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**SUBMISSION OF THE INTERNATIONAL COMMISSION OF JURISTS TO THE  
UNIVERSAL PERIODIC REVIEW OF CAMBODIA**

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*Composed of 60 eminent judges and lawyers from all regions of the world, the International Commission of Jurists (ICJ) promotes and protects human rights through the Rule of Law, by using its unique legal expertise to develop and strengthen national and international justice systems. Established in 1952, in consultative status with the Economic and Social Council since 1957, and active on five continents, the ICJ aims to ensure the progressive development and effective implementation of international human rights and international humanitarian law; secure the realization of civil, cultural, economic, political and social rights; safeguard the separation of powers; and guarantee the independence of the judiciary and legal profession.*

## **SUBMISSION OF THE INTERNATIONAL COMMISSION OF JURISTS TO THE UNIVERSAL PERIODIC REVIEW OF CAMBODIA**

### **Introduction**

1. The International Commission of Jurists (ICJ) welcomes this opportunity to contribute to the Human Rights Council's (HRC) Universal Periodic Review (UPR) of Cambodia.
2. The ICJ wishes to draw the attention of the HRC and the Working Group on the UPR to the following concerns:
  - (i) Misuse of the law under the false pretext of the 'rule of law'; and
  - (ii) Lack of an independent and impartial judiciary.<sup>1</sup>

### **Misuse of the law under the pretext of 'rule of law'**

3. In the lead-up to national elections scheduled for 29 July 2018, under the pretext of upholding the 'rule of law', the Royal Government of Cambodia (RGC) has rapidly and deliberately misused legislation and other forms of legal harassment to attack, harass and silence members of the political opposition, critical media, civil society organizations and human rights defenders.<sup>2</sup>

### Misuse of legislation

#### *Law on Political Parties*

4. Despite civil society<sup>3</sup> and the United Nations Office of the High Commissioner for Human Rights<sup>4</sup> expressing concern and highlighting a total lack of public consultation, in July 2017, amendments to the Law on Political Parties (LPP) devoid of any due process guarantees,<sup>5</sup> and allowing for arbitrary restrictions on fundamental freedoms<sup>6</sup>, entered into force.<sup>7</sup>
5. Significant amendments to the LPP include:
  - i) provisions banning political parties on the vague claim that they are purportedly responsible for "destroying national unity";<sup>8</sup>
  - ii) providing Cambodia's Ministry of Interior (MoI) with powers to suspend political parties indefinitely, allowing for their *de facto* dissolution;<sup>9</sup>
  - iii) allowing the Supreme Court to dissolve political parties;<sup>10</sup> and
  - iv) banning a dissolved party from political activity for five years.<sup>11</sup>
6. Following the above-mentioned amendments, on 2 October 2017, 22 political parties were reportedly dissolved pursuant to the LPP.<sup>12</sup> Further, on 15 November 2017, the Supreme Court dissolved nine political parties for allegedly failing to send activity and financial reports to the MoI, in violation of the LPP.<sup>13</sup>
7. On 16 November 2017, the Supreme Court relied on articles 6 (new) and 7 (new) of the LPP to dissolve the main opposition party,<sup>14</sup> Cambodia National Rescue Party (CNRP), and to ban 118 CNRP politicians from political activity for five years in a move that significantly heightened the human rights crisis in the country.<sup>15</sup>

#### *Law on Associations and Non-Governmental Organizations*

8. In August and September 2015, without any prior public consultation, the Law on Associations and Non-Governmental Organizations (LANGO) entered into force,<sup>16</sup> despite civil society expressing concern that it would severely and unjustifiably

restrict the exercise of fundamental freedoms.<sup>17</sup>

9. The LANGO imposes onerous obligations on associations and NGOs, with excessive requirements in respect of documentation necessary for registration and activity and finance reports that must be submitted to various ministries.<sup>18</sup> It further allows the MoI and Ministry of Foreign Affairs and International Cooperation (MFAIC) to deny registration, and suspend or dissolve associations on arbitrary grounds, such as “national unity, traditions and customs”, and on purportedly “public order” grounds despite the fact that the legislation does not define this concept and fails to include safeguards to ensure that activities related to human rights protection or advocacy are not penalized under the law.<sup>19</sup>
10. In June 2017, alleged non-compliance with LANGO registration requirements was invoked by an MoI-led investigation into the ‘Situation Room’, an NGO election consortium,<sup>20</sup> following which the consortium was forced to disband and prevented from observing the 2018 elections.<sup>21</sup> On 23 August 2017, alleged non-compliance with LANGO registration requirements was reportedly cited to shut down the US-funded NGO, the National Democratic Institute (NDI), and expel its international staff.<sup>22</sup>
11. On 28 September 2017, land rights NGO, Equitable Cambodia (EC), was temporarily suspended for allegedly failing to submit financial and activity reports in line with LANGO.<sup>23</sup> EC was allowed to operate again only in February 2018.<sup>24</sup>

#### *Lèse-majesté law*

12. On 27 February 2018, following an exclusively internal review process, which was criticized for being “rushed and secretive”,<sup>25</sup> an amendment to the Cambodian Criminal Code introducing a *lèse-majesté* provision entered into force,<sup>26</sup> along with several amendments to the Cambodian Constitution (see *Constitutional amendments* below).
13. Under article 437 *bis*, the new *lèse-majesté* provision, “insults to the King” are a criminal offence, carrying a penalty of one to five years’ imprisonment and/or a fine of two million to ten million Riel (USD 500 to USD 2,500).<sup>27</sup> Since then, two persons have been arrested and charged with *lèse-majesté*.<sup>28</sup> Legal entities, including NGOs and media organizations,<sup>29</sup> are also liable to a ban on their activities, fines between 10 million to 50 million Riel (USD 2,500 to USD 12,500) and/or dissolution.<sup>30</sup>
14. On 19 June 2018, CNRP’s former leader, Sam Rainsy, was reportedly summoned by Phnom Penh Municipal Court for allegedly making insulting remarks about the King in commenting on a letter drafted by the King about the 2018 elections.<sup>31</sup> Sam Rainsy is reportedly due in court for questioning on 12 July 2018.

