

INDEPENDENT MEDIA: STRENGTHENING FREEDOM OF EXPRESSION



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Cambodian Center for Human Rights

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About CCHR

The Cambodian Center for Human Rights (CCHR) is a non-aligned, independent, non-governmental organization that works to promote and protect respect for human rights – in particular civil and political rights – democracy, and the rule of law in the Kingdom of Cambodia.

CCHR is a member of the International Freedom of Expression Exchange (IFEX), the global network for freedom of expression, and CIVICUS: World Alliance for Citizen Participation. CCHR is also a member of the World Organization Against Torture (OMCT) SOS-Torture Network and OECD Watch.

The Cambodian Human Rights Portal www.sithi.org is the 2011 winner of the Information Society Innovation Fund Award in the category of Rights and Freedoms and the 2013 winner of the Communication for Social Change Award awarded by the Centre for Communication and Social Change at the University of Queensland in Brisbane, Australia.

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About the Independent Media Module

The Independent Media Module has been produced as part of the Promoting Independent Media and Freedom of Expression in Cambodia Project in order to showcase the important role the independent media plays to strengthen freedom of expression. The module explains the role of the independent media as well the applicable Cambodian and international human rights laws.

In addition, the module covers the challenges to independent media in Cambodia including media monopolies and regulatory restrictions on independent media outlets. It also mentions the importance role of independent media for the citizens and society.

Queries and Feedback

Should you have any questions or require any further information about this module, please contact CCHR at:

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Contents

1. Introduction	1
2. What is Independent Media?	1
3. Legal Framework and the Promotion of Independent Media	1
4. Challenges to Independent Media in Cambodia	2
4.1 Media Monopoly	2
4.2 Legal Restrictions on Independent Media in Cambodia.....	3
5. Why does access to independent media matter?	5

Independent Media: Strengthening Freedom of Expression

1. Introduction

Free and independent media is a vital part of a vibrant democracy. Independent media disseminates knowledge, views, and ideas that are necessary for the development of society and the ability of individuals to exercise their rights. A strong, diversified, and independent media sector can be a critical corrective to the abuse of power, corruption, and lack of transparency in society.



2. What is Independent Media?

Media refers to newspaper, radio, television, internet and social networks. Independent media refers to any media that is free from influence by government or corporate interests. An independent media ensures that the information citizens receive is reliable and not biased by external interests.¹ Independent news is therefore essential for social, political, and economic development.

An independent media is also necessary for press freedom to be a reality. Free media is essential to ensure freedom of opinion and expression, and constitutes one of the cornerstones of a democratic society. Freedom of expression is essential for guaranteeing human rights, democracy, and the rule of law. Without freedom of expression and free media, society cannot hold the government accountable for its actions and a genuine democracy will not be realized. To fulfil its goal of informing public opinion, the media should be able to freely communicate and comment on information and ideas without censorship or restraint.

3. Legal Framework and the Promotion of Independent Media



Article 31 of the Constitution of the Kingdom of Cambodia (“the Constitution”) stipulates that the Kingdom of Cambodia recognizes and respects human rights as enshrined in the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (“ICCPR”), and the International Covenant on Social, Cultrual, and Economic Rights, and all other treaties related to human rights which Cambodia has ratified.² Article 41 of the Constitution states that “*Khmer citizens shall have the freedom of expression of their ideas, freedom of press, freedom of publication and of assembly.*”³ In addition, Article 1 of Press Law of Cambodia assures that freedom of the press and freedom of publication is conducted in confirminty with Articles 31 and 41 of the Constitution. ⁴

¹ UNESCO, ‘Free, Independent and Pluralistic Media’ page 2(2014).

² 1993 Const. art 31 para 1.

³ Consti. Art 41.

⁴ Press Law.art 1.

Likewise, Article 19 of the ICCPR states that *“everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”*⁵

The Constitution and Press Law of Cambodia unequivocally protects the independent media so that Khmer citizens may exercise their rights to form an independent media outlet as well as gain free access to independent media.

Additionally, in General Comment 34 to the ICCPR, the Human Rights Committee clarified the means States must take to protect the rights of media users, particularly, to encourage an independent and diverse media. Therefore, the government has an obligation to promote and guarantee a diverse and independent media, particularly considering the legal protections guaranteed to the press and independent media.⁶

4. Challenges to Independent Media in Cambodia

4.1 Media Monopoly

The concentration of media power in the hands of a few private owners can limit the media’s ability to act as a watchdog in relation to the exercise or abuse of power in both the public and the private sector. In countries where the authorities own or control and manipulate the media, the political opposition may well not be given a voice when elections are held, which can be decisive for the election result, and the public may not have the ability to voice their concerns to their representatives or the public.⁷ As a result, dissenting voices of the public will be silenced by a media monopoly. Therefore, freedom of expression would be restricted due to a media monopoly.



