



**THE PROTECTION OF RIGHT TO FREEDOM OF EXPRESSION IN CAMBODIA**

**By**

**MR. KUNTHEA THLANG**

**ID: 6217810002**

**AN INDEPENDENT STUDY SUBMITTED IN PARTIAL FULFILLMENT OF THE  
REQUIREMENTS FOR THE DEGREE OF MASTER OF ARTS**

**IN PEACE STUDIES AND DIPLOMACY**

**SIAM UNIVERSITY**

**BANGKOK, THAILAND**

**MARCH, 2021**



**Title:** The Protection of Rights to Freedom of Expression in Cambodia

**Author:** Mr. Kunthea Thlang

**Student ID:** 6217810002

**Degree:** Master of Arts in Peace Studies and Diplomacy

This Independent Study (IS) has been approved to be partial fulfillment of the requirements for the Degree of Master of Arts in Peace Studies and Diplomacy

Approved by

A handwritten signature in blue ink, likely belonging to Dr. Emmanuel Nweke Okafor.

Advisor.....

Dr. Emmanuel Nweke Okafor

Date... June 8, 2022

A handwritten signature in blue ink, likely belonging to Associate Professor Dr. Tatree Nontasak.

Associate Professor Dr. Tatree Nontasak

Director of Masters of Arts in Peace Studies and Diplomacy

Date... June 8, 2022



**TITLE:** THE PROTECTION OF RIGHT TO FREEDOM OF EXPRESSION IN CAMBODIA

**BY:** MR. KUNTHEA THLANG

**ADVISOR:** DR. EMMANUEL NWEKE OKAFOR

**DEGREE:** MASTER OF ARTS IN PEACE STUDIES AND DIPLOMACY

**FACULTY:** GRADUATE SCHOOL OF PEACE STUDIES AND DIPLOMACY

**ACADEMIC YEAR:** 2021

### **ABSTRACT**

This research paper focused on human rights problems in Cambodia, particularly, the right to freedom of expression, which is the fundamental right of human beings. Due to the Cambodian government restricting the right to freedom of expression, Cambodian citizens have faced a lot of problems while expressing their ideas, opinions, and speeches. Threats of arrests or humiliation were promised by the Cambodian government to limit Cambodians from expressing or exercising their freedom of expression. Certain journalists who have broadcasted or released news contrary to the affairs of the government dealings such as social injustice and corruption have been eradicated or locked up. These problems have limited the level of freedom of expression in Cambodia. Therefore, this research aimed to examine the human rights situation in Cambodia, analyze the literature on the right to freedom of expression, and provide mechanisms to promote freedom of expression in Cambodia. This research found that the Cambodian government does not enforce the principle of human rights that are already stated in the Cambodian Constitution. Thus, the research recommends adherent and the implementation of the Constitution by the Cambodian government for the peace of the people.

**Keywords:** Cambodia, protection, right, human rights, freedom of expression, domestic law

A red ink signature, appearing to be a stylized 'K' or similar character, is written in the bottom right corner of the page.

## ACKNOWLEDGEMENTS

I would like to thank several people who have helped me throughout my student life. Firstly, my appreciation goes to Dr. Emmanuel Nweke Okafor, my advisor, who dedicated his time to ensure the completion of this paper is actualized.

I am indebted to my father, Mr. Thy Thlang, and my mother, Mrs. Pech Sok, for their parental love and caring. Without your love, I would not have been where I am today. I am also grateful to all my siblings, Mrs. Peang Thlang, Mr. Theorn Thlang, Mrs. Thon Thlang, Ms. Sambo Thlang and Ms. Sambath Thlang. Thank you all for your love.

This acknowledgement would not have been completed without the mention of my best friends, Mr. Kong Orm and Mr. Sovat Chhon, who empowered me to study in Thailand. I remain grateful to the impacts you have made in my life.

Lastly, I am also grateful and thankful to the President of Siam University, Dr. Pornchai Mongkonvanit, and to the Director of the Department of the Master of Arts in Peace Studies and Diplomacy, Dr. Tatree Nontasak, and to all staff at Siam University as well. I am grateful to them for their good kindness toward me.

## DEDICATION

This work is dedicated to those who have died fighting for the betterment of the freedom of expression in Cambodia.



**DECLARATION**

I, Mr. Kunthea Thlang, hereby declare that this work is entirely mine and it is original unless specific acknowledgements verify otherwise.

Signature: .....  .....

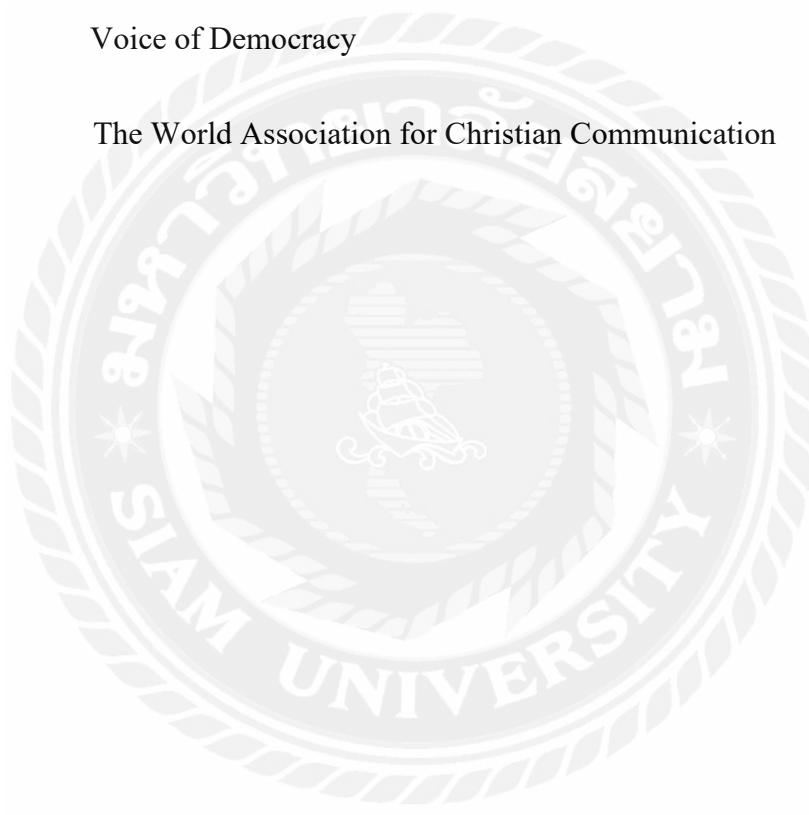
Name: Mr. Kunthea Thlang

Date: ..... *June 22, 2022* .....

## ABBREVIATION

ASEAN	Association of Southeast Asian Nations
ASEANHRD	Association of Southeast Asia Nation Human Rights Declaration
CC	Cambodian Constitution
CCHR	Cambodia Center for Human Rights
CCIM	Cambodian Center for Independent Media
CNRP	Cambodia National Rescue Party
CPP	Cambodian People's Party
CPK	Communist Party of Kampuchea
DK	Democratic Kampuchea
GA	Geneva Agreements
HRD	Human Rights Defender
HRW	Human Rights Watch
ICCPR	The International Covenant on Civil and Political Rights
ICJ	International Commission of Jurists
NGO	Non-Governmental Organizations
RFA	Radio Free Asia
RGC	Royal Government of Cambodia

UDHR	The Universal Declaration of Human Rights
UNDHR	The United Nations Declaration of Human Rights
UNC	United Nations Charter
UPR	The Report of Universal Periodic
VOA	Voice of America
VOD	Voice of Democracy
WACC	The World Association for Christian Communication





## TABLE OF CONTENTS

<b>ABSTRACT.....</b>	<b>i</b>
<b>ACKNOWLEDGEMENTS .....</b>	<b>ii</b>
<b>DEDICATION.....</b>	<b>iii</b>
<b>DECLARATION.....</b>	<b>iv</b>
<b>ABBREVIATION .....</b>	<b>v</b>
<b>TABLE OF CONTENTS .....</b>	<b>vii</b>
<b>CHAPTER 1.....</b>	<b>1</b>
<b>INTRODUCTION.....</b>	<b>1</b>
1.1 BACKGROUND AND SIGNIFICANCE OF RESEARCH.....	1
1.2 THESIS STATEMENT.....	4
1.3 RESEARCH QUESTIONS.....	4
1.4 RESEARCH OBJECTIVES .....	4
1.5 PRECEDING RELEVANT RESEARCHES .....	5
1.6 DEFINITION OF TERMS.....	7
1.7 RESEARCH LIMITATIONS.....	8
1.8 RESEARCH METHODOLOGY .....	8
1.9 CHAPTER OUTLINE.....	9
<b>CHAPTER 2.....</b>	<b>10</b>
<b>CAMBODIA AND FREEDOM OF EXPRESSION.....</b>	<b>10</b>
2.1 INTRODUCTION.....	10
2.2 WHAT IS CAMBODIA?.....	10
2.3 THE HISTORICAL BACKGROUND OF THE RIGHT TO FREEDOM OF EXPRESSION IN CAMBODIA.....	10
2.3.1 SANGKUM REASTR NIYUM CONCEPT OF THE RIGHT TO FREEDOM OF EXPRESSION .....	11
2.3.2 KHMER REPUBLIC CONCEPT OF THE RIGHT TO FREEDOM OF EXPRESSION.....	13
2.3.3 KHMER ROUGE CONCEPT OF THE RIGHT TO FREEDOM OF EXPRESSION	14
2.4 THE RIGHT TO FREEDOM OF EXPRESSION IN MODERN TIME.....	16
2.5 SUMMARY OF CHAPTER 2 .....	19
<b>CHAPTER 3.....</b>	<b>21</b>
<b>POLITICAL PARTIES IN CAMBODIA.....</b>	<b>21</b>
3.1 INTRODUCTION.....	21