#### *Constitutional amendments*

15. Constitutional amendments promulgated on 27 February 2018, as mentioned above, have widened the scope of the RGC’s powers to unjustifiably curtail and penalize the legitimate exercise of fundamental freedoms.
16. Article 34 of the Constitution, amended to restrict the right to vote or stand as an election candidate, limits the right to political participation, while article 42, amended to dictate that political parties must “place the country and nation’s interests first”, introduces an overly broad obligation that can restrict the right to freedom of association and assembly. Article 49 of the Constitution, amended to impose vague obligations on citizens to “primarily uphold the national interest” and prohibit every Khmer citizen from “conducting any activities which either directly or indirectly affect the interest of the Kingdom of Cambodia and of Khmer Citizens”, can potentially limit the right to freedom of association.<sup>32</sup> Article 53,

amended to prohibit “foreign interference in the internal affairs [of Cambodia]”, along with articles 42 and 49, can potentially be invoked to curtail international advocacy efforts on the human rights situation in Cambodia.<sup>33</sup>

*Ministry of Interior directive*

17. On 2 October 2017, the MoI issued a directive to provincial, district and commune authorities requiring all associations and NGOs to notify either these authorities or the MoI three days in advance of any planned activity; further, the directive permits the authorities to ban any activity where no prior notification was given or where they believe the activity “affects public order or national security”.<sup>34</sup> As such, the directive provides the authorities with sweeping, arbitrary powers to restrict free association and assembly and allows for harassment of associations and individuals.

*Inter-ministerial order regulating web content and social media*

18. On 28 May 2018, the MoI, the Ministry of Posts and Telecommunications and the Ministry of Information jointly signed an inter-ministerial order to “manage publication of all written, audio, photo, video or other content” on social media and websites, to prevent publications “intended to create turmoil in national security, public order or national tradition”.<sup>35</sup> The order requires Internet Service Providers to subject to surveillance and “filter or block” websites or social media pages for publishing allegedly illegal content.<sup>36</sup> As such, it potentially severely restricts the right to freedom of expression, and infringes upon the right to privacy.<sup>37</sup>

*Reported directive to curtail “fake news”*

19. On 6 July 2018, it was reported that the MoI, the Ministry of Posts and Telecommunications and the Ministry of Information had issued another joint directive to curtail “fake news” on websites and social media platforms; reportedly, those found guilty of disseminating “fake news” can face up to two years’ imprisonment and a fine amounting to USD 1,000. In addition, websites would reportedly be required to register with the Ministry of Information under this new directive.<sup>38</sup>
20. An official from the Ministry of Information reportedly stated that the directive was effective immediately and that the RGC would “start to take measures on Thursday (12 July 2018).”<sup>39</sup>

Other legal harassment

21. The RGC has also employed other legal techniques to harass and intimidate political opposition, critical media, civil society and individuals legitimately expressing dissent.

*Targeting members of political opposition*

22. On 3 September 2017, Kem Sokha, leader of the now-defunct CNRP, was arrested in a midnight raid on his house, reportedly without a warrant, before being charged with treason under article 443 of the Criminal Code, for alleged “conspiracy with a foreign power”; if convicted, he risks a sentence of between 15 and 30 years’ imprisonment.<sup>40</sup> Since his arrest, Kem Sokha has been held in detention in a remote prison near the Vietnamese border.<sup>41</sup>
23. As of April 2018, the ICJ has been informed that more than 20 high-profile political prisoners remain imprisoned on politically motivated charges.<sup>42</sup>

### *Targeting of critical media*

24. During the week of 21 August 2017, the RGC successively banned broadcasts by critical media outlets,<sup>43</sup> in what appeared to be politically motivated intimidation of the media.<sup>44</sup> By the end of August 2017, the Ministry had effectively shut down 32 broadcast frequencies across 20 provinces.<sup>45</sup>
25. On 12 September 2017, Radio Free Asia (RFA) announced the formal closure of its in-country operations in Cambodia, after the MFAIC reportedly questioned RFA on its compliance with tax and registration regulations.<sup>46</sup>
26. On 14 November 2017, former RFA journalists, Yeang Sothearin and Oun Chhin, were charged with espionage in connection with their work for RFA.<sup>47</sup> In March 2018, the journalists were further charged with allegedly producing pornography.<sup>48</sup> The journalists remain in pre-trial detention.<sup>49</sup>
27. On 4 September 2017, the Cambodia Daily, an independent English-language newspaper, ceased operations after it was unable to pay a tax bill issued by the General Department of Taxation (GDT), and reportedly produced without any formal audit, for the equivalent of USD 6.3million.<sup>50</sup>
28. On 5 May 2018, the Phnom Penh Post, another independent English-language newspaper, was reportedly sold to a Malaysian businessman.<sup>51</sup> The sale settled a USD 3.9million tax bill imposed by the GDT on the newspaper.<sup>52</sup>

### *Targeting of civil society<sup>53</sup>*

29. On 15 September 2017, environmental NGO, Mother Nature, reportedly "voluntarily" de-registered following repeated harassment of the NGO.<sup>54</sup> In September 2017, its activists, Hun Vannak and Dem Kundy, were arrested for documenting illegal sand dredging operations in an area reportedly belonging to a CPP senator.<sup>55</sup> On 26 January 2018, they were reportedly found guilty of alleged incitement to commit a felony and making "unauthorized recordings in a private place", and sentenced to one year's imprisonment.<sup>56</sup>
30. On 26 May 2018, Phnom Penh Municipal Court reportedly issued summonses against eight individuals, including key civil society members, for questioning in the trial against Kem Sokha on alleged treason charges.<sup>57</sup>

