



# Генеральная Ассамблея

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## Совет по правам человека

### Пятьдесят четвертая сессия

11 сентября — 6 октября 2023 года

Пункт 10 повестки дня

Техническая помощь и создание потенциала

### **Вербальная нота Постоянного представительства Камбоджи при Отделении Организации Объединенных Наций в Женеве от 9 августа 2023 года в адрес Управления Верховного комиссара Организации Объединенных Наций по правам человека**

Постоянное представительство Королевства Камбоджа при Организации Объединенных Наций и других международных организациях в Женеве, ссылаясь на ноту Управления Верховного комиссара Организации Объединенных Наций по правам человека (УВКПЧ) № HRC/54/xx/28062023 от 28 июня 2023 года и электронное письмо сотрудника УВКПЧ по правам человека Беатрис Жан-Филипп от 7 августа 2023 года, имеет честь препроводить настоящим ему замечания Королевского правительства Камбоджи по проекту доклада Генерального секретаря о роли и достижениях УВКПЧ в оказании помощи правительству и народу Камбоджи в деле поощрения и защиты прав человека (см. приложение)<sup>1</sup>.

Постоянное представительство Камбоджи было бы весьма признательно УВКПЧ за доведение указанных подробностей до сведения самого высокого адресата и включение их в вышеуказанный доклад Генерального секретаря или публикацию замечаний правительства\* в качестве сообщения правительства после доклада Генерального секретаря по Камбодже в списке документов, изданных для пятьдесят четвертой сессии Совета по правам человека, что обеспечит объективность и равное освещение ответа государства, как это предусмотрено правилами, регулирующими работу механизмов Совета.

<sup>1</sup> [A/HRC/54/72](#).

\* Воспроизводится в полученном виде только на том языке, на котором оно было представлено.



**Приложение к вербальной ноте Постоянного представительства Камбоджи при Отделении Организации Объединенных Наций в Женеве от 9 августа 2023 года в адрес Управления Верховного комиссара Организации Объединенных Наций по правам человека**

**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**

Draft text by OHCHR	Comments by Cambodia
<p>4. In June 2022, 17 parties contested the fifth communal election with the ruling Cambodian People's Party winning 74 per cent of the popular vote in contrast with the Candlelight Party, which won 22 per cent of votes cast to become the country's largest opposition party. In the lead-up to the election, OHCHR received allegations of harassment of opposition activists, candidates, and observers through criminal cases and reported threats to withhold access to social services. Reports of intimidation against civil society actors and media, including through judicial cases, surveillance, and public threats of criminal charges were also received.</p>	<p><b><u>Comments on paragraph 4, 5, and 6:</u></b></p> <p><b>Law enforcement against some activists</b></p> <p>□ The law enforcement actions taken against certain individuals are not driven by their activism or pursuit of human rights, environmental protection, or societal betterment. Rather, these measures have been necessitated by their engagement in criminal activities, flagrantly violating the law in multiple ways. The accusations against them encompass acts of insult, dissemination of false information, incitement of violence leading to social unrest, as well as insult directed towards the monarchy, and involvement in conspiracy, among other serious offenses.</p> <p>□ The authorities possess clear and compelling evidence, providing a strong legal basis for the prosecution and ensuing judicial proceedings against these individuals. In a democratic and rule of law society, it is imperative for them to participate in the court proceedings, where they will have the opportunity to present legal evidence in their defense. This is the only legitimate avenue through which accused persons can contest the charges leveled against them, as well as safeguard their rights within the framework of a democratic society.</p> <p>□ The arrest, charges, and subsequent conviction of the mentioned individuals are fully in accordance with the laws of the Kingdom of Cambodia. In our society, which upholds the principles of the rule of law, the exercise of individual rights and freedoms must be conducted within the confines of the law itself. Any attempt to overstep these legal boundaries not only jeopardizes the rights of others but also entails the responsibility to face the consequences before the law.</p>

□ Cambodia is unwavering in its commitment to promoting and upholding human rights in strict accordance with its laws. The democratic process in our nation continues to function as usual, fostering an environment of openness, dialogue, and respect for the rights and freedoms of all citizens.

□ It is essential to recognize that each country has its distinct priorities and approaches. Just as the United States of America embraces the concept of "America First," Cambodia places paramount importance on "Peace First." Given our nation's painful history, the phrase "Thank you peace" has become a powerful slogan embodying the heartfelt desire of the Cambodian people to lead happy lives under the comforting embrace of peace.

**The cases of arrests, intimidation, surveillance of election observers and other connected to political opposition**

□ The foundation of the Rule of Law lies in the robust enforcement of laws. In Cambodia, the principle guiding arrests, charges, and detentions is solely based on individuals' actions rather than their identities. The legal process ensures that those who have engaged in wrongdoing are held accountable for their actions. In cases of alleged intimidation or surveillance, it is imperative for victims to report such incidents to the competent authorities and seek assistance or file complaints with the appropriate courts. The existing mechanisms provided by law are designed to address and resolve such issues in a fair and just manner.

□ However, the challenge we face is that some individuals in Cambodia, who claim to be victims and champions of the Rule of Law, seem reluctant to utilize the established legal mechanisms or cooperate with competent authorities to find resolutions. Instead, they opt to report or provide interviews to foreign media with apparent ill-will towards the government. Legal actions are taken solely against those who have violated existing laws, and not against those who exercise their rights and freedoms in accordance with the law. The government remains steadfast in its commitment to upholding the rights and liberties of all citizens and encourages lawful expression and participation in the democratic process

5. With a transition announced by the Prime Minister Hun Sen, which includes handing power to his son Hun Manet, the reporting period was dominated by the communal election of 5 June 2022 and the lead-up to the national election scheduled to take place on 23 July 2023. The Prime Minister addressed members of the political opposition in speeches, stating on several occasions that the Candlelight Party would be dissolved if it were found to be associated with Sam Rainsy, a leader of the dissolved Cambodia National Rescue Party who was convicted in absentia for treason in October 2022. On 9 January 2023, the Prime Minister delivered a speech addressed to his opponents stating that “there are only two options, one is using legal action, the other is using sticks”.

6. - In the lead-up to the national election, OHCHR received reports of physical attacks by unknown persons against 14 activists of the Candlelight Party (two women and 12 men) in or near Phnom Penh. OHCHR also received information on the arrest of 17 opposition activists (three women and 14 men), including Thach Setha, the vice-president of the Candlelight Party in January 2023. A total of 51 political activists (eight women and 43 men), and 36 human rights defenders, journalists and union activists (11 women and 25 men), were detained during the reporting period. Four male human rights defenders representing four non-governmental organisations were summoned for questioning in January 2023.

- On 13 February, the Voice of Democracy media outlet, was closed down following a request by the Prime Minister on his Facebook page.

- On 15 May, the National Electoral Committee disqualified the Candlelight Party and Khmer United Great Nation Party from running in the national election. On 25 May, the Constitutional Council dismissed their appeal.

□ The Prime Minister has mentioned based on Article 6-new (two) of the Law on Political Parties of the Kingdom of Cambodia states that all Political Parties shall not carry out activities: open or tacitly agree or conspire with the person convicted of felony or misdemeanor to carry out activities for political gains/interests of its party.

□ For political party that violates Article 6-new, states that the court may decide: 1) suspend the activities of political parties within the period of five years, and 2) Dissolve that political party.

□ The opposition politician has accused Cambodian People Parties of stealing vote for commune council election in June 2022 without factual and legal basis.

□ The case of Mr. **Thach Setha** is a personal dispute with his creditor and should not be politicized. He was charged of having issued dud checks [in line with Article 231 of the Law on Negotiable Instrument and Payment Transactions].

□ The recent administrative measure taken to close the Voice of Democracy (VOD) media outlet is a direct response to its unprofessional conduct and dissemination of fake news, which not only violates the rights, freedoms, and dignity of others but also reflects a deliberate intent to incite discord. Before this measure was implemented, an opportunity was extended to the VOD manager to apologize and acknowledge its mistake. However, the VOD manager failed to avail themselves of this chance and chose not to acknowledge the misconduct. This demonstrates the ill-intentions of the VOD, attempting to operate under the banner of freedom of expression and publication while disregarding the principles of responsible journalism.

□ This measure does not threaten journalists or impede media freedom in Cambodia. Rather, it is a necessary step to promote law enforcement and uphold the standards of professional media in our country. Press freedom in Cambodia will undoubtedly see improvements as we take action against media outlets that violate ethical standards. It serves as a critical lesson for reinforcing the application of press codes of ethics, and it should never be

misconstrued as a clampdown on press freedom.