3.2	POLITICIANS AND THE CIVILIANS IN CAMBODIA .....	21
3.2.1	THE PERSPECTIVES OF CAMBODIAN PEOPLE’S PARTY (CPP) ON THE RIGHT TO FREEDOM OF EXPRESSION .....	22
3.2.2	THE PERSPECTIVES OF THE CAMBODIAN NATIONAL RESCUE PARTY (CNRP) ON THE RIGHT TO FREEDOM OF EXPRESSION.....	24
3.3	THE PERSPECTIVES OF CIVILIANS.....	25
3.3.1	THE PERSPECTIVES OF THE PUBLIC CITIZENS .....	25
3.3.2	THE PERSPECTIVES OF THE CIVIL SOCIETY.....	28
3.4	SUMMARY OF CHAPTER 3 .....	29
<b>CHAPTER 4</b>	.....	<b>31</b>
<b>THE MECHANISMS OF THE PROTECTION OF RIGHT TO FREEDOM OF EXPRESSION IN CAMBODIA</b>	.....	<b>31</b>
4.1	INTRODUCTION.....	31
4.2	THE DOMESTIC LAW .....	31
4.3	THE INTERNATIONAL LAW .....	33
4.3.1	THE UNITED NATION DECLARATION OF HUMAN RIGHTS (UNDHR) .....	33
4.3.2	THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR).....	34
4.4.	SUMMARY OF CHAPTER 4 .....	36
<b>CHAPTER 5</b>	.....	<b>37</b>
<b>CONCLUSION AND RECOMMENDATIONS</b>	.....	<b>37</b>
5.1.	CONCLUSION .....	37
5.2.	RECOMMENDATION .....	38
<b>REFERENCES</b>	.....	<b>40</b>

## CHAPTER 1

### INTRODUCTION

#### 1.1 BACKGROUND AND SIGNIFICANCE OF RESEARCH

Every human being born into a society has the right to demand freedom. As Jack Donnelly (1989), an author of *Universal Human Rights in Theory and Practice*, posits that human rights are the rights for everyone and everyone has the rights commonly because everyone is the human being. Thus, everyone born into a society has equal rights to freedom. Article 19 of the Universal Declaration of Human Rights (UDHR) states that “everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers” (UN, 2015). All human beings have rights to their opinions, or ideas to express or reveal the real events in society and have rights to seek, receive and provide all information both on national and international levels. The freedom of expression is the fundamental right for human beings who live in society, and it is essential for the development of society. For the above declarations and references, the Cambodian citizens who understand the essential part of their right to freedom of expression indicate concerns through their opinions on the maladministration of the Cambodian government on its citizens despite the apparent limitation of the freedom of expression in the country. The bravery of some of the Cambodian citizens who, despite being aware of the dangers to express oneself, hold the Cambodian government accountable for maladministration is a clear indication of the importance of citizens to know their rights. According to the Article 19 of ICCPR asserted 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” (ICCPR, 1966, p.178).

The Cambodian constitution declares that the Cambodian citizens have the right to express themselves (CC, 1993), however, this right to freedom of expression is restricted and violated by the Cambodian government. Furthermore, some of the Cambodian citizens, including some political figures who have exercised their freedom of expression against the corruption in the government have, particularly, faced consequences such as arrest, or detention, or exile, for instance, and some of the political figures who have opposed government policies. These actions by the Cambodian government are a clear indication of the abuse of power for those who have opposed government policies. Referencing the history books of Cambodia, it is noteworthy to mention the improvement of the protection for the right to freedom depression today. Between 1975 to 1979, more than 1.6 to 2.2 million people were killed due to the lack of right to freedom of expression (Shannon, 2018, p.1). These casualties on a certain proportion of the Cambodian citizens who have been deprived of their rights to freedom of expression are the consequences of the lack of government enforcement and implementation to protect the rights of the people of Cambodia. Dr. Kem Ley, for example, a social researcher and political analyst who talked and revealed the real situations in Cambodian society and also criticized the government was assassinated on July 10, 2016 in Phnom Penh, Cambodia (ICJ, 2016).

Although, Cambodia, as a democratic country which subscribes to the principles of democracy and human rights, has failed to enforce its beliefs on freedom of expression. Furthermore, lack of the enforcement and implementation of human rights have posed a huge threat to the lives of Cambodians who express their freedom of expression. There seems to be a gap in the implementation of the democratic and human right principles in Cambodia. The

international communities are aware of the limitations of the freedom of speech in Cambodia, and have expressed deep concerns on the lives of certain Cambodians who have been subject to rights violations. According to the principles of the Cambodian government, all citizens have rights to freedom of expression in sharing opinions, ideas, knowledge, information, etc. both on local and international levels. According to the constitution of Cambodia, Chapter III, Article 31, which is asserted in the United Nations Charter (UNC), Universal Declaration of Human Rights (UDHR), covenant and convention for human rights. In other words, the Cambodian citizens have rights to be backed by the constitution, especially the right to freedom of speech. Moreover, in Chapter 3, Article 41 of Cambodia's Constitution, clearly supports the right to freedom of expression for Cambodian citizens, this right, however, especially, the right to freedom of expression, is still fragile.

Reports show that some independent media companies in Cambodia have been closed by the order of the Cambodian government because they released news in relation to the current violation of human rights by the government. To mention but a few of the independent media companies in Cambodia that were affected by the closure perpetrated by the government were Radio Free Asia (RFA), Voice of America (VOA), Voice of Democracy (VOD), Cambodia Daily particular the broadcasts of the opposition party, Cambodia National Rescue Party, via local radio station was closed as well (CCIM, 2017). The operation of these independent media companies has been the source through which the Cambodian citizens voice their opinions to the world at large. On the contrary to the closure of these media companies, Cambodian citizens have urged the government to stick to its constitution and exhibit the democratic principle of human rights which will allow the citizens to continue sharing their opinions, ideas and perspectives on the

affairs of the nation. Upon the aforementioned assertions, are the declarations and references that this research paper is based on.

## **1.2 THESIS STATEMENT**

Every human being deserves the right to live and exercise their rights to freedom of expression. The right to freedom of expression, therefore, must be protected. It is a guaranteed protection by the Cambodian Constitution, United Nations Declaration of Human Rights (UNDHR) and International Covenant on Civil and Political Rights (ICCPR).

## **1.3 RESEARCH QUESTIONS**

This research paper focuses on the problems of the right to freedom of expression in Cambodia. Herein, the research paper raises three questions to address research studies and findings related to the right to freedom of expression in Cambodia. Thus, the research questions are:

1. What is the historical background of the right to freedom of expression in Cambodia?
2. Why do the ruling party, opposition party and civilians have different perspectives about the right to freedom of expression in Cambodia?
3. What are the mechanisms to promote and protect the right to freedom of expression in Cambodia?

## **1.4 RESEARCH OBJECTIVES**

This research paper aims to achieve the following three objectives to improve or provide solutions to bettering the protection of the right to freedom of expression in the following:

1. To study the historical background of the right to freedom of expression in Cambodia;

2. To study different perspectives of the right to freedom of expression in Cambodia between the politicians and civilians; and
3. To examine the mechanisms of protection of the right to freedom of expression.

## 1.5 PRECEDING RELEVANT RESEARCHES

There seems to be several studies on the literature of Human Rights in Cambodia, especially the right to freedom of expression. *Jack Donnelly (1989), an author of Universal Human Rights in Theory and Practice*, claimed that the definition of human rights are the rights for every one and everyone has the rights commonly or simply because everyone is human, and should be accorded their rights from the moment they were born. Therefore, all human beings have the fundamental rights and freedom of demanding and claiming what belongs to them, especially the right to freedom of expression and all people cannot live without this right (Jack, 1989). The above assertion will be addressed in more detail with the Constitution of Cambodia in Chapter 3.

According to the *Declaration of Human Rights in the Cambodian Constitution*, Chapter 3 addresses the rights and obligations of Cambodian citizens, which states on Article 31, that Human Rights should be respected and recognized by the Kingdom of Cambodia. In addition, Article 41 states that the People of Cambodia will have freedom of expression, publication, press and freedom of assembly. No one will use these rights to harm others, to affect the good traditions of society, or to violate public order and national security.

The right to freedom of expression should be protected, promoted and maintained for all Cambodian people. Government officials world over are expected to pay attention to the rights of the people both domestically and internationally, while ensuring no prohibition of these rights are infringed at any cost. Furthermore, Citizens have the rights and obligations to take part in all

political activities to express their opinions, ideas or perspectives that relate to the affairs of the nation. Cambodia participated in the 1991 Paris Peace Accord, which represented the end of the conflict and to build real peace for Cambodia, especially to promote and protect the human rights and the fundamental freedom that stated in the Declaration of Human Rights in the Constitution of Cambodia. According to this Declaration, the Cambodian government tries its best to promote, protect and respect the human rights and fundamental freedom of Cambodian citizens. It is not only stated in the Cambodian Constitution but also in the Report of Universal Periodic (UPR).

According to the *Report of Universal Periodic (UPR)* reviewed in 2013 on Human Rights, the agenda to enforce recommendations that were accepted during the Universal Periodic Report on the protection of freedom of expression and all Human rights in Cambodia failed. Based on this, it shows that Cambodia failed to implement the Human Rights Protection, particularly the protection of the freedom of expression of the Cambodian citizens. On the one hand, there seems to be no records where the Cambodian authorities have enforced appropriate adoption of the Human Rights Principle despite its declarations and claims of Article 19 of the Universal Declaration of Human Rights (UDHR). On the other hand, the Cambodian government recorded several Human Rights violations on citizens, human rights defenders, journalists, civil society activists, members of opposition parties and other labor organizers.

