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**CONTRIBUTION BY REPORTERS WITHOUT BORDERS (RSF)  
ON THE PRESS FREEDOM SITUATION IN CAMBODIA**

*An independent international NGO, Reporters Without Borders (RSF) has consultative status with the United Nations, UNESCO, the Council of Europe and the African Commission on Human and Peoples' Rights. Created more than 30 years ago and headquartered in Paris, it has 12 regional bureaux and a network of correspondents in 130 countries.*

Cambodia has been ruled with an iron hand by Prime Minister Hun Sen since 1985. The transition to democracy initiated in the 1990s was derailed by the creation of an authoritarian and corrupt regime. Economic and political power is opaquely concentrated in the hands of a small group of untouchable persons. Press freedom has remained limited even if the media landscape saw the emergence of independent media outlets.

At the last general elections in 2013, the victory of Hun Sen's Cambodian People's Party (CPP) was widely disputed in the independent media, whose message was relayed in massive demonstrations on the streets of Phnom Penh that continued for a year. Having clearly learned the lesson from this experience, the government launched an unprecedented war against the independent media in June 2017 with the aim of silence all criticism in the run-up to the July 2018 elections.

Cambodia nonetheless displayed a readiness to reform at its last Universal Periodic Review in 2014, agreeing to recommendations to amend its Penal Code in order to guarantee freedom of expression (118.15), to draft a law protecting freedom of information that respects international standards (118.17) and to encourage and guarantee media independence (118.105). But, since then, none of these recommendations has led to any concrete reforms. Instead, the press freedom situation has worsened dramatically.

## **1. Legislation that does not conform to international press freedom standards**

### **a) Legislation that fails to guarantee journalistic freedom**

Cambodia's 1995 press law does not comply with international standards on freedom of expression and information, and facilitates the obstruction of journalistic freedom. Article 12 of the press law forbids the publication of information that could "affect national security and political stability" and allows confiscation of publications without reference to the courts when they are deemed to have contravened this provision.

The legislation on media ownership continues to be inappropriate and, by failing to limit ownership concentration, fails to ensure editorial independence and media pluralism. Article 17 of the press law is inadequate inasmuch as it fails to specify the nature of the publications concerned and the thresholds (capital share, voting rights and the like) above which someone is regarded as the publication's owner.

Finally, at its last UPR, Cambodia accepted Recommendation 118.17, urging it to "establish a law on freedom of information in accordance with international standards," but this right is still not guaranteed by the law although it is essential for an open and transparent society. A draft law on access to information exists, but it needs to be brought into compliance with the relevant international standards.

### **b) A cyber-crime law that threatens press freedom**

Various versions of a cyber-crime bill have circulated since 2014. But the level of online free speech violations they would permit has caused such an outcry that the government has not dared to submit any of them to parliament. Articles would criminalize those who produce or disseminate content that "defames or discredits" the government and its representatives or content that affects Cambodia's "political cohesiveness." Cambodians fear the worst for press freedom if such vaguely-worded provisions were adopted.

## **2. Arrests and intimidation of journalists**

Cambodian and foreign journalists working in Cambodia are often arrested and subjected to draconian judicial proceeding clearly designed to intimidate them and encourage the traditional media to censor themselves.

During its UPR in 2014, Cambodia accepted Recommendation 118.105 to “respect and protect the rights of (...) journalists to conduct their work without hindrance, intimidation or harassment.” This undertaking has been flouted.