In Cambodia, the majority of electronic media via radio and television is affiliated with the ruling party or is controlled by people with close ties to the government. This creates an environment where no broad diversity of opinion is broadcasted. Particularly, in the television and radio sphere, there is little free-market competition among independent media outlets, especially after the government crackdown in 2017 where several independent media outlets were forced to cease operations.⁸ The TV and radio are very controlled but at least for now, access to a diversity of opinions is still available on social media. However, they are often tracked and legally intimidated by the government. Therefore, the flow of information from independent media is limited to the public when the media monopoly occurred in Cambodia.

⁵ ICCPR.art19.

⁶ Human Rights Committee, General Comment 34, page4.

⁷ Norway Ministry of Foreign Affairs, 'International efforts to promote freedom of expression and independent media' <https://www.regjeringen.no/en/topics/foreign-affairs/human-rights/ny-struktur/promote_freedom/id2358336/>.

⁸ Konrad Adenauer Stiftung, 'Freedom of Press and Media in Cambodia' page 8 (2015).

4.2 Legal Restrictions on Independent Media in Cambodia



Legal restrictions against free and independent media in Cambodia hinder their ability to operate in a safe environment. However, there are some legal frameworks which support this sector. The following describes the legal restrictions on operating a free and independent media outlet in Cambodia.

The [Press Law of Cambodia](#) imposes content restrictions in relation to anything which “*may affect public order by inciting directly one or more persons to commit violence,*”⁹ which “*may affect national security and political stability,*”¹⁰ or which affects “*the good customs of society.*”¹¹ This overly broad and vague terminology constrains criticism of public officials and institutions. The Press Law also provides that “*the press shall not publish or reproduce false information which humiliates or contempt's national institutions.*”¹²

The [inter-ministerial Prakas on Website and Social Media Control](#) regulates websites and social media under Clause 6b and 6c, which states that The Ministry of Post and Telecommunications has the power to “*shut down websites and social media pages*” found to be disseminating offending content or “*publicizing information willing to create turmoil in the society.*”¹³ The Ministry must ensure that “*all internet service providers operating in Cambodia install software programs and equip internet surveillance tools to easily filter or block any websites, accounts or social media pages that are deemed illegal.*”¹⁴ The Ministry of Interior is responsible for the identification and verification of web pages and social media accounts that disseminate fake news and illegal broadcasts “*contrary to the law of the Kingdom of Cambodia.*”¹⁵

The [Cambodian Criminal Code](#) states that defamation committed through the media shall be subject to the provisions of the Press Law.¹⁶ A frequently used provision to silence freedom of expression is Articles 494 (Existence of Incitement) and Article 495 (Incitement to Commit a Felony). Together, these provisions criminalize the legitimate exercise of fundamental freedoms, particularly freedom of expression. Article 494 states that incitement is punishable when a speech of any kind, writing, picture, or audio-visual communication to the public is committed.¹⁷ Article 495 states that “*direct incitement to commit a felony or to disturb social security by employing the means defined in Article 494*” is an offense punishable by imprisonment from six months to two years and a fine from one million to four million Riels,

⁹ Press Law. Art 11.

¹⁰ Press Law. Art 12.

¹¹ Press Law. Art 14.

¹² Press Law. Art 13.

¹³ Inter-ministerial Prakas on publication controls of website and social media. Clause 6.

¹⁴ inter-ministerial Prakas on publication controls of website and social media. Clause 7.

¹⁵ inter-ministerial Prakas on publication controls of website and social media. Clause 8.

¹⁶ Criminal Code of Cambodia. art 306.

¹⁷ Criminal code of Cambodia. Art 494.

if the incitement was ineffective.¹⁸ The offences defined in this section when committed through print media are subject to the provisions of the Press Law.¹⁹

From these applicable laws, it is up to the subjective discretion of authorities to determine whether or not someone violates these laws. It often appears it is a low threshold to violate these laws. Therefore, many people could be targeted and arrested for participating in legitimate activities online.

From these restrictive applicable laws, independent media in Cambodia faces challenges in terms of:

- Judicial harassment and interference with journalists



- Revocation of licenses of news media companies



- News or media website blocking



- Closure of independent media outlets



- Physical attacks on journalists or opposition activists and lack of redress



- Imprisonment for exercising freedom of expression



- Delays in Justice



¹⁸ Criminal code of Cambodia. Art 495.

¹⁹ Criminal code of Cambodia. Art 497.

5. Why does access to independent media matter?

Independent media enables all citizens to know how governmental decisions that affect them are made and encourages citizens to perform their role as watchdogs effectively. Independent media also helps individuals make decisions based on correct data and information is necessary to detect human rights violations and protect those rights, and establishes and supports the democratic and participatory practice of governance.²⁰

In addition to this, independent media helps:

- Expose corruption
- Hold the government accountable for its actions
- Informs citizens by providing reliable and objective information
- Provides a platform for debate
- Fosters democracy and rule of law
- Exposes human rights abuse



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²⁰ Article 19, 'Rights to Access Information' page 1.