*The Cambodian Center for Human Rights (CCHR)*, a non-aligned, independent, non-governmental organization (NGO), has worked to promote and protect democracy and respect for human rights in the Kingdom of Cambodia. The freedom of expression is a right which is stated in the Constitution of Cambodia, Article 41, that the Cambodian people will have freedom of expression of their ideas, information, publication and freedom of assembly. Nobody is liable to use these rights to impact the honor of others, or to affect the good customs of society, public order



and national security. These rights, however, are in tandem with the Universal Declaration of Human Rights (UDHR). In addition, Freedom of Information (FOI) can be defined as the right to access information held by public bodies. It is an integral part of the fundamental right of freedom of expression, as recognized by Resolution 59 of the UN General Assembly adopted in 1946, as well as by Article 19 of the Universal Declaration of Human Rights (1948), which states that the fundamental right of freedom of expression encompasses the freedom “to seek, receive and impart information and ideas through any media and regardless of frontiers”. In other words, the right to freedom of expression plays a very important role in society as it fosters social development from democratic standpoint. The right to freedom of expression is very important for the democratic society, according to the U.N. Human Rights Committee.

Moreover, according to the *Association of Southeast Asian Nations Human Rights Declaration*, the human rights and fundamental freedom, particularly, the right to opinion and expression will be respected, promoted and protected on the ASEAN chapter, civil and political rights under article 23, “Everybody has the right to freedom of opinion and expression without interference and to seek, receive and provide information, whether orally, in writing or through any other medium of that person’s choice” (ASEANHRD, 2013).

## 1.6 DEFINITION OF TERMS

The researcher will define some of the relevant keywords that relate to the topic such as right, freedom of expression, human right, domestic law and protection.

**Right:** It is the innate power which exists with everyone who was born into a nation and it cannot be abused by anyone.

**Freedom of expression:** It means free speech or free opinion for everyone who belongs to a particular nation. Their identity to a particular nation gives them the rights to express their voice and needs.

**Human right:** Human rights are the fundamental rights and freedoms which belong to every human born into a nation.

**Domestic law:** A domestic law is the national law that opposes international law which focuses on the protection of the citizens of a particular nation.

**Protection:** It is the action of eradicating all kinds of bad situation in society such as human rights abuse, corruption, human trafficking, etc. Furthermore, protection is the measure taken by domestic and international laws or by the government to mitigate violations of rights in a particular nation.

## 1.7 RESEARCH LIMITATIONS

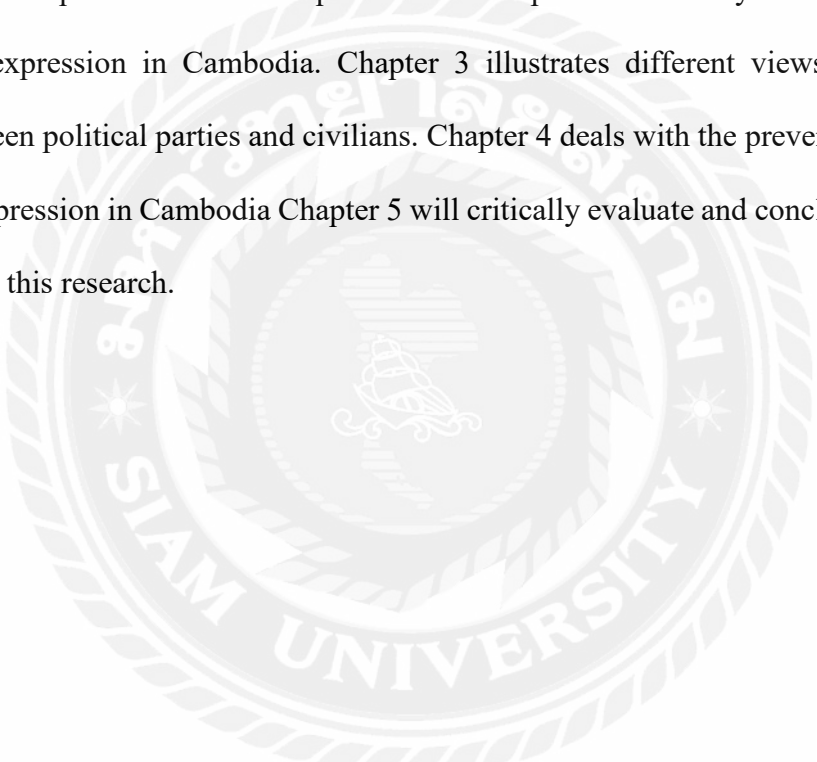
This research paper focuses on the perspective of the right to freedom of expression in Cambodia. Thus, the data that will be collected for this research is between 1953 to 2021. It is qualitative research based on reviewed literature and books.

## 1.8 RESEARCH METHODOLOGY

This research paper utilizes the data collection from online and offline documents: journals, articles, books, e-books and other documentations that relate to the right to freedom of expression in Cambodia. All data collection and information were studied using content analysis and logical analysis. This method enabled finding of information which relates to the research topic, the Protection of Right to Freedom of Expression in Cambodia.

## 1.9 CHAPTER OUTLINE

This research paper consists of 5 chapters. Chapter 1 introduces the background of freedom of expression in Cambodia, thesis statement, research questions, research objectives, preceding relevant research, definition of terms, research limitation, and research methodology. Chapter 2 analyzes the literature reviewed on Cambodia and freedom of expression that exists in four periods, Sangkum Reastr Niyum (The community favored by the people), Khmer Republic, Khmer Rouge Regime and Modern period in Covid-19 pandemic. Each period will analyze different situations of freedom of expression in Cambodia. Chapter 3 illustrates different views of freedom of expression between political parties and civilians. Chapter 4 deals with the prevention of the right to freedom of expression in Cambodia Chapter 5 will critically evaluate and conclude all that have been analyzed in this research.

A large, faint, circular watermark seal of Siam University is centered in the background of the page. The seal features a central emblem with a crown and a shield, surrounded by a wreath. The words "SIAM UNIVERSITY" are inscribed in a circular border around the emblem, with Thai script above and below it.

## **CHAPTER 2**

### **CAMBODIA AND FREEDOM OF EXPRESSION**

#### **2.1 INTRODUCTION**

Cambodia has had several regimes over the years. These regimes have different administrative systems; from a democratic system to a totalitarian system. In this chapter, the researcher will examine the differences in human rights of one regime to the other. It will further shed light on Cambodia, and its demography.

#### **2.2 WHAT IS CAMBODIA?**

The official name of Cambodia is the Kingdom of Cambodia. Cambodia is a country located in the southern part of the Indochinese peninsula in Southeast Asia, and it is 181, 035 square kilometers in area. It is bordered by Thailand to the Northwest, Laos to the North, Vietnam to the East, and the Gulf of Thailand to the Southwest. The largest city of Cambodia is Phnom Penh, the nation's capital, and its population is over 15 million. Cambodia is a democratic country and independent state as the article 1 of the Constitution states:

Cambodia is the kingdom that the king shall rule according to the constitution and the principle of liberal multi-party democracy. The Kingdom of Cambodia shall be an independent, sovereign, peaceful, permanently neutral and non-aligned county (CC, 1993).

#### **2.3 THE HISTORICAL BACKGROUND OF THE RIGHT TO FREEDOM OF EXPRESSION IN CAMBODIA**

Due to different leadership regimes, the right to freedom of expression in Cambodia has declined. It always changes from one regime to another regime, depending which government

administration is in power. For example, the rights and freedoms in the Sankum Reastr Niyum regime differed from Khmer Republic regime. The rights and freedoms in Sangkum Reastr Niyum and Khmer Republic differed from Pol Pot regime (Democratic Kampuchea). When the rights and freedoms, particularly, freedom of expression declines, it means that democracy is fragile. Nevertheless, the Sankum Reastr Niyum, led by Norodom Sihanouk King, was a regime where everything had developed and the state of the lives of the citizens were in better condition. After the regime collapsed, a new regime appeared to be the Khmer Republic led by Lon Nol, who took power for five years from 1970 to 1975. The Khmer Republic regime had a lot of controversies between Sihanouk and Lon Nol which led to war, in turn, affected the decline of democracy, rights and freedom of speech. In 1975, the Khmer Republic perished and the Khmer Rouge regime, led by Pol Pot, took power from 1975 to 1979, which was called the year “zero”. Everything was gone and many people were killed.

### **2.3.1 SANGKUM REASTR NIYUM CONCEPT OF THE RIGHT TO FREEDOM OF EXPRESSION**

In 1953, King Norodom Sihanouk opened an international negotiation panel with France for independence in Southeast Asia including Cambodia. In 1954, Cambodia gained complete independence from the French by signing the Geneva Agreements (GA) (Siti, 2019). Before 1955, Cambodia had been colonized by France for 90 years (Alexandra, 2016, p. 25). During that time, freedom of expression was respected and observed.

Between the years 1955 to 1970, the Sangkum Reastr Niyum symbolizes People's Socialist Community (Michael, 2010). Sangkum is often translated at the Popular Socialist Community, but “Popular Socialist Community” is a mistranslation of the Sangkum Reastr Niyum and fails to capture the populist – not socialist – justification behind Sihanouk’s maneuverings which was led

by King Norodom Sihanouk, known as the father of national independence and development (Siti, 2019). It was during this era that the entire Cambodia actualized its independence from French colonization, and recognized a democratic system of governance.

For Cambodian citizens, there were three distinctions of the phrase Sangkum Reastr Niyum: first, it called for Norodom Sihanouk and his ambiguously defined government; second, it referred to the political movement that was led by Norodom Sihanouk that was commonly translated into English as the popular socialist community; and third was the phrase Sangkum Reastr Niyum which denoted to a historical period that all Cambodians remember (Siti, 2019). During this era, it was under the impression, among Cambodians, that the Sangkum Reastr Niyum administration brought some elements of belief in peace, security, rights and freedoms to the people. The administration changed the belief system of the Cambodian people to thinking huge strides from hardship were being made toward prosperity. Consequently, all the people who lived and witnessed the Sangkum Reastr Niyum period labeled it the golden era. Moreover, Sihanouk established the Sangkum Reastr Niyum that was the original political system for setting the new democratic system for leading Cambodia, which had been colonized by France for 90 years, to become a flourishing country in Asia (Siti, 2019).

