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# State of Press Freedom in Cambodia



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## INTRODUCTION AND SUMMARY

1. A free, uncensored, and independent press is crucial to a democracy and central to the promotion and protection of all human rights. Press freedom is a component of the right to freedom of opinion and expression; which is guaranteed by the Constitution of the Kingdom of Cambodia<sup>1</sup>, as well as by Article 19 of both the Universal Declaration of Human Rights (the Universal Declaration)<sup>2</sup> and the International Covenant on Civil and Political Rights (ICCPR).<sup>3</sup> Undue restrictions on press freedom carry negative consequences for the rights to information and privacy, and can give rise to an atmosphere of fear and self-censorship.
2. Freedom of opinion and expression and the freedom of the press are useful bellwethers for the state of civic and democratic space in a given country. As observed by the United Nations Secretary-General, the shrinking of civic space is frequently a prelude to a more general deterioration of human rights.<sup>4</sup>
3. This report provides an overview of the situation of press freedom in Cambodia. The issue is of particular importance in the context of elections as a free press plays a vital role in ensuring that voters can inform themselves of the issues at stake in an election and that candidates standing for office are able to convey the message that they want to the electorate. By ensuring that the press can report freely and safely, authorities are helping to create an environment for political participation and debate. The reporting period for this report is from the previous national election in 2018 up until the commune election in June 2022.
4. In this report, the Office of the United Nations High Commissioner for Human Rights in Cambodia (hereinafter OHCHR Cambodia) outlines the current situation of press freedom in the country, examining the legal framework upholding the right to freedom of expression and the freedom of the press, the introduction of legislation related to the conduct of the media, the application of the criminal law against journalists and other media personnel, media ownership, and the specific challenges faced by women media personnel working in Cambodia. The report provides recommendations to the Royal Government of Cambodia (hereinafter, the Government) and other stakeholders on steps they should take to improve the right to freedom of expression and press freedom in Cambodia.

## METHODOLOGY

5. OHCHR Cambodia has worked alongside journalists and media outlets in Cambodia since its establishment in 1993. The present report is based on qualitative and quantitative data, for which the Office relied on networks of journalists and media personnel operating in provinces throughout Cambodia.
6. OHCHR Cambodia carried out extensive research into and documentation of cases of intimidation, harassment of and violence against journalists and other media personnel since the country's last general election in 2018. Details of criminal cases and physical attacks on journalists were taken from credible sources, including

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<sup>1</sup> Constitution of the Kingdom of Cambodia, 21 September 1993, Article 41.

<sup>2</sup> General Assembly, "Universal Declaration of Human Rights", 217 A (III), 10 December 1948, art. 19.

<sup>3</sup> General Assembly, "International Covenant on Civil and Political Rights", *Treaty Series*, vol. 999, 19 December 1966, art. 19.

<sup>4</sup> Secretary-General, "The Highest Aspiration: A call to Action for Human Rights", 24 February 2020, p. 8.

previous reports by OHCHR Cambodia and other United Nations agencies/entities, and non-governmental organizations (NGOs) as well as media reports.

7. In addition, the report provides insights on the views of journalists and other media personnel on the current situation of the press and press freedom. Between December 2021 and February 2022, OHCHR Cambodia conducted 30 in-person interviews with journalists, citizen journalists, and other media personnel (23 men and seven women). These interviews were conducted one-on-one, either in-person or virtually, and in focus group discussions.
8. OHCHR Cambodia conducted three workshops on the situation of the press for 13 journalists and citizen journalists, (ten men and three women), in different provinces of Cambodia in November and December 2021. OHCHR Cambodia circulated a written survey to journalists and media personnel (24 men and 11 women), across Cambodia, receiving 35 sets of responses in January and February 2022. The survey presented a series of open and multiple-choice questions that were designed to provide OHCHR Cambodia with an understanding of the current situation of the press, of press freedom, and of the security status that currently attends journalism in Cambodia. The questions presented to these journalists focused on media ownership, views on current press freedom, forms of interference against journalists and media personnel, as well as guarantees before the criminal justice system, and the operating environment for the press ahead of elections in 2022 and 2023. As confidentiality is crucial to this process, no details of interviews and participants in the survey are provided in this report.
9. The report examines the current situation of press freedom in Cambodia using the Constitution of the Kingdom of Cambodia and the country's laws, sub-decrees and inter-ministerial prakas regulating freedom of expression, information, media and press freedom, as well as international human rights standards for press freedom, as outlined in international human rights treaties, commentary by human rights mechanisms, most notably the Human Rights Committee, resolutions of the Human Rights Council and the General Assembly, reports by Special Procedure mandate-holders, policy documents from the Office of the United Nations Secretary-General, including the Call to Action for Human Rights, the United Nations Guidance Note on the Protection and Promotion of Civic Space<sup>5</sup>, and the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity.<sup>6</sup> Previous recommendations by United Nations bodies, including recommendations provided to Cambodia during the 2019 and 2014 Universal Periodic Review cycles, as well as relevant recommendations of international human rights mechanisms, including treaty bodies and Human Rights Council mandate holders.
10. The Government was invited to provide factual comments on the draft report on 20 June. The Government response, received on 06 July, was incorporated throughout the report.

## **LEGAL FRAMEWORK**

### **INTERNATIONAL HUMAN RIGHTS LAW**

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5 United Nations Guidance Note, "Protection and Promotion of Civic Space", September 2020, [https://www.ohchr.org/sites/default/files/Documents/Issues/CivicSpace/UN\\_Guidance\\_Note.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/CivicSpace/UN_Guidance_Note.pdf).

6 CI-12/CONF.202/6, UN Plan of Action on the Safety of Journalists and the Issue of Impunity, April 2012, [https://en.unesco.org/sites/default/files/un-plan-n-safety-journalists\\_en.pdf](https://en.unesco.org/sites/default/files/un-plan-n-safety-journalists_en.pdf).

11. The Constitution of the Kingdom of Cambodia states in Article 31 that the country “shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration, the covenants and conventions related to human rights, women’s rights and children’s rights.” This article provides constitutional underpinning to the guarantees in the Universal Declaration of Human Rights and ICCPR for the rights of freedom of opinion and expression, freedom of peaceful assembly, freedom of association, and the right to take part in government, all of which are relevant to the topic under examination in this report.
12. In addition, the Charter of the Association of Southeast Asian Nations (ASEAN), which Cambodia ratified in 2008, underlines member states’ adherence to “the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms”.<sup>7</sup> With the adoption of the ASEAN Human Rights Declaration during the ASEAN summit in Cambodia in 2012, the association’s member states reaffirmed their adherence to the above principles as well as their “commitment to the Universal Declaration of Human Rights, the Charter of the United Nations, the Vienna Declaration and Programme of Action, and other international human rights instruments to which ASEAN Member States are parties”.<sup>8</sup>

### **THE RIGHT TO SEEK, RECEIVE AND IMPART INFORMATION IN THE CONTEXT OF ELECTIONS**

13. The right to freedom of expression, as outlined in Article 19 of the Universal Declaration, “includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”<sup>9</sup> These guarantees are echoed by Article 19 of ICCPR and further elaborated by the general comments of the Human Rights Committee, in particular general comment 34 on the right to freedom of opinion and expression.<sup>10</sup>
14. Article 19(2) of ICCPR stipulates the right to freedom of expression, including the right “to seek, receive and impart information and ideas of all kinds through any medium and regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”<sup>11</sup> General comment 34 elaborates on this right, stating that “free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential.”<sup>12</sup> According to the Human Rights Committee, “[t]his implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion.”<sup>13</sup> In keeping with ICCPR, protection of the individual as a

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<sup>7</sup> Association of Southeast Asian Nations (ASEAN), Charter of the Association of Southeast Asian Nations, 20 November 2007.

<sup>8</sup> ASEAN, ASEAN Human Rights Declaration, 18 November 2012.

<sup>9</sup> General Assembly, “Universal Declaration of Human Rights”, 217 A (III), 10 December 1948, art. 19.

<sup>10</sup> The Human Rights Committee is the body of independent experts that monitors implementation of ICCPR. Its responsibilities include providing general comments on the articles of ICCPR. These documents elaborate on the content of the articles, providing authoritative guidance on international standards for each right of the Covenant.

<sup>11</sup> General Assembly, “International Covenant on Civil and Political Rights”, *Treaty Series*, vol. 999, 19 December 1966, art. 19 (2).

<sup>12</sup> Human Rights Committee, CCPR/C/GC/34, para 13.

<sup>13</sup> Human Rights Committee, CCPR/C/GC/34, para 13.

recipient of information, the general comment states that the public “also has a corresponding right to receive media output.”<sup>14</sup>

15. The right to freedom of expression, as outlined in Article 19 of ICCPR is not absolute. Restrictions on the right are permitted in circumscribed conditions, as outlined by paragraph 3 of the Article 19, namely where the restriction is prescribed by law and is necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. In the language of the Cambodian Constitution, the right cannot be exercised in a manner that “impinge[s] on dignity of others, to affect the good mores and custom of society, public order and national security”.<sup>15</sup>
16. The requirements of legality, necessity, and proportionality must be met in order for a specific restriction on the right to freedom of expression to be legitimate. Therefore, a law, which provides for restrictions, may appear to create legality but if the restriction created under the law is not sufficiently clear or necessary for one of the legitimate interests outlined in Article 19 or the restriction is not a proportionate measure to achieve that aim, the restriction is not legitimate under international human rights standards. The proportionality test for restrictions on the right to freedom of expression requires that a measure must be the least restrictive available measure to achieve the objective of protecting the legitimate interest in question.<sup>16</sup>

## **PROTECTING HUMAN RIGHTS DEFENDERS, JOURNALISTS AND FREEDOM OF EXPRESSION**

17. As outlined in general comments 35 and 36 of the Human Rights Committee, states have a duty to protect the right to life of human rights defenders (HRDs) and journalists,<sup>17</sup> and to “respond appropriately to patterns of violence against categories of victims such as intimidation of human rights defenders and journalists”.<sup>18</sup>
18. The General Assembly in its 2017 resolution on the safety of journalists and the issue of impunity outlined the “crucial role of journalists and media workers in the context of elections”<sup>19</sup> and expressed “serious concern that attacks against journalists and media workers increase during election periods”.<sup>20</sup> The resolution states that “impunity for attacks against journalists remains one of the greatest challenges to the safety of journalists and that ensuring accountability for crimes committed against journalists is a key element in preventing future attacks”<sup>21</sup>, and highlights “the specific risks faced by women journalists in the exercise of their work”<sup>22</sup>. The resolution

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<sup>14</sup> Human Rights Committee, CCPR/C/GC/34, para 13.