- The National Election Committee (NEC) operates as a law enforcement body, and all voting processes are conducted in strict accordance with the relevant laws, which specify specific conditions and requirements. The NEC has consistently and fairly applied the same standards to all political parties, ensuring equal treatment and opportunities for participation.

- The dismissal of registrations of CLP and KULP can be attributed to their own mistakes, and it is essential to recognize that accountability lies with each party for adhering to the necessary requirements. The NEC's decision does not place any burdens on or unfairly point fingers at other political parties. Upholding the law and maintaining the integrity of the election process is the paramount duty of the NEC.

- Allowing these two parties to register for the 2023 national election would be tantamount to the NEC violating the law, compromising the credibility of the electoral process, and undermining the fairness for other political parties that diligently abide by the provisions of the law.

- The NEC's decision to dismiss these registrations underwent thorough review and was upheld by the Constitutional Council, thus affirming its compliance with the law and constitutional principles

13. High unemployment or the lack of secure employment are causes that induce workers to seek employment in the informal sector of the economy. In its Concluding Observations of February 2023, the Committee on Economic, Social and Cultural Rights expressed concerns about the large number of persons working in the informal sector without adequate, legal, labour and social protection. In consultation with the Ministry of Social Affairs, Veterans and Youth Rehabilitation, OHCHR initiated a study to assess the availability and accessibility of social protection to informal workers. The study should assist the Government in identifying ways and means to integrate informal workers into social security schemes

□ According to the Cambodia Socio-Economic Survey 2021 of the National Institute of Statistics of the Ministry of Planning, the unemployment rate in Cambodia was just 1.0% in 2021 after applying the definition of the International Labour Organization (ILO). Therefore, it is misleading to state that Cambodia has high unemployment rate.

□ According to Article 1 of the Labor Law, the Cambodia Labour Law governs the employment relations between the employers and workers. And based on Article 2 of the same law, a natural or legal entity is considered as the employer as long as they employ at least one person discontinuously. Accordingly, workers in the informal economy are also entitled to the same legal protection as those in the formal economy.

□ Regarding the social protection, it should be noted that Cambodia has so far

implemented 3 social security schemes under the National Social Security Fund (NSSF) for workers in the public and private sectors, including personnel serving in the air and maritime transportation, domestic workers and the self-employed. They include Healthcare (launched in 2016), Occupational Risks (launched in 2018), and Pension (launched in late 2022). The contribution to the NSSF for healthcare and occupational risks scheme is fully covered by employers whereby the employers and workers equally share this contribution for pension scheme.

□ The Royal Government has been continuously working on strengthening and expanding the social security system for workers in both the private and public sectors, including those working in the informal economy through the continued development of the social security system in accordance with the National Social Protection Policy Framework 2016-2025 to ensure that everyone is entitled to the social security benefits when they are sick, become disabled, have occupational accident, get unemployed, get retired, and death.

□ In this regard, pursuant to the 3rd priority of the 4th angle on "strengthening gender equality and social protection" of the first rectangle on "human resource development" of the 4th Phase of the Rectangular Strategy, the Ministry of Labour and Vocational Training (MLVT) has developed the Strategic Plan for Employment and Vocational Training Development 2019-2023, which also emphasized on (1) strengthening and expanding the implementation of the social security system on occupational risks, and (2) strengthening and expanding the implementation of social security system for Healthcare, (3) Strengthening and expanding the implementation of the social security system for pensions, (4) Strengthening the implementation of the social security system in the informal economy, and (5) Developing institutional capacity to increase the efficiency of service delivery

□ As the results, the new Law on Social Security Schemes was enacted in 2019 to broaden the coverage of social security system to include personnel serving in the air and maritime transportation, domestic workers and the self-employed.

Moreover, the Inter-Ministerial Prakas No. 404 dated 11 October 2017 on Implementation of Health Care Schemes Through Health Equity Fund System for Informal Workers and Provision of Additional Allowance for Female Workers When Delivery was also established to provide workers in the informal economy with full access to health services of the nearest health facilities under the expense of the Royal Government. As a result, as of 2022, 947 enterprises with a total of 96,198 members (20,828 females) in the informal economy have been registered with the National Social Security Fund (NSSF) for healthcare benefits through the Health Equity Fund system whereby the Royal Government has also provided the maternity benefits to 337,874 women workers, equivalent to a budget of 136.08 billion riels. In addition, the Inter-Ministerial Prakas on Health Care Scheme through Health Equity Fund System for Persons Working in the Tourism Services of the Informal Economy dated 19 June 2023 was also issued in order to provide the social protection benefits to informal workers in the tourism industry. Recently, the Government issued the “Decision on the Pilot Scheme Implementation of Voluntary Health Care Scheme for the self-employed” in July 2023 to allow self-employed persons to voluntarily register as the members of NSSF for healthcare benefits while a feasibility study on the implementation of dependents and the unemployment scheme is also being conducted by the NSSF.

□ Based on the above facts, it is proven that the Royal Government of Cambodia is striving hard to assure an inclusive social security coverage towards the Universal Health Coverage in Cambodia under the principle of “No-one is left behind”.

14. Reports of women not being paid the same wages for the same work as men continue to be a concern, despite the existence of legislation that supports the principle of equal pay irrespective of gender. Women reportedly earn on average 19 per cent less for the same work as men. In 2022, the National Minimum Wage Council approved an increase of \$200 in minimum wage for 2023 compared to the current \$194, against the 5 per cent inflation rate. However, the statutory minimum wage applies only to the garment, footwear, travel goods and bags sectors. In its Concluding Observations of 2019, the Committee on the

□ Although Cambodia only ratified the ILO Convention No. 100 on Equal Remuneration in 1999, the Labour Law of Cambodia which has been enacted since 1997 adopted the principle of “Equal work, Equal pay” since before that ratification. Under the Article 106 of the Labour Law, women and men are entitled to equal wages for work of equal condition, professional skill, and outputs. Besides, the Law on Minimum Wages also does not fix the minimum wages for women workers differently from that for men. And although Cambodia currently has the minimum wages for Garment, Textiles, Footwear,

Elimination of Discrimination Against Women raised concerns with the high concentration of women in low-wage jobs, where they are employed on short-term or fixed-duration contracts, which undermines their ability to bargain collectively through trade unions and precludes them from basic labour protection and benefits, such as maternity leave and paid leave.

Travel Goods and Bags industries only, it is to note that these industries are the most labour-intensive industries in Cambodia, in which the big majority of workers are women.

□ Article 31 and 36 of the Constitution, Article 265 and 269 of the Criminal Code, Article 8 of the Law on Minimum Wages, and Article 12 and 13 of the Labour Law also provide the same legal protection to women as men. The Labour Law prohibits discrimination by employers against workers on the basis of sex, amongst others. This discrimination is considered not only as the zero-tolerance violation of the Labour Law that is subject to instant penalty from USD600 to USD1200 when found by the Labour Inspector, but also the criminal offenses under the Criminal Code.

□ Regarding the benefits for women workers, under the Labour Law, women workers are entitled to 120% of wages during the 90-day maternity leave. In addition, besides receiving free delivery service at the medical facilities that are the partners of NSSF, they are also entitled to the government supports as the following:

- US\$200 for delivering 1 baby.
- US\$300 for delivering 2 babies.
- US\$400 and the financial support from the Prime Minister for delivering 3 babies.

□ Women workers are allowed to take leave for 4 times for pregnancy checks with normal pays and financial support from the Government of US\$20 each time and leave the jobs 15 minutes earlier than other workers during the pregnancy period. And within 2 years after delivering the baby, they are entitled to take leave for 10 times with normal pay and financial support from the Government of US\$20 each time to have their post-natal health-check and take their baby for vaccination. And within 01 year after they returned to work, they are entitled to 01 hour per day for breastfeeding.

□ Cambodia is amongst only a few countries in the world that implement the Decent Work Country Programme (DWCP) under the technical supports from the International Labour Organization (ILO). Cambodia is now in the 5th phase of this implementation. Promoting decent work for women is always a part of the key priorities



15. Despite ratification of the International Labour Organization Convention No. 138 by Cambodia, child labour continues to exist in the country. Statistics show that 17 per cent of children aged between 5 to 17 are employed (15.8 percent girls and 18.1 percent boys), while 45.1 per cent (46.9 per cent girls and 43.1 percent boys) are not in school.

under the Decent Work Country Programme.

□ Based on the above facts, all the concerns raised in the UNHCHR are groundless and misleading because it failed to take the full pictures of the legal and policy framework having been implemented in Cambodia into consideration

□ Cambodia strongly objects to the statistics that 17 per cent of children aged between 5 to 17 are employed in Cambodia because it is exaggerating.