Norodom Sihanouk gave up the throne in 1955 for participating in politics as one of the political candidates to control the national assembly. At that time, he was the person who dominated in the Sangkum Reastr Niyum era that got him elected as the leader of Cambodia. When he won the election, he set the democratic system for leading Cambodia. During this period, it was known as the modernity (Siti, 2019). Sangkum Reastr Niyum, led by King Norodom Sihanouk, collapsed in 1970 by the right-wing politicians, and military carried out the coup to oppose Sihanouk while he was in an official duty abroad, however, the legislature voted to remove him

from the office (Boraden et al, 2006). Consequently, The Khmer Republic was officially declared on October 9, 1970 (Sok, 2014, p. 84).

### **2.3.2 KHMER REPUBLIC CONCEPT OF THE RIGHT TO FREEDOM OF EXPRESSION**

Khmer Republic was an official name of the Cambodia under the power of Lon Nol who took office for five years from 1970 to 1975 (Shannon, 2018). He, Lon Nol, was a Minister of Defense and Prime Minister under Prince Sihanouk before 1970, which was the year that Lon Nol overthrew Sihanouk during the coup (Evamysliwiec, 2010). The 1970 coup was as a result of the establishment of the Khmer Republic by unanimous parliamentary elections, and the promulgation of a new constitution to be followed. The new government was formed on March 14, 1972 by the new Republic Constitution which led Lon Nol to declare himself president. The Constitution promulgated on May 10, 1972, declared Cambodia a democratic state with the slogan "Freedom, Equality, Fraternity, Progress and Happiness" and based on the principle of "People's Government, by the people, for the People" (Michael, 2010, p. 32).

The Lon Nol administration continued to enforce the principles of liberty and democracy set by Prince Sihanouk, however, these principles did not last for long. After some period of time, his administration ignored these principles, and subscribed to the increasingly totalitarian measures instead. In 1972, Lon Nol won the presidential elections that were the subject of accusations of large-scale cheating and fraud. A presidential candidate named In Tam had almost 100,000 supporters cuff-off from the lists. Furthermore, the authorities manipulated the electoral districts in Lon Nol's favor, by which means the result was skewed. Then, In Tam and Sirik Matak declared that the election was unconstitutional and boycotted it. It, therefore, allowed Lon Lon, a head of the Social Republican Party, to declare a victory that carried all 126 seats in the assembly (Michael,

2010, p. 32). Lon Nol's regime was remarkable for its suppression of opposition and opposed press and the spread-out repression of the Vietnamese (Michael, 2010, p. 32).

Prince Sihanouk and Communist Party of Kampuchea (CPK) began to wage war against the republican government forces led by Lon Nol. At that time, Vietnamese Communist soldiers operated in Cambodia, as the South Vietnamese and the United States troops turned the countryside to a war-torn zone. From 1969-1973 the US aircraft were dropping more than half a million tons of bombs on Cambodia and more than 100,000 peasants were killed (Michael, 2010, p. 32). After the collapse of the Lon Nol regime, Cambodia was taken over by the Khmer Rouge in 1975.

### **2.3.3 KHMER ROUGE CONCEPT OF THE RIGHT TO FREEDOM OF EXPRESSION**

The Khmer Rouge was the leftwing insurgency movement in the countryside of Cambodia that took power from 1975 to 1979, led by Pol Pot, after Lon Nol's regime collapsed. In this regime, Cambodia was named officially the Democratic Kampuchea (Evamysliwec, 2010). Pol Pot was known as Saloth Sar, a Cambodian Marxist who fled from Phnom Penh in 1963 and a leader of the Khmer Rouge. In 1963, He was a secretary general of the Communist Party of Kampuchea and as a Prime Minister of Democratic Kampuchea from 1976 to 1978. From 1979 to 1985, he was the Commander in Chief of the Khmer Rouge and as President of the Higher Institute for National Defence from 1985-1987 (Evamysliwec, 2010). The Cambodian population in the Khmer Rouge regime in April 1975 was between 7.84 million and 8.1 million. Among them, between 1.75 and 2.2 million were perished by the Khmer Rouge regime, the number between 800,000 and 1.3 million died of violence and the remainder died of starvation, overwork and other causes (Michael, 2010). The human rights in the Khmer Rouge regime, particularly, the right to



freedom of expression, drastically declined. People were killed for speaking against the government during this regime.

The Khmer Rouge armies entered to control Phnom Penh, Cambodia, on April 17, 1975 and ousted the Khmer Republic regime led by Lon Nol. The brutalities committed by the Khmer Rouge on the populations of Cambodia between 1975 and 1979 were the serious genocide in the history of Cambodia. Between 1975 and 1979, Pol Pot and his colleagues in the Communist Party of Kampuchea (CPK) were the key foreign policy makers in (DK), the Democratic Kampuchea. Most of them were former classmates who went to study in France and returned to Cambodia in the 1950s and participated in the communist movement and became the top leaders of Democratic Kampuchea (Sok, 2014, p. 114). They could not pose a serious competition to Pol Pot's leadership and grip of power in the decision making even though the other factions of the regime really existed. As the entire population was really enslaved and no meaningful civil society existed to challenge the highly centralized and secretive political bureau, Pol Pot's faction monopolized power in all aspects of society, economy and politic in the Democratic Kampuchea (Sok, 2014, pp. 114-115).

The top leader of the Communist Party of Kampuchea, Pol Pot, gave a speech in 1977 to clarify the regime's historical version of Kampuchean development. In the Communist Party of Kampuchea's account, the Kampuchean peasant was involved in class warfare from the end of the basic communist era which was almost more than two thousand years ago (Shannon, 2018, p. 29).

An examination of Kampuchean society of that time had revealed that:

The peasants were 85% of the whole population of the country. The peasants, therefore, were the over majority of the Kampuchean population at that time. Those peasants were exploited by all classes, capitalists and by the landlords. All those peasants, however, suffered the worst, most varied and most direct exploitation (Shannon, 2018, p. 30).

The exploitation of the most rural Kampuchean (Khmer) was the fault of 15% of the population who got advantage of the peasants and it also was the goals of the Communist Party of Kampuchea to liberate the 85% from such oppression (Shannon, 2018, p. 30).

The CPK had the goals to solve the domestic class opposition. Pol Pot argued that despite the end of the French protectorate in 1954, Kampuchea (Cambodia) remained a satellite imperialism because of their independence from the other states. He, Pol Pot argued that:

Both the economy and the culture were not independent. Cambodian politics was also not independent. Some sectors were independent but some were not. It was the same for our social lives. Not being independent means being dependent on the foreign states, dependent on foreign imperialism in general and headed by the United States imperialism. Kampuchea (Cambodia) was not independent at all in military affairs. The Khmer-US military agreement of May 16, 1955 was proof of this (Shannon, 2018, p. 30).

To achieve their goals, the CPK started to reform the bottom tiers of the peasant class by using propaganda (Shannon, 2018, p. 30). The existing social classes were divided by the Khmer Rouge into smaller classes. The peasants were divided into rich, middle, and poor. Within the middle and poor peasant classes, there were three levels such as upper, middle and lower levels (Shannon, 2018, p. 30; Jack 1989, p. 113-114). This regime took power for 3 years, 8 months and 20 days, from April 7 1975 to January 7 1979. Nevertheless, Hun Sen was the former Khmer Rouge member who worked as a Democratic Kampuchea's East Zone Administrator and took power in 1985 at the age of 35. He was the youngest Prime Minister in the world (Michael, 2010).

## **2.4 THE RIGHT TO FREEDOM OF EXPRESSION IN MODERN TIME**

The world today has been impacted by the Covid-19 pandemic, posing serious threats to public health. The fundamental human rights and freedoms have been restricted and oppressed, by the phrase "everyone must stay at home". Countries seriously impacted by the Covid-19 pandemic

have been locked down and forced their citizens to stay at home with the conditions of facing consequences if rules are broken. For example, Cambodians and Indians, who do not stay at home, have been maltreated by the police forces. According to Freedom House, in 2020 follows 14 consecutive years that global freedom has declined (FH, 2020; Kate, 2020, p. 141).

Due to the Covid-19 pandemic, under Hun Sen's leadership, the rights and freedoms in Cambodia, particularly, the freedom of expression, have been restricted and the respect for human rights has drastically declined as well. It is known that freedom of expression is the right protected by the International Covenant on Civil and Political Rights (ICCPR) (Kate, 2020, p. 142). Even though freedom of expression has been protected by ICCPR, it has still been violated, limited and restricted during the widespread outbreak of Covid-19.

Under the long-term Hun Sen leadership, a head of the Cambodia People's Party (CPP), has been criticized for human rights violation against human rights defenders (HRD) and those who are the political opponents, particularly, the members of the main opposition party in Cambodia, the Cambodia National Rescue Party, have been harassed by the government. Moreover, the Phnom Penh capital regime has used the Covid-19 pandemic to crackdown on the fundamental freedoms in the country, including the blacklisting and targeting of certain organizations and unions, the judicial harassment and shuttering of the independent media outlets and threats of violence against government critics (CNRP) (Kate, 2020, pp. 143-144).

Those who exercise their expression online or offline in Cambodia will get arrested by the governmental officers. Hun Sen himself warned outright during a public speech that the government was capable of locating the whereabouts of the Facebook users within minutes:

Please, the police and intelligence [officers] reveal all the technologies we have to catch the Facebook posters.... It does not take much time, only six minutes...No need to send

the police from Phnom Penh [to you]. We have the force there, he told the reporters during the inauguration ceremony for a new overpass in Phnom Penh (George and George, July 12, 2018).

Even though freedom of expression is a fundamental right, it is not an absolute right. It can be restricted legitimately by the government. In Cambodia, the legal requirements set out within the Covenant are given constitutional status and are directly applicable in domestic law. Unlike the UDHR, the International Covenant on Civil and Political Rights (ICCPR) restricts the right to freedom of expression at some time (Kate, 2020, p. 146).