<sup>15</sup> Constitution of the Kingdom of Cambodia, Article 41. See English language translation, <https://www.wipo.int/edocs/lexdocs/laws/en/kh/kh009en.pdf>.

<sup>16</sup> Detailed guidance on the test for determining whether a specific restriction on the right to freedom of expression is legitimate is provided by the Human Rights Committee in General Comment 34. See, Human Rights Committee, CCPR/C/GC/34, paras. 21-35.

<sup>17</sup> Human Rights Committee, “General Comment No. 35, Article 9 (Liberty and security of person)”, CCPR/C/GC/35, 16 December 2014, para 9; UN Human Rights Committee, “General Comment No. 36, Article 6 (Right to Life)”, CCPR/C/GC/36, 3 September 2019, para 23.

<sup>18</sup> Human Rights Committee, CCPR/C/GC/35, para 9.

<sup>19</sup> General Assembly, “Resolution Adopted by the General Assembly on 19 December 2017. The Safety of Journalists and the Issue of Impunity”, A/RES/72/175, 29 January 2018, p. 3.

<sup>20</sup> General Assembly, A/RES/72/175 adopted by consensus.

<sup>21</sup> General Assembly, A/RES/72/175, p. 3.

<sup>22</sup> General Assembly, A/RES/72/175, p. 4.



includes a call on state parties “to create and maintain, in law and in practice, a safe and enabling environment for journalists to perform their work independently and without undue interference”.<sup>23</sup>

19. The Human Rights Council has also issued resolutions on the issue of safety of journalists. In its 2020 resolution on this topic, the Council recognized the role of the free press in “building and supporting the functioning of inclusive societies and democracies, an informed citizenry, the rule of law and participation in public affairs, in holding public institutions and officials accountable, including by exposing corruption”<sup>24</sup>. The Council emphasized that journalists play a crucial role not only in times of crisis but also during election periods, and called on states to refrain from “misuse of national laws, policies and practices to hinder or limit the ability of journalists to perform their work independently and without undue interference.”<sup>25</sup>
20. The right to freedom of expression includes a guarantee that individuals seeking to exercise this right will be protected and assisted in doing so. As outlined by the Human Rights Committee in general comment 34, “[s]tates parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression”.<sup>26</sup> Elaborating on this point, the Human Rights Committee states that no attack on a person who is exercising the right to freedom of expression is compatible with Article 19, “including such forms of attack as arbitrary arrest, torture, threats to life and killing”<sup>27</sup>. The Human Rights Committee notes that journalists and human rights defenders are frequently subjected to such threats, intimidation and attacks due to their work, and states that where attacks on such individuals do occur, they are to be “vigorously investigated in a timely fashion, and the perpetrators prosecuted” and held to account.<sup>28</sup>
21. General comment 34 states that “[a] free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights.”<sup>29</sup> This requires states to ensure that the media has freedom to carry out its essential function of informing the public, and to foster political debate and dialogue free from government interference.<sup>30</sup> This requirement is not only derivative of the right to express, or to publish as guaranteed under the Article 41 Cambodian Constitution, but is also derived from the right of the individual to receive information through media communications. The freedom of the media to provide information is also grounded in the right to vote and participate in public affairs. As outlined by the Human Rights Committee in its General Comment on Article 25 of the ICCPR, “free communication of information and ideas about public and political issues between citizens, candidates, and elected representatives is essential” for the right to vote. This requires “a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion”.<sup>31</sup>

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<sup>23</sup> General Assembly, A/RES/72/175, p. 5.

<sup>24</sup> General Assembly – Human Rights Council, “Resolution adopted by the Human Rights Council on 6 October 2020. The Safety of Journalists”, A/HRC/RES/45/18, 12 October 2020, p. 2.

<sup>25</sup> General Assembly/ Human Rights Committee, A/HRC/RES/45/18, p. 4.

<sup>26</sup> Human Rights Committee, CCPR/C/GC/34, para 23.

<sup>27</sup> Human Rights Committee, CCPR/C/GC/34, para 23.

<sup>28</sup> Human Rights Committee, CCPR/C/GC/34, para 23.

<sup>29</sup> Human Rights Committee, CCPR/C/GC/34, para 13.

<sup>30</sup> “Guidance Note on the Protection and Promotion of Civic Space”, September 2020, p. 11.

<sup>31</sup> Human Rights Committee, CCPR/C/21/Rev.1/Add.7, para 25.

22. According to the Human Rights Council resolution, a pluralistic media is crucial “in building and supporting the functioning of inclusive societies and democracies, an informed citizenry, the rule of law and participation in public affairs, in holding public institutions and officials accountable, including by exposing corruption”.<sup>32</sup> This facet of the right to freedom of expression is of particular importance in the context of elections, as a non-pluralistic media, which prevents equal access of parties and candidates to media platforms to disseminate their political messages will necessarily impact on the ability of voters to make full and informed decisions.<sup>33</sup>
23. In general comment 34, the Human Rights Committee calls on states to take “appropriate action, consistent with [ICCPR], to prevent undue media dominance or concentration by privately controlled media groups in monopolistic situations that may be harmful to a diversity of sources and views.”<sup>34</sup>
24. The right of access to information requires states to “proactively put in the public domain government information of public interest.”<sup>35</sup> Such obligations involve the enactment of access to information legislation aimed at ensuring transparency, accessibility and accountability of the government information at national and local levels. Disproportionate restrictions on internet service providers, search engines, and social media platforms obstruct the sharing of information and necessarily impact on the rights of those attempting to exercise their right to seek and receive that information.<sup>36</sup> In general comment 34, the Human Rights Committee raises concerns at “blocking access during election periods to sources, including local and international media, of political commentary, and limiting the access of opposition parties and politicians to media outlets.”<sup>37</sup>

## THE CONSTITUTION AND THE NATIONAL LEGAL FRAMEWORK

25. The Constitution of the Kingdom of Cambodia, in addition to committing the country to the standards outlined in international human rights treaties, also expressly guarantees the right to freedom of expression in Article 41, as follows:
 

“Khmer citizens shall have freedom of expression of their ideas, freedom of information, freedom of publication and freedom of assembly. No one shall exercise these rights to infringe upon the honor of others, or to affect the good customs of society, public order and national security.”
26. This provision includes several pertinent protections. In addition to freedom of expression, it also guarantees the rights of Khmer citizens to receive information, through the freedom of information, but also to share information, through freedom of publication. While the provision does not expressly refer to the freedom of the press, by protecting and upholding the rights outlined in the article, namely freedom of expression, information, publication, and assembly, the authorities would be upholding and protecting the free press and the space within which they operate. Article 41 also states that the media in Cambodia shall be determined by law. The Law on the Press 1995 (“Press Law”) is the principal framework for regulating press in

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<sup>32</sup> General Assembly/UN Human Rights Council, A/HRC/RES/45/18, p. 2

<sup>33</sup> “Guidance Note on the Protection and Promotion of Civic Space”, September 2020, p. 11.

<sup>34</sup> Human Rights Committee, CCPR/C/GC/34, para 40.

<sup>35</sup> Human Rights Committee, CCPR/C/GC/34, para 19.

<sup>36</sup> Human Rights Committee, CCPR/C/GC/34, para 19, para 43.

<sup>37</sup> Human Rights Committee, CCPR/C/GC/34, para 37.



Cambodia. Article 1 states expressly that “[t]his law determines the regime of the press and assures freedom of the press and freedom of publication in conformity with articles 31 and 41 of the Constitution”.<sup>38</sup>

27. The Press Law includes several important protections that seek to give effect to articles 31 and 41 of the Constitution, which guarantee equality before the law and freedom of expression respectively, with Article 31 also affirming the constitutional commitment to upholding international human rights standards. Article 2 of the Press Law protects the right of media actors to protect confidential sources; Article 3 prohibits pre-publication censorship; Article 4 guarantees that the publication of official information will not be penalized if the information that is published is true; and Article 20 guarantees that no one will be arrested or subject to criminal charges for exercising freedom of expression.
28. The Press Law also provides guidance on the limits of journalistic freedom. These provisions, set out in Chapter II, “Responsibilities of Journalists”, include incitement in Article 11, the publication of information that “may affect national security and political stability” in Article 12; and the publication of false information “that humiliates or contempts [sic] national institutions” in Article 13. Significantly, the punishments set out in the Press Law for contravening these articles include the imposition of fines.
29. However, the Press Law, in spite of the stated objective outlined in Article 1, is not the framework used to regulate the press in Cambodia. Rather, criminal law is overwhelmingly used to regulate the press and the actions of journalists (see case studies in Section 4.1 below). The Criminal Code, which came into effect in 2009, is the main piece of legislation used by the courts in cases involving media. In spite of the Press Law guarantee that no one is to be subject to criminal charges for exercising the right to freedom of expression, a wide range of offences were included in the Criminal Code that provide for criminal sanction and prison sentences for exercising the right to freedom of expression. These include:
  - Defamation, defined as “any allegation or charge made in bad faith, which tends to injure the honour or reputation of a person or an institution” (Article 305);
  - Insults to His Majesty the King (Article 437*bis*, introduced in 2018);
  - The existence of criteria for incitement (Article 494);
  - Incitement to commit a felony (Article 495);
  - Incitement to discriminate (Article 496);
  - Insult, defined as “words, gestures, written documents, pictures or objects liable to undermine the dignity of a person” (Article 502). Paragraph 2 of this Article prohibits an “insult addressed to a public official or a holder of public elected office”;
  - Discrediting judicial decisions (Article 523).
30. In March 2021, the Law on Preventive Measures against the Spread of COVID-19 and other Severe and Dangerous Contagious Diseases (Law on COVID-19) was enacted. The Law on COVID-19 provides the Government with the power to restrict or prohibit travel, meetings and gatherings, to prohibit or restrict certain business operations or professional activities, and the authority to block or restrict certain areas or places to prevent the spread of COVID-19. The Law also contains some provisions that provide

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<sup>38</sup> Government of Cambodia, the Press Law, 18 July 1995.

for severe and disproportionate punishment for individuals who do not comply with the health, administrative, and other measures set out therein. These include administrative and penal provisions such as suspension or removal of licences and closing of businesses; transactional fines; monetary fines; and prison sentences ranging from six months to 20 years. Article 4 of the Law grants the power to the Government to ban or restrict any gatherings or demonstrations that may cause the spread of COVID-19. It also allows for restrictions or bans on the movement of people from one place to another or for blocking access to any place on COVID-19 grounds.<sup>39</sup> Several sub-decrees and administrative measures elaborating on the provisions of the Law were introduced following the adoption of the Law. As outlined in Section 4.1, since its enactment, this law has also been used to restrict the right to freedom of expression.

