities and detained at the Koh Kong provincial prison, in south western Cambodia. He faces up to five years imprisonment as a result of his involvement in the construction of a communal meeting place for the members of the Areng Valley community. This is after three other Mother Nature members were arrested and detained in August 2015 while protesting outside Parliament building in Phnom Penh.<sup>26</sup> All four activists remain in pre-trial detention awaiting their trial. **Three other Mother Nature activists** were charged in **February 2016:** Alejandra Gonzalez-Davidson, Founder and Director of Mother Nature, was deported one year ago and has not been allowed to come back to Cambodia, was charged along with two Buddhist monks as an accomplice to the other Mother Nature activists arrested last year.<sup>27</sup>

**November-December 2015:** The Phnom Penh Court issued an arrest order against opposition leader **SAM Rainsy**. The order sought to enforce a judicial ruling in March 2013 sentencing SAM Rainsy to two-year imprisonment for defamatory allegation made against the foreign Minister. The case had been brought to the French Supreme Court when the RGC attempted to enforce the sentence in France, where the court held that the comments were a legitimate exercise of

<sup>21</sup> Human Rights Watch, *Cambodia: Exonerate 11 Wrongly Convicted Activists* 21 July 2015, <http://bit.ly/1SFrGYt> accessed 8 February 2016.

<sup>22</sup> Phnom Penh Post (Online), *Senator Hong Sok Hour Arrested* 15 August 2015, <http://bit.ly/1gOaHSC> accessed 8 February 2016.

<sup>23</sup> Cambodia Daily, *Court Denies Bail for Opposition Senator* 5 November 2015, <http://bit.ly/1Q4P8rd> accessed 8 February 2016.

<sup>24</sup> Cambodia Daily, *Student Jailed over Facebook Post on 'Color Revolution'* 24 August 2015, <http://bit.ly/1NuPbQG> accessed 8 February 2016.

<sup>25</sup> Cambodia Daily, *Prominent Scholar Threatens to Sue Student*, 2 February 2016, <http://bit.ly/1UNGcKW> accessed 8 February 2016.

<sup>26</sup> Frontline Defenders, *Cambodia: Human Rights Defender Vein Vorn Detained*, 12 October 2015 <http://bit.ly/1nWEtrI> accessed 8 February 2016.

<sup>27</sup> Phnom Penh Post (online), *Deported Activist Gonzalez-Davidson 'Charged'* 5 February 2016 <http://bit.ly/1SVIDOP> accessed 18 February 2016.

	<p>freedom of expression. This was followed on 1 December where further defamation charges were filed against Mr Rainsy.<sup>28</sup></p> <p><b>February 2016:</b> The police arrested <b>two officials from the The Free Trade Union</b> who protested at the Cerie garment factory in Kampong Speu province.<sup>29</sup></p>	
<p>(c) Consider decriminalizing defamation and bring any other relevant provisions of the Criminal Code into line with article 19 of the Covenant;</p>	<p>Apart from the aforementioned defamation cases, Mr <b>NY Chakrya</b>, former head of Human Rights and Legal Aid Section of a prominent human rights NGO ADHOC, was charged in <b>May 2015</b> with several counts of “defamation” related charges, including “public defamation”, “acts of slanderous denunciation”, and “publication of any commentaries to put pressure on jurisdiction”. The charges were laid after he criticized the judiciary of Siem Reap for lacking independence and for the arbitrary detention of villagers involved in a land dispute.<sup>30</sup></p> <p>Mr NY Chakrya lodged a disciplinary complaint against the two judicial officers of the Siem Reap Provincial Court with the Supreme Council of Magistracy (SCM); however, no actions have been taken by the SCM with regards to his complaints.<sup>31</sup></p> <p><b>It is evident from the increase number of cases from 2015 that the RGC has no plan to adopt the recommendation from the Human Rights Committee to decriminalise defamation and bring other provisions of the Criminal Code inline with the Covenant.</b></p>	<p>Although defamation is no longer punishable by imprisonment in Cambodia, State party should consider decriminalising the crime all together. In the alternative, State party should ensure strong qualifying exception to existing defamation laws to protect journalists and human rights defenders expressing themselves in the public interests.</p>
<p>(d) Review its current and pending legislation, including the draft laws on cybercrimes and on associations and non-governmental organizations, to avoid the use of vague terminology and overbroad restrictions, to</p>	<p>In <b>August 2015</b>, Cambodia <b>promulgated</b> a new <b>Law on Associations and Non-Government Organisations (LANGO)</b> which establishes a compulsory registration for all organizations and associations. However, the RGC did not address any of the issues raised by civil society and UN Special Rapporteur during the drafting process of this law, as some fundamental issues remain:</p> <ul style="list-style-type: none"> <li>• The definition of association is unclear. On the surface reading of the law, it can include any group of citizens. The Ministry of Interior (MOI) has total discretion over the registration process.</li> <li>• Registration can be denied, if the activities of an organisation in question can ‘jeopardize peace, stability and public order’, or ‘harm the national security, national unity, culture and traditions of the Cambodian national society’. Again, there is no assistance in the law or anywhere else that</li> </ul>	<p>Contrary to the Human Rights Committee’s recommendation, the State party enacted the LANGO shortly after the Concluding Observations were issued without any further reviews and consultations. Cambodian Civil Society urgently requests the RGC to review the existing LANGO with comprehensive input from civil society actors and incorporate those comments into the revision of the law. Any law on association</p>