January 28 was the first Covid-19-related arrest and it was the time when the governmental police officers arrested two staff members of a tourist company in Siem Reap who shared news related to the Covid-19 on their Facebook (FB) accounts. According to Human Rights Watch, both of them were released later the same day after they signed and pledged not to share any information related to the Coronavirus. Two months later, the record of Human Rights Watch showed similar arrests of some more FB users. Some of them were forced to release the public apologies and signed a thumb printing pledge in order to be released (HRW, 2020; Kate, p. 151). According to the Human Rights Watch (HRW), an international non-government organization:

“Hun Sen, a Prime Minister of Cambodia, claimed the law is necessary to respond to the Covid-19 pandemic. The government has to submit a new draft which solves the Covid-19 public health crisis while protecting basic rights, including the rights to freedom of expression, association and privacy” (HRW, April 2, 2020). However, Brad Adams, Asia director, said “Even before the Covid-19, Hun Sen ran roughshod over human rights, thus these sweeping, undefined and unchecked powers should set off alarm bells among Cambodia’s friends and donors. Instead of passing the laws to protect the public health, the government of Cambodia is using the Covid-19 pandemic as a pretext to assert the absolute power over all aspects of civil, political, social and economic life, all without any time limits or checks on abuses of power” (HRW, April 2, 2020).

CPP, the ruling Cambodian People’s Party, has maintained power by using attack violence, politically motivated prosecution, draconian law, and corruption. Prime Minister Hun Sen

effectively oversees party rule in the National Assembly since CPP controlled the court and dissolved the main opposition party so called the Cambodia National Rescue Party (CNRP) 2017. During the outbreak of Covid-19, the law was enacted by CPP for curtailing free speech, free expression, both online and offline, and other rights. Kem Sokha, opposition leader, and some 150 opposition members were facing sham trials on baseless charges. A lot of activists were imprisoned for peaceful activism and protests. The few independent media outlets and journalists faced constant government harassment (HRW, 24 Mar 2020).

On May 25, 2021, the undersigned international human rights called for the Cambodian government to quickly stop its assault on freedom of expression in the Covid-19 pandemic context. The government, in the recent months, has warned against the public criticism of its own actions, prevented independent journalists from reporting on the outbreak of CoronaVirus, prosecuted individuals criticizing inoculation campaign, and journalists and social media users with legal action on the spurious ground of provoking unrest or threatened the society (HRW, 25 May 2021). The government of Cambodia responded by taking disproportionate and unnecessary actions on Cambodia's international human rights obligations using violation. It includes a campaign against freedom of expression which constricts freedom of media and promotes fear and self-censorship in Cambodia. These steps serve to undermine, not advance, efforts to stop the outbreak of Covid-19.

## **2.5 SUMMARY OF CHAPTER 2**

This chapter discusses the situation of human rights in Cambodia, which has faced a decline in recent times, especially the Khmer Rouge regime which killed between 1.75 and 2.2 million (Michael, 2010). Shading light on the current events of Covid-19 pandemic, the Prime Minister

Hun Sen's government has restricted freedom to express opinions and words that relate to the Coronavirus via social media with assurance of facing arrest and indictment. The next chapter points out the political parties in Cambodia and their perspectives on the freedom of expression.



## **CHAPTER 3**

### **POLITICAL PARTIES IN CAMBODIA**

#### **3.1 INTRODUCTION**

Cambodia adopts a liberal multi-party democratic policy. Khmer citizens are the masters of their own country. All power belongs to citizens. Citizens exercise their power through the Nation Assembly, the Senate, the Royal Government and the Judiciary. The legislative, executive and judicial powers shall be separate (CC of 1993, Article 51, p. 11). In this chapter, it will reveal different views between the politicians and civilians on the right to freedom of expression in Cambodia whether freedom of expression in Cambodia has worsened or become better. This chapter will shed light on the perspective of the freedom of expression of the two big parties in Cambodia, namely: the ruling party known as the Cambodian People's Party (CPP); and the main opposition party, known as the Cambodia National Rescue Party (CNRP).

#### **3.2 POLITICIANS AND THE CIVILIANS IN CAMBODIA**

In Cambodia, politicians and civilians share different views on human rights. The politicians from the ruling party, Cambodian People's Party (CPP), understand that the condition of human rights and freedoms in Cambodia are good while the politicians from the main opposition party, the Cambodia National Rescue Party (CNRP), see that the condition of human rights and fundamental freedoms in Cambodia are bad and have been restricted and abused.

### **3.2.1 THE PERSPECTIVES OF CAMBODIAN PEOPLE’S PARTY (CPP) ON THE RIGHT TO FREEDOM OF EXPRESSION**

The Cambodian People’s Party (CPP) is the ruling party, which Prime Minister Hun Sen, took power in 1985, as a head of the government. The CPP, on behalf of the government, perceived the condition of human rights in Cambodia, especially freedom of expression as positives toward the development of Cambodian society in the article 41 of the Cambodian Constitution asserts that:

All Khmer citizens have freedom to express their ideas, freedom of information, freedom of publication and freedom of assembly. But everyone cannot use these rights to violate other reputations, public order in society and a whole national security (CC, 1993, p. 9).

The royal government has recognized the concept of its citizens’ rights and freedoms as detailed in the declaration of human rights in the Cambodian Constitution. Furthermore, all Cambodian citizens have been provided rights and freedoms that are the fundamental human rights, including freedom of religion, freedom of movement and freedom of association. The government has taken steps to prevent its people's rights and freedoms that have been abused by some influential people and it supports the Universal Declaration of Human Rights and all Convention, which are the best gates to protect the rights and freedoms of citizens.

In order to support Human Rights, especially, freedom of expression in Cambodia to have good development and process, the ruling party or the Cambodian government has to build several conventions on rights and freedoms, for instance, rights of citizenship convention, political rights convention, non-discrimination convention, economic freedom convention, anti-women exploitation convention and so forth. Furthermore, Cambodia acknowledges other several conventional committees such as the International Covenant on Economic, Social and Cultural



Rights (ICESCR); the International Covenant on Civil and Political Rights (ICCPR); the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on Rights of Child; the Convention on the Elimination of All Forms of Discrimination Against Women; and the Convention relating to the Status of Refugees and its 1969 Protocol (Kassie, 2000). Hence, the government has clear visions and strategies to process, develop, and respect human rights, particularly the right to freedom of expression.

Cambodia has several National TV and Radio stations both in the urban and rural areas of the country. These media stations release information regarding freedom of expression. There seems to be about 64 TV stations of which 15 of them are in Phnom Penh and 49 are in other provinces. These media stations release information in both national and international languages. Whereas, there are about 166 national radio stations in Cambodia of which 113 stations are in Phnom Penh, and the remaining 53 stations are in the other provinces where information regarding freedom of expression are shared (Rany and Raksa, 2016, p. 12). The television and radio stations, therefore, have played a vital role in Cambodian society to promote the fundamental rights and freedoms, also providing the platform with which the Cambodian citizens express their thoughts and opinions.

Furthermore, to provide comfort and the public order, the government built the Freedom Park which is the place for the citizens, non-governmental organizations and other associations to express their free speeches, free opinions and free ideas and so on (Rany and Raksa, 2016, p. 13). The perspectives of the royal government of Cambodia understand that the freedom of expression in Cambodia is in a good condition based on the article 41 of the Cambodian Constitution. Likewise, the royal government has opened the door of rights and freedoms, especially the freedom of expression to its citizens to express their opinions to the world.

### **3.2.2 THE PERSPECTIVES OF THE CAMBODIAN NATIONAL RESCUE PARTY (CNRP) ON THE RIGHT TO FREEDOM OF EXPRESSION**

In 2017, the main opposition party (CNRP) was dissolved and all the positions of its commune chiefs, and councilors changed to unelected members of the Cambodia People's Party (CPP). Over 95% of seats at the commune level and the former president of Cambodia National Rescue Party (CNRP), Mr. Kem Sokha, has been in detention since he was arrested on the night of 3 December 2017, having spent almost a year in Correctional Center 3, Tbong Khmum province (HRC, 2019, pp. 3-4).

In September 2018, Mr. Kem Sokha, a former president of the main opposition party, was free from prison but he was put under house arrest with strict conditions such as banning from speaking to all opposition members and foreigners. Soary Pon, speaking on behalf of the CNRP, "I urged the international community to increase the pressure on the government." And he called on the royal government of Cambodia (RGC) to drop all charges against president Kem Sokha as well as against all the other opposition members who have been arrested for their political activities and to give up the ban on 118 CNRP's members to let them to return to participate in the political activities (Leonie, 10 Nov 2019).

Mu Sohua, a former member of parliament for Sam Rainsy and CNRP party sees that the democracy and freedom of expression in Cambodia have falling down, limitation and restriction as she said:

We, witnesses from Cambodia are here today because we see that democracy in Cambodia is experiencing an alarming freefall, and because we can no longer tolerate a life threatened by fear of being arrested and prosecuted because of our views and opinions. We bring you the high hope of our people who wish to be ruled by law and not by the power of corrupt officials (CCHR, 2010).

The dissolution of the main opposition party understands that the fundamental rights and freedoms in Cambodia have been restricted and violated.

### **3.3 THE PERSPECTIVES OF CIVILIANS**

The researcher aims to break down the perspectives of the two groups of civilians, mainly the public citizens, and the civil society on the freedom of expression in Cambodia. The perspectives will point out different conditions of freedom of expression which have been practiced by the Royal Government of Cambodia (RGC) whether or not the condition of freedom of expression in Cambodia is good or not.

#### **3.3.1 THE PERSPECTIVES OF THE PUBLIC CITIZENS**

The public citizens focus on both national and international bodies who have perspectives or understanding about human rights and freedom of expression in Cambodia. Consequently, the public citizens are the people who have a better understanding of the rights and freedoms in Cambodia. According to Mr. Kov Raksa and Ms. Oum Rany, interviewing some Cambodian people who expresses their idea related to the freedom of expression as following:

Freedom of expression is a very key part of human rights because it is the means that people can show their opinions and thoughts in truth and not keep their opinions to themselves. The development of society will be as a result of freedom of expression. Furthermore, he added, that the key factor to determine free expression is law or policy which is the strategy to keep and maintain. Finally, he thinks that the freedom of expression has become better between 2010 and 2015. Because he gives the reason that the media outlets have increased and it has been well known by everybody. Thus, they can be happy to show their opinions and thoughts by this means, said Mr. Pot Samit, 53 years old, primary teacher in a public school (Rany and Raksa, 2016, pp. 14-15).