### *Targeting of individuals legitimately expressing dissent*

31. Individuals legitimately expressing dissent have been reportedly increasingly targeted by the RGC in 2017 and 2018.<sup>58</sup>
32. On 8 February 2018, Sam Sokha, a woman who had been sentenced in absentia to two years' imprisonment for alleged "insult of a public official" and "incitement" after posting a Facebook video of herself throwing a sandal at a CPP billboard, was extradited from Thailand to Cambodia despite being a UNHCR-recognized refugee, and imprisoned.<sup>59</sup>
33. In February 2018, San Rotha, a man who had allegedly called the RGC "authoritarian" in a Facebook video post, was arrested and detained in Kampong Cham province.<sup>60</sup>
34. On 10 July 2018, Om Sovann, an elementary school teacher in Kampong Chhnang province, was reportedly released after being arrested and detained for allegedly encouraging villagers to boycott the 2018 elections.<sup>61</sup>

### Misuse of 'rule of law'

35. The RGC and its officials have consistently misused the principle of 'rule of law' to justify its clampdown on fundamental freedoms.<sup>62</sup>
36. To name just a few examples, just hours after the Supreme Court dissolved the main opposition party, Prime Minister Hun Sen announced that the decision was based on the principle of "rule of law".<sup>63</sup> Several days later, at a roundtable conference at the Royal Academy of Cambodia, a Ministry of Justice spokesman claimed that the "rule of law" had justified the dissolution of the CNRP.<sup>64</sup> In December 2017, Chin Malin, a spokesman at the Ministry of Justice and member of the Cambodian Human Rights Committee, said recent crackdowns were a matter of following the "rule of law".<sup>65</sup> On 10 March 2018, the Council of Ministers' Press Quick Reaction Unit published a 86-page White Paper in English called "Strengthening the Rule of Law and Liberal Democratic Process".<sup>66</sup>

### **Lack of an independent and impartial judiciary**

37. In a Baseline study on Cambodia's justice system released by the ICJ in 2017, the ICJ found that the lack of an independent and impartial judiciary was the single largest problem facing the justice system, including as a result of the endemic levels of political interference in high-profile cases and the equally entrenched systemic corruption in others.<sup>67</sup> In short, the ICJ concluded "the rule of law is virtually absent in the Cambodian justice system".<sup>68</sup>
38. The judiciary's lack of independence and impartiality was institutionally cemented by the passage of judicial reform laws in 2014 and illustrated by the judiciary's role in dissolving the main opposition party ahead of the 2018 elections.

#### *Judicial reform laws*

39. On 16 July 2014, the Law on the Organization of the Courts, the Law on the Statute of Judges and Prosecutors and the Law on the Organization and Functioning of the Supreme Council of the Magistracy entered into force despite the absence of public consultation, and notwithstanding calls by NGOs for the laws to be revised in accordance with Cambodia's international legal obligations.<sup>69</sup>
40. In a briefing paper on the laws, the ICJ expressed concern that they would: i) severely infringe the independence of the judiciary, in violation of the Cambodian Constitution and the principle of the separation of powers;<sup>70</sup> ii) result in undue control by the Executive branch of the judiciary's financial and administrative matters; iii) unduly interfere with the free expression of judges and prosecutors; and iv) fail to provide sufficient safeguards for judicial independence in the selection, promotion, removal and disciplining of judges.<sup>71</sup>

#### *Dissolution of CNRP*

41. In a statement following the CNRP's dissolution, the ICJ condemned the "entire 'legal process' (as) nothing more than political theatre, inconsistent with human rights and the rule of law".<sup>72</sup>
42. Referring to the fact that the LPP had been urgently amended only shortly before the CNRP's dissolution and noting that the President of the Supreme Court was reportedly a CPP member who sits on both the party's Standing and Permanent Committees, the ICJ criticized the proceedings as a "mockery of fair justice" and highlighted that the President should have "at an absolute minimum, recused himself from the case" because of a clear conflict of interest.<sup>73</sup>

## Recommendations

43. In light of the above, the ICJ calls upon the HRC and the Working Group on the UPR to recommend that the RGC:

(a) Repeal or amend domestic laws to bring them in line with the RGC's international human rights obligations, including, but not limited to: the Law on Political Parties; the Law on Associations and Non-governmental Organizations; the Cambodian Criminal Code, particularly article 437 *bis*; the Cambodian Constitution, including as a matter of priority articles 34, 42, 49 and 53;

(b) Repeal or amend domestic laws – including, but not limited to, the Law on the Organization of the Courts, the Law on the Statute of Judges and Prosecutors, and the Law on the Organization and Functioning of the Supreme Council of the Magistracy – to ensure the independence of the judiciary and remove excessive powers granted to members of the Executive branch, particularly the Cambodian Minister of Justice, to control and influence the professional functions and operations of judges and prosecutors;

(c) Abolish government-issued regulations or directives which contravene rights to fundamental freedoms protected under international human rights law, including, as matters of priority, the inter-ministerial order regulating content on social media, Ministry of Interior directives requiring associations to notify the RGC of their activities, and the recent reported inter-ministerial directive to curtail “fake news”;

(e) Halt efforts to bring into force legislation drafted with the purpose of, and including provisions allowing for, violation of rights protected under international human rights law;

(f) End the prosecution of individuals under article 437 *bis* of the Cambodian Criminal Code and release individuals detained under *lèse-majesté* charges;

(g) End the use of law as a tool of harassment, intimidation or silencing of members of the political opposition, civil society, critical media, lawyers, prosecutors, judges and/or individuals, in recognition of rights protected under international human rights law;

(h) Release all prisoners currently imprisoned or detained on politically motivated charges;

(i) Uphold the right to fair trial of all persons, including of detained persons;

(j) Take necessary measures to hold to account perpetrators of harassment, intimidation and violence against members of the political opposition, civil society, critical media, lawyers, prosecutors, judges and/or individuals for the legitimate exercise of their fundamental freedoms;

(k) Take necessary measures, in law and in practice, to guard against legal harassment of lawyers, prosecutors and judges on the basis of the political affiliations or agendas of their clients.