□ Although the ILO Convention No. 138 was not ratified by Cambodia until 1999, the minimum age for employment as defined in this Convention has been adopted and codified in the Labour Law 1997. Under this law, if any employer wished to employ children, they shall register the list of child workers with the Ministry of Labour and Vocational Training (MLVT) in advance.

□ Cambodia has issued 13 Prakas (Ministerial Orders) relating to child labour in addition to the Labour Law and established the Cambodia National and Provincial/Municipal Council for Children. Therefore, Cambodia has very strong legal and policy framework at both the national and sub-national level to promote and protect the rights of children as well as to combat child labour, especially the worst forms of child labour.

□ Even during the Covid-19 pandemic, the MLVT has taken the following actions relating to child labour:

1) From 2019 to 2022, the MLVT has conducted labour inspections in textile, apparel, footwear, travel goods, brick kiln, and agro-industry sectors 752 times. No case of child labour and debt bondage has been found,

2) The MLVT has issued young worker employment permit<sup>2</sup> to 61 enterprises and registered young worker books<sup>3</sup> for 31 enterprises with 521 young workers from 2019-2022,

<sup>2</sup> Young worker employment permit is permission to use young workers in compliance with article 177 of the Labour Law and Prakas N0 467 K.B/Br.K on Procedure for Recruitment of Young Workers/Employees at Enterprises/Establishments dated 20 November 2015.

<sup>3</sup> Registration of young worker book is registration the list of detailed profile information, general working conditions, safety and health conditions, and type of works of young workers in compliance with article 177 of the Labour Law and Prakas N0 467 K.B/Br.K on Procedure for Recruitment of Young Workers/Employees at Enterprises/Establishments dated 20 November 2015.

3) In 2021, the MLVT conducted a campaign on child labour prevention in brick-making and agro-industry sectors nationwide in 584 enterprises with 31634 workers (12279 female) aiming to disseminate legal frameworks and international instruments related to child labour. In addition, the MLVT has made 1262 contracts between employers, workers, parents, and labour inspectors to ensure that children will not only be employed, but also be allowed to play in the workplaces.

4) In 2022, the MLVT conducted dissemination on child labour prevention in textile, apparel, footwear, travel goods, brick kiln, and agro-industry sectors 157 times with 5105 participants (1974 female).

5) The MLVT has implemented the core intervention program of 1550 cases of marginalized children from 2020 to 2022 in brick-making and agro-industry sectors by providing education, technical vocational training, and job creation opportunity for children's families to a better livelihood.

6) The MLVT has enhanced the capacity of labour inspectors, competent authorities, and relevant stakeholders in child labour prevention. From 2020 to 2022, the MLVT conducted six training courses with 1109 labour inspectors (188 female) from the national and provincial/municipal level.

□ As the results, according to the Report of Cambodia Socio-Economic Survey 2021 of the National Institute of Statistics of the Ministry of Planning, working children has declined from about 24 per cent to 17 per cent within 2012 to 2021. In addition, based on the report of ILO Better factories Cambodia (ILO-BFC), child labour in garment, textiles, shoes, bags and travel goods industry has drastically decreased from 1 case in 2019 to zero case in 2022.

□ The MLVT is highly committed to investigating all suspected cases of child labour or the worst forms of child labour and imposing penalties against the employers who employed child workers illegally

16. OHCHR continued to follow on issues related to the secure and equitable access to, use of, and control over land by individuals and communities, in particular by indigenous peoples. State authorities have reportedly resorted to the use of

□ In order to ensure the security of land tenure, respect for human rights, improvement in standards of living, and poverty reduction, the Royal Government of Cambodia (RGC) has strived to develop appropriate legal instruments and set out

criminal charges against members of communities in a vulnerable situation or have refrained from issuing land titles as a tool of intimidation. OHCHR received information on attempts to evict vulnerable communities, including indigenous communities, from their lands without meaningful consultation, transparent and fair agreements on resettlement or compensation. In some situations, land petitions by representatives of victim indigenous communities to State authorities have been kept unjustifiably pending, while the refusal to issue collective land titles to indigenous communities for lands or portions of their lands allocated as economic concessions granted to private companies without prior consultation and compensation have hindered affected indigenous communities from accessing and enjoying their rights. In Oddar Meanchey province, 20 farmers (eight women and 12 men) were reportedly arbitrarily arrested between 5 August and 10 December 2022 in connection with a land eviction and held in pre-trial detention. Three were released on bail on 1 March 2023.

concrete actions for accelerating systematic land registration that covers both urban and remote rural areas, in order to ensure legal and equal rights for people from all walks of life before law, and to ensure social stability and support the family and national economy. As a result, as of June 2023, the Ministry registered and issued 6,895,840 land titles, equal to 98.5% of the initial estimated 7 million parcels (6,267,339 titles for systematic registration and 628,501 titles for sporadic registrations) and distributes 5,748,618 titles (17,993 social land concessions).

□ The RGC does not have any policy or action to deprive indigenous people of their rights to and displace them from the land and natural resources that they have traditionally occupied and used. On the contrary, the RGC always pays high attention to indigenous peoples by providing them with collective land ownership or private ownership. In this context, Cambodia is also one of the leading countries that recognize the land rights of indigenous communities in order to improve the living conditions and livelihood of indigenous peoples, preserve their good traditions, culture, customs, beliefs according to their ethnics, groups or communities.

□ Based on the Land Law, which states that “The land of indigenous communities include not only lands actually cultivated but also reserved lands necessary for shifting cultivation which is required by the agricultural methods they currently practice and which are recognized by the administrative authorities. The measurement and demarcation of boundaries of immovable properties of indigenous communities shall be determined according to the factual situation as asserted by the communities, in agreement with their neighbors”

□ Land registration as communal collective land ownership is an inter-institutional undertaking that requires time, starting with the identification of indigenous communities by the Ministry of Rural Development, their registration as legal entities by the Ministry of Interior, and finally, land registration by the Ministry of Land Management, Urban Planning and Construction, as well as undergoing land reclassification procedures with the participation of the Ministry of Environment and the Ministry of Agriculture, Forestry

and Fisheries. The procedures for indigenous communal land registration also involve civil society organizations.

□ The Ministry of Land Management, Urban Planning and Construction (MLMUPC) registered and issued 1,033 collective ownership titles for 40,732.42 hectares of land for 40 indigenous communities or 3,893 families. Moreover, the RGC has also shown its strong will to continue to help indigenous communities through the land titling program as well as the Land Allocation for Social and Economic Development Project III (LASED III), which provides additional assistance to improve rural infrastructure, livelihoods and clean water.

□ The RGC has always focused on poor families who are landless, land-poor or vulnerable people by providing them with land of appropriate sizes for subsistence farming and/or housing through social land concessions or land grant/donation in accordance with Sub-Decree No. 19, dated 19 March 2013 on Social Land Concessions, Circular No. 02 SR dated 26 February 2007 on Illegal Occupation of State Land and Circular No. 03 SR dated 31 May 2010 on Resolution of Temporary Settlements on State Land in the Capital City, Municipalities, and Urban Areas.

□ The National Housing Policy and the Policy on Incentives and the Development of National Programs for Affordable Housing Development are also designed to enable people to live in well-being, safety, and dignity, especially to help low- and middle-income people, vulnerable groups, young people who have just started their jobs, or are just married, or are looking for jobs to have afford housing, including access to low-interest loans, and to live and work with peace of mind. The policies also help promote social harmony among all the people as well as to reduce social conflicts and solve urbanization, public service, and environmental issues.

□ As a result, as of June 2023, all types of social land concession programs have provided 1,356,752.14 hectares of land to 487,457 families and built 8,141 houses for people.

17. In June 2022, seven female community representatives from the Samrong Tbong community, who are at risk of eviction from their lands, were

□ The claim made by OHCHR is biased and selective. The OHCHR report does not take an objective, impartial and non-selective approach. The trust is that the

summoned by Police on charges of incitement and causing public chaos. In October 2022, several women from the same community alleged that they were beaten by State agents when they resisted the destruction of a dwelling of one of their community members related to attempts by State authorities, ongoing since 2019, to forcefully evict at least 250 households from their lands. In December 2022, six male land activists, who were arrested in October 2021 in Sihanoukville province in connection to a case of eviction from their lands by the authorities, were sentenced between three to five years in prison on charges of illegally clearing land. The six activists were part of a group of 45 families protesting against attempts of eviction by provincial authorities without compensation

summons of the police to any person involved in inciting and causing public unrest is all evident and / or has a complaint and follows the procedures of the judicial police to build a case to be sent to court.