Moreover, Mr. Kov Raksa and Ms. Oum Rany noted in their thesis on pages 15-16 that:

Free expression refers to the means by which people want to say whatever they want and need but do not say the words that impact others. Although the government does not have a clear policy or law, it has the customary law that makes you have your own rights to talk but not impact other people. She added that freedom of expression has been good and the country can be developed by promoting freedom of expression. Because when citizens have demanded their rights to express their voices, the freedom of expression will be promoted. Likewise, when citizens adhere to this right and freedom, the government can hear what they want and need. In short, she said that the free expression in Cambodia has not been limited because there is not press law and other law to limit the development of expressing opinions and she hopes that human rights, particularly the freedom of expression will be better and better by increasing the number of citizens who are on the social medias in the future (Rany and Raksa, 2016, pp. 15-16).

Human rights, particularly, freedom of expression has been violated by the government for many years. Cambodian citizens, workers and civil society have been threatened and violated. MP Ou Channrith, Opposition Human Rights Party, said that:

The government has used several methods of suppression towards the citizens of Cambodia including the armed forces and judicial system to threaten and stifle the opposition party, civil society, workers and its citizens (RFA, 2012-08-29).

Furthermore, on page 15 of Rany and Raksa thesis wrote that:

It is the fundamental right to express oneself in whatever way, shape or form, both direct or indirect toward the problems of society without violation of the law. According to them, the freedom of expression has developed for five years as the increasing number of Facebook users who express their opinions through two radios stations such as Voice of America (VOA) and Radio Free Asia (RFA) give chances to citizens to express their ideas and ask the questions about all problems in society (Rany and Raksa, 2016, p. 15.).

Additionally, Rany and Raksa continue analyzing the freedom of expression in their book on page 18 that:

Freedom of expression is the means citizens express their ideas, interest, favor, and whatever they want to say without fear of threats. However, freedom of expression has

been limited in a small part that can have a negative impact because citizens cannot express their thoughts when something has happened or criticized managers or company owners for being selfish. Thus, some cases are still limited but the freedom of expression starts developing gradually (Rany and Raksa, 2016, p. 18).

Also, the freedom of expression, pointed out by Raksa and Rany in their book, *The Enhancement of Freedom of Expression in Cambodia: Critical Political Analysis and Challenges*, on page 19 that:

Freedom of expression is the means to freely express opinions without fear. Furthermore, he explained strongly that freedom of expression in Cambodia is still limited. Even though it has developed through social networks or any other modern technologies which can make citizens express their views freely, it is still limited because of the people's class, position in society, or money (Rany and Raksa, 2016, p. 19).

A 19-year-old high school girl who is in grade 12 at Boeung Trobaek High School, Ms. Keo Prom Pisey expresses her idea related to freedom of expression:

She is not sure about what freedom of expression is. She just realizes that it is just a kind of human right that exists, but it is in reality implemented. Some citizens do not understand what freedom of expression means. But today, a lot of citizens have realized to start expressing what they do need, or want (Pisey, 2015, pp. 16-17).

In spite of the narratives drawn from the abovementioned perspectives of the public citizens, it is clear that the freedom of expression in Cambodia is unpopular, however, the government limits every possible means of empowering rights to freedom of expression.

### 3.3.2 THE PERSPECTIVES OF THE CIVIL SOCIETY

Civil Society means that individuals or groups work together in activities that share or promote common benefits such as the maintenance of peace and security, development, realization and respect for human rights (UN, Mon 26 Jan 2015).

Local NGOs in Cambodia promote civil society which monitors the conditions of human rights and the right to freedom of expression. Its reports reveal that the condition of freedom of expression in Cambodia is weak. However, the civil society serves as the agent that fills the gaps in the Cambodian Government. Thus, the civil society focuses only on the NGOs and IGOs (Rany and Raksa, 2016, p. 21).

The World Association for Christian Communication (WACC), a non-governmental organization that builds on rights communication for promoting social justice, points out the freedom of expression has continued to suffer serious restrictions in Cambodia and notable challenges remain ahead to shift a legislative landscape and finish the silent culture. Furthermore, freedom of expression has been guaranteed in Cambodia by both domestic and international laws which were pledged by Cambodia to protect and promote these fundamental rights. The restriction of legislation, judicial harassment of civil society actors and censorship of media have created a silent culture and banned the full enjoyment of freedom of expression. The situation of freedom of expression in Cambodia has remained terrible (WACC, 19 Feb 2015). The 75 undersigned non-government organizations showed deep concerns about independent media and their journalists who have been harassed by the royal government of Cambodia (HWR, November 2, 2020). The freedom of media outlets and journalists have been oppressed and restricted. The term freedom of expression, is explained by the Cambodian Center for Human Right (CCHR), as the cornerstone of democracy and the fundamental freedoms.

Moreover, the CCHR realized that the commemoration of the third anniversary of Dr. Kem Ley's killing on 10 July 2019 was observed and excessively restricted by the authorities of Cambodia to the right to freedom of peaceful assembly and free expression of the public people who would like to pay their respects to Dr. Kem Ley. Youth activists, students, and representatives of unions and civil society together gathered at Caltex Bokor gas station, Phnom Penh, to offer flowers to Dr. Kem Ley's memory. Around 100 mixed police and security forces prevented people from offering the flowers in front of Caltex Bokor to pay their respects and all activists were harassed (CCHR, 11-07-2019).

The Reporters Without Border (RSF), called for the release of a journalist, a Cambodian national, who was arrested for nothing other than his criticism towards the approach in which the royal government of Cambodia' was handling the Coronavirus pandemic. His arrest was a reflection of the royal government of Cambodia's use of the outbreak to silence dissent. Furthermore, the RSF shows that the standard of freedom of expression in Cambodia is weak, which ranks in the number 144 out of 180 countries in the globe ranking in 2021 of total score 46.84 (RSF, July 21, 2021). According to the RSF, the freedom of expression in Cambodia is limited and narrow.

### **3.4 SUMMARY OF CHAPTER 3**

This chapter revealed that the condition of the right to freedom of expression in Cambodia has declined and has been limited and restricted even though the royal government of Cambodia claims that the freedom of expression has been freely opened. The perspectives of the CPP and dissolved CNRP on the freedom of expression in Cambodia have different views. The CPP, ruling party, claims that the condition of free expression has been good, however the dissolved CNRP

sees that the freedom of expression is not strong enough due to its limitations and restrictions. The public citizens and civil society observe that the fundamental rights and freedoms, particularly freedom of expression, has been restricted and limited by the royal government of Cambodia. The next chapter will examine the mechanisms of the protection of the right to freedom of expression in Cambodia.





## **CHAPTER 4**

### **THE MECHANISMS OF THE PROTECTION OF RIGHT TO FREEDOM OF EXPRESSION IN CAMBODIA**

#### **4.1 INTRODUCTION**

The freedom of expression is the fundamental right which must be promoted and protected. In this chapter, the researcher will discuss how the freedom of expression should be protected. The domestic law, Cambodian Constitution, the international law and other conventions are the mechanisms to protect the right to freedom of expression for the Cambodian citizens who live in the democratic society and have full right to express their opinions without fear of any sorts.

#### **4.2 THE DOMESTIC LAW**

The Constitution of Cambodia is the supreme law of the nation. The kingdom of Cambodia recognizes and respects human rights and freedoms which are the fundamental rights of the people and follows the United Nations Charter, the Universal Declaration of Human Rights, Covenants and Conventions that concerns human rights, women's rights and children's rights. Khmer people should be equal before the law, with the same rights, freedoms and obligations regardless of race, color, sex, language, religious belief, political tendency, national origin, social status, wealth or social status. The exercise of personal rights and freedom by any individual shall not adversely affect the rights and freedom of others. The exercise of such rights shall be in accordance with the law (CC, 1993). Moreover, the Cambodian Constitution guarantees to respect and to promote the freedom of citizens, including freedom of information, freedom of publication, particularly,

freedom of expression which states in the article 41 of the Chapter III, the Rights and Obligations of Khmer Citizens, provides that:

Khmer people shall have freedom of expression of ideas, freedom of information, freedom of publication and freedom of assembly. No one shall exercise these rights to violate the honor of others, or to affect the good customs of society, public order and national security (CC, Article 41, 1993).

According to the Constitution of Cambodia, the Cambodian citizens have full rights and freedoms, especially freedom of expression guaranteed, promoted and protected by the Constitution to allow citizens to express their ideas and opinions without disrupting others, or being a nuisance toward the public or pose threats to national security. Furthermore, the Cambodian Constitution plays a very important role to protect the Cambodian citizen's rights and freedoms, especially from the authoritarian government that is inclined to use power to violate and restrict human rights, and the freedom of expression. Furthermore, the article 80 of the Cambodian Constitution shows the protection of freedom of expression which is exercised by the National Assembly Members. As it states that:

No National Assembly Member shall be detained, prosecuted or arrested because of opinions expressed during the exercise of his or her duties. The prosecution, detention or arrest of a National Assembly Member should be made by the permission of the National Assembly or the National Assembly Standing Committee between sessions, except in case of flagrante delicto offense. The competent authority, in that case, shall immediately report to the National Assembly or the Standing Committee for permission (CC, 1993).

The freedom of opinions and expression expressed or exercised by the member of the national assembly in his/her duties have been protected.