## ENDNOTES

- <sup>1</sup> In this respect, the ICJ notes that following the 18<sup>th</sup> session of the Working Group on the UPR, Cambodia accepted 19 recommendations calling for, inter alia, review of its domestic laws in line with international legal obligations, and judicial reform to ensure independence of the judiciary. See Report of the Working Group on the Universal Periodic Review: Cambodia, U.N. Doc. A/HRC/26/16, 27 March 2014, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KHindex.aspx>; Report of the Working Group on the Universal Periodic Review: Cambodia, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, U.N. Doc. A/HRC/26/16/Add.1, 25 June 2014, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KHindex.aspx>.
- <sup>2</sup> In March 2018, the United Nations Special Rapporteur on the situation of human rights in Cambodia Rhona Smith expressed concern at the “increased tendency of this [Cambodian] Government to rule by law rather than in accordance with the rule of law”. See UNSR Professor Rhona Smith, End of Mission Statement, 14 March 2018, <http://cambodia.ohchr.org/sites/default/files/End%20of%20Mission%20statement%2014%20March%202018.pdf>
- <sup>3</sup> See Cambodian Center for Human Rights (CCHR), ‘Annex 1: Legal analysis of the July 2017 proposed amendment to the LPP’, 19 July 2017, [https://cchrcambodia.org/admin/media/analysis/analysis/english/2017-07-19-CSO-ssubmit-Legal-Analysis-of-Proposed-Amendment-to-LPP-to-CC\\_ENG.pdf](https://cchrcambodia.org/admin/media/analysis/analysis/english/2017-07-19-CSO-ssubmit-Legal-Analysis-of-Proposed-Amendment-to-LPP-to-CC_ENG.pdf); Human Rights Watch, ‘Cambodia: World Report 2018’, <https://www.hrw.org/world-report/2018/country-chapters/cambodia>; Amnesty International, ‘Cambodia 2017/2018’, <https://www.amnesty.org/en/countries/asia-and-the-pacific/cambodia/report-cambodia/>
- <sup>4</sup> Office of the United Nations High Commissioner for Human Rights in Cambodia, ‘A Human Rights Analysis Of The Amended Law On Political Parties (2017)’, 28 March 2017 (‘OHCHR Cambodia 2017’), <http://cambodia.ohchr.org/sites/default/files/Analysis%20on%20the%20Amended%20Law%20on%20Political%20Parties%2028%2003%202017%20FINAL%20no%20TC.pdf>
- <sup>5</sup> OHCHR Cambodia 2017, pp 6- 7.
- <sup>6</sup> Including rights protected under articles 19, 22 and 25 of the International Covenant on Civil and Political Rights (ICCPR). Cambodia ratified the ICCPR in 1992.
- <sup>7</sup> Savi Khorn, ‘Cambodia Signs Controversial Amendment Into Law’, *Radio Free Asia*, 28 July 2017, <https://www.rfa.org/english/news/cambodia/law-07282017165222.html>; Cambodian League for the Promotion and Defense of Human Rights (LICADHO), ‘Amendments to Law on Political Parties passed in boycotted National Assembly session’, 20 February 2017, <http://www.licadho-cambodia.org/flashnews.php?perm=209>
- <sup>8</sup> Article 6 (new), LPP. English translation of article provided at OHCHR Cambodia 2017, p 10.
- <sup>9</sup> Article 38 (new), LPP. See OHCHR Cambodia 2017, p 15.
- <sup>10</sup> Article 44 (new) paragraph 2, LPP. See OHCHR Cambodia 2017, p 29.
- <sup>11</sup> Article 45 (new) paragraph 3, LPP. See OHCHR Cambodia 2017, p 30.
- <sup>12</sup> Khan Sophirom, ‘Ministry of Interior Deletes 20 Political Parties’, *Agence Kampuchea Presse*, 3 October 2017, <http://www.akp.gov.kh/?p=110889>. The parties were dissolved pursuant to articles 19 (new) and 20 (new) of the LPP.
- <sup>13</sup> These parties were dissolved pursuant to article 31 of the LPP: The New Socialist Party, Rescue Party, Women’s Party Neak, The Nationalist Party, Popular Socialist Party, Party Ponluseripheap Thach Ray, Liberal Party of Unification, and The Khmer Nation Party. Seng Baran, ‘MoI removed 9 political parties from list’, *Vayo*, 15 November 2017, <http://vayofm.com/news/detail/82068-485948443.html>; Mech Dara, ‘Supreme Court ruling dissolves 9 small parties’, *The Phnom Penh Post*, 31 October 2017, <https://www.phnompenhpost.com/national/supreme-court-ruling-dissolves-9-small-parties>; For the list of the 9 parties, see Mom Sophon, ‘Nine parties face closure’, *Khmer Times*, 30 August 2017, <https://www.khmertimeskh.com/5080574/nine-parties-face-closure/>
- <sup>14</sup> Article 6 (new) of the LPP criminalizes any activity which would “lead to the destruction of national unity and territorial integrity of Cambodia”, “conduct sabotage”, “affect national security” or “break up national unity”, and article 7 (new) of the LPP prevents political parties from “subordination to any foreign political party or foreign government.”
- <sup>15</sup> See ICJ, ‘Cambodia: The ICJ condemns dissolution of main opposition party’, 16 November 2017, <https://www.icj.org/cambodia-the-icj-condemns-dissolution-of-main-opposition-party/>; This decision followed a complaint the MoI had filed with the Supreme Court seeking CNRP’s dissolution pursuant to newly amended article 38 (new) of the LPP, which allows the Ministry of Interior to suspend the activities of a political party or file a complaint to the Supreme Court seeking dissolution of a political party where the party has been deemed to “act in contradiction to the Constitution, the Law on Political Parties or other laws currently in force in the Kingdom



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of Cambodia". Notably, in October 2017, amendments to the Law on Elections of Members of the National Assembly (LEMNA) were passed through the National Assembly, allowing for redistribution of CNRP seats in Parliament to other minor parties and all CNRP commune chief seats to the CPP in the event of the CNRP's dissolution. See Mech Dara and Andrew Nachemson, 'CPP set to amend laws to take all of CNRP's commune chief seats', *Phnom Penh Post*, 13 October 2017, <https://www.phnompenhpost.com/national/cpp-set-amend-laws-take-all-cnmps-commune-chief-seats>; Mech Dara and Andrew Nachemson, 'Breaking: National Assembly passes election law amendments to allow CNRP seat distribution', *Phnom Penh Post*, 16 October 2017, <https://www.phnompenhpost.com/national/breaking-national-assembly-passes-election-law-amendments-allow-cnmp-seat-distribution>; Leonie Kijewski and Khouth Sophak Chakrya, 'CPP big winner in local seat reallocation', *Phnom Penh Post*, 4 December 2017, <https://www.phnompenhpost.com/national-politics/cpp-big-winner-local-seat-reallocation>