31. While the Cambodian Constitution does not explicitly guarantee the right to access information, the constitutional guarantee of freedom of expression, as per international standards on that right, includes the right to access information.<sup>40</sup> The constitutional right of all Khmer citizens to “participate actively in the political, economic, social and cultural life of the nation” also implies a right to access information,<sup>41</sup> given that such a right would be largely meaningless if citizens were unable to access the information necessary to permit them to participate in the country’s political life. In addition to these constitutional guarantees, the Government has repeatedly declared its commitment to the right to freedom of information. In 2003, for example, the Council for Judicial Reform stated that “free access to information [is] a fundamental pre-requisite for a functioning and liberal democracy”.<sup>42</sup>
32. While Cambodia currently lacks a comprehensive law on the right to information, some provisions of existing legislation address elements of this right. For example, the Archives Law 2005 regulates the maintenance of information in government archives and provides for public access that is not harmful to national security. However, this right applies to “publicized documents”, and is therefore of limited scope. The Press Law, with its guarantee that the media can “access information in government held records” and its related procedures, is the closest thing that Cambodia has to a law guaranteeing access to information. However, as described above in Section 4.1, the Press Law in Cambodia is largely overlooked and unimplemented by the authorities and the experience of journalists in accessing information through the Press Law has, for many years, been viewed as inconsistent and largely unsuccessful where politically sensitive material is concerned.
33. Chapter III of the Press Law is titled “Competition” but is limited to two provisions, the first of which – Article 17 – states that no one “may own or possess more than two Khmer language newspapers in the Kingdom”, while the other – Article 18 – states that the ratio of newspapers owned by foreign nationals shall not exceed 20% of the

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<sup>39</sup> Government of Cambodia, “Royal Kram: Law on Preventive Measures against the Spread of COVID19 and Other Severe and Dangerous Contagious Diseases”, *NS/RKM/0321/004*, 11 March 2021, <https://pressocm.gov.kh/en/archives/70015>; JOL KHM 4/21, 31 March 2021, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26985&LangID=E>.

<sup>40</sup> Human Rights Committee, CCPR/C/GC/34, para 18.

<sup>41</sup> Constitution of the Kingdom of Cambodia, Article 35.

<sup>42</sup> Council for Judicial Reform, June 2003, “Legal and Judicial Reform”, p.10. The Council for Judicial Reform was established by the Government through a Royal Decree in 2000. See, Royal Decree on the Establishment of the Council of Judicial Reform, 2000.

total of newspapers operating in the country. The latter provision owes its origins to the United Nations Transitional Authority in Cambodia period in the 1990s, when the Press Law was drafted and the media sector in the country was in its infancy. During that period, a large proportion of foreign journalists were operating and reporting in the country and newspapers such as The Cambodia Daily and The Phnom Penh Post were established by foreign nationals. The Press Law is silent on ownership of other forms of media, such as television and news websites.

34. The passage in 2018 of a prakas on Publication Controls of Websites and Social Media Processing via the Internet in Cambodia – Prakas 170 – appears to provide a formal basis for censoring information shared on social media and through messaging apps.<sup>43</sup> While the Prakas is not directed at the media specifically, its provisions may be used to censor news coverage and the media. The Prakas’ stated objective is “obstructing and preventing all publications or news content sharing or written messages, audios, photos, videos, and/or other means intended to create turmoil leading to undermine national defence, national security, relation with other countries, national economy, public order, discrimination, and national culture and tradition”. Amongst other things, Prakas 170 grants extensive powers to the Ministries of Interior, Information, and Posts and Telecommunication, to carry out surveillance of online activities and to block or close websites and/or social media pages containing content that is deemed to constitute “incitement, breaking solidarity, discrimination, create turmoil by will, leading to undermine national security, and public interests and social order.”<sup>44</sup> The Prakas does not provide definitions for the terms used in its text, leaving a wide discretion to those charged with implementing its provisions, namely the line Ministers, the police and the judiciary.
35. Similar concerns arise as to the possible impact that the 2021 Sub-Decree on the Establishment of the National Internet Gateway may have on freedom of expression generally and press freedom particularly. The Sub-Decree establishes a single government-run ‘gateway’ through which all internet traffic in the country will be channelled. The stated aim of the Sub-Decree is to “strengthen the effectiveness and efficiency of national revenue collection, protection of national security, and the preservation of social order, culture and national tradition”.<sup>45</sup> Specific fears arising from the Sub-Decree have been highlighted by the Special Procedures of the Human Rights Council who expressed concern over Article 6, which allows for the blocking of content that may affect national revenue, safety, social order, dignity, culture, traditions and customs, Article 14 which instructs Internet Service Providers to make note of IP addresses and provide information to the Ministry of Post and Telecommunications “if necessary”, and Article 16 which provides for the suspension of Internet Service Providers (ISPs) who do not comply with the aforementioned provisions.<sup>46</sup> The Sub-Decree was due to come into force on 16 February 2022 but implementation was postponed to a later unspecified date, as a result of the COVID-19 pandemic.

## **THE STATE OF THE PRESS IN CAMBODIA AHEAD OF ELECTIONS IN 2022 AND 2023**

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<sup>43</sup> Government of Cambodia, “Inter-Ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia”, No. 170 Br.K/Inter-ministerial, 28 May 2018.

<sup>44</sup> Government of Cambodia, “Inter-Ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia”, No. 170 Br.K/Inter-ministerial, 28 May 2018.

<sup>45</sup> Government of Cambodia, “Sub-decree on the Establishment of the National Internet Gateway”, No. 23 ANKr/BK, 16 February 2021, art. 1.

<sup>46</sup> AL KHM 3/2021, 7 April 2021.

36. In order to determine the state of the press and the environment in which media are operating in Cambodia, the report draws on international standards on freedom of expression generally and press freedom in particular (see section 3.3 above) examining the situation in the country across five specific areas, as follows:
- Freedom from interference;
  - Freedom from censorship;
  - Freedom of access to information;
  - A pluralism of voices in the media;
  - Challenges faced by women journalists.

## FREEDOM FROM INTERFERENCE

37. Journalists and media personnel working in Cambodia today are subject to various forms of interference. The following cases are illustrative of such interference:
- ***Youn Chhiv case:*** Cambodian journalist and publisher for online Koh Kong Hot News was arrested on 28 September 2021 after reporting on a land dispute in the Botum Sakor National Park, Koh Kong province. The land dispute allegedly involved high-ranking officials. On 30 September, he was sentenced to one year in prison for ‘incitement to commit a felony or create social chaos’ under articles 494 and 495 of the Cambodian Criminal Code by the Koh Kong Provincial Court of First Instance. On 30 May 2022, he was released after serving eight months in prison.<sup>47</sup>
  - ***Kouv Piseth case:*** Cambodian news reporter for Siem Reap Tannhekar was arrested on 14 July 2021 in Battambang province. He was arrested after he posted three social media messages criticizing the Cambodian Government and the effectiveness of a Chinese-made COVID-19 vaccine. One of his posts also called for the international community to cut aid to Cambodia. In January 2022, he was sentenced to two years in prison for ‘incitement to commit felony’ under articles 494 and 495 of the Cambodian Criminal Code and ‘obstruction of the implementation of COVID-19 measures’ under Article 11 of the Law on COVID-19 by the Battambang Provincial Court of First Instance. The journalist has appealed the judgment. The Battambang Regional Court of Appeal is set to hear his appeal on 24 June.
38. The cases described above in para. 38 and below in paras. 41 and 42 all involved activities by journalists that are protected by the right to freedom of expression. The cases brought against them appear to violate this right and contravene the guarantee in Article 20 of the Press Law that no one shall be arrested or subject to criminal charges for exercising freedom of expression. Journalists face the constant threat of interference for exercising their work.
39. In a survey of 35 journalists carried out by OHCHR Cambodia in 2022, all respondents stated that they had faced some form of interference while carrying out their jobs – almost half (49% - 12 men and six women) had experienced one instance of interference during their career, with the remainder (12 men and five women)

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<sup>47</sup> In their written response to this report, the Government stated that Yuon Chhiv had disseminated false information with the intention of defaming the Koh Kong Provincial Administration and also intended to incite and create social unrest regarding the implementation of administrative measures by the authorities.

experiencing more than one. A total of 11.5% of those surveyed (three men and one woman) stated that they had faced more than five instances of interference. The most common form of interference was surveillance, with 80% of respondents (21 men and seven women) stating that they had been subject to surveillance during their careers. 11.5% (three men and one woman) of those surveyed had been the victim of arbitrary detention in cases similar to those described below.