<sup>28</sup> Human Rights Watch, *Human Rights Watch World Report 2016* page 153, <http://bit.ly/1Kadeog> accessed 8 February 2016.

<sup>29</sup> The Phnom Penh Post (online), *Free Unionists, FTI Pleads* 4 February 2016, <http://bit.ly/1PLEqdg> accessed 8 February 2016.

<sup>30</sup> The Phnom Penh Post (online), *Phnom Penh Court Charges NY Chakrya* 20 July 2015, <http://bit.ly/1IduGas> accessed 8 February 2016.

<sup>31</sup> See also statements from NGOs: ADHOC, *Jurist Group Demand Legal Harassment of Human Rights Defender to Stop*, <http://bit.ly/1LwBDj6>; FIDH, *Cambodia: Continued judicial harassment against Mr. Ny Chakrya*, 12 October 2015, <http://bit.ly/212rOG3>; Human Rights Watch, *Cambodia: Drop Prosecution of Rights Defender*, 29 July 2015, <http://bit.ly/1XBjxU5>.

<p>ensure that any restrictions on the exercise of freedom of expression and association comply with the strict requirements of article 19, paragraph 3, and 22 of the Covenant.</p>	<p>defines what these criteria mean.</p> <p>Civil society in Cambodia is gravely concerned that the LANGO would essentially grant legal power for the MOI to shut down any organisations it wishes to with very little judicial oversight available to the groups affected by any MOI decision to shut them down.</p> <p>Finally, the <b>LANGO stipulates that every organisation has to be politically neutral, thus, there is no space to criticise current political leaders.</b> This severely limits the formation and activity of civil society and grassroots organisations with vague, discretionary rules that restrict citizens' right to association. In this regards this law may have a serious effect on the Cambodian citizens' rights to freedom of expression, and associations<sup>32</sup> The stated objective of LANGO as fighting money laundering, terrorism and other crimes by the RGC do not require the adoption of a law that would further erode away key fundamental human rights principles in Cambodia. Existing laws are already in place allowing for the criminalisation of such behaviours.<sup>33</sup></p> <p><b>The first cases of misapplication of the LANGO:</b></p> <p>It is still unclear how the RGC intends to apply the LANGO in Cambodia. However, small community based group have already been affected by and threatened under LANGO by local authorities. Three days after the passing of LANGO, a <b>group of 69 families in Kratie province</b>, involved in land dispute with a private company, were summoned by the local district police office and told that unless they register their group with the MOI, they were not allowed to continue with their protest activities. This is despite MOI assurances that LANGO would not affect small community based groups. The group was threatened with punishment if they did not cease their activity until after MOI approval.<sup>34</sup></p> <p><b>Youth networks and smaller organisations based in rural provinces</b> are particularly affected by the LANGO, with local authorities asking these organisations to produce registration and approval letters from the MOI. So far, reported cases include the <b>Cambodian Youth Network in Areng Valley</b>, Koh Kong province; <b>PDP Centre</b>, another youth organisation based in the outskirts of Phnom Penh; several</p>	<p>must guarantee fundamental freedom and should be administrative in purpose and not serve to allow the RGC to shut down any organisations that dare to criticise the government.</p> <p>The State party should make clear that the draft Cybercrime law will not be enacted without further extensive consultation taking in views from civil society, and non-government experts on the issue of internet security and guaranteeing fundamental core freedoms. The RGC should announce clearly exactly what have been the activities of the 'Cyber War Team' and the announced plan of installing Chinese surveillance equipment in Cambodian ISPs and Telecommunication companies.</p>
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<sup>32</sup> Human Rights Now, *Written statement submitted by the Human Rights Now to the Human Rights Council A/HRC/30/NGO/122* 8 September 2015 <http://bit.ly/1W9IGDW> accessed 8 February 2016.