<sup>16</sup> Pech Sotheary, 'King signs law on NGOs', *Phnom Penh Post*, 14 August 2015, <https://www.phnompenhpost.com/national/king-signs-law-ngos>

<sup>17</sup> See ICJ, 'Cambodia: approved NGO law poised to hobble the work of civil society', 13 July 2015, <https://www.icj.org/cambodia-approved-ngo-law-poised-to-hobble-the-work-of-civil-society/>; ICJ et al, Letter to Hun Sen on Law on Associations and Non-Governmental Organizations, 6 July 2015, <https://www.icj.org/wp-content/uploads/2015/07/Cambodia-Letter-to-Hun-Sen-Withdraw-LANGO-Advocacy-Open-Letters-2015-ENG.pdf>; ICJ et al, Letter to President of the National Assembly Heng Samrin, 22 June 2015, <https://www.icj.org/wp-content/uploads/2015/06/Cambodia-Letter-to-Heng-Samrin-Withdraw-LANGO-Advocacy-Open-Letters-2015-ENG.pdf>; ICJ et al, Letter to Australian Foreign Minister, 'Call on Cambodia government to drop draft NGO Law', 29 May 2015, <https://www.icj.org/wp-content/uploads/2015/06/Cambodia-Australia-Cambodia-lango-letter-Advocacy-Open-letters-2015-ENG.pdf>

<sup>18</sup> Articles 5-17 and 25 of the LANGO. See unofficial translation of LANGO of 19 August 2015 at <http://www.sithi.org/admin/upload/law/Unofficial-Translation-LANGO.pdf>; See also Office of the United Nations High Commissioner for Human Rights in Cambodia, 'A Human Rights Analysis Of The Law on Associations and Non-governmental Organizations', 4 August 2015 ('OHCHR Cambodia 2015'), [http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/OHCHR\\_analysis\\_of\\_5th\\_LANGO\\_Eng.pdf](http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/OHCHR_analysis_of_5th_LANGO_Eng.pdf)

<sup>19</sup> Articles 8, 30, 35 of LANGO.

<sup>20</sup> Andrew Nachemson, 'Government probing 'Situation Room'', *Phnom Penh Post*, 30 June 2017, <https://www.phnompenhpost.com/national/government-probing-situation-room>

<sup>21</sup> Ben Sokhean, 'Interior Ministry Issues Stop-Order to Situation Room NGOs', *The Cambodia Daily*, 5 July 2017, <https://www.cambodiadaily.com/news/interior-ministry-issues-stop-order-to-situation-room-ngos-132133/>

<sup>22</sup> On 23 August 2017, NDI received an order from the MFAIC dictating that NDI had to shut down its office for alleged violation of article 34 of the LANGO and for alleged non-compliance with tax laws. See Ananth Baliga, 'Ministry shuts NDI for Lango violations as US Embassy hits back', *Phnom Penh Post*, 24 August 2017, <https://www.phnompenhpost.com/national/ministry-shutters-ndi-lango-violations-us-embassy-hits-back>; NDI, 'Statement on Cambodian Government's Decision to Shut Down NDI's Office in Cambodia', 23 August 2017, <https://www.ndi.org/publications/statement-cambodian-government's-decision-shut-down-ndis-office-cambodia>

<sup>23</sup> Articles 10 and 25 of LANGO. See Ben Sokhean, Kong Meta, 'Land rights NGO suspended', *Phnom Penh Post*, 29 September 2017, <https://www.phnompenhpost.com/national/land-rights-ngo-suspended>

<sup>24</sup> The 30-day suspension order was later extended until February 2018, reportedly leaving EC "in limbo" until the MoI formally confirmed that EC could operate again. See Leonie Kijewski, Niem Chheng, 'Equitable Cambodia allowed to reopen', *Phnom Penh Post*, 26 February 2018, <https://www.phnompenhpost.com/national/equitable-cambodia-allowed-reopen>

<sup>25</sup> Statement signed by 64 CSOs, 'Joint Statement - CSOs call for outright rejection of draft amendments to the Constitution and Criminal Code, amid legislative assault on Cambodian peoples' rights and freedoms', 21 February 2018, [https://cchrcambodia.org/index\\_old.php?title=CSOs-call-for-outright-rejection-of-draft-amendments-to-the-Constitution-and-Criminal-Code-amid-legislative-assault-on-Cambodian-peoples-rights-and-freedoms&url=media/media.php&p=press\\_detail.php&prid=688&id=5&lang=eng](https://cchrcambodia.org/index_old.php?title=CSOs-call-for-outright-rejection-of-draft-amendments-to-the-Constitution-and-Criminal-Code-amid-legislative-assault-on-Cambodian-peoples-rights-and-freedoms&url=media/media.php&p=press_detail.php&prid=688&id=5&lang=eng); Prior to the enactment of the *lèse-majesté* law, the ICJ had raised concerns that the law would expand the scope for curbing free expression by potentially penalizing actors, including associations, beyond the initial maker of a *lèse-majesté* statement. The ICJ had noted that in Thailand, editors who had published alleged *lèse-majesté* statements in magazines or persons who had shared alleged *lèse-majesté* content on social media had found themselves in legal jeopardy. See ICJ, 'End

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efforts to introduce lese majeste law', 2 February 2018, <https://www.icj.org/cambodia-end-efforts-to-introduce-lese-majeste-law/>

<sup>26</sup> Fresh News, 'Draft Penal Code Amendment related to Lèse-majesté and Constitutional Amendments Promulgated', 3 March 2018, <http://www.en.freshnewsasia.com/index.php/en/7748-2018-03-03-05-59-30.html>

<sup>27</sup> Leonie Kijewski, Soth Koemsoeun, 'National Assembly passes lèse majesté law, limits to freedom of association', *Phnom Penh Post*, 14 February 2018, <https://www.phnompenhpost.com/national-politics/national-assembly-passes-lese-majeste-law-limits-freedom-association>