In the Declaration of Human Rights in Cambodian Constitution in 1991 Paris Peace Accord ended the conflict in Cambodia and established the international human rights norms as a basic lasting peace. In this agreement, Cambodia makes sure that the human rights and fundamental

freedoms of Cambodian citizens must be promoted and protected which states in article 15 of this agreement in paragraph 2 part A, Cambodia undertakes:

To ensure respect for and observance of human rights and fundamental freedom in Cambodia, to support rights of all Cambodians to undertake activities that would promote and protect human rights and fundamental freedoms, to take effect measures to ensure that the policies and practices all the past shall never return, to adhere to relevant international human rights instrument (OUNHCHRCCO, 2008).

In this article, the Cambodian citizens should receive the full human rights and fundamental freedoms, particularly, freedom of expression as the democratic country stated by the Cambodian Constitution, which follows the Universal Declaration of Human Rights (UDHR) that was proclaimed by the United Nations General Assembly.

#### **4.3 THE INTERNATIONAL LAW**

The International Law and International Covenant that concern with the fundamental human rights and freedoms, including the Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights (ICCPR), play very important role to protect the world order, especially to protect the universal human rights and freedoms, including freedom of expression which is the fundamental human rights.

##### **4.3.1 THE UNITED NATION DECLARATION OF HUMAN RIGHTS (UNDHR)**

The Universal Declaration of Human Rights (UDHR) was adopted and proclaimed by the United Nations General Assembly on 10 December 1948 that has enshrined the rights and freedoms of all human beings in the world. The UDHR is the International Human Rights law that was created to prevent human rights abuse and promote the fundamental human rights and freedoms, including freedom of press, freedom of publication and freedom of expression and so

forth. All member states have pledged themselves to achieve the promotion of universal respect for and observance of the human rights and freedoms which are fundamental to the lives of human beings. All human beings have equal rights and freedoms, particularly, freedom of expression, ideas and opinions toward their governments and the world at large. In the article 19 of the UN Universal Declaration of Human Rights stipulates that:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers (UN. UDHR, 1984).

The UDHR is the universal mechanism to promote, protect and strengthen the human rights and fundamental freedoms of all humankind in the globe. All people all over the world have been protected by the Universal Declaration of Human Rights and other international covenants and all member states of the United Nations have to practice the principle of human rights respect and follow the Universal Declaration to promote and protect human rights.

#### **4.3.2 THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)**

The ICCPR was adopted on 19 December 1966 by the General Assembly of the United Nations and came into force on March 23, 1976 (UN, 1976) and it is the treaty agreement central to strengthening the freedom of expression in the International Human Rights Law. This covenant was adopted to guarantee, promote and protect the civil and political rights and freedoms of human beings throughout the world. All state parties should recognize the International Covenant on Civil and Political Rights that proclaimed in the Charter of the United Nations as the inherent dignity, equal and inalienable rights of all human kinds. Moreover, the obligation of the state parties under

the Charter of the United Nations is to respect, promote, protect and observe the universal human rights and freedoms. The rights and freedom of expression of all human beings throughout the globe have been promoted and protected by international law. The ICCPR aims at the recognition of the inherent dignity of everyone and undertakes to promote and strengthen the condition of the human rights and freedoms in the states to allow the enjoyment of civil and political rights. Nevertheless, all humankind have equal rights and freedoms to express their ideas and opinions that states in the article 19, part III, of the International Covenant on Civil and Political Rights which is similar to the UDHR and provides that:

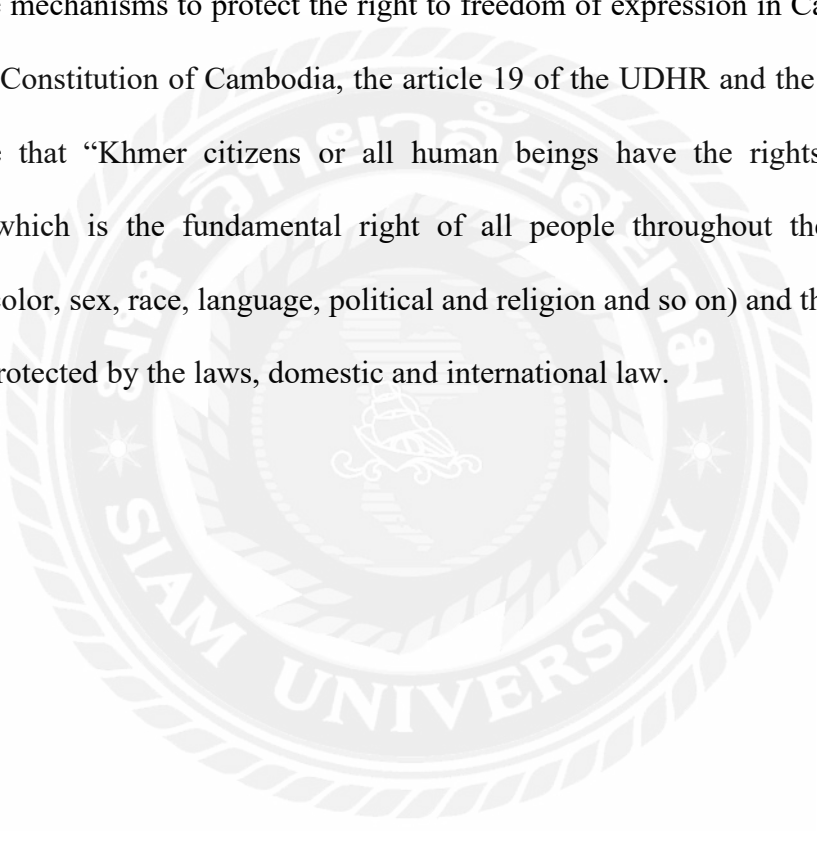
Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through other media of his choice (UN, 1976).

Cambodia accepted the International Covenant on Civil and Political Rights in 1992 and it also contained the legal obligations on state parties to promote and respect the freedom of expression (CCHR, 2010). All state parties that accepted the ICCPR have to promote, protect and respect the universal human rights, including the right to freedom of expression which is the strong pillar and representative of democracy. Nevertheless, all human beings have the inherent rights and freedoms which have been promoted and protected by the law, particularly the international law, including the International Covenant on Civil and Political Rights that has been agreed and enforced by all member states of the United Nations. Furthermore, the member states pledged to promote and protect the human rights and fundamental freedoms that everyone must have since birth. Thus, the member states have to take appropriate measures to strengthen, promote and protect the human rights and freedoms, especially the freedom of expression, which is the cornerstone of the democracy to cooperate with International Covenant to develop and respect the

human rights and freedoms both within and outside regions. According to this international covenant, the freedom of expression in Cambodia should be promoted and protected.

#### **4.4. SUMMARY OF CHAPTER 4**

The domestic law, the Constitution of Cambodia, and international laws, the Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights (ICCPR), are the mechanisms to protect the right to freedom of expression in Cambodia. As like article 41 of the Constitution of Cambodia, the article 19 of the UDHR and the article 19 of the ICCPR stipulate that “Khmer citizens or all human beings have the rights to freedom of expression...”, which is the fundamental right of all people throughout the globe without discrimination (color, sex, race, language, political and religion and so on) and the cornerstone of the democracy protected by the laws, domestic and international law.



## CHAPTER 5

### CONCLUSION AND RECOMMENDATIONS

#### 5.1. CONCLUSION

This research reveals that the situation of human rights in Cambodia, particularly, freedom of expression, faces increasing decline as a result of abuse of human rights in Cambodia, especially, the Khmer Rouge regime which killed between 1.75 and 2.2 million (Michael, 2010). Cambodia experienced a lot of political regimes, including SangKum Reastra Niyum (Sihanouk), Khmer Republic (Lon Nol) and Khmer Rouge (Pol Pot), that have made the human rights in Cambodia decline. Moreover, the human rights and fundamental freedoms, including freedom of expression during the Covid-19 pandemic, led by Prime Minister Hun Sen's government, has been restricted and those who express their opinion toward the governmental approach in handling Coronavirus face charges of spreading fake news.

The condition of the right to freedom of expression in Cambodia has continuously declined even though the royal government of Cambodia claims that the freedom of expression in Cambodia has been freely opened and fully respected. The CPP and dissolved CNRP share different perspectives on the freedom of expression in Cambodia. The CPP, ruling party, claims that the condition of free expression has seen improvement, whereas the dissolution of CNRP sees the opposite. Furthermore, the public citizens and civil society observe that the fundamental rights and freedoms, especially the freedom of expression has been severely restricted and limited by the royal government of Cambodia.

In addition, the domestic law, the Constitution of Cambodia, and international laws, the Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights (ICCPR), are the mechanisms to protect the right to freedom of expression in Cambodia. As like article 41 of the Constitution of Cambodia, the article 19 of the UDHR and the article 19 of the ICCPR state that “Khmer citizens or all human beings have the rights to freedom of expression...”, which is the fundamental right of all people world over, without discrimination (color, sex, race, language, political and religion and so on) and the cornerstone of the democracy and protected by the laws, domestic and international law. Thus, the rights and the fundamental freedoms of Cambodian citizens must be promoted and protected as stated in the Cambodian Constitution, UDHR and ICCPR, which guarantee to respect the universal human rights and freedoms, particularly freedom of expression.

## **5.2. RECOMMENDATION**

The government of the Kingdom of Cambodia should:

1. Respect the universal human rights and fundamental freedoms, particularly freedom of expression, which is the cornerstone of democracy.
2. Enforce the principles of human rights that are stated in both the Constitution of Cambodia, and international laws, UDHR and ICCPR.
3. Take appropriate actions to strengthen and promote the human rights and freedoms for Cambodian citizens who participate in the political activity to freely express their ideas and opinions without threats of any kind, shape or form.