40. Since January 2017, OHCHR Cambodia has documented cases involving 23 journalists who have faced criminal charges as a result of their work. This includes:

- ***Aun Pheap and Zsombor Peter case:*** Cambodian journalist Aun Pheap and his Canadian colleague Zsombor Peter were charged with incitement to commit a felony in August 2017, a month after their coverage of the 2017 commune council elections in Pate commune, Ratanakiri province. According to reliable sources and documentation carried out by OHCHR, the two former *Cambodia Daily* journalists did not follow demands from local officials not to interview residents in Ratanakiri and were subsequently accused of inciting voters to support the opposition Cambodia National Rescue Party (CNRP). Their report examined the factors that made Pate the only commune in Ratanakiri that the Cambodian People's Party (CPP) had failed to win in the previous commune election in 2012. Shortly after the charges against the two journalists were filed, in September 2017, the *Cambodia Daily* was forced to shut down following the sudden demand by the Government of the payment of US\$ 6.3 million in alleged tax arrears (see below, section 4.4). Incitement charges against the reporters were dropped in November 2020, after a Ratanakiri plaintiff withdrew the complaint. In January 2022, the decision to drop charges against the journalists was upheld by Tbong Khmum Regional Court of Appeals.<sup>48</sup>
- ***James Ricketson case:*** Australian citizen journalist James Ricketson, who had worked as a journalist and documentary maker in Cambodia since 1995 and had at times reported critically on the Cambodian authorities, was arrested in June 2017 while filming an opposition political rally. In a video produced by the Government prior to the general elections in July 2018, Ricketson had been accused of being part of a wider conspiracy aimed at overthrowing the Government. On 31 August 2018, Ricketson was sentenced to six years in prison for espionage under Article 443 of the Cambodian Criminal Code by the Phnom Penh Municipal Court. On 21 September 2018, two months after the general elections, Ricketson was granted a royal pardon and released.
- ***Uon Chhin and Yeang Sothearin case:*** In November 2017, Uon Chhin and Yeang Sothearin, who had worked as reporters for *Radio Free Asia* (RFA) in Cambodia and covered land and social issues, including human rights violations,<sup>49</sup> were arrested and charged with supplying a foreign state with information prejudicial to the national defence of Cambodia under Article 445 of the Criminal Code.<sup>50</sup> The arrests took place two months after *RFA* was forced to close down its office

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<sup>48</sup> In their written response to this report, the Government stated that the charges against Aun Pheap and Zsombor Peter had been dropped after the complaint against them was withdrawn by the plaintiffs in the case and that the decision to drop the case has been upheld by the Court of Appeal.

<sup>49</sup> Human Rights Council, "Opinions Adopted by the Working Group on Arbitrary Detention at its Eighty-fourth Session, 24 April–3 May 2019. Opinion No. 3/2019 Concerning Uon Chhin and Yeang Sothearin (Cambodia)", A/HRC/WGAD/2019/3, 29 May 2018, p. 2.

<sup>50</sup> Radio Free Asia, "Cambodia's Top Court Rejects Ex-RFA Reporters' Plea to Drop Probe of Espionage Charges", 27 October 2020, <https://www.rfa.org/english/news/cambodia/probe-10272020161213.html>.

in Cambodia following pressure of tax and administrative requirements (see below, section 4.4). In March 2018, the two journalists were further charged with production of pornography under Article 39 of the Law on the Suppression of Human Trafficking and Sexual Exploitation. After having been detained without trial for over nine months, they were released on bail in September 2018. In October 2019, the Phnom Penh Municipal Court decided not to declare the verdict but to send the case back to the investigating judges for further investigation. In October 2020, the Supreme Court rejected an appeal from two journalists who had sought to reverse an order to re-investigate their case. There have been no further developments in the case since, in possible violation of the two journalists' right to be tried without undue delay.<sup>51</sup>

41. While Article 497 of the Criminal Code states that incitement offences “when committed through the press are subject to the provisions of the Press Law”, this provision has been routinely overlooked by the judicial authorities who have routinely relied upon incitement provisions in cases involving the media, including in the following cases:

- **Rath Roth Mony case:** In December 2018, Rath Rott Mony, who worked for the Russian state media outlet *Russia Today* on a documentary on child sex trafficking in Cambodia, was arrested in Thailand and forcibly returned to Cambodia based on a formal request of the Government. Mony was accused of incitement to discriminate under Article 496 of the Criminal Code – the allegation being that by reporting on sex trafficking in Cambodia, he undermined the reputation of Cambodia and caused people to look down on or discriminate against Cambodia. In June 2019, the Phnom Penh Municipal Court sentenced Mony to two years in prison. After having completed his sentence in December 2020, Mony was released and fled Cambodia.<sup>52</sup>
- **Ros Sokhet case:** On 25 June 2020, Ros Sokhet, founder of the independent newspaper *Khmer Nation*, was arrested for publishing several posts to his personal Facebook page, which were critical of the Cambodian authorities, including the Prime Minister. The journalist was charged with incitement to provoke serious social disorder under articles 494 and 495 of the Criminal Code.<sup>53</sup> On 11 November 2020, Sokhet was sentenced to 18 months imprisonment and fined 2 million riels. He was released in late December 2021, after he had served his full sentence.<sup>54</sup>

42. While the Criminal Code has been the main instrument utilized by the courts in cases involving the media for many years, since the COVID-19 pandemic and the enactment

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<sup>51</sup> In their written response to this report, the Government stated that the arrest of Uon Chhin and Yeang Sothearin “was not a restriction on the freedom of the press or persecution of journalists” but the result of a charge of providing information to a foreign state and “in particular, undermining the defence of the Kingdom of Cambodia”.

<sup>52</sup> In their written response to this report, the Government stated that Rath Rott Mony had “produced and disseminated an untrue documentary video entitled ‘Life: My mother sold me’ which harms the honor, dignity, culture, tradition and irrational accusation that Cambodia is a placed where mothers sell their children’s virginity”.

<sup>53</sup> General Assembly/Human Rights Council, “Opinions adopted by the Working Group on Arbitrary Detention at its Ninety-second Session, 15–19 November 2021. Opinion No. 75/2021 Concerning Ros Sokhet (Cambodia)”, A/HRC/WGAD/2021/75, 27 January 2022, p. 2.

<sup>54</sup> In their written response to this report, the Government stated that Ros Sokhet had “bad intention to spread false information, incite and insults to create public outrage for personal gain” and that he had “passed the boundary of the right to freedom of expression”.



of legislation and regulations to manage the pandemic, a new trend has emerged with these provisions being used to further shrink the space within which media and other actors in Cambodia operate. The Human Rights Committee was alarmed by the use of criminal and civil legal actions against journalists and human rights defenders; and widespread harassment and intimidation of online activists, including during the period of the 2018 elections and for criticising the State party's handling of the COVID-19 pandemic. The Committee noted with concern that some criminal offenses contained in the Criminal Code and in the Law on Telecommunications, including defamation, incitement, insult and *lèse-majesté* are often used to restrict freedom of expression disproportionately and excessively.<sup>55</sup>

43. Since it came into force, the COVID-19 Law has been used in cases involving journalists and human rights defenders. For example, a reporter with the local Siem Reap *Tannhektar* news website was arrested in Battambang province on 14 July 2021 and charged under the COVID-19 Law with obstruction of the enforcement of COVID-19 measures (see above, paragraph 38). The COVID-19 Law has also been used by authorities in an effort to quell strikes by workers at NagaWorld Casino, three of at least 35 union members and activists who have been arrested since the strike began in December 2021 have been charged with obstruction of the enforcement of measures in the COVID-19 Law. Four other women strikers have also been subject to the court's questioning of the same charges, but they were not arrested. The enforcement of measures to prevent COVID-19 has also been the justification for the delay arbitrary arrest and detention of strikers, the overwhelming majority of whom are women. As of May 2022, OHCHR had documented 4,323 individual instances of arbitrary detention in the context of the strike. In most cases, those detained were women.

## FREEDOM FROM CENSORSHIP

44. Censorship takes different forms, many of which have been documented in Cambodia in recent years. In its purest and most straightforward form, censorship involves telling a journalist or a media outlet what they can and cannot publish. When asked in a survey by OHCHR in 2022, 60% of journalist respondents (15 men and six women) stated that they had faced verbal threats in connection with their work. This includes instances in which journalists called government officials for quotes or reactions to particular issues and received warnings or threats from the officials who, in some cases, used inappropriate and/or offensive language. A typical example was given by one journalist in December 2021 to OHCHR Cambodia who described being verbally threatened by a senior government official who said "do not publish any news that is critical of the Royal Government of Cambodia". Another journalist told OHCHR Cambodia in January 2022 that after visiting a land dispute site in Phnom Penh, they received a text from an official via a messaging app telling them to "be careful with your news reporting".
45. While neither Prakas 170 nor the Sub-Decree on the National Internet Gateway are specifically targeted at the media, the potential impact of these instruments on freedom of expression more broadly and press freedom in particular is profound. Both instruments vest broad powers in government to censor expression in a manner that appears to go well beyond what is permitted by Article 19(3) of ICCPR, giving rise to situations where government agencies will be empowered to censor expression and reporting that they deem inconvenient.

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<sup>55</sup> Human Rights Committee concluding observations of March 2022 (CCPR/C/KHM/CO/3).

46. During the previous national election in 2018, the Ministry of Information ordered ISPs to block the services of 15 independent media outlets or news websites, including the website of CNRP and of major news outlets such as Voice of America (VOA), Voice of Democracy (VOD) and RFA, stating that the outlets were “citing sources who disrupted the election and were abroad” in violation of the country’s election laws.<sup>56</sup> The order is in clear violation of Article 19 of ICCPR, as well as the Law on the Election of the National Assembly, which provides no basis for the closure of websites in such circumstances, stating only that political parties are barred from campaigning for 24 hours prior to election day. Prakas 170 and the Sub-Decree on the National Internet Gateway threaten to provide a more formal legislative basis for the closure of websites, including those of news outlets, giving rise to fears of the routing shutting down of critical voices and reporting. The Human Rights Committee was alarmed by reports of the closure of multiple national and international media outlets and blockage of websites critical of the Government. It recommended that the State review and revise its current and pending legislation, including the Sub-Decree on National Internet Gateway and the amendments to the Press Law and the draft laws on cybercrimes and on access to information to avoid the use of vague terminology and overly broad restrictions. The Human Rights Committee further recommended the State to ensure that in the formulation and enforcement of its legislation, including Ministerial Sub-Decrees, any restrictions on the exercise of freedom of expression and association comply with the strict requirements of articles 19 (3) and 22 of the Covenant.<sup>57</sup>

## FREE ACCESS TO INFORMATION

47. Journalists in Cambodia state that they are working in an increasingly difficult environment, one that is particularly fraught with difficulties when it comes to accessing information from public sources. While the authorities have adopted laws that seem to curtail the right to freedom of expression, they have delayed finalising a promised new law that will permit journalists and media personnel to access official information. The environment of self-censorship that exists in the country and which is described above appears to go beyond journalists and includes those whom journalists seek out for information. One journalist interviewed by OHCHR in January 2022 said that it is becoming ever more difficult to speak to sources explaining, “when I make a phone call to political analysts or NGO leaders to seek their comments on social or political developments, I am often told that they refrain from giving comments for fear of threats and reprisals”. During interviews with journalists in Cambodia many of them stated that they were working in an increasingly difficult and challenging environment, one that is particularly fraught with difficulties when it comes to accessing information from public sources.
48. According to UNESCO, a policy framework on Access to Information was drafted already in 2007 but was not submitted to the National Assembly or the Council of Ministers for debate and approval.<sup>58</sup> In 2010 and 2012, draft laws were submitted to the National Assembly by a member of parliament from CNRP but rejected both times,

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<sup>56</sup> Sun Narin & Aun Chhengpor, “Government confirms blocking 15 independent news sites over poll ‘disruption’”, Voice of America, 28 July 2018.