<sup>28</sup> On 13 May 2018, a 50-year-old primary school principal, Kheang Navy, was reportedly arrested in Kampong Thom province for allegedly making comments on Facebook deemed insulting to the King. See Associated Press, 'Cambodia makes first arrest using new royal insult law', *Bangkok Post*, 13 May 2018, <https://www.bangkokpost.com/news/asean/1464489/cambodia-makes-first-arrest-using-new-royal-insult-law>; A week later, 70-year-old barber, Ban Somphy, was reportedly arrested in Siam Reap province for allegedly sharing a picture and text on Facebook deemed insulting to the King. Ban Samphy's case has raised questions regarding the liability of those who repeat the insults of others, but do not write insults themselves. Spokesperson for the Ministry of Justice, Chin Malin, reportedly stated that sharing social media posts, if done with "ill intentions", constitutes a crime equal to that of the original author. Source: Communications with NGO partners. See also Tan Hui Yee, 'Cambodia arrests barber in second lese majeste case', *The Straits Times*, 22 May 2018, <https://www.straitstimes.com/asia/se-asia/cambodia-arrests-barber-in-second-lese-majeste-case>; Both men reportedly remain in detention.

<sup>29</sup> Ben Sokhean and Andrew Nachemson, 'As UN raises concerns over amendments, government says new lèse majesté law will apply to media', *Phnom Penh Post*, 22 February 2018, <https://www.phnompenhpost.com/national/un-raises-concerns-over-amendments-government-says-new-lese-majeste-law-will-apply-media>

<sup>30</sup> Niem Chheng, Andrew Nachemson, 'Lèse-majesté law now in effect', *Phnom Penh Post*, 5 March 2018, <https://www.phnompenhpost.com/national-politics/lese-majeste-law-now-effect>; Minister of Information Khieu Kanharith has reportedly asserted that insults must not be reprinted, stating, "If you publish the insult on your platform, then it will help the original intent of the accused". Ministry of Information spokesperson Ouk Kimseng reportedly asserted, "For legally registered media, the authorities will take action accordingly" and that the media could report but not "repeat the offending content or attack or insult the King". Source: Communications with NGO partners.

<sup>31</sup> Ven Rathavong, 'Court summons former CNRP leader over insulting King', *Khmer Times*, 21 June 2018, <https://www.khmertimeskh.com/50503205/court-summons-former-cnrp-leader-over-insulting-king/>

<sup>32</sup> Andrew Nachemson, Mech Dara, 'Updated: Lèse-majesté law among changes to Cambodia's Constitution and Penal Code', *Phnom Penh Post*, 2 February 2018, <https://www.phnompenhpost.com/national-politics/updated-lese-majeste-law-among-changes-cambodias-constitution-and-penal-code>; Communications with local NGO partners.

<sup>33</sup> Statement signed by 64 CSOs, 'Joint Statement - CSOs call for outright rejection of draft amendments to the Constitution and Criminal Code, amid legislative assault on Cambodian peoples' rights and freedoms', 21 February 2018, [https://cchrcambodia.org/index\\_old.php?title=CSOs-call-for-outright-rejection-of-draft-amendments-to-the-Constitution-and-Criminal-Code-amid-legislative-assault-on-Cambodian-peoples-rights-and-freedoms&url=media.php&p=press\\_detail.php&prid=688&id=5&lang=eng](https://cchrcambodia.org/index_old.php?title=CSOs-call-for-outright-rejection-of-draft-amendments-to-the-Constitution-and-Criminal-Code-amid-legislative-assault-on-Cambodian-peoples-rights-and-freedoms&url=media.php&p=press_detail.php&prid=688&id=5&lang=eng)

<sup>34</sup> Mech Dara, 'Ministry ups scrutiny of NGOs', *Phnom Penh Post*, 10 October 2017, <https://www.phnompenhpost.com/national/ministry-ups-scrutiny-ngos>; Communications with local NGO partners.

<sup>35</sup> Unofficial translation of the Inter-ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia, Order No. 170 Br.K/Inter-ministerial. See also Prak Chan Thul, Darren Schuettler, 'Cambodia to monitor online news ahead of July election', *Reuters*, 4 June 2018, <https://www.reuters.com/article/us-cambodia-media/cambodia-to-monitor-online-news-ahead-of-july-election-idUSKCN1J018I>

<sup>36</sup> Ibid.

<sup>37</sup> On 5 July 2018, the three ministries reportedly "warned the public" that they would "act against" any social media users or websites found to violate the inter-ministerial order. See Mech Dara, 'Three ministries watch internet from today to prevent 'social chaos'', *Phnom Penh Post*, 5 July 2018, <https://www.phnompenhpost.com/national/three-ministries-watch-internet-today-prevent-social-chaos>

<sup>38</sup> Kate Lamb, 'Cambodia 'fake news' crackdown prompts fears over press freedom', *The Guardian*, 6 July 2018, <https://www.theguardian.com/world/2018/jul/06/cambodia-fake-news-crackdown-prompts-fears-over-press-freedom>; Asian Correspondent Staff, 'Cambodia

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introduces its own 'fake news' law', *Asian Correspondent*, 5 July 2018, <https://asiancorrespondent.com/2018/07/cambodia-introduces-its-own-fake-news-law/#jMCSaiTeCR58QrOu.97>

<sup>39</sup> Ibid.

<sup>40</sup> Post Staff, 'Sokha arrested for 'treason', is accused of colluding with US to topple the government', *Phnom Penh Post*, 4 September 2017, <https://www.phnompenhpost.com/national/sokha-arrested-treason-accused-colluding-us-topple-government>; Prior to his arrest, Kem Sokha had faced several other charges, including one alleged defamation charge for which he was convicted, and one conviction for reportedly disregarding a summons to respond to allegations of an extramarital affair, for which he was sentenced to five months' imprisonment. See Associated Press, 'Cambodian opposition leader sentenced to five months in prison', *The Guardian*, 9 September 2016, <https://www.theguardian.com/world/2016/sep/09/cambodia-opposition-leader-kem-sokha-sentenced-five-months-prison>

<sup>41</sup> Kem Sokha has been held in detention in the remote Trapeang Phlong Prison. See Niem Chheng, Kim Sarom, Ananth Baliga, 'Kem Sokha brought to Phnom Penh, denied bail', *Phnom Penh Post*, 1 February 2018, <https://www.phnompenhpost.com/national/kem-sokha-brought-phnom-penh-denied-bail>

<sup>42</sup> Communications with local NGO partners.