- Australian documentary filmmaker **James Ricketson** was arrested in June 2017 for filming an opposition party demonstration. He has been held ever since in a Phnom Penh prison on a spying charge, for which he could get a 14-year jail term.
- In October 2017, more than a month after the *Cambodia Daily* had ceased to publish, two of its former reporters, **Aun Pheap** and **Zsombor Peter**, learned that they had been charged with inciting crime under articles 494 and 495 of Cambodia’s Penal Code for interviewing potential voters in the run-up to the previous June’s communal elections. Facing possible two-year jail sentences, they fled the country.
- Former *RFA* journalists **Oun Chhin** and **Yeang Sothearin** were arrested on 14 November 2017 for allegedly trying to set up a studio “for journalistic activities.” They are accused of spying under article 445 of Cambodia’s Penal Code, which penalizes passing information to a foreign state that could prove detrimental to national security. The two journalists, who deny working for *RFA* since its bureau was closed, are still in pre-trial detention and are facing up to 15 years in prison.

Meanwhile, it is impossible for former *RFA* and *Cambodia Daily* journalists to freelance for other media. The information ministry systematically rejects their request for press cards. Journalists are unable to continue their profession after the closures of the media outlets they worked for.

At the start of June 2018, the National Election Commission (NEC) unveiled a code of conduct for the following month’s elections under which journalists would face fines of up to 7,500 dollars if they were to conduct interviews near polling stations, use their “own ideas to make conclusions” or publish news that “affects political and social stability” or causes “confusion and loss of confidence” in the electoral process.

#### **4. Closure of independent media outlets**

After an unprecedented breakthrough by the main opposition party, the Cambodia National Rescue Party (CNRP), in the June 2017 communal elections, Prime Minister Hun Sen’s CPP decided to take control of media coverage and suppress independent media outlets ahead of the following year’s general elections. In August and September 2017, some 30 print media and radio stations were closed down or deprived of their broadcast signals.

- Prime Minister Hun Sen had already targeted two free press institutions in May 2017, threatening to close *Cambodia Daily* (the country's oldest English-language newspaper) and *Radio Free Asia* (which is funded by the US Congress).
- On 4 August 2017, the tax department suddenly let it be known that *Cambodia Daily* owed 6.3 million US dollars (5.3 million euros) in back taxes. The newspaper was told that its licence would be withdrawn if it did not settle this alleged debt by 4 September. The absence of any prior tax audit reinforced the view that the decision was completely arbitrary. *Cambodia Daily* published its last issue on 4 September 2017.
- The information ministry ordered two independent radio stations – *Women's Media Centre of Cambodia (WMC)* and *Mohanokor* – to suspend their activities without warning on 23 August 2017 on the grounds that they had violated the terms of their licences.
- Three other independent radio stations, *Kampong Cham*, *Angkor Ratha* and *Samleung Cheayden*, were closed by the government on 24 August 2017 for retransmitting the Khmer-language programmes of the US-funded broadcasters *Radio Free Asia (RFA)* and *Voice of America (VOA)*.

Under pressures from the authorities, *Radio Free Asia* announced on 12 September 2017 that it was closing its Phnom Penh bureau.

At least 21 independent radio stations had been closed down in the space of a few days. Others were ordered to stop broadcasting news bulletins and to limit themselves to entertainment programmes.

In response to a UN Human Rights Council query about the closures in November 2017, the information ministry posted a written reply on its website and on the national news agency's website. It said that the closures were a "warning" to all media and that "there is no condition [under which] the revoked licences can be renewed or reissued."

When media outlets were not forced to close, they were brought under the control of pro-government figures. The well-known *Phnom Penh Post*, regarded as Cambodia's last independent newspaper, was acquired in May 2018 by a Malaysian businessmen with links to Prime Minister Hun Sen. Its editor, **Kay Kimsong**, was quickly fired.

### 3. Government control of mass media

In Cambodia, the combination of high viewer ratings, very high level of ownership concentration and direct political affiliation to the ruling party or government leaves no room for media pluralism. TV news consists above all of official ceremonies, speeches by the prime minister and the inevitable military parades.