<sup>57</sup> Human Rights Committee concluding observation of March 2022 (CCPR/C/KHM/CO/3).

<sup>58</sup> UNESCO, “Working Towards an Access to Information Law in Cambodia: Bridging the Government and Citizens for Participatory Law-making 2014-2017. Annex 1”, [https://docs.google.com/viewerng/viewer?url=http://a2i.info.gov.kh/html/image/project\\_doc/A2I-Project-Document-Shareable.pdf](https://docs.google.com/viewerng/viewer?url=http://a2i.info.gov.kh/html/image/project_doc/A2I-Project-Document-Shareable.pdf).

and further draft laws by civil society organizations (CSOs) (for example, the Model Law on A2I) have also failed to gain traction with the authorities. The Government has “indicated a strong wish to draft a new law taking into account the policy framework of 2007 and to embark on a participatory law-making process.”<sup>59</sup> In pursuit of this stated objective, in 2014, a consultative participatory legal drafting process of the Law on Access to Information was initiated and a technical working group was set up comprising of representatives from relevant government ministries, CSOs, as well as UNESCO and OHCHR. Meetings, which focused on formulating a draft law, were to be held by the working group every two months over a period of four years.<sup>60</sup> An inter-ministerial commission was also established by sub-decree, with a mandate to debate and submit the law to the Council of Ministers.<sup>61</sup>

49. After many years of drafting and consulting, the draft Access to Information Law was submitted by the Ministry of Information to the National Assembly in 2019 but its passage through the legislative process was delayed by the pandemic.<sup>62</sup> While announcing that the draft Law on Access to Information was ready to be reviewed, in October 2019, the Minister of Information stated that the draft’s contents were in line with international standards and the Cambodian constitution.<sup>63</sup> In a following statement, a spokesperson of the Ministry of Information reiterated that the draft law incorporated feedback and recommendations gathered through a lengthy consultation process with CSOs and the United Nations.
50. In late 2021, the Government announced that the passage of the law was to be expedited. The spokesperson of the Ministry of Information declared that the draft law had been under review with legal experts and that changes to some of the provisions were made in alignment with the socio-cultural context of Cambodia as well as the Cambodian Criminal Code.<sup>64</sup> Upon final review and confirmation by the Justice Ministry, the draft law is to be submitted to the Office of the Council of Ministers for approval.
51. In his report dated 4 August 2020, the Secretary-General encouraged the Cambodian Government “to ensure that recommendations made by relevant United Nations agencies and stakeholders are incorporated, in order to sufficiently meet the objective of the law” while emphasizing “lack of progress towards addressing the key human rights concerns raised by CSOs.”<sup>65</sup> More recently, when asked by the Human Rights Committee in March 2022 if the draft law allowed for independent oversight of media regulations, the Cambodian delegation responded broadly that it “was designed to

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<sup>59</sup> UNESCO, “Working Towards an Access to Information Law in Cambodia: Bridging the Government and Citizens for Participatory Law-making 2014-2017. Annex 1”.

<sup>60</sup> UNESCO, “Working Towards an Access to Information Law in Cambodia: Bridging the Government and Citizens for Participatory Law-making 2014-2017”. See also: Ministry of Information, “About A2i”, Access to Information, <http://www.a2i.info.gov.kh/html/about.html>.

<sup>61</sup> Ministry of Information, “About A2i”, Access to Information”, <http://www.a2i.info.gov.kh/html/about.html>.

<sup>62</sup> Khuon Narim, “Gov’t says draft access to information law delayed by COVID-19 pandemic”, *CamboJA*, 6 January 2021.

<sup>63</sup> Pech Sotheary, “Information access law in line with standards: Minister”, *Khmer Times*, 9 October 2019, <https://www.khmertimeskh.com/50649227/information-access-law-in-line-with-standards-minister/>.

<sup>64</sup> Sar Socheath, “Information access draft law in final stage and to be expedited”, *Khmer Times*, 5 November 2021, <https://www.khmertimeskh.com/50965262/information-access-draft-law-in-final-stage-and-to-be-expedited/>.

<sup>65</sup> General Assembly / 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. Report of the Secretary-General”, A/HRC/45/56, 4 August 2020, para 16.

protect the public from abusive and inappropriate content, such as on-line gambling and pornography”, that the draft was “still under discussion, and it was too early to comment on it.”<sup>66</sup>

52. While the announcement of the expedition of the passage of the law after many years is promising, the content of the current draft raises significant concerns. Articles 3 and 4 of the current draft limit the types of information that fall under the legislation, as well as the institutions that will be impacted by the law. Of equal concern is the lack of whistle-blower protections included in Article 24 of the draft. In his 2021 report to the Human Rights Council, the Secretary-General outlined concerns with the text of the most recent draft law, noting that “the current draft fails to establish an independent information commission or a specialized administrative body to oversee the enforcement and implementation of the law, and does not include adequate appeal procedures.”<sup>67</sup>
53. With repeated delays in adopting this legislation, the reality in Cambodia today is that there is no means to compel government agencies to release information to the public or the media. Access to information is, for all intents and purposes, at the discretion of those holding the information, with the Government operating a public information system rather than being subject to any requirements to provide access to information. The experience of COVID-19 provides a good illustration of the importance of transparency and information sharing. For months, especially when the case load in Cambodia remained low throughout 2020 and early 2021, the Cambodian Ministry of Health provided a province-by-province breakdown of positive cases but in May 2020, one day after the country posted a record high 938 cases in a single day,<sup>68</sup> the Government’s public information policy changed, and the Government began publishing a countrywide figure, with the onus transferred to provincial authorities to provide provincial level information.<sup>69</sup> Whereas some provincial authorities provided information through their Facebook pages, information from provinces where case numbers were high, including Phnom Penh, the area with the largest caseload, did not. The shift in the Government’s public information policy coincided with a ban on independent journalists in accessing so-called “red areas” within Phnom Penh and Kandal provinces where case numbers were particularly high and as a result, were placed under lockdown.<sup>70</sup>
54. In their written response to this report, the Government stated that “the discussions on the draft law on the Access to Information have not been completed at the Technical Working Group Level between the Ministry of Information and the Ministry of Justice” and that the draft would soon be subject to a final meeting between the two ministries. Once approved between the ministries, the draft will be sent for

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<sup>66</sup> United Nations Information Service, “In Dialogue with Cambodia, Experts of the Human Rights Committee Ask about Freedom of Expression and Raise Issues Concerning COVID-19 Prevention Measures”, 11 March 2022, <https://www.un Geneva.org/en/news-media/meeting-summary/2022/03/dialogue-cambodia-experts-human-rights-committee-ask-about>.

<sup>67</sup> General Assembly / 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. Report of the Secretary-General”, A/HRC/48/49, 16 September 2021, para 22.

<sup>68</sup> ‘Cambodia’s Worst Day on Record as COVID-19 Cases Jump by 938’, *Cambodianess*, 4 May 2021, <https://cambodianess.com/article/cambodias-worst-day-on-record-as-covid-19-cases-jump-by-938>.

<sup>69</sup> “Provinces Vigilant as Crowds Leave Phnom Penh With Lockdowns Easing”, *Voice of Democracy*, 6 May 2021, <https://vodenglish.news/provinces-vigilant-as-crowds-leave-phnom-penh-with-lockdowns-easing/>.

<sup>70</sup> ‘Red-Zone News Reporting is Invite-Only: Information Ministry’, *Voice of Democracy*, 3 May 2021, <https://vodenglish.news/red-zone-news-reporting-is-invite-only-information-ministry/>.

approval to the Office of the Council of Ministers. The Government noted that when the law comes into force, Cambodia would become the fifth country in the region to have such a law. The Government also highlighted other measures taken to promote access to information, namely “the establishment of a Government Spokesperson Unit, a Group of Ministry Spokespersons, Institutions and Spokespersons and Capital-Provincial Information Officers, One Window Services at both the National Administration (Ministries/Institutions) and Sub National Administration, including the Ombudsman Office. On the issue of establishing an independent information commission under the law, the Government noted that other countries who have already introduced access to information laws have not included such a commission.

55. An access to information law, applied by an independent and impartial government agency and overseen by the courts, could have a profound positive impact on press freedom in Cambodia, giving the media the legislative basis to seek information of public interest held by all government bodies. To prevent the continuing backslide in press freedom in the country and to ensure that journalists and others have a clear legal basis to seek information from public bodies, the Government should revise the text of the draft Law on Access to Information to bring it into line with international standards and expedite its passage through the legislative process.

### A PLURALISM OF VOICES IN THE MEDIA

56. Ownership of the media and the means through which people share information has a huge bearing on the rights to freedom of expression and freedom of information, and the freedom of the press. It is vital that the state or the ruling party does not have a monopoly over the media and the press,<sup>71</sup> thereby gaining control over the dissemination of information. In their written response to this report, the Government stated that there are currently 2,117 media units currently operating in Cambodia, a figure, which includes traditional media (television, radio, newspapers, and magazines) and modern media (news websites). The Government added that these outlets are “practicing freely and without discrimination, not threats, intimidation or political affiliation”. According to their written response to the report, there are “nearly 6,000 national and foreign journalists” currently “practicing and fulfilling their duties” throughout Cambodia.
57. The Human Rights Committee states in general comment 34 that the state “should not have monopoly control over the media and should promote plurality of the media.”<sup>72</sup> To ensure that this is the case, states should take action to “prevent undue media dominance or concentration by privately controlled media groups in monopolistic situations that may be harmful to a diversity of sources and views.”<sup>73</sup> Specifically in the context of elections, the general comment raises concerns on “restrictions on the number and type of written materials that may be distributed during election campaigns, blocking access during election periods to sources, including local and international media, of political commentary and limiting access of opposition parties and politicians to media outlets.”<sup>74</sup>
58. With the closure of *The Cambodia Daily* and *RFA* in 2017 and 2018 respectively and a change in ownership in *The Phnom Penh Post* that resulted in a shift in the paper’s

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<sup>71</sup> Human Rights Committee, CCPR/C/GC/34, para 40.