19. In line with advancing and protecting the rights of indigenous women and their communities, OHCHR supported the launch of a joint study by the Cambodian Indigenous Women Association, the Cambodian Indigenous Peoples Organization, and Klahann Organization in August 2022. The Study gathered relevant data on gender-based violence against indigenous women in three provinces of Cambodia. The study defined root causes of gender-based violence, including sexual violence, related to poverty, but also to unequal power relations between men and women in the public and domestic spheres. OHCHR and relevant partners launched the study on the celebration of the Indigenous Peoples' Day on 9 August 2022.

□ The Royal Government of Cambodia has made significant progress in its efforts to prevent and respond to violence against women through the successive implementation of 3rd National Action Plans to Prevent Violence against Women (NAPVAW 3) for 2019-2023, which involve 17-line ministries, 4 development partners (UN Women, UNFPA, DAFAT, UNICEF), 40 NGOs and private sector. Promoting gender equality and ending gender-based violence to nurture a sustainable economic growth and develop an inclusive society is one top priority in the political platform of the Government agenda.

□ Ministry of Women's Affairs in collaboration with UNICEF provided support to the Provincial Consultative Committee on Women and Children to develop and implement the Provincial Action Plan on the Prevention of Child Marriage and Adolescent Pregnancy 2017-2022. This action plan is implementing in all areas in the Rattanakiri province and now the provincial administration has integrated this action plan into the Provincial Investment Plan and allocated the provincial budget to implement it.

□ We piloted a program on the Prevention of Child Marriage and Adolescent Pregnancy in Rattanakiri where the majority of the population who are living in this province are indigenous people.

□ The study conducted by the two NGOs with the support from OHCHR without consultation with MoWA. The indigenous women is one of vulnerable group that MoWA prioritized in the NAPVAW 3 and its five year strategy (Neary Rattanak) 2019-2923.

□ OHCHR is also a member of the Technical Working Group Gender and sub working on Gender-based Violence (TWGG-GBV) which mandate to coordinated for the development and monitor the implementation of NAPVAW 3, but the OHCHR never bring the issues to the TWGG-GBV Meeting (every quarter and OHCHR always invited). MoWA encourage the OHCHR to share the study report and to work closely with technical official of MoWA if the OHCHR really want to promote and protect the rights of Cambodian women, especially the indigenous women. MoWA will look on the finding and recommendations of the report, and will take consideration to response to the issues.

21. While there is no legislation in Cambodia to regulate surrogacy, the practice had been banned by the Ministry of Health since 2016. Charges continue to be brought against women acting as surrogates under the provisions of the Law on the Suppression of Human Trafficking and Sexual Exploitation of 2008. In 2017, an inter-ministerial working group led by the Ministry of Women's Affairs initiated a draft law on surrogacy. OHCHR provided support to the Ministry of Women's Affairs on how to implement the Convention Elimination of All Forms of Discrimination Against Women's recommendation concerning surrogacy.

□ In 2017, the Ministry of Women's Affairs led an inter-ministerial working group initiated and developed a draft law on Surrogacy. The draft law was submitted to the Ministry of Justice and Ministry of Interior. Currently, the draft law is under the Ministry of Justice and Ministry of Women's Affairs will work with the inter-ministerial, especially MoJ and Ministry Interior to review the draft law and speed up the process for finalizing and submit to the Council of Minister

22. The absence of legal recognition of same-sex couples, continues to cause social exclusion for lesbian, gay, bisexual, transgender, and queer people. OHCHR provided logistical support to the Independent Expert on Sexual Orientation and Gender Identity who visited Cambodia from 10 to 20 January 2023. The expert called on the Government to make progress on, inter alia, same sex marriage and gender identity recognition.

□ Regarding LGBTQ+ rights in Cambodia, it is important to clarify that the country does not criminalize LGBTQ+ individuals, lesbians, or gay men. There is also no specific ban on LGBTQ+ people in the country. The government respects their rights.

□ Presently, LGBTQ+ people in Cambodia are free to live together, just like people of the opposite sex. They have the freedom to lead their lives as couples and may even adopt children from relatives, reflecting the growing acceptance of LGBTQ+ rights in Cambodian society.

□ The government has taken steps to eliminate discrimination against LGBTQ+ communities through awareness-raising programs and education. While the civil law does not currently recognize same-sex marriage, it also does not criminalize such unions as seen in some other countries. Homosexual marriage is a common practice in Cambodian society, often observed through traditional and cultural practices. However, to legalize such unions, further advocacy and public awareness promotion are essential to foster acceptance within the community and reduce cultural resistance.

□ The Royal Government of Cambodia actively supports the activities of LGBTQ+ communities. For instance, the National Action Plan to Prevent Violence Against Women (NAPVAW3) for 2019-2023 serves as a roadmap for stakeholders, including line ministries, institutions, civil society organizations, private sector, and social media platforms, to effectively and efficiently address violence against women and girls. The plan aims to promote equity and inclusivity, in alignment with the Sustainable Development Goals' motto of "To leave no one behind."

29. OHCHR monitored 51 hearings in the criminal trials of human rights defenders, journalists, and political activists. On 14 June 2022, 51 former leaders and supporters of the dissolved National Cambodian Rescue Party (nine women and 42 men) were convicted on charges of plotting and incitement to commit violence. On 22 December 2022, an additional 37 individuals (three women and 34 men) were convicted on the same charges.

#### **Mass trial related with November 9 case**

□ The 9 November event was orchestrated by a group of overseas politicians led by Sam Rainsy with the intent to incite the armed forces to disobey orders and revolt against the democratically-elected Royal Government. Additionally, the plan aimed to encourage the population to rise against the legitimate authorities and involved fundraising for supporting these unlawful activities. As per the Criminal Code of the Kingdom of Cambodia, this constitutes a coup plot, a severe crime that poses a threat to national security.

□ Some individuals, both inside and outside the country, were involved in the 9 November plan. However, due to timely prevention and crackdown measures, the number of those apprehended remains

relatively small compared to similar foreign cases. The primary focus lies in the presence of irrefutable evidence rather than the quantity of people involved. Coup plotters will face prosecution for their attack plans, while those involved will be prosecuted for their involvement in the conspiracy.

30. OHCHR attended 14 hearings in the treason trial of Kem Sokha, a leader of dissolved National Cambodian Rescue Party, arrested on 3 September 2017, who was charged with conspiracy with foreign power. On 3 March 2023, the Phnom Penh Court of First Instance sentenced him to 27 years in prison. The Judge Council announced the conviction based on articles 439 (treason and espionage) and 443 (conspiracy with foreign power) of the Criminal Code. The Court decision includes a ban from political rights, restricted online and offline meetings and a judicial supervision with exceptions to be approved by prosecution. The judge denied the request from Civil Party Lawyers for compensation for the Government. On 30 March 2023, Sokha appealed the decision. The United Nations High Commissioner for Human Rights raised concerns on 3 March 2023, urging the Government to promptly release Sokha from confinement and ensure his human rights are fully respected, including his right to a fair trial and to participate fully in the conduct of political affairs.

□ In the morning of 3 March 2023, Phnom Penh Municipal Court pronounced its judgment of criminal case in which the accused named Kem Sokha was charged with “conspiracy with foreign power or collusion with foreign power” committed in Cambodia and other places between 1993 and 3 September 2017 in accordance with the provision of Article 443 of the Criminal Code. Having conducted 66 hearings from 15 January 2020 to 21 December 2022, panel of judges of Phnom Penh Municipal Court of First Instance pronounced the judgment as follows:

1. Sentenced the accused, Kem Sokha to 27 (twenty-seven) years imprisonment for “conspiracy with foreign power or collusion with foreign power” committed in Cambodia and other places between 2010 and 3 September 2017, a criminal offense punishable in accordance with the provisions of Article 439 and Article 443 of the Criminal Code.

2. Sentenced the accused with additional penalties by revoking the right to vote, the right to stand for the election and the right to engage in other political activities in accordance with the provision of Article 450 of the Criminal Code.

3. Placed the accused under the judicial supervision with the following obligations: - Prohibited from leaving the premises of house unless otherwise permitted by the prosecutor of the Prosecution Office attached to Phnom Penh Municipal Court of First Instance. - Prohibited from meeting any individual, Khmer or foreign nationals, in person or indirectly through technological means except for family members unless otherwise permitted, where necessary, by the prosecutor of the Prosecution Office attached to Phnom Penh Municipal Court of First Instance. The obligations under the above judicial supervision takes immediate effect from the date of the pronouncement of this judgment until the judgment is final

4. Order the forces of General Commissariat of National Police to exercise their power



and roles as judicial police officers to ensure the enforcement of judicial supervision set out in point 3 of the above decision under the supervision and coordination of the prosecutor of the Prosecution Office attached to Phnom Penh Municipal Court of First Instance.