<sup>43</sup> Including Voice of America (VOA), Radio Free Asia (RFA) and the Voice of Democracy (VOD).

<sup>44</sup> Human Rights Watch, 'Cambodia: Onslaught on Media, Rights Groups', 25 August 2017, <https://www.hrw.org/news/2017/08/25/cambodia-onslaught-media-rights-groups>; George Wright, 'Voice of Democracy Latest Casualty in Attack on Independent Media', *Cambodia Daily*, 25 August 2017, <https://www.cambodiadaily.com/news/voice-democracy-latest-casualty-attack-independent-media-134059/>

<sup>45</sup> Communications with local NGO partners.

<sup>46</sup> Ananth Baliga, Mech Dara, Niem Chheng, 'RFA shuts down Cambodia operations amid media crackdown', *Phnom Penh Post*, 12 September 2017, <https://www.phnompenhpost.com/national/rfa-shuts-down-cambodia-operations-amid-media-crackdown>

<sup>47</sup> The charge of alleged supplying of a "foreign state with information which undermines national defence" carries a penalty of up to 15 years' imprisonment. The pair had reportedly been detained for approximately 66 hours before appearing before the Phnom Penh Municipal Court prosecutor, in violation of domestic laws that prohibit detention without charge for longer than 48 hours. See Kim Sarom, 'Radio Free Asia journalists' detention appeal denied', *Phnom Penh Post*, 4 April 2018, <https://www.phnompenhpost.com/national/radio-free-asia-journalists-detention-appeal-denied>

<sup>48</sup> The charge was allegedly in relation to photos which purportedly showed one of them in compromising positions. See Mech Dara, 'Former RFA reporters charged with pornography, lawyer says', *Phnom Penh Post*, 29 March 2018, <https://www.phnompenhpost.com/national/former-rfa-reporters-charged-pornography-lawyer-says>

<sup>49</sup> Reuters Staff, 'Cambodian journalists charged with espionage denied bail', *Reuters*, 19 April 2018, <https://www.reuters.com/article/us-cambodia-politics/cambodian-journalists-charged-with-espionage-denied-bail-idUSKBN1HQ0ME>; On 31 May 2018, the journalists were reportedly questioned by the investigating judge at Phnom Penh Municipal Court regarding the alleged pornography charges. See Niem Chheng, 'RFA journalists questioned', *Phnom Penh Post*, 1 June 2018, <https://www.phnompenhpost.com/national/rfa-journalists-questioned>

<sup>50</sup> The bill was produced despite the newspaper's assertion that they had complied with tax regulations. On 5 September, the GDT submitted a complaint to Phnom Penh Municipal Court accusing the newspaper's owners of tax evasion and obstruction of tax implementation. See Cambodia Daily, 'Cambodia Daily Announces Immediate Closure Amid Threats', *Cambodia Daily*, 4 September 2017, <https://www.cambodiadaily.com/news/cambodia-daily-announces-immediate-closure-amid-threats-134283/>; Niem Chheng, Ananth Baliga, 'Daily trio face tax department charges', *Phnom Penh Post*, 7 September 2017, <https://www.phnompenhpost.com/national/daily-trio-face-tax-department-charges>.

<sup>51</sup> The businessman was the owner of a public relations firm that had reportedly listed "Hun Sen's entry into the Government seat" as a former "government-related project". This was evident on the firm's website at <http://www.asia-pr.com/over-the-years/>. See Brendan O'Bryne and Ananth Baliga, 'Phnom Penh Post sold to Malaysian investor', *Phnom Penh Post*, 7 May 2018, <http://www.nationmultimedia.com/detail/business/30344773>

<sup>52</sup> Soon after the takeover, the newspaper's new owner fired the editor-in-chief and four senior staff members resigned after they refused to take down an article which raised concerns about the new owner's connections with PM Hun Sen. See Al Jazeera, 'Cambodia: Phnom Penh Post editor sacked over article', *Al Jazeera English*, 8 May 2018,

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<https://www.aljazeera.com/news/2018/05/cambodia-phnom-penh-post-editor-sacked-article-180507125704780.html>

<sup>53</sup> The ICJ has also been informed that from September 2014 to date, more than 20 leaders and members of unions have been subject to politically motivated criminal charges. Source: Communications with NGO partners.

<sup>54</sup> Mech Dara and Ananth Baliga, 'Environmental NGO Mother Nature dissolved', *Phnom Penh Post*, 18 September 2017, <https://www.phnompenhpost.com/national/environmental-ngo-mother-nature-dissolved>. Mother Nature founder Alex Gonzalez-Davidson, who was deported from Cambodia in 2015, and co-founder San Mala had also been arrested previously by MoI officers. See Tat Oudom, May Titthara, 'Activist Alex arrested', *Phnom Penh Post*, 23 February 2015, <https://www.phnompenhpost.com/activist-alex-arrested>

<sup>55</sup> Mech Dara and Ananth Baliga, 'Environmental NGO Mother Nature dissolved', *Phnom Penh Post*, 18 September 2017, <https://www.phnompenhpost.com/national/environmental-ngo-mother-nature-dissolved>;

<sup>56</sup> The court suspended seven months of their sentence, taking into credit their time served in detention from September 2017. They were released on 13 February 2018. See Niem Chheng and James Reddick, 'Mother Nature activists found guilty', *Phnom Penh Post*, 26 January 2018, <https://www.phnompenhpost.com/national/mother-nature-activists-found-guilty>; Nareth Muong and Richard Finney, 'Two Mother Nature Activists Freed From Jail in Cambodia', *Radio Free Asia*, 13 February 2018, <https://www.rfa.org/english/news/cambodia/nature-02132018170948.html>

<sup>57</sup> Fresh News, 26 May 2018 [KH] <http://www.freshnewsasia.com/index.php/en/localnews/87980-2018-05-26-01-37-28.html>

<sup>58</sup> NGO monitoring in-country reported approximately 30 cases of violation of freedom of expression relating to online expression, particularly on social media. Source: Communications with NGO partners.

