



Submission to the Special Rapporteur on the situation of human rights defenders

March 2021

Purpose: to inform the thematic report of the Special Rapporteur on the issue of long term detention of human rights defenders, which will be presented to the UN General Assembly in October 2021.

Contact Details

Please provide your contact details in case we need to contact you in connection with this survey. Note that this is optional.

Type of Stakeholder (please select one)	<input type="checkbox"/> International or Inter-governmental Organisations <input checked="" type="checkbox"/> Civil Society Groups or Organisations <input type="checkbox"/> Individual human rights defender <input type="checkbox"/> Academic/training or research institution <input type="checkbox"/> Other (please specify)
Name of Stakeholder/ Organization (if applicable)	Cambodian Center for Human Rights (“CCHR”)
Name of Survey Respondent	
Email	communications@cchrcambodia.org
Can we attribute responses to this questionnaire to you or your organization publicly*? *On OHCHR website, under the section of SR on human rights defenders.	Yes Comments (if any):

3) Do you know of any human rights defender(s) whose time in pre-trial detention and/or administrative detention by States combines with a sentence that amounts, or would amount to 10 years or more? Please provide a list of cases.

- **Yeang Sothearin and Uon Chhin**

While journalists have a broad mandate to gather and disseminate information to the public, in which their general role does not inherently qualify under the definition of human rights defender (“HRD”), many journalists do act as defenders when they report on social, political, cultural and economic rights issues and violations.¹ Journalists are considered HRDs when their reporting aims to “*promote and ... strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.*”²

In Cambodia, the ongoing repression of journalists-HRDs is highlighted in the Uon Chhin and Yeang Sothearin case.³ Mr. Uon Chhin and Mr. Yeang Sothearin were journalists for Radio Free Asia (“RFA”), an outlet known for its critical coverage of the government and for exposing corruption. Both journalists had reported on issues of social justice and on human rights. In September 2017, RFA closed its Cambodia bureau, citing the repressive environment and ongoing harassment of their journalists. Chhin and Sothearin’s contracts ended on 30 September 2017 and thereafter Chhin started a wedding and karaoke video production business that he operated from a hotel room. On 14 November 2017, Chhin and Sothearin were arrested and detained under accusations that they were continuing to report to the shutdown RFA by running an informal studio out of the hotel room.⁴

More than three years after their arrests, authorities have failed to deliver a definitive verdict in their case, instead keeping them in limbo with the threat of criminal charges and lengthy prison sentences looming over them. This case is a primary example of the judicial harassment of journalists in Cambodia. We believe Uon Chhin and Yeang Sothearin were targeted in retaliation for their previous investigative work on issues of social justice and human rights. Here is an overview of their case.

At the time of arrest, police did not specify the reason for the arrest, nor gave any basis for the charge against them. On 18 November 2017, the pair were formally charged under Article 445 of the Criminal Code of the Kingdom of Cambodia (“Criminal Code”) with “*supplying a foreign state with information prejudicial to national defense*”, otherwise termed as espionage charges, which carry a sentence of up to 15 years in prison. The court ordered the journalists to be placed in pre-trial detention in Prey Sar prison.⁵

¹ UN Office of the High Commissioner for Human Rights (OHCHR), “Fact Sheet No. 29, Human Rights Defenders: Protecting the Right to Defend Human Rights” (April 2004) <https://www.ohchr.org/Documents/Publications/FactSheet29en.pdf>

² UN, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Adopted by General Assembly resolution 53/144 of 9 December 1998, <https://www.ohchr.org/en/professionalinterest/pages/rightandresponsibility.aspx>

³ CCHR, Three Years of Judicial Harassment for Former Radio Free Asia Journalists (November 2020) [https://cchrcambodia.org/admin/media/newsletter/newsletter/english/2020-11-14_RFA%20Timeline_Eng%20\(1\).pdf](https://cchrcambodia.org/admin/media/newsletter/newsletter/english/2020-11-14_RFA%20Timeline_Eng%20(1).pdf)

⁴ Khuon Narin “Former RFA Reporters arrested” (*Khmer Times*, 16 November 2017) <https://www.khmer-timeskh.com/90718/former-rfa-reporters-arrested/>

⁵ Joshua Lipes, “Cambodia Appeals Court Upholds Ruling denying Former RFA Reporters Bail” (*RFA*, 26 December 2017) <https://www.rfa.org/english/news/cambodia/appeal-12262017160640.html>

During their detention, they requested bail twice but were denied their requests on the grounds that they posed a “flight risk” and that their release could hinder the judicial inquiry. This decision was made despite the journalists having already submitted their passports and identification cards to the authorities, and despite their family members’ assurances to the authorities that they would not leave Cambodia while the case was ongoing. After six months in detention, in May 2018, the investigation judge extended their pre-trial detention for another six months to allow for the continuation of investigations, while offering no date for their trial.⁹

In March 2018, while both were still in prison, the Phnom Penh Municipal Court additionally charged them with the alleged “*production of pornography*” under Article 39 of the Law on the Suppression of Human Trafficking and Sexual Exploitation, which carries a prison sentence of up to one year. This was on the basis of pixelated images of people in sexual positions, published a day prior by government-aligned media outlets.