- The four companies that own the most Cambodian media outlets and between them have 85% of the country's viewers, listeners and readers – Royal Group, Hang Meas, Hun Mana et Seng Bunven – are all owned by people who are either members of the government or its advisers. Hun Sen's daughter Hun Mana heads a business empire with a presence in all the media. The group owned by Say Chhum, the current senate speaker and the ruling CPP's vice-president, has two TV channels, several radio stations and *Rasmei Kampuchea*, one of Cambodia's leading newspapers.
- Watched by 96% of Cambodians, TV is the country's most popular media category. The combined ratings of just four TV channels represent 80% of the country's viewers and all of these channels are owned by people who are either members of the government or its advisers. Government members or advisers or ruling party allies own eight of the ten leading TV channels.
- Read by barely 10% of the population, most of the Khmer-language print media support the government. The four leading Khmer-language newspapers reach nearly two of every three readers. And they are all owned by government allies.
- The Internet has not escaped the government's desire for control. Launched in 2012, initially as a Facebook page and then as a website with viral ambitions, *Fresh News* is used as a government mouthpiece and floods social networks with the help of purchased clicks. It was *Fresh News*, for example, that the government used to announce that *Cambodia Daily* was being asked to pay a colossal sum in back taxes.

#### RSF's recommendations to the Cambodian authorities

- The authorities must release the unjustly imprisoned journalists **Oun Chhin, Yeang Sothearin** and **James Ricketson**, and drop the baseless charges against the journalists **Aun Pheap** and **Zsombor Peter**.
- Crimes of violence against journalists must be the subject of systematic and thorough investigation and prosecution leading to the conviction of those responsible by independent courts.

- The authorities must allow *Cambodia Daily*, the *Radio Free Asia* bureau and all other media unduly closed since August 2017 to resume operating.
- The authorities must guarantee respect for freedom of the press and the freedom to inform, including during elections.
- The 1995 Law on the Press must be amended so as to bring it into line with international standards on freedom of expression and information and reinforce guarantees for journalistic freedom. In particular, article 12 of this law, which prohibits the publication of reports that could “affect national security and political stability” and allows confiscation of publications without reference to the courts, must be repealed.
- The authorities must enact appropriate legislation to limit media ownership concentration. Article 17 of the Law on the Press is insufficient, inasmuch as it does not specify the kinds of media outlets concerned or the threshold for being considered the owner of a media outlet.
- The proposed cyber-crime law must be completely overhauled so that it does not permit violations of the legitimate exercise of freedom of expression and information. In particular, articles about content liable to “generate insecurity and instability and endanger political cohesiveness” or “defame or discredit” the government or its representatives are, in the absence of a strict definition of these terms, contrary to international standards on freedom of expression, including article 19 of the International Covenant on Civil and Political rights, to which Cambodia is party.
- The authorities must finalize and adopt the proposed law on access to information, using international standards and best practices as their basis. Furthermore, after its adoption, the authorities must ensure that this right can be exercised fully and freely, which means that state agencies must act with complete transparency and must not thwart requests from the public or journalists.
- The authorities must establish a new system to replace the current provisions in article 7 of the Law on the Press under which the government determines the code of professional ethics that the media must respect. This new system could, for example, involve the creation of an independent media regulatory body in which journalists, on the one hand, and broadcasters and publishers, on the other, are equally represented. Its responsibilities could include evaluating media licence requests, issuing media

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licences, issuing press cards, and ruling on the suspension or withdrawal or press cards – functions currently assumed by the information ministry. This independent media regulatory body could also be responsible for establishing a code of media ethics, imposing sanctions for breaches of the code, and other related matters.

- The authorities must allow the UN Special Rapporteur on human rights in Cambodia to carry out her duties properly and, in particular, must grant all her requests to visit Cambodia.
- The authorities must implement the recommendations (Recommendations Nos. 118.105, 118.20, 119.23, 119.24 and 119.26) that were accepted by Cambodia as part of the Universal Periodic Review process and must amend the country's Penal Code (especially its provisions on defamation, insult and inciting crime) so that it can no longer be used to restrict free speech and media freedom and so that it complies with international free speech standards.

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