<sup>59</sup> Erin Handley, Mech Dara, 'Extradition of 'shoe thrower' protester from Thailand raises possibility of CNRP deportations', *Phnom Penh Post*, 12 February 2018, <https://www.phnompenhpost.com/national/extradition-shoe-thrower-protester-thailand-raises-possibility-cnrp-deportations>

<sup>60</sup> He was arrested and detained on his wedding day. See Mech Dara, Yesenia Amaro, 'Man arrested on wedding day for criticizing government on Facebook', *Phnom Penh Post*, 12 February 2018, <https://www.phnompenhpost.com/national/man-arrested-wedding-day-criticising-government-facebook>

<sup>61</sup> Oung Dane, 'Teacher held for urging vote boycott', *Phnom Penh Post*, 11 July 2018, <https://www.phnompenhpost.com/national/teacher-held-urging-vote-boycott>

<sup>62</sup> In July 2017, a CPP spokesperson reportedly justified amendments to the LPP as necessary to "strengthen the rule of law". On 12 February 2018, he also reportedly stated that control of the political sphere was required for "democratic rule of law". In March 2018, an MoI official noted that any effort to "destabilise" Cambodia would be "monitored through legal means adhering to democratic principle and the rule of law". See Meas Sokchea, Erin Handley, 'Controversial Party Law signed, though King declines to ink changes', *Phnom Penh Post*, 31 July 2017, <https://www.phnompenhpost.com/national/controversial-party-law-signed-though-king-declines-ink-changes>; Mech Dara, Erin Handley, 'Details of ruling party's five-year plan to minimise opposition revealed', *Phnom Penh Post*, 13 February 2018, <https://www.phnompenhpost.com/national-politics/details-ruling-partys-five-year-plan-minimise-opposition-revealed>; Huy Vannak, 'Letter to the editor from Huy Vannak, undersecretary of state for the Interior Ministry', *Phnom Penh Post*, 19 March 2018, <https://www.phnompenhpost.com/opinion/state-political-freedom-cambodia>

<sup>63</sup> Ben Sokhean, Mech Dara, Ananth Baliga, "Death of democracy": CNRP dissolved by Supreme Court ruling', *Phnom Penh Post*, 17 November 2017, <https://www.phnompenhpost.com/national-post-depth-politics/death-democracy-cnrp-dissolved-supreme-court-ruling>

<sup>64</sup> Soth Koemsoeun, "Scholar' spins CNRP dissolution into strengthening of democracy', *Phnom Penh Post*, 22 November 2017, <https://www.phnompenhpost.com/national-politics/scholar-spins-cnrp-dissolution-strengthening-democracy>

<sup>65</sup> Mech Dara, Soth Koemsoeun, 'Human Rights Day celebrations kept to a minimum amid fears of crackdown', *Phnom Penh Post*, 11 December 2017, <https://www.phnompenhpost.com/national/human-rights-day-celebrations-kept-minimum-amid-fears-crackdown>

<sup>66</sup> Fresh News, 'Council of Ministers releases White Paper in English', 11 March 2018, <http://m.en.freshnewsasia.com/index.php/en/7905-2018-03-11-05-23-24.html>

<sup>67</sup> ICJ, 'Achieving Justice for Gross Human Rights Violations in Cambodia, Baseline Study, October 2017', October 2017, <https://www.icj.org/wp-content/uploads/2017/10/Cambodia-GRA-Baseline-Study-Publications-Reports-Thematic-reports-2017-ENG.pdf> ('ICJ Baseline Study')

<sup>68</sup> ICJ Baseline Study, p3. The study also highlighted that the judiciary remains firmly under the RGC's control, with the Minister of Justice having excessive powers legitimized under domestic

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laws to control and influence “almost every element of a judge’s career”, and recognized that the Bar Association of the Kingdom of Cambodia was politicized and controlled by the ruling party. See ICJ Baseline Study, p18.

<sup>69</sup> Stuart White, ‘King OKs judiciary laws’, 15 August 2014, <https://www.phnompenhpost.com/national/king-oks-judiciary-laws>; ICJ and CCHR, ‘Cambodia: judicial reform laws not in line with international standards’, 11 June 2014, <https://www.icj.org/cambodia-judicial-reform-laws-not-in-line-with-international-standards/>; See also HRW, ‘Cambodia: Withdraw Fundamentally Flawed Judiciary Laws’, 3 May 2014, <https://www.hrw.org/news/2014/05/03/cambodia-withdraw-fundamentally-flawed-judiciary-laws>

<sup>70</sup> On 15 July 2014, the United Nations Special Rapporteur on the Independence of Judges and Lawyers, Gabriela Knaul, urged the Cambodian King not to sign off on the laws, warning that they would undermine separation of powers. See Robert Carmichael, ‘Legal Experts: Cambodia Judicial Laws of ‘Deep Concern’’, *Voice of Asia*, 15 July 2014, <https://www.voanews.com/a/legal-experts-say-cambodia-judicial-laws-of-deep-concern/1957799.html>

<sup>71</sup> ICJ, ‘Cambodia: ICJ condemns new draft laws that infringe on judicial independence’, 8 July 2014, <https://www.icj.org/cambodia-icj-condemns-new-draft-laws-that-infringe-on-judicial-independence/>

<sup>72</sup> ICJ, ‘Cambodia: The ICJ condemns dissolution of main opposition party’, 16 November 2017, <https://www.icj.org/cambodia-the-icj-condemns-dissolution-of-main-opposition-party/>

<sup>73</sup> ICJ, ‘Cambodia: The ICJ condemns dissolution of main opposition party’, 16 November 2017, <https://www.icj.org/cambodia-the-icj-condemns-dissolution-of-main-opposition-party/>