<sup>72</sup> Human Rights Committee, CCPR/C/GC/34, para 40.

<sup>73</sup> Human Rights Committee, CCPR/C/GC/34, para 40.

<sup>74</sup> Human Rights Committee, CCPR/C/GC/34, para 37.



editorial line from independent to pro-government, the media landscape in Cambodia underwent a seismic shift, with the country losing some of its most well-respected and longstanding independent media voices.<sup>75</sup> The following developments led by the Government diminishing media pluralism warrant particular attention:

- ***The Cambodia Daily***, founded during the period of the United Nations Transitional Authority in Cambodia (UNTAC), was considered one of the country's few investigative news outlets with a global reputation for independent reporting since 1993. On 4 August 2017, the newspaper was requested to pay \$6.3 million dollars in allegedly outstanding taxes, dating back to 2007, within one month.<sup>76</sup> *The Cambodia Daily* had been run as a non-profit organization since its inception and it was widely believed that the tax bill was levelled against the newspaper in an effort to close its operations. While the newspaper offered to make its financial records available for inspection and called for a transparent audit of its financial affairs, but this remained unheeded.<sup>77</sup> After having published its last print edition on 4 September 2017, *The Cambodia Daily* continued to operate online, until the Government ordered Internet Service Providers to block access to the website in early 2018. The Special Rapporteur on the situation of human rights in Cambodia described the closure of *The Cambodia Daily* as "a reduction in freedom of the media in Cambodia".<sup>78,79</sup>
- ***Radio Free Asia*** was forced to close its Phnom Penh office in September 2018, after almost 20 years of independent journalism in the country.<sup>80</sup> Libby Liu, President of *Radio Free Asia*, issued a statement about the decision to suspend the operations in Cambodia, alleging the Government to have used tax arrears as a pretext to forcing the closure of the outlet despite its full cooperation with Government requests and efforts to register as a licensed media company.<sup>81</sup> However, according to the Cambodian Government, *Radio Free Asia* had "neither registered with the tax administration nor fulfilled legal tax obligations nor obtained any operating licenses from the competent Cambodian authority", and instead "has chosen to close its office, [...] and started operating in secret, in addition to pursuing their lobbying the international community to put pressure of the Royal Government."<sup>82</sup> Already in July 2018, shortly before the national election days, the Ministry of Information ordered Internet Service Providers to block the services of *Radio*

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<sup>75</sup> In their written response to this report, the Government stated The Phnom Penh Post "is a private media outlet, and thus, the exchange of the ownership or management of this media outlet was a private business" and consequently, was "not related to the [Government's] pressure".

<sup>76</sup> UN News, "[Cambodia: UN human rights wing concerned by media, civil society curbs](#)", 25 August 2017.

<sup>77</sup> UN News, "[Cambodia: UN human rights wing concerned by media, civil society curbs](#)", 25 August 2017.

<sup>78</sup> General Assembly / Human Rights Council, "Report of the Special Rapporteur on the situation of human rights in Cambodia", *A/HRC/39/73*, 15 August 2018, para. 64.

<sup>79</sup> In their written response to this report, the Government stated The Cambodia Daily "avoided paying taxes and decide[d] to shut down its own outlet, accusing the Royal Government of Cambodia of politically motivated reason". The Government responses stated that carrying tax audits does not amount to political discrimination and that "in the five year period from 2014 to 2018, the General Department of Taxation conducted tax audits on 14,091 enterprises and was able to collect 13,308 billion Riels (approximately 3,327 million US dollars) in taxes, excluding the USD 6 million taxes owed by *The Cambodia Daily*".

<sup>80</sup> Libby Liu, "[Statement of Radio Free Asia's President on Cambodia](#)", *Radio Free Asia*, 12 September 2017.

<sup>81</sup> Libby Liu, "[Statement of Radio Free Asia's President on Cambodia](#)", *Radio Free Asia*, 12 September 2017.

<sup>82</sup> General Assembly / Human Rights Council, "Report of the Special Rapporteur on the situation of human rights in Cambodia: comments by the State", *A/HRC/39/73/Add.2*, 11 September 2018, p. 20.



*Free Asia*, accusing the outlet of citing foreign sources intending to disrupt the election in violation of election law.<sup>83</sup> While RFA continues to publish articles on Cambodia and in the Khmer language online, these operations are run out of the organization's Washington, DC headquarters.<sup>84</sup>

59. In 2018, *Reporters Without Borders* and local media-NGO *The Cambodian Center for Independent Media (CCIM)* published the *Media Ownership Monitor Cambodia*, which examines the ownership of Cambodian media across television, online, radio and print. The study found that media ownership in Cambodia is characterized by “high levels of ownership concentration, a low transparency level, and a problematic dependency of media outlets on the government”.<sup>85</sup> Looking at these forms of media in order of their popularity in the country, the *Media Ownership Monitor* shed light on a problem of monopolies and political control, as follows:
60. **Television:** According to the *Media Ownership Monitor*, television is the most popular form of media in Cambodia, with 96% of the country's population having access to television and 57% of Cambodians stating that they watch television for the news.<sup>86</sup> Not only is television the most popular form of media, it is also the most concentrated media sector in the country, with the four most popular of the country's 18 television stations gathering a viewership of 78% of the country.
61. Where diversity of political views is concerned, seven of the country's nine biggest television channels being owned and/or controlled by individuals affiliated in one way or another to the Cambodia People's Party,<sup>87</sup> The country's most popular television station, the Cambodian Television Network or CTN, has an audience share of 30%, and is owned by Kith Meng, an advisor to Prime Minister Hun Sen. The smaller Bayon Television Network, with its 4% audience share, is owned by Hun Mana, the daughter of the Prime Minister.<sup>88</sup>
62. **Online:** According to the study, 39% of Cambodians are exposed to online media.<sup>89</sup> In their written response to this report, the Government stated that “more than 17 million Cambodians are using the internet (equivalent to 102% of the total Cambodian population) and nearly 12 million are using social media (Facebook and other social media)”. In 2016, the Internet has become for the first time “the most important channel through which Cambodians access information (30%) surpassing TV (29%) and

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<sup>83</sup> Sun Narin and Aun Chhengpor, “Government confirms blocking 15 independent news sites over poll ‘disruption’”, *Voice of America*, 28 July 2018, <https://www.voacambodia.com/a/government-confirm-blocking-fifteen-independent-news-sites-over-poll-disruption/4503739.html>.

<sup>84</sup> In their written response to this report, the Government stated that the closure of two foreign radio stations – Radio Free Asia and Voice of America - “conducted business without being legally registered in the Kingdom of Cambodia, and, during 2017”, the outlets voluntarily closed their offices in Cambodia. In their response, the Government states that “there was no order to shut down [Radio Free Asia and/or Voice of America] from the Ministry of Information”.

<sup>85</sup> Reporters Without Borders, “Media Ownership Monitor Cambodia”, 2018, <https://www.mom-rsf.org/en/countries/cambodia/>.

<sup>86</sup> Ibid.

<sup>87</sup> Ibid.

<sup>88</sup> Astrid Norén-Nilsson, “Fresh News, innovative news: popularizing Cambodia's authoritarian turn”, *Critical Asian Studies*, 53 (1), 2021, p. 94; 102.

<sup>89</sup> Reporters Without Borders, “Media Ownership Monitor Cambodia. Online”, 2018, <http://cambodia.mom-rsf.org/en/media/online/>.

almost doubling radio (15%)”.<sup>90</sup> Whereas television is almost exclusively owned and controlled by Cambodian nationals and companies, the most popular websites in Cambodia are largely international or foreign-owned. These include websites such as Google, Youtube and Yahoo, with Facebook described by the study as “by far the number one” website in Cambodia. By the time of the last national election, in 2018, 42.5% of the Cambodian population were Facebook users.<sup>91</sup> According to a nationally representative survey conducted by the BBC Media Action in 2021, social media is even the most popular form of media for 15-30 year old Cambodians, consumed by 87%, with Facebook being the primary source for “staying updated”.<sup>92</sup> The *Media Ownership Monitor Cambodia* further states that of the 120 most visited websites in Cambodia, only ten are news websites. Fresh News is the country’s most popular news website, with just under 10,000 visitors a day. While the outlet has denied any formal connection with the ruling party, it was founded by an advisor to the Prime Minister and is known for commentary that reflects the positions of the Government. In 2017, an anonymous editorial on Fresh News proposed an arrangement for the redistribution of the seats of the CNRP in the event of their dissolution to other parties. Two weeks later, after CNRP was dissolved by the Supreme Court and the National Assembly enacted amendments that reflected the proposal of the anonymous Fresh News editorial, handing the majority of the opposition party’s seats to the ruling CPP.

63. Online news websites offer some diversity in the profile of their owners and editorial position. For example, with almost 40,000 daily visitors, the Khmer language website of Radio France International, which is owned and operated from Paris, provides independent news reporting.<sup>93</sup> However, other websites previously known for independent reporting or positions viewed by the Cambodian authorities as being anti-government, have been closed down in recent years.
64. **Radio:** The rise of the internet in Cambodia has corresponded to a drop in popularity of the radio.<sup>94</sup> With an audience in 2018 that corresponded to 35% of the country’s population, radio was the third most popular medium in Cambodia. Whereas traditionally, radio was one medium, which the political opposition and other non-government aligned interests, such as human rights groups, had access,<sup>95</sup> this is decreasingly the case. In 2017, after the CRNP won seats in the previous commune elections, more than 30 radio stations had their licenses revoked by the Ministry of Information.<sup>96</sup> These stations had aired programmes by Washington DC-based news

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<sup>90</sup> Kimchhoy Phong, Lihol Srou, and Javier Solá, “Mobile Phones and Internet Use in Cambodia 2016”, *The Asia Foundation*, December 2016, <https://asiafoundation.org/publication/mobile-phones-internet-use-cambodia-2016/>.