<sup>33</sup> Provisions can be found in the *Civil Code of Cambodia*, and the *Law on Anti-Money Laundering and Combating Financial Terrorism*, for more information, please refer to Joint Statement: *ADHOC and LICADHO urges Cambodian Constitutional Council to Reject Unconstitutional LANGO* 30 July 2015 <http://bit.ly/1SDO3Nu> accessed 18 February 2016.

<sup>34</sup> For more information, please see: Cambodia Center for Human Rights (CCHR), *Briefing Note – September 2015 Cambodia: Democracy Under Threat* 24 September 2015 page 15, <http://bit.ly/1oq8Zeq> accessed 9 February 2016.



	<p><b>small farming organisations in Prey Veng province; and environmental organisations in Stung Treng province.</b><sup>35</sup> These reported incidents are all occurring in provinces with sensitive environmental or land issues.</p> <p><b>Draft Law on Trade Union:</b></p> <p>The draft law on trade union, currently being readied by the RGC, places severe administrative and legal burdens on trade unions and imposes onerous restriction on the rights of union members to strike. The law also allows for the dissolution of a union if individual officers act illegally. Similar to other law drafting processes, the RGC has ignored comments and recommendations from civil society on the provisions of this law. Despite the International Labour Organisation stating the latest draft law being an ‘improvement’ from previous versions,<sup>36</sup> Union groups continue to voice strong criticisms of the draft law, including that the law would serve to deprive ‘workers of the right to freedom of association...leaves them at the mercy of their employers with little or no recourse’.<sup>37</sup></p> <p><b>Draft Laws on Cyber crimes and Telecommunication:</b></p> <p>The RGC has not released further information on the latest draft of the Law on Cybercrimes. Although the RGC has stated that the law is currently being ‘shelved’, it remains on the table and can be ‘un-shelved’ at any time.</p> <p>More worrying is the RGC’s initiative of the ‘Cyber War Team’, which will be tasked with monitoring online speech and social media to protect RGC’s image online. The Ministry of Interior has also announced plans to install surveillance equipment at the premise of internet service providers (ISP) and telecom companies throughout Cambodia. The progress of these two initiatives by the RGC is still unclear.</p> <p>The Council of Ministers signed off on the latest draft law on telecommunication in <b>October 2015</b> despite warnings that the law would essentially ‘nationalise’ Cambodia’s telecommunication sector.<sup>38</sup> No detail of the latest draft has been released to the public for debate and consultation. Commenting on an earlier version of the draft law that was leaked, LICADHO stated the proposed draft law “could and likely will be used to suppress virtually any form of critical online content.”<sup>39</sup> There are no publically available information on the content of the new draft law and whether any provision has been amended.</p>	
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<sup>35</sup> Known cases reported to Cooperation Committee Cambodia.

<sup>36</sup> Cambodia Daily (online) *ILO Says Latest Draft Law on Trade Union an Improvement* 9 September 2015 <http://bit.ly/1g8Bb0G> accessed 18 February 2016.

<sup>37</sup> International Trade Union Confederation, *Cambodia: New Trade Union Law Bad for Workers*, 3 December 2015 <http://bit.ly/1SVMawd> accessed 18 February 2016

<sup>38</sup> Cambodia Daily (online), *Draft Telecom Law Approved by Council of Ministers* 10 October 2015, <http://bit.ly/1LnmtzL> accessed 18 February 2016.

<sup>39</sup> LICADHO, *Going Offline? The Threat to Cambodia’s Newfound Internet Freedoms* 17 May 2015, <http://bit.ly/1LwBgos> accessed 18 February 2016.



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