After spending nine months in pre-trial detention, the pair were released from Prey Sar prison on bail on 21 August 2018.⁶ The authorities kept them under judicial supervision which entailed relinquishing their passports and presenting themselves at the local police station on a monthly basis. Both journalists claimed their bail conditions prevented them from earning a living.

On 26 July and 9 August 2019, the Phnom Penh Municipal Court conducted the trial of Chhin and Sothearin, hearing both their charges. The prosecution’s case revolved around alleged documents found on Chhin’s computers and phones, such as text messages he had exchanged with a communications officer at the Embassy of the United States. The verdict on the espionage charges, which was supposed to be issued on 30 August 2019, was delayed due to the absence of the judge.

On 3 October 2019, the Phnom Penh Municipal Court ordered further investigation in the case due to insufficient evidence regarding the capabilities of the broadcasting equipment found and the contents of the journalists’ hard drives. The presiding judge announced that there “*wasn’t enough evidence to prove, or an expert to verify, that the equipment was used to commit a crime*” and required further investigation of the case, without stipulating a timeline for the completion of the investigation.⁷

After the pair appealed against the Phnom Penh Municipal Court’s decision to the higher court, in January 2020, the Court of Appeal ruled to uphold the decision of the lower court. This decision was further upheld by the Supreme Court in October 2020.⁸

⁹ Joshua Lipes, “Cambodian Court Extends Pretrial Detention For Former RFA Reporters” (RFA, 18 May 2018) <https://www.rfa.org/english/news/cambodia/extension-05182018154042.html#:~:text=A%20court%20in%20Cambodia%20capital,taken%20into%20custody%20on%20Nov>

⁶ Joshua Lipes, “Cambodia Releases Two Former RFA Reporters on Bail Amid Post-Election Clemency” (RFA, 21 August 2018) <https://www.rfa.org/english/news/cambodia/bail-08212018150345.html>

⁷ CCHR, Joint Statement: Civil Society Organizations condemn the continued investigation of ex-RFA journalists Yeang Sothearin and Uon Chhin (4 October 2019) https://cchrcambodia.org/index_old.php?title=Civil-Society-Organizations-condemn-the-continued-investigation-of-ex-RFA-journalists-Yeang-Sothearin-and-Uon-Chhin&url=media/media.php&p=press_detail.php&pid=725&id=5

⁸ Khan Leakhena, “Supreme Court Upholds Decision to Reinvestigate RFA Journalists’ Case” (VOD, 27 October 2020) <https://vodenglish.news/supreme-court-upholds-decision-to-reinvestigate-rfa-journalists-case/>

The pair spent nine months in pre-trial detention and, if found guilty of the newly-investigated charges against them, will be sentenced to lengthy prison sentences: as a result of the accumulated charges against them, each could face 16 years in prison. The continued failure of the courts to reach a verdict is indicative of a lack of credible evidence against the pair and, as such, illustrates that there is insufficient evidence to hold them criminally liable. In recent years, Cambodian courts have repeatedly demonstrated their tendency to act as a rubber stamp to fulfil the authorities' wishes of silencing dissent. The courts' obstinacy in this case seems to sadly exemplify this.

Ongoing crackdown on HRDs and dissenting voices in Cambodia

In recent years, dozens of HRDs have been detained because of their legitimate human rights work. Most of them have been charged with "*incitement to commit a felony or cause social unrest*" under Articles 494 and 495 of the Criminal Code – a catch-all provision that the authorities frequently use to stifle public participation, and that carries a sentence of up to two years in prison. While none of these HRDs face lengthy prison sentences, their cases are illustrative of the ongoing crackdown that the Royal Government of Cambodia ("RGC") is waging against HRDs and critical voices.⁹

Amongst these HRDs is Mr. Rong Chhun, the president of the Cambodian Confederation of Unions, who was arrested at his home on 31 July 2020, following his comments regarding the Cambodia-Vietnam border.¹⁰ He was charged with "*incitement to commit a felony or cause social unrest*" before being sent to pre-trial detention in Phnom Penh's notoriously overcrowded Correctional Centre 1.¹¹ His trial is currently ongoing.¹²

In the days following Rong Chhun's arrests, six young activists and HRDs were arrested for attending protests calling for his release or for planning such protests. They are Hun Vannak, Chhoeun Daravy, Keut Saray, Tha Lavy¹³, So Metta (Eng Malai)¹⁴ and Mean Prommony.¹⁵ They were all charged with "*incitement to commit a felony or cause social unrest*" and sent to pre-trial detention. Their trial is ongoing.¹⁶