<sup>91</sup> Astrid Norén-Nilsson, “Fresh News, innovative news: popularizing Cambodia’s authoritarian turn”, *Critical Asian Studies*, 53 (1), 2021, p. 93; see also: Samantha Fuentes, “Cambodia’s 2018 Social Media and Digital Statistics”, *Geeks in Cambodia*, 2 February 2018, <http://geekincambodia.com/cambodias-2018-social-media-digital-statistics/>.

<sup>92</sup> Vichheka Sao, Anisha Ratan and Hor Otdam, “Understanding how young Cambodians use media and information”, *BBC Media Action*, May 2021, <https://www.bbc.co.uk/mediaaction/publications-and-resources/research/briefings/asia/cambodia/klahan9-media-infographic-2021/>.

<sup>93</sup> Reporters Without Borders, “Media Ownership Monitor Cambodia, New Players. kh.rfi.fr”, 2018, <http://cambodia.mom-rsf.org/en/media/detail/outlet/khrfifr/>.

<sup>94</sup> Kimchhoy Phong, Lihol Srou, and Javier Solá, “Mobile Phones and Internet Use in Cambodia 2016”, *The Asia Foundation*, December 2016, p. 25, <https://asiafoundation.org/publication/mobile-phones-internet-use-cambodia-2016/>.

<sup>95</sup> BBC Media Action, *Media Habits and Information Sources of Youth in Cambodia*, February 2014, p. 13.

<sup>96</sup> See, Aurel Croissant, “Cambodia in 2017. Descending into Dictatorship?”, *Asian Survey*, 58 (1), 2018, p. 196.

outlets *RFA* and *VOA*, as well as *VOD*. In contrast, while Seng Bunveng, the owner of the most popular radio frequency in Cambodia, ABC Cambodia, was sued for incitement by the political opposition in 2013 for calling for a military coup in the event of a CNRP election win, no action has been taken in that case and ABC continues to broadcast to an audience estimated to include one in four Cambodians.<sup>97</sup>

65. **Print media:** With only 11% of the country's population stating that they only read a newspaper and/or magazine, and with most of those consumers being based in Phnom Penh, print media is the fourth most popular form of media in Cambodia.<sup>98</sup> Recent years have seen significant shifts in the print media landscape, with the 2017 closure of *The Cambodia Daily*, which had for 24 years published news articles under the banner of "without fear or favour", and the 2018 change of ownership in *The Phnom Penh Post*, which saw that publication shift from non-aligned and independent to a pro-government position. In December 2017, the Ministry of Information effectively closed down 330 print media outlets, citing inactivity.<sup>99</sup> According to the Government, there were still 550 print newspapers in the country in 2019.<sup>100</sup> During the 2022 World Press Freedom Day, the Minister of Information stated that print media in Cambodia totalled 662 outlets consisting of newspapers, magazines, bulletins and leaflets. In addition, he reportedly noted there were over 700 news websites, 81 online video outlets, 19 traditional TV stations, 125 relay stations, two cable TV providers, three subscription TV services, 221 radio stations and 26 international news agencies and foreign press offices as well as 51 journalist associations<sup>101</sup>.
66. The country's print media is now overwhelmingly pro-government, with the second most popular newspaper in the country, *Rasmei Kampuchea*, being run by Say Chhum, the President of the Cambodian Senate, the Chairman of the Permanent Committee of the Central Committee of the ruling CPP, and father of Say Sam Al, the Minister for Environment, while another newspaper, *Kampuchea Thmey*, is owned by Hun Mana, the daughter of Prime Minister Hun Sen.<sup>102</sup>
67. With media ownership in Cambodia increasingly concentrated in the hands of the country's political and business elite, concerns necessarily arise that the press will be less equipped to carry out its democratic function. As noted by the Human Rights Council, "the free communication of information and ideas about public and political

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<sup>97</sup> Reporters Without Borders, "Media Ownership Monitor. New Players. ABC Cambodia - FM 107.5", 2018, <https://cambodia.mom-rsf.org/en/media/detail/outlet/abc-cambodia-fm-1075/>.

<sup>98</sup> Note, an alternative source stated that in 2016 "only 2% of Cambodians [...] read newspapers". See, Kimchhoy Phong, Lihol Srou, and Javier Solá, "Mobile Phones and Internet Use in Cambodia 2016", *The Asia Foundation*, December 2016, p. 23, <https://asiafoundation.org/publication/mobile-phones-internet-use-cambodia-2016/>.

<sup>99</sup> Pamela Victor, "The Case of Cambodia's Media Crackdown in 2017", *The ASEAN Post*, 21 December 2017, <https://theaseanpost.com/article/case-cambodias-media-crackdown-2017>.

<sup>100</sup> Government of Cambodia, "Remarks by Samdech Techo Hun Sen Prime Minister of the Kingdom of Cambodia at the 41st Session of the Human Rights Council Geneva, 4th July 2019", *Office of the Council of Ministers*, 4 July 2019, <https://pressocm.gov.kh/en/archives/55082>.

<sup>101</sup> The Phnom Penh Post, 3 May 2022, <https://www.phnompenhpost.com/national/pm-calls-digital-shift-credibility-journalism>.

<sup>102</sup> Reporters Without Borders, "Media Ownership Monitor. Rasmei Kampuchea Daily Newspaper", 2018, <https://cambodia.mom-rsf.org/en/media/detail/outlet/rasmei-kampuchea-daily-newspaper/>; Astrid Norén-Nilsson, "Fresh News, innovative news: popularizing Cambodia's authoritarian turn", *Critical Asian Studies*, 53 (1), 2021, p. 94.

issues between citizens, candidates and elected representatives is essential”.<sup>103</sup> With the closure of news media that have provided access to opposition and dissenting views, and with the media controlled by a shrinking network of government-connected individuals, it is likely that alternative views will not receive equal airtime and column inches, resulting in a democratic deficit in Cambodia.

### **Naga World strike – reporting by pro-government and independent media**

68. Since 18 December 2021 until the time of writing, workers from Naga Casino in Phnom Penh have been conducting a strike against the lay-off of more 1,300 workers and related union busting activities by the union. Special Procedures of the Human Rights Council have expressed concerns about the arrests of leaders of the union organizing the peaceful strike, as well as efforts by authorities to suppress the strikes, including moving strikers beyond sight and sound of the company premises.<sup>104</sup> For the purposes of this report, the strike provides a useful case study of the state of press freedom in Cambodia; specifically, how government-aligned media are facilitated in promoting a pro-government-narrative of controversial events, while independent media are prevented from reporting on issues of public interest.
69. On 23 March, the pro-government media outlet Fresh News released a news article, rejecting reports that the authorities had used violence against strikers as baseless and misleading.<sup>105</sup> The description of the situation was consistent with a Government statement, denying any excessive force against strikers by authorities.<sup>106</sup> According to Fresh News, authorities deployed at the striking site were merely fulfilling their duty, protecting public security and social order, while the activities of the NagaWorld employees were deemed illegal, also referring to a court’s decision on 16 December 2021. In the article, it was further described that authorities “invited” strikers onto buses, which were supposed to bring them to Freedom Park, where they were obligingly allowed by the Government to express their opinions despite the court’s ruling. The same news article illustrates its reporting with pictures taken directly at the striking site. Although no sources were provided, it can be assumed that the photos were taken by Fresh News reporters. Putting emphasis on authorities who suffered minor injuries while on duty, such as scratches, the selected photos appeared to be motivated by a desire to discredit the strike and the strikers.
70. By contrast, OHCHR Cambodia had observed that journalists covering the same strikes for media outlets perceived to be more independent were pushed back around 100 metres from the area where the strikers congregate. The reporting by independent media of the strike also contrasts with that of Fresh News. For example, on 22 March 2022, Voice of Democracy reported that authorities had prevented workers from reaching the strike site, forming a human chain to direct and push workers onto buses.<sup>107</sup> Strikers quoted in the article say they were pushed onto the buses and “were

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<sup>103</sup> Human Rights Committee, “CCPR General Comment No. 25: Article 25 (Participation in Public Affairs and the Right to Vote), The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service”, *CCPR/C/21/Rev.1/Add.7*, 12 July 1996, para 25.

<sup>104</sup> UN Office of the High Commissioner of Human Rights, “[Cambodia: Stifling new measures against striking workers are ‘unjustified’ – UN human rights experts](#)”, 16 February 2022.

<sup>105</sup> See <http://www.freshnewsasia.com/index.php/en/localnews/235587-2022-03-23-14-14-42.html>.

<sup>106</sup> See <http://www.freshnewsasia.com/index.php/en/localnews/235587-2022-03-23-14-14-42.html>.

<sup>107</sup> Chhorn Raksmeay and Ananth Baliga, “[NagaWorld Union to Boycott Next Negotiation Meeting](#)”, Voice of Democracy, 22 March 2022.

injured in the crush”.<sup>108</sup> The photos accompanying the article were not taken by the journalists – owing to the fact that they were prevented from getting close to the strike itself – rather the photos were taken by strikers, as stated in the article itself. Another independent media outlet, Radio Free Asia, covering the strike on the same day, quoted that women strikers saying that they had experienced “excessive force” applied by authorities and even sexual assault.<sup>109</sup>

71. The disparate treatment of journalists while covering the strike provides a glimpse into the reality of journalistic freedom in Cambodia. Independent journalism, critical of the Government, is facing restrictions on freedom of expression, while pro-Government media, reporting benevolently on authorities’ measures, enjoy access to areas that their independent colleagues are barred from.