5. In case of any violation of the obligations under the judicial supervision, the Prosecution Office attached to Phnom Penh Municipal Court of First Instance shall immediately request to the competent court to issue provisional detention order on the accused. Some highlights of the main points in the judgment as follows:

□ The promotion and enhancement of human rights and democracy are not illegal acts, and these acts are guaranteed under the Constitution of the Kingdom of Cambodia. However, the court found that the promotion and enhancement of human rights and democracy undertaken with the abet and collusion through secret plan with foreign state or foreign agent aiming at overthrowing the legitimate government by using public forces or color revolution to overthrow the government as having happened in state “B” or state “C” are illegal acts, which seriously affected peace, national security, social stability and well-being of the entire population. In this regard, the accused used the promotion and enhancement of human rights and democracy as an excuse or stepping stone to mobilize the mass population by all means, legally and illegally, aiming at carrying out color revolution to overthrow the legitimate government under the secret collusion with foreign state or foreign agent.

□ Upon the request of the Royal Government’s lawyers representing the civil party, the court did not mention the name of foreign state or foreign agent in its judgment. The court decided to use the alphabet to represent the foreign state or foreign agent at the request of the Royal Government’s lawyers representing the civil party to ensure good relations and national interests of the Kingdom of Cambodia with regard to international relations with foreign state. Likewise, in order to ensure good relations and national interests of the Kingdom of Cambodia within international relation sphere and to prevent the leakage of a table of alphabets representing foreign states, the court decided that this table is to be treated as confidential which shall not be disclosed to the public. Hence, on this basis,

31. Son Chhay, the vice-president of the Candlelight Party was convicted for defamation on 7 October 2022, after he alleged fraud in the conduct of the communal election. He was ordered to pay damages of \$750,000 to the Cambodian People's Party. The Supreme Court upheld the Appeal Court decision increasing the fine to \$1 million. In January 2023, Kong Korm, the then supreme advisor to the Candlelight Party, announced on Facebook that he renounced political activities after criminal defamation cases were initiated against him by the Cambodian People's Party, seeking high financial damages. Prior to this case, the Ministry of Foreign Affairs and International Cooperation had filed a criminal complaint against him alleging that he had fraudulently procured a land title at the time he was an employee of the Ministry.

33. In the reporting period, OHCHR received reports of intimidation against political opposition members or supporters including death threats and physical surveillance by unknown persons. From July 2022 to May 2023, OHCHR received information on physical assaults in Phnom Penh and surrounding areas against 14 activists of the Candlelight Party (two women and 12 men). The attacks had multiple similarities in terms of the appearance of perpetrators and the means of attack, with several victims being beaten on the head with metal bars. Victims noted that they believe they were targeted because of their affiliation with the Candlelight Party, with many stating that they had been under surveillance by unknown persons in the days before they were attacked.

34. In August 2022, OHCHR published a report on the state of press freedom in Cambodia that highlighted the lack of frameworks protecting freedom of the press in compliance with international human rights obligations. It also noted judicial interference, censorship and other forms of intimidation against journalists and media workers. Kouv Piseth was convicted on a charge of incitement in February 2023 and sentenced to two years in prison for

any individual or party who leaks this table to the public shall be punished in accordance with the Criminal Code of the Kingdom of Cambodia.

□ The lawsuit does not aim to silence the opposition, but to uphold justice, honor, dignity and innocence. The three-tiered courts ruled in favor of the plaintiffs.

- Defamation is an abusive exercise of freedom of expression. It breaches right to dignity under the Universal Declaration of Human Rights.

- Cambodia has de-criminalized defamation lawsuit.

The OHCHR report is written without identified source of the facts and provides clear identification of the perpetrators and / or evidence.

□ Although the Law on the Press, which was enacted in 1995, does not have a separate chapter on the framework for the protection of Press Freedom, the Law on Press also contains a number of articles that protect the Freedom of the Press.

- Article 2 states that the Press has the right to maintain the confidentiality of its sources.

comments relating to the COVID-19 pandemic vaccine.

- Article 3 states that in order to maintain the independence of the Press, Pre-publication censorship is prohibited.
- Article 17 and 18 provide for the protection of fair competition and guarantees for foreign-owned newspapers that have already been licensed and cannot be shut down due to a decrease in the total number of newspapers in the Khmer language.
- Article 20 states that the conduct of an employer, editor or article writer who violates the Penal Code shall be punished in accordance with the Penal Code, however, no one shall be bound or imprisoned for expressing an opinion

□ In addition, based on the Criminal Code also states that the protection of Freedom of the Press, as stated in Article 306

(Defamation of the Press): Defamation committed in the press must be subject to the provisions of the Law on the Press.

#### **Court interference, Censorship and Intimidation of journalists**

□ Freedom of the Press in Cambodia is strictly guaranteed by the Law on the Media in accordance with the Constitution of the Kingdom of Cambodia. Based on this spirit, journalists have full rights to perform their duties freely in all parts of the Kingdom of Cambodia, without censorship and intimidation as stated in the report of UNSG.

□ In addition to exercising their rights and freedom properly and without infringing on the rights of others, or journalists must be responsible and fulfill their obligations in accordance with the laws and regulations.

□ Therefore, legal actions against journalist who commit illegal acts cannot be considered as court interference, censorship or intimidation of journalists and such cases are not separate from various cases.

#### **Kouv Piseth Case**

□ In the case of Mr. Kouv Piseth, the Battambang Provincial Court charged him with inciting to commit a crime and obstructing administration measures. In this case, the competent authorities investigated and found that this person used his personal Facebook account (not published in the media) to publish some information such as:

- Disseminate information to incite and prevent people from getting vaccinated against COVID-19.
- Post pictures of reuniting with friends during the ban and implementing health measures to prevent the spread of COVID-19 in the community.
- Used insulting words on the leaders of the Royal Government of Cambodia and so on

36. On 12 February 2023, Prime Minister Hun Sen ordered the closure of Voice of Democracy media outlet. The closure was effective on 13 February following a report by Voice of Democracy, which included a quote by a government spokesperson indicating that a bill was signed by Hun Manet in violation of procedures. On 13 February 2023, the United Nations High Commissioner for Human Rights expressed concern at the licence revocation and stated that the decision appeared arbitrary as it was not preceded by a thorough and transparent process as required by the Press Law, and failed to meet the tests of legality, necessity and proportionality required for any permissible restriction on freedom of expression. Six months prior to this decision, Voice of Democracy personnel reported physical surveillance. On 16 August 2022, a Voice of America journalist was slapped in the face by a member of the Prime Minister's Bodyguard Unit while reporting on deforestation. He and other colleagues were detained for seven hours before being released.

### **Closure of the Radio the Voice of Democracy (VOD)**

□ The decision to revoke VOD's license and shut down was a direct result of VOD spreading false information that posed a serious threat to the rights of individuals and the government of Cambodia. Despite efforts by the Ministry of Information to coordinate and provide guidance, VOD did not take public responsibility for its mistake, even when given the opportunity by the Royal Government of Cambodia. The closure of VOD broadcasts is not based on its criticism of the government; rather, it is because VOD acted illegally and unprofessionally. This decision is grounded in the following key principles

#### **Legal Ground**

□ According to Article 10 of the Law on the Press, it states that any person who thinks that any article, even if it is written in a derogatory manner, any picture or photo of any newspaper that is different from the truth, is harmful to its honor and dignity has the right to demand that the press make corrections or have the right to respond and file defamation lawsuits from slander or insult to the detriment of his honor and dignity.

□ Corrected answers must be posted within 7 days at the latest or in the next issue after receiving the request for correction or response. In cases involving public figures, all allegations or misrepresentations made by journalists directly or inaccurately published in an attempt to destroy public figures are prohibited by law.

□ Article 12 of the same law states that the press must not publish or disseminate information that could affect national security and political stability. Employers, editors, or article writers may be penalties

range from five million riels (5,000,000 Riels) to 15 millions Riels regardless of the penalties under the criminal law.

□ The Ministry of Information and the Ministry of Interior have the right to collect the offending articles and the press release of the offensive articles published by that press. The Ministry of Information has the right to suspend broadcasting within 30 days and send the case to court.