4. Not interfere with the human right defenders as well as the national and international civil society organizations that have an obligation to observe the human rights violation in Cambodia.
5. Not restrict and oppress the right to freedom of journalists and the media outlets that allow the abuse of power on certain Cambodian citizens.
6. Take effective measures to make sure that the past event of the killing and human rights abuse in the Pol Pot's genocide regime do not return.
7. Eliminate harassment of any shape or form and arbitrary arrest of the dissolve opposition party members (CNRP) and human right workers, for example, in the case of Dr. Kem Ley assassination.
8. Make a strong commitment to investigate perpetrators who have used violence or intimidation on decent citizens and bring all those perpetrators to justice.
9. Invite the United Nations Special Rapporteur which is good at promoting freedom of expression to visit and observe the situation of human rights in Cambodia and facilitate recommendations for developing the protection of the fundamental right to freedom of expression
10. Observe domestic law, Constitution of Cambodia, and international laws, UDHR and ICCPR, which are the mechanisms to protect human rights.

## REFERENCES

- Alexandra, D. (2016). *Electoral Authoritarianism in Cambodia: The China Factor* (Doctoral dissertation, Doctoral dissertation, Thammasat University, viewed 20 August 2020, [http://ethesisarchive.library.tu.ac.th/thesis/2016/TU\\_2016\\_5403040024\\_6464\\_5575.pdf](http://ethesisarchive.library.tu.ac.th/thesis/2016/TU_2016_5403040024_6464_5575.pdf)).
- Amnesty International. (2020). *Cambodia: Overcrowded detention centres a ticking time bomb for COVID-19 amid raft of “fake news” arrests*. Retrieved from: <https://www.amnesty.org/en/latest/news/2020/03/cambodia-overcrowded-detention-centres-covid-19-raft-fake-news-arrests/>. On 01. 12. 2020.
- ASEAN. (2013). *Human Rights Declaration and Phnom Penh statement on adoption of the ASEAN Human Rights Declaration, civil and political rights*.
- Boraden Nhem, LTC, Royal Cambodian Armed Forces. (2006). *THE THIRD INDOCHINA CONFLICT: CAMBODIA’S TOTAL WAR*
- Cambodian Constitution. (1993). *Chapter III: The Rights and Obligations of Khmer Citizens*. Retrieved from: [file:///D:/Proposal,%20Is,%20Rights/freedom%20of%20expression/Constitution%20of%20Cambodia\\_2008.pdf](file:///D:/Proposal,%20Is,%20Rights/freedom%20of%20expression/Constitution%20of%20Cambodia_2008.pdf). On 05. 12. 2020.
- CCIM. (2017). *Cambodia Center for Independent Media*. Retrieved from: <https://www.ccimcambodia.org/wp-content/uploads/2018/02/Challenges-for-Independent-Media-2017-English.pdf>. On 10. 12. 2020.
- CCHR. (2010). *CAMBODIA GAGGED: DEMOCRACY AT RISK? Report on Freedom of Expression in Cambodia*. Retrieved from:

- File:///D:/Proposal,%20Is,%20Rights/Human%20Rights/cambodia-gagged-democracy-at-risk.pdf. On 18. 12. 2020.
- CCHR. (2019). *CCHR Alert – Phnom Penh, 11 July 2019 Third anniversary of the killing of Dr. Kem Ley marked by restrictions to the rights to freedom of expression and freedom of peaceful assembly, including arrests of youth activists*. Retrieved from:  
[https://cchrcambodia.org/index\\_old.php?url=media/media.php&p=alert\\_detail.php&alid=75&id=5](https://cchrcambodia.org/index_old.php?url=media/media.php&p=alert_detail.php&alid=75&id=5). On 20. 12. 2020.
- Evamysliwiec. (2010). *Punishing the Poor the International Isolation of Kampuchea*. Retrieved from: file:///D:/Proposal,%20Is,%20Rights/Punishing%20the%20poor,%20Kampuchea.pdf. On 25. 12. 2020.
- Freedom House. (2020). “*Freedom in the World 2020: A Leaderless Struggle for Democracy*”<sup>1</sup>, online (pdf): Freedom House. Retrieved from:  
[https://freedomhouse.org/sites/default/files/202002/FIW\\_2020\\_REPORT\\_BOOKLET\\_Final.pdf](https://freedomhouse.org/sites/default/files/202002/FIW_2020_REPORT_BOOKLET_Final.pdf). On 11. 01. 2021.
- George Wright & George Styllis. (2018). “*Facebook now ‘crucial’ news source in run-up to Cambodia election*” *Nikkei Asian Review online*. Retrieved from:  
<https://asia.nikkei.com/Spotlight/HunSen-s-Cambodia/Facebook-now-crucial-news-source-in-run-up-to-Cambodia-election>. On 11.02 2021.
- Human Rights Watch. (2020). *Cambodia: Emergency Bill Recipe for Dictatorship*. Retrieved from: <https://www.hrw.org/news/2020/04/02/cambodia-emergency-bill-recipe-dictatorship>. On 15. 02. 2021.
- Human Rights Council. (2019). *Situation of human rights in Cambodia: Report of the Special Rapporteur on the situation of human rights in Cambodia*.

HRW. (2020). *Cambodia's Government Should Stop Silencing Journalists, Media Outlets*.

Retrieved from: <https://www.hrw.org/news/2020/11/02/cambodias-government-should-stop-silencing-journalists-media-outlets>. On 30. 03. 2021.

HRW. (2021). *Cambodia: Stop Silencing Critical Commentary on Covid-19*. Retrieved from:

<https://www.hrw.org/news/2021/05/25/cambodia-stop-silencing-critical-commentary-covid19>. On 05. 04. 2021.

ICJ. (2016). *Cambodia: Kem Ley's killing demands immediate credible and impartial*

*investigation*. Retrieved from:

<https://www.icj.org/cambodia-kem-leys-killing-demands-immediate-credible-and-impartial-investigation/>. On 15/04/2021.

Jack Donnelly. (1989). *Universal Human Rights in Theory and Practice*. New York, Cornell

University Press.

Kate Seewald. (2020). Shrinking space for free expression in Cambodia during Covid-19:

*Opportunistic repression or proportionate necessity?* Retrieved from:

file:///D:/Proposal,%20Is,%20Rights/freedom%20of%20expression/Freedom%20of%20Expression%20during%20Covid-19.pdf. On 17. 04. 2021.

Kassie Neou. (2000). *HUMAN RIGHTS IN ACTION—DEVELOPING PARTNERSHIPS*

*BETWEEN GOVERNMENT AND CIVIL SOCIETY—OUR UNIQUE NON-*

*CONFRONTATIONAL APPROACH IN CAMBODIA*. Retrieved from:

file:///C:/Users/Kun%20Thea%20Pro/Desktop/kassie\_neou.cambodia.pdf. On 20. 04. 2021.

Leonie Kijewski. (2019). *Cambodian opposition leader Kem Sokha freed from house arrest*.

Retrieved from: <https://www.aljazeera.com/news/2019/11/10/cambodian-opposition-leader-kem-sokha-freed-from-house-arrest>. On 25. 04. 2021.

MICHAEL BERNARD LEOFRIC MILLER. (2010). *A KIND OF DEMOCRACY: Political Domination in the Problematic Development of Democracy in Cambodia*.

Office of the United Nations High Commissioner for Human Rights Cambodia County Office.

(2008). *Declaration of Human Rights in the Cambodian Constitution, Part III: Human Rights, Article 15, Paragraph 2*. Retrieved from:

file:///C:/Users/Kun%20Thea%20Pro/Desktop/New%20folder/THE%20DECLARATION%20OF%20human%20rights%20in%20Cambodian%20Constitution.pdf. On 01. 05. 2021.

Pisey. (2015). *Interview by Rany, The Enhancement of Freedom of Expression in Cambodia: Critical Political Analysis and Challenges*.

Radio Free Asia. (2012). Officials Slam Rights Report. Retrieved from:

<https://www.rfa.org/english/news/cambodia/report-08292012184639.html>. On 05. 05. 2021.

RSF. (2021). *Cambodian reporter facing five years in prison for comment about vaccines*.

Retrieved from: <https://rsf.org/en/news/cambodian-reporter-facing-five-years-prison-comment-about-vaccines>. On 10. 05. 2021.

Rany & Raksa. (2016). *The Enhancement of Freedom of Expression in Cambodia: Critical Political Analysis and Challenges*. Retrieved from:

file:///C:/Users/Kun%20Thea/Desktop/freedom%20of%20expression/The\_Enhancement\_of\_Freedom\_of\_Expression.pdf. On 19. 05. 2021.

Siti Galang Keo. (2019). *Writing the Postcolonial City: Phnom Penh and Modernity during Sangkum Reastr Niyum, 1955-1970*. Retrieved from:

file:///D:/Proposal,%20Is,%20Rights/Sihanu.pdf. On 22. 05. 2021.

Sok Udom Deth. (2014). *Factional Politics and Foreign Policy Choices in Cambodia-Thailand Diplomatic Relations, 1950-2014*.

Shannon Colleen Hartmann. (2018). *Scripting Mass Atrocity: Cambodia under the Khmer Rouge, University of Nevada, Reno*. Retrieved from:

file:///D:/Proposal,%20Is,%20Rights/Cambodia%20under%20the%20Khmer%20Rouge.pdf. On 28. 05. 2021.

Universal Declaration of Human Rights by United Nations. (2015). *Illustrations by Yacine Ait Kaci (YAK)*. Retrieved from:

[https://www.un.org/en/udhrbook/pdf/udhr\\_booklet\\_en\\_web.pdf](https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf). Retrieved. On 29. 05. 2021.

UN. (1984). *Universal Declaration of Human Rights (UDHR), Article 19*. Retrieved from:

file:///D:/Proposal,%20Is,%20Rights/freedom%20of%20expression/Universal%20Declaration%20of%20HR.pdf. On 20. 06. 2021.

UN. (1976). *International Covenant on Civil and Political Rights*. Retrieved from:

file:///D:/Proposal,%20Is,%20Rights/freedom%20of%20expression/(ICCPR)International%20Covenant%20on%20Civil%20and%20Political%20Rights.pdf. On 25. 07. 2021.

WACC. (2015). *Cambodia: a long way towards freedom of expression*. Retrieved from:

<https://waccglobl.org/cambodia-a-long-way-towards-freedom-of-expression>. On 02. 09. 2021.