## CHALLENGES FOR WOMEN JOURNALISTS

72. Women are hugely under-represented in journalism in Cambodia. A recent unpublished report by the Ministry of Information highlighted the “growing” number of women journalists in the country, but the figure provided – 470 women out of a total of approximately 5,000 journalists in the country – is still less than one in ten journalists in Cambodia are women.<sup>110</sup><sup>111</sup> No gender breakdown from previous years was provided, so it remains unclear to what extent the representation of women in journalism in Cambodia is growing.<sup>112</sup>
73. In a 2021 report,<sup>113</sup> the United Nations Special Rapporteur on the right to freedom of expression stated that the disproportionate representation of men in media means that “women’s perspectives and issues are less likely to reach audiences” and “gender imbalance in how media views society reinforces and perpetuates stereotypes and biases”.<sup>114</sup> Societal stereotyping of women is a longstanding problem in Cambodia and is reinforced in official statements. In his 2021 report on the role and achievements of OHCHR in Cambodia, the Secretary-General noted that women in Cambodia have been arrested and convicted for posting pictures online of themselves in “revealing clothes” and that NGOs who have advocated for the right of women to do so have received threats.<sup>115</sup>
74. Women journalists face a multitude of specific challenges and gender-based attacks in their profession, despite robust legal protection for them under national and international human rights law. The Cambodian Constitution prohibits all forms of

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<sup>108</sup> Chhorn Raksmeay and Ananth Baliga, “[NagaWorld Union to Boycott Next Negotiation Meeting](#)”, Voice of Democracy, 22 March 2022.

<sup>109</sup> Radio Free Asia, “[More arrests in Cambodia’s NagaWorld Casino strike](#)”, 22 March 2022.

<sup>110</sup> ‘Cambodian Women Journalists on the Rise’, Cambodianess, 12 April 2022, <https://cambodianess.com/article/cambodian-women-journalists-on-the-rise>.

<sup>111</sup> In their written response to this report, the Government stated that more than 500 female journalists “are playing an active role in this field” in Cambodia.

<sup>112</sup> The figures referred to in this report are taken from a media report, as the Ministry of Information did not publish their report, nor did they provide responses to requests from the OHCHR.

<sup>113</sup> Report of the Special Rapporteur on the promotion and protection of the right to freedom of expression, A/76/259, 30 July 2021, para. 44.

<sup>114</sup> Report of the Special Rapporteur on the promotion and protection of the right to freedom of expression, A/76/259, 30 July 2021, para. 43.

<sup>115</sup> “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. Report of the Secretary-General”, A/HRC/48/49, 16 September 2021, para 25.

discrimination against women and guarantees that “men and women have equal rights in all fields”. Article 31 of the Constitution expressly states that Cambodia recognizes and respects the rights of women, as laid out in international treaties and conventions, and the country is also a state party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). In the period under review in this report, OHCHR did not document any criminal cases against a female journalist or media workers. However, in spite of the protections described above, numerous women journalists and media workers face gender-based attacks in the exercise of their profession. They include physical harassment by male police and authorities, gender-based discrimination and violence rooted in discriminatory practices and social norms.

75. In conducting research for this report, OHCHR Cambodia surveyed eleven and interviewed seven women journalists. All respondents stated that they had faced gender-based discrimination and/or gender-based violence (attacks, etc.), and had been victims of gender stereotyping, not only from society but also from within their own families.<sup>116</sup> Seven female journalists who were interviewed by OHCHR reported that they had experienced gender-based discrimination or violence from the authorities, and all had been pressured by family members to change their careers and pursue a vocation other than journalism as they are women and their families believe that the work of a journalist should be carried out by men. Three of the journalists said in interview with OHCHR Cambodia that they were directly harassed by male officials while carrying out their work, including one incident in October 2020 in Phnom Penh, when security officials forcibly grabbed one of the respondents, ripping the buttons from her blouse. In a separate incident that occurred while covering a strike in January 2022, a female journalist was asked by a government official: “*how much money do you make as a woman journalist?*” According to the journalist in question, the language and tone of the question made her feel uncomfortable and was clearly intended to intimidate her and discourage her from her work.
76. As indicated above, women journalists also report feeling unsupported and pressured from their own families. The seven women journalists interviewed by OHCHR Cambodia said that their parents in particular had expressed concerns for their safety and security, especially as they work for independent media outlets and are required to travel to remote areas and into potentially dangerous situations to gather news. In addition to dealing with the stress of working in this environment, the respondents described having to manage their families’ worries for them, taking time to reassure them that they take measures to mitigate risks that might arise as a result of their work. However, some respondents said that concern from families meant that they were simply less open with them. One respondent said that she no longer tells her parents anything about her work and the challenges and risks associated with it as she feels it is the only way she can stop her parents from worrying about her safety.
77. The Ministry of Information Undersecretary of State Meas Sophorn said that in the past 10 years, his Ministry has never received any complaints regarding harassment from female journalists. Much less indicative of the absence of harassment, this comment appears to emphasise a lack of trust among female journalists in the will or capacity of the Ministry to address their concerns. However, one female journalist told OHCHR Cambodia that she has twice raised issues with the Ministry, asking for their

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<sup>116</sup> OHCHR Cambodia interviews with seven women journalists and survey of 11 women journalists between 28 December 2021 and 9 February 2022.



intervention following harassment she received from government officials, but that no action was taken by the Ministry and no support was forthcoming. In their written response to this report, the Government stated that “it has always supported, encouraged and given priority to women to contribute to the development of the society according to the professional skills and abilities of women”. The Government added that, “it has been said that women journalists face challenges such as harassment or sexual harassment, but the Ministry of Information has never received any complaints from female journalists who have been victims of harassment” or sexual violations. The Government noted that “in such cases, the Ministry of Information encourages and supports women journalists to have the courage to file a complaints to the competent authorities against the person who committed” these acts. The Government concluded by stating that it welcomes the cooperation of victims and stakeholders, and called on OHCHR to provide “specific information of women journalists who are victims”.

78. In order for the issues affecting the media and press freedoms in Cambodia, including those relating to gender and the role of women journalists and media workers, the Ministry of Information should invest more resources to build trust with women journalists, consult with them to conclude and adopt new policies and practices that are gender-responsive, which ensure that women journalists feel safe and protected when filing complaints arising from their day-to-day work.

## CONCLUSION AND RECOMMENDATION

79. As Cambodia prepares to go to the polls again in 2022 and 2023, the country’s media is in a perilous state. Journalists working in the country today are facing various forms of harassment and pressure, most notably through the criminal justice system, for their work.
80. Attacks on media personnel, create an impact that goes beyond the individual victims of a given case, contributing to a situation of fear and self-censorship. In December 2021, two online reporters were detained for questioning on "incitement" charges after covering news about a land dispute in Kandal province. They remain on bail but face charges of ‘incitement to commit a felony’ and ‘insulting’ under Articles 494, 495, and 502 of the Criminal Code. Explaining the impact of the charges on his work, the journalists told OHCHR Cambodia in February 2022 that “the pending judicial investigation for exercising my media work puts me in limbo as we are afraid of further legal consequences if we continue to cover chronic land disputes.” In order for Cambodia’s media to be able to discharge their function in the country’s democratic system, the Government must take immediate measures, including ending the use of the criminal law to punish their essential work,<sup>117</sup> and immediately dropping criminal charges against media personnel.
81. For years, the authorities in Cambodia have actively adopted legislation restricting civic space generally and press freedom in particular. Laws and other instruments have been adopted, which empower the authorities to censor and place journalists and others under surveillance, and which extend the Government’s ability to target media work and freedom of expression through the courts. On the other hand, crucial access to legislation on access to information has been repeatedly delayed and the draft still falls short of international human rights standards. Following the closure of a number

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<sup>117</sup> “United Nations Plan of Action on the safety of journalists and the issue impunity”, March 2012, <https://en.unesco.org/un-plan-action-safety-journalists>.

of independent and impartial news agencies, the media is increasingly controlled by a small number of government-connected individuals, giving rise to a situation where alternative political views, are marginalized and denied a platform, contrary to international norms. Further, specific obstacles that women in media in Cambodia face, their absence in leadership positions, and the harassment and gender based violence they face, constrains women's participation and voice in the media. In order for Cambodia to protect media freedom and to ensure that journalists are protected so they can discharge their essential function ahead of, particularly during the coming election campaigns, OHCHR encourages the Government to implement the following recommendations, and offers its technical assistance in this regard:

### ***Freedom from Interference***

- **End criminal cases against journalists and media workers and drop existing charges against individuals targeted for exercising their right to freedom of expression;**
- **Cease reliance on criminal law as a means for policing and prosecuting journalists and media workers, relying instead if necessary on the provisions of the Press Law, which outline a regime of fines and civil action to pursue complaints against media;**
- **Remove offences from other legislation including provisions of the Criminal Code and the Law on COVID-19 that may give rise to undue restrictions on freedom of expression;**
- **Provide training opportunities to police, investigating judges, trial judges and lawyers in the application and implementation of the Press Law, including training on wrongful gender stereotyping, gender-based violence and harassment, in particular against women journalists.**

### ***Freedom from Censorship***

- **Revise Prakas 170 and revise the Sub-Decree on the National Internet Gateway to bring these instruments in line with international norms and standards, including on the right to freedom of expression;**
- **Provide guidance to officials at various levels of government on their duties towards journalists and media workers, including on how to engage respectfully with the media and ensure officials who threaten and intimidate journalists carrying out their work are investigated and held accountable, engaging media personnel in the design and adoption of this guidance to ensure an inclusive and collaborative approach.**

### ***Access to Information***

- **Urgently review the draft Law on Access to Information to ensure that it complies with international law and standards, including:**
  - **expressly stating that the law is grounded in the right to freedom of expression;**
  - **establishing an independent information commission or similar specialized administrative body to oversee enforcement and implementation of the law; and**
  - **ensure adequate and appropriate appeals procedures, and adequate whistle blower protection.**

### ***Pluralism in the Media***

- Take immediate steps to ensure pluralism in media ownership, including adopting legislation to limit the extent to which individuals, including politicians, may accumulate control and ownership of Cambodia's media sector;
- Issue guidance to media to ensure that alternative political and other views receive coverage and equal access to media platforms.

***Challenges faced by Women Journalists***

- Publish information on the number of women journalists working in Cambodia and adopt measures to proactively increase the proportion of female journalists in the country, including university programs and scholarships aimed at promoting female participation in journalism;
- Train security forces and relevant Government officials on gender sensitivity in their dealings with journalists and media workers; and
- Take immediate measures to address gender-based violence against journalists including taking steps to ensure functioning gender sensitive complaints mechanisms and procedures.