#### **Violence (Slapping) on VoA journalists:**

□ In this case of violence, the Ministry of Information has never received any formal complaint or request for intervention from journalists claiming to have been subjected to violence. However, the Ministry of Information does not support or encourage the use of violence to solve the problem

38. The strike by the Labour Rights Supporting Union of Khmer Employees of Nagaworld entered its second year and continued without resolution. There have been 26 negotiations between the employer, government, and the union conducted against a backdrop of a judicial case against union leaders. After she was released with other union leaders in March 2022, Chhim Sithar, the union President, was re-arrested on 26 November 2022 at the Phnom Penh airport on return from Australia, for breaching bail conditions, of which she claimed she had not been informed. On 25 May 2023, the Phnom Penh Court of First Instance convicted nine union leaders and activists (seven women and two men) of the Labour Rights Supporting Union of Khmer Employees of Nagaworld on charges of incitement to commit a felony or to disturb social security under articles 494 and 495 of the Criminal Code. Chhim Sithar, who has been in pre-trial detention since November 2022, received a two-year custodial sentence; five women were placed under judicial supervision for a period of one year and a half years with no order for their arrests, while three others (one woman and two men) received one year suspended sentences. The union conducted 115 strike activities, 15 of which were monitored by OHCHR.

#### **Labor rights and Naga world issue**

□ Peaceful assembly and protest, in cooperation with the authorities and in compliance with security, safety and public health measures are the exercise of the rights guaranteed by the Constitution and the law. On the contrary, assembly and protest without notifying and cooperating with the authorities violate security, safety and public health measures, causing violence and social unrest, affecting public order, national security and the rights and freedoms of others, as well as putting pressure on the judiciary, which is an independent body; [these actions] are a violation of the law, and the authorities must take all possible measures to prevent them, and protesters are also held responsible before the applicable law

□ In regard with the recent illegal protest of the worker at Naga World, the authority found with a clear evidence that the leaders of the union as the organizers of the protest have a malicious intention to destroy the company property and incite the violence to cause the social unrest and insecurity by using the workers and protester as a political tool. As the result, three of them have been arrested and sent to the court for further proceeding in accordance with article 494 and 495 of the criminal code of Cambodia. In addition to this, another three protesters have also been arrested and charged of the obstruction of health measure against Covid-19 of the

government in accordance with article 11 of Covid-19 Law of Cambodia and now they are released under judicial supervision. And only the leader has been sent back to pre-trial detention due to the breach of release on bail condition

□ In order to survive during Covid-19 pandemic, many businesses had to make the re-arrangement of business activities, which may result in the redundancy of some workforce. Likewise, in April 2021, Naga World informed the trade union in this enterprise and convened a meeting with workers' representatives to discuss a redundancy plan in 12 sections affecting 1,329 workers. Unfortunately, 373 out of which disagreed with this mass layoff and filed to the MLVT a complaint comprising of 5 points, including: 1)- demand Naga World to cease its redundancy plan, 2)- demand Naga World to stop intimidating workers via calling workers to meet with managers, 3)- demand Naga World to provide severance pay according to the Labour Law to workers who voluntarily resigned, 4)- demand Naga World to resume the payment for seniority indemnity in 2020 and 2021 to workers in 2021 and consistently calculate the amount in accordance with the law, and 5)- demand Naga World to properly follow the health measures of the Ministry of Health and the World Health Organization to prevent the widespread of Covid-19

□ Upon receiving the complaint, the MLVT issued a letter to certify 9 workers, including Mrs. Chhim Sithar, proposed by the affected workers as their legal representatives to settle this collective labour dispute with Naga World and also tried to conciliate the 5 disputed points. Unfortunately, only the dispute at Point No. 5 was successfully conciliated. The remaining 4 non-conciliated points were forwarded to the Arbitration Council (AC) for arbitration in accordance with the collective labour dispute procedures.

□ In the AC proceedings, the disputing parties selected their respective arbitrators and opted for the non-binding arbitral award, which cannot be enforced if there is an objection from any disputing party. The arbitral panel comprising of 3 arbitrators conducted 2 subsequent hearings with the full participation of both parties. The Arbitral Award No. 012/22-Naga World Limited was then issued on 10 September 2021, in which the arbitral panel refused to

rule Point No. 1 and Point No. 2 and made the decisions for Point No. 3 and Point No. 4 in favour of workers. Regrettably, the trade union of Naga World, which is a party to the dispute, filed an objection to arbitral award at the MLVT, making it unenforceable

□ On 23 September 2021, the MLVT received another complaint from the trade union comprising of the demand to Naga World to reinstate the 373 workers left from the previous labour disputed and add other new demands. As the previous case had already gone through the AC and the arbitral award was also unenforceable due to the objection from the trade union themselves, the MLVT advised the trade union to bring it to the court for further proceedings instead. And for the new disputing points, the MLVT advised the trade union to file a new complaint to the MLVT for settlement in accordance with the collective labour dispute procedures specified in the Labour Law. Unfortunately, the trade union has not brought the case that had already been arbitrated by the AC to the court.

□ On 12 November 2021, the trade union submitted another complaint comprising of 3 new demands to the MLVT. Unexpectedly, the trade union did not respect the labour dispute settlement procedures stipulated in the Labour Law by waiting for the decision from the AC but instead notifying the employer with a carbon copy to the MLVT of their decision to stage their strike in front of Naga World on 18 December 2021 to demand the Naga World for 9 points. As none of the 9 points has gone through the conciliation processes of the MLVT and been heard by the AC, doing the strike at the time was the violation of the right to strike—the right which cannot be exercised until when the AC failed to render or inform of its decision within the timeframe prescribed by law and when the non-binding arbitral award was objected. For this reason, on 16 December 2021, the Phnom Penh Court of First Instance issued an interim injunction to prohibit the planned strike and declare it as an illegal one. Noticeably, in the injunction, the Court also clearly indicated that those new demanding points had not gone through the AC as set forth under the Labour Law, so they could not be subject to the strike. Regardless of the court injunction, the trade union of Naga World still conducted the

strike as planned. Consequently, they were charged and arrested under Articles 494 (Incitement) and 495 (Incitement to commit felony) of the Criminal Code of Cambodia on the ground that the strike was deemed illegal and disturbed the public order and security. Later on, some others had also been arrested because of their violation to the rights to life of other people during the Covid-19 pandemic by not respecting the Covid-19 prevention measures of the Government through refusing to do the rapid test and keep social distancing during the strike. In total, 11 strikers had been arrested and put in custody for the aforementioned reasons.

□ Later, the MLVT received a letter dated 12 March 2022 from 8 trade unionists and another letter dated 15 March 2022 from a few others requesting for the Ministry's intervention through providing them with the legal supports to get them temporarily released before the trial. In their letters, they promised to cooperate with authority; adhere to Covid-19 prevention measures; and refrain from gathering or protesting that may affect public order, peace, and security. In response to the request, the MLVT sent Letter No. 254 dated 14 March 2022 and Letter No. 269 dated 15 March 2022 to the Ministry of Justice (MoJ), requesting the latter for consideration. In accordance with the legal procedures and without interfering in the court proceedings, the MoJ made further request to the Phnom Penh Court of First Instance to consider the temporary release of detained strikers. On 14 and 17 March 2022, the Phnom Penh Court of First Instance decided to temporarily release the 11 strikers but placed them under the judicial supervision, in accordance with the Code on Criminal Procedures of Cambodia.

□ Regarding the re-arrest of Mrs. Chhim Sithar, we would like to clarify that this happened not because of her involvement in the labour dispute between the trade union and Naga World.

□ As mentioned earlier, Mrs. Chhim Sithar was put under the court supervision, which required her to get prior permission from the investigating judge before leaving Cambodia. This is one of the standard conditions imposed by the court against those who are conditionally released before the trial. However, she did not comply with this legal obligation. This violation constituted an act of breaching obligation



under judicial supervision. So, the investigating judge ordered to re-arrest her in accordance with Article 230 of the Code on Criminal Procedures.

□ Pertaining to the allegation that both Mrs. Chhim Sithar and her lawyer were not informed by the court of the obligation to have prior permission from the investigating judge before leaving the country, we would like to clarify that the allegation is nonsense. As stated earlier, this requirement is a standard term in the court's verdict for provisional release. Mrs. Chhim Sithar's lawyer should have been very well aware of this obligation and advised their client.

□ Although the MLVT has exhausted all collective labour dispute mechanisms to settle this dispute, the Ministry still continued to try to facilitate the negotiation between both parties by using the Committee for Settlement of all Strikes and Demonstrations (so-called "the Strike Settlement Committee"), which is a coordinating mechanism but does not have a judicial power to adjudicate. Based on the request from the parties, the Ministry has so far convened 23 meetings for both parties to discuss and find solution. As a result, as of 4 February 2023, 70% of the former workers has agreed to take termination benefits and been registered with the National Employment Agency of the MLVT for the new job opportunities. The Ministry will continue to provide this facilitation to the remaining 108 workers to settle this dispute with the employer. Meanwhile, as Naga World has just brought this dispute to the court, we are awaiting the court's decision now.