⁹ Sun Narin, "Cambodian Dissidents Sentenced as Crackdown Continues" (VOA, 26 September 2020) <https://www.voanews.com/east-asia-pacific/cambodian-dissidents-sentenced-crackdown-continues>

¹⁰ Taing Rinith, "Union president arrested for "incitement"" (Khmer Times, 1 August 2020) <https://www.khmer-timeskh.com/50750732/union-president-arrested-for-incitement/>

¹¹ CCHR, Drop All Charges Against Arrested Union Leader Rong Chhun (8 August 2020) https://cchrcambodia.org/index_old.php?title=Drop-All-Charges-Against-Arrested-Union-Leader-Rong-Chhun&url=media/media.php&p=press_detail.php&prid=768&id=5

¹² Ouch Sony, "Police Witness Talks of Extracting Phone Evidence in Rong Chhun Trial" (VOD, 17 February 2021) <https://www.voacambodia.com/a/disappeared-activist-reportedly-found-working-on-construction-site/4858681.html>

¹³ Ouch Sony, "Six Youth Activists Arrested Hours After Rally for Unionist" (VOD, 13 August 2020) <https://vodenglish.news/six-youth-activists-arrested-hours-after-rally-for-unionist/>

¹⁴ Ouch Sony, "Activist Tailed by Police, Sought Help From UN Before Arrest" (VOD, 8 September 2020) <https://vodenglish.news/activist-tailed-by-police-sought-help-from-un-before-arrest/>

¹⁵ Matt Surrusco & Tran Techseng, "In Activists' Arrests, Some See Scared Gov't, CPP says It Has No Fear" (VOD, 9 September 2020) <https://vodenglish.news/in-activists-arrests-some-see-scared-govt-cpp-says-it-has-no-fear/#:~:text=Mean%20Prommony%2C%20the%20vice%20president,Thavrak%20activists%20were%20also%20arrested.>

¹⁶ Buth Reaksmeay Kongkea, "Four Chhun supporters deny incitement charge" (Khmer Times, 17 February 2021) <https://www.khmertimeskh.com/50814825/four-chhun-supporters-deny-incitement-charge/>; Ouch Sony, "Activists Grilled in Court Over Support for Rong Chhun, CNRP Links" (VOD, 16 February 2021) <https://vodenglish.news/activists-grilled-in-court-over-support-for-rong-chhun-cnrp-links/>

On 3 September 2020, authorities arrested three Mother Nature Cambodia activists, Mr. Thun Ratha, Ms. Long Kunthea and Ms. Phoun Keo Reaksmeay. They were arrested in relation to their plan to march to the home of Prime Minister Hun Sen to demand an end to plans to fill in a lake which hundreds of families depend on for their livelihood.¹⁷ All three were charged with “*incitement to commit a felony or cause social unrest*” and placed in pre-trial detention.¹⁸ Their trial started in February 2021¹⁹.

5) What actions do you suggest the Special Rapporteur can take to:

a) Prevent defenders from being detained for long terms in connection to their human rights work?

- Carry out regular country visits to Cambodia to remind the RGC of the crucial role that HRDs play and to urge the RGC to take all necessary steps to create a safe and enabling environment for HRDs to work in, without fear of repercussions;
- Remind the RGC of its responsibility, as stated in the UN Declaration on Human Rights Defenders, to “*take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.*” These rights include - but are not limited to - freedoms of expression, peaceful assembly, and association;
- Call on the RGC to refrain from using Articles 494 and 495 of the Criminal Code against HRDs and activists conducting their legitimate work, and against journalists reporting on social, economic, environmental, and other rights issues.

b) Have those human rights defenders arbitrarily detained under long sentences released?

- Visit imprisoned HRDs during her country visits to Cambodia, as well as their families and/or communities, to show support and gather information for future advocacy efforts on their behalf;
- Highlight the cases mentioned above in her upcoming annual thematic report to the General Assembly, and call for the immediate release of the identified HRDs and for charges against them to be unconditionally dropped.

NOTE: When providing the list of cases/examples under each question, please include: the name of the human rights defender(s), a summary of their human rights work, history of detention (date of arrest(s), charges and conviction including articles of the relevant law(s)), a brief explanation of facts relevant to their case).

¹⁷ Richard Finney, “Cambodian Environmental Activists Arrested Before Protest Over Development on Lake” (RFA, 3 September 2020) <https://www.rfa.org/english/news/cambodia/lake-09032020161430.html>.

¹⁸ Khuon Narim, “Three Mother Nature activists charged with incitement” (Cambodia News, 6 September 2020) <https://cambodianews.com/three-mother-nature-activists-charged-with-incitement/>

¹⁹ Buth Reaksmeay Kongkea, “Supreme Court turns down three activists’ bail request” (Khmer Times, 16 February 2021) <https://www.khmertimeskh.com/50814434/supreme-court-turns-down-three-activists-bail-request/>