#### **Regarding the re-arrest of Mrs. Chhim Sithar**

□ We would like to clarify that this happened not because of her involvement in the labour dispute between the trade union and Naga World.

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40. OHCHR received reports of 34 incidents of non-governmental organization personnel being questioned by local authorities in relation to training activities and multiple allegations of physical surveillance. In January 2023, four prominent human rights organizations were summoned by police for questioning in relation to a song they produced or shared, which recalled violence in Phnom Penh in January 2014 that resulted in the deaths of at least four male garment workers and the disappearance of 15-year-old Khem Sophat. On 17 March 2023, the Koh Kong Provincial Administration via Facebook threatened legal action against the Coalition of Cambodia Farmers Cambodia after they publicised the death of a farmer at a demonstration related to a land dispute. The organization made a public apology the following day. On 22 May 2023, the Ratanakiri Municipal Court charged the President, two members and one trainer from the Coalition of Cambodia Farmers Cambodia under articles 453, 494 and 495 of the Criminal Code for incitement to commit a felony or to disturb public security in relation to a training course.

41. While the process to amend the Law on Associations and Non-Governmental Organizations is ongoing, there are concerns about the further shrinking of civic space resulting from expected adoption of the draft Law on Cyber Crime, Law on Cyber Security, and the already passed but yet to be implemented, sub-decree on the National

### **Khem Sophat Case**

- Khem Sophat's disappearance allegedly occurred during a clash between protesters and security forces on Veng Sreng Road in January 2014. The Committee on Enforced Disappearance requested information from Cambodia, and the country has consistently provided information as requested. Cambodia maintains that the information provided is sufficient to address the concerns raised.

- On September 3, 2014, the Ministry of Interior made the following announcements:

- The results of the autopsy on a body found in Samrong Tong district, Kampong Speu province, along with witness accounts, indicated no sign or evidence linking the remains and ashes to Khem Sophat.

- The case of Khem Sophat's disappearance is considered a rumor, as there have been no complaints from the family and no concrete evidence supporting the claims.

- On 30 May 2023, Ratanakiri Provincial Court **released** the president of the Coalition of Cambodian Farmers Community Association (CCFCA), chief of CCFCA administration, and CCFCA coordinator **on bail**. Meanwhile, the Cambodian Farmers' Union Association was allowed to operate again on July 17, 2023.

□ National Internet Gateway (NIG) was created with the aim of facilitating and managing internet connections and strengthening national security and tax collection, as well as to maintain social order and protect the precious national culture.

Internet Gateway, which will reportedly channel all internet traffic through a single government-controlled hub. Drafting of the Law on Access to Information is still ongoing

□ To achieve this, the government established an inter-ministerial committee in 2019 that had conducted an extensive study on the internet infrastructure models of many different countries around the world. It found that most countries have some form of internet gateway and the respective regulation.

□ It was prepared in a transparent manner and consultations were held with many experts in the sector, both private operators and the relevant governmental institutions, it said.

□ NIG will serve as an effective tool to enhance national revenue collection and will also contribute to thwarting cybercrime such as the illegal use of cross-border network connections, illicit online gambling and internet scams, among others.

51. In its response of 21 November 2022, the Ministry of Interior noted that the plan (decision No. 143/22 PK dated 22 August 2022), included prevention and accountability measures and establishment of a complaint mechanism. From August to October 2022, the Operating Group received 496 related complaints from 11 provinces and from Phnom Penh (majority of complaints came from Preah Sihanouk Province, followed by Kandal Province, Svay Rieng Province, Oddar Meanchey province, Koh Kong Province, and Phnom Penh Capital). Victims include 1310 persons (135 women and 1175 men). The total number of victims includes 430 Chinese, 398 Vietnamese, 146 Indonesians, 136 Malaysians, 86 Indians, 73 Taiwanese, 12 Bangladeshi, nine Thais, eight Burmese, eight Cambodians, two Americans, one Japanese, one Filipino and one Singaporean.

□ In response, after putting into place the Operation Plan to increase the combat against all forms of human trafficking, labour and sexual exploitations (Decision No. 143/22 dated 22 August 2023), from 18 August to 31 December 2022, the Operation Team have received 661 related requests for intervention from the Capital City Phnom Penh, and 11 provinces (most of the complaints are from Preah Sihanouk province) involving a total of 1,596 people (172 are female; 1,424 male) of 16 nationalities.

52. On 18 May 2023, the Minister of Interior stated that he received 128 human

□ The report of the Operation Directive Team indicates that in Semester 1 of 2023,

trafficking investigation requests presented by 195 people (31 women and 164 men) in the first quarter of 2023. The requests involved 375 foreigners of 10 nationalities. The police investigated 75 requests involving 184 people (20 women and 164 men) of seven nationalities, rescuing 10 victims and arresting 13 people. The remaining complaints have either been cleared or are still under investigation

the Operation Working Group has received 273 requests for intervention involving a total of 418 people, including 88 females and 726 males, of 10 nationalities. After the operation is launched, the competent authorities have found 161 requests involving a total of 445 people (53 females) of 8 nationalities. Within the above operation, the competent authorities have rescued a total of 28 victims (7 females) of 6 nationalities and arrested 21 suspects of 2 nationalities, and lodged the cases to the court. The remaining requests are being investigated by the competent authorities.

53. The latest figures for 2023 provided by the General Department of Prisons indicate a prison population of 38,944 inmates (2,408 women, and 36,536 men). Despite efforts by the Ministry of Justice to address population increase in the 29 penitentiary facilities in Cambodia, the current figures represent an overcapacity in prisons of more than 300 percent. Overcrowding in prisons remains a major challenge. The Government is conducting studies on implementing alternative sanctions in place of incarceration as a means of reducing overcrowding. In February 2023, the Ministry of Justice issued a decision creating a special working group to pilot the implementation of community work as a sentence for offences with less severe punishments.

□ General Department of the Prisons of the Ministry of Interior recognizes the overcrowded prisons which remains exist at the Correctional Centers and prisons at the Capital Cities and Provinces. Measures to address the issues includes technical work in managing detainees through building more detention facility, and transfer of convict to the Correctional Centers in accordance with the legal principles and relief mechanisms, and pardons which can lessen the prison overcrowding to certain level. However, the latest detainee tolls have sharply increased to 39,797, 2,430 of whom are female, as of 3 August 2023.

□ Non-custodial measures and community-based activities alternative programs, despite the limited numbers, can reduce the prison overcrowding. General Department of Prison continues its utmost effort in promoting awareness raising and procedures mainstreaming, and improved internal working system of the assessment commission on the convicts' competition programs, including renewed cooperation with development partner in contributing to genuine progress, for instance, meetings with representative of the OHCHR Phnom Penh in early 2023 and series of discussion meetings with UNAFEI's representative based in Japan, and the upcoming co-organized seminars with Ministry of Justice in mid-august 2023.

55. OHCHR conducted 31 monitoring visits to 14 detention facilities. With the easing of restrictions imposed during the COVID-19 pandemic being eased, some inmates enjoyed longer hours outside their cells, and improved access to family visits. However, inmates in two facilities remain in their cells for 23 hours-a-day or, in some cases, are permitted out of their cells once-

□ To facilitate the management of security, order and safety of officers and detainees, a large number of detainees cannot be released from the cell at the same time, while the location outside the detention building was small and the number of officers was insufficient. Therefore, the duration for which each

per-week. Prisoners interviewed by OHCHR stated that overcrowding continues to cause severe suffering, including in some facilities where the lack of space has resulted in makeshift second floors being built within cells. In one prison, 142 women are held in a single cell of 100 square meters in size. Food portions provided in facilities reportedly do not meet calorific requirements and thus inmates are reliant on families for food and materials, spending between \$50 to \$200 to cover basic needs of detained relatives. OHCHR has documented cases of family members taking out loans to cover related costs and instances where girls and boys have dropped out of school to earn money to support jailed family members. In August 2022, OHCHR documented possible torture and ill-treatment of 14 political prisoners in Correctional Center 3. While being transported from one facility, they were held for hours without being given food or water or being permitted to use the toilet, and at least two were physically beaten by other inmates on arrival to destination without prison guards interfering to stop the attack.

detainee can be allowed to leave their cell is also reduced.

□ For the case of 142 female inmates placed in a cell with an area of only 100 square meters, the situation has now been improved. The center has transferred juvenile detainees to the Rehabilitation Center of the Ministry of Social Affairs continuously, thereby ameliorating the issue of overcrowding significantly. In addition, the Center also plans to relocate the old kitchen to build more detention buildings.

□ Detainees are granted an equal distribution of food. But as market prices have risen, especially in recent years, combined with the increasing demand for food by individual detainees, consequently, both the quantity and nutritional quality of their diet have been adversely impacted.

□ For food sent by relatives and humanitarian organizations into the prison is also encouraged. To ensure that the food supply of detainees is in line with the United Nations Minimum Standards, the General Department of Prisons has established a task force to monitor provisions of food delivery within the prison premises, with regular direct inspections, guidance and follow-ups.

□ With regard to the transportation of detainees, former political activists, as well as other convicts, to the Third Correctional Centers, it is a high-level security task that requires non-stop traffic to ensure the safety and security of the public and officers from potential tricky incidents such as escape attempts, etc.

56. Women held in Correctional Center 2 in Phnom Penh report a lack of pads for the menstrual cycle and access to clean water on occasions. In February, 41 children under 4-years-old were in the facility with their detained mothers where OHCHR observed insufficient access to diapers, and medical attention. Authorities launched an investigation into alleged forced labour and shut down the vocational workshops temporarily. At least 300 female inmates were carrying out garment manufacturing work six days a week and were receiving between \$2.5 and \$7.5 per month for vocational training sessions.

□ Regarding the use of the term "Forced labor" in the Second Correctional Center on at least 300 female inmates, the General Department of Prisons vehemently refutes this report and deems it a misrepresentation of the actual situation. All handicraft work carried out by female prisoners at Correctional Center II is an activity agreed upon between the detainees and their business partners to ensure that vocational training is provided to them in accordance with the law. The remuneration of the inmates who participated in the training and handicraft programs depends on the product and their productivity upon which their income depends

59. The killings of Kem Ley, Chea Vichea, Ros Sovannareth, Chut Wutty, and 14-year-old girl Heng Chantha as well as five male demonstrators and one female bystander in 2013 and 2014, and the disappearances of Khem Sophath and Thai political activist Wanchalearm Satsaksit, remain unaddressed despite repeated calls for accountability by the Human Rights Council and the Human Rights Committee. While one alleged perpetrator was arrested for the killing in November 2021 of opposition activist Sin Khon, no further arrests in that case have been made and the investigation has been closed.

#### **Mr. Kem Ley Case**

- Mr. Kem Ley was murdered on July 10, 2016 in Caltex Bokor's Star Mart, located at the corner of Preah Monivong Boulevard and Mao Zedong road, Tonle Basac Commune, Chomkarmon District, Phnom Penh.

- Following the murder, Mr. Choub Somlab (real name: Oeaut Ang) was apprehended in flagrante delicto by the police together with the gun used in the shooting of Mr. Kem Ley. Based on the warrant issued on July 13, 2016, Oeaut Ang was charged by the prosecutor on the counts of premeditated murder and unauthorized use of weapon and was sent to the investigating judge for further action. At the conclusion of the investigation, the investigating judge collected sufficient evidence to convict Oeaut Ang, inter alia a video extracted from the closed-circuit security camera at Caltex Bokor petrol station showing this actual act of shooting and the gun used in the shooting, the confession of Oeaut Ang. The investigating judge took two parallel actions: 1) sending Oeaut Ang to the court for prosecution; 2) initiating further investigation to look for other suspects including the individual who procured the weapon used in the commission of the crime. After the public trial, Oeaut Ang was sentenced for life imprisonment by the Phnom Penh Municipal Court of First Instance pursuant to the Criminal Judgement dated on March 23, 2017. He also has the right to appeal the lower court judgement in accordance with the prevailing laws and procedures of the country and the case is now at the appeal court.

- In conclusion, the case related with Oeaut Ang's appeal against the lower court decision to sentence him for life imprisonment is at the Supreme Court now and another case related to further investigation to look for other suspects involved in this crime is still at the lower court.

- The competent authorities have urged anyone who may have with evidence and information related to this murder case to come forward.

#### **Wanchalearm Satsaksit**

- On June 5, 2020 Cambodia authorities received information from an unknown source about the abduction of a Thai man named Wanchalearm Satsaksit in the east of Mekong River in Phnom Penh.

- The authorities of Ministry of Interior immediately conducted the investigation. As a result, Wanchalearm Satsaksit was not found in the accommodation list of the location provided.

□ Based on testimony of three witnesses confirmed that there were no reports of abduction in the area.

- The Ministry of Interior has once responded to this matter by a letter No. 2254, dated August 6, 2020. In relation to a request for additional information regarding the disappearance of WANCHALEAM SATSAKSIT.

- On December 7, 2020, the General Commissariat of the National Police of the Ministry of Interior met with Sitanan Satsaksit, sister of Mr. WANCHALEAM SATSAKSIT, who accompanied by three Thai human rights lawyers and one Thai-Khmer (Thai) translator to discuss the matter and collecting further information and evidence on the missing case. However, during the meeting, the family and the lawyers did not present any evidence or provide any new information, which is a useful clue for the investigation. According to the family and the lawyers, the complaint on the disappearance of Mr. WANCHALEAM SATSAKSIT has been filed to the Phnom Penh Municipal Court in accordance with the law. Accordingly, the Phnom Penh Municipal Court has issued a summons to the family and the lawyers to appear before the Court on December 08, 2020 at 9:00 AM. Until now, the Cambodian national police has not received any information or request for cooperation from the family and lawyers after they testified before the court. Although the judicial procedure has been processing at the court, the Cambodian national police keep continuing to work on the case by cooperating with relevant foreign authorities and family to gather further information to find out the truth if the abduction of Mr. WANCHALEAM SATSAKSIT actually occurred in Cambodia.

#### **The Case of Mr. Chut Wutty**

□ Based on the extensive collected evidence, including witness statements, the authorities and the court have determined the cause of the death of Mr. Chut Wutty as follows:

- Previously, Chut Wutty used to work with Conservation International (CI) and was fired from his job due to his involvement in the illegal collection of Mreas Prov oil (Sassafras oil extraction). On April 26, 2012, Chut Wutty died in a gun battle at Tremble Green Wooden Depot, in Koh Por village, Pakkleng commune, Mondul Seima district, Koh Kong province.

- On April 26, 2012, Chut Wutty, along with two other people, Mrs. Phon Bopha and Mr. Ole Spa Blockkie, came to Koh Por village to take pictures of Tremble Green's timber stockpiles. As they drove out, Mr. Ran Boroeth, a security guard of Tremble Green Wooden Depot, stopped them and asked to delete the pictures. Subsequently, three more people, namely Mssrs. Un Charn, In Rattana, and So Sopheap came on a motorbike to the scene armed with a rifle gun. They tried to talk Chut Wutty to delete the pictures, but to no avail. Witnesses to the scene have described that Ran Boroeth stood near the left-hand car door and Chut Wutty sat at the steering wheel. During the argument, Chut Wutty shouted "If you do not let me out, I will hit and I dare you to shoot me". Then Ran Boroeth jumped in to turn off the car engine, and while In Rattana leaned on the left side of the car his gun went off on the car door hitting Chut Wutty's left knee and the bullet further deflected to enter Chut Wutty's stomach. Immediately, Ran Boroeth tried to stop In Rattana by using his left hand to pull the gun away from In Rattana's right hand, at which point the tip of the gun was turned toward In Rattana. In the scuffle Rann Boroeth's left finger slid accidentally against the trigger of the gun shooting In Rattana dead on the spot. Both Chut Wutty and In Rattana died at the scene while Ran Boroeth was arrested and sent to the Koh Kong Court of First Instance for processing.

□ The prosecutor of the Koh Kong Court of First Instance filed two cases as follow:

- Case 1 for the death of Chut Wutty: The facts indicated that In Rattana was the shooter who caused the death of Chut Wutty, however he also died at the scene. As the perpetrator died already and pursuant



to Article 7 of the CPCKC, the Prosecutor attached to the Koh Kong Court has closed the case under the Court Order dated July 27, 2012. The decision of the prosecutor to close the case as a result of the death of the perpetrator is a proper procedural court action. This procedural practice is similar with the practices in some other countries, including in civil law countries like France.

- Case 2 for the death of In Rattana: In Rattana died from an accidental gunfire caused by Ran Borothe. As a result and pursuant to the relevant provisions of the CPCKC, the prosecutor has charged Ran Borothe for involuntary manslaughter, and the Koh Kong Court of First Instance sentenced him to two years of imprisonment pursuant to the Judgment dated October 22, 2012.
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