



KINGDOM OF CAMBODIA
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**Permanent Mission of the Kingdom of Cambodia
to the United Nations Office and other
International Organizations at Geneva**

No: 2023/05/276

The Permanent Mission of the Kingdom of Cambodia to the United Nations Office and other International Organizations at Geneva presents its compliments to the Office of the High Commissioner for Human Rights and, with reference to the joint communication No. AL KHM 1/2023 dated 20 January 2023 of the Special Procedures, has the honour to attach herewith clarification from the Ministry of Interior of the Kingdom of Cambodia as to the case of Ms. Chhim Sithar, President of the Labour Rights Supported Union of Khmer Employees of NagaWorld.

The Permanent Mission of the Kingdom of Cambodia would be grateful if the Office of the High Commissioner for Human Rights could convey the said information to its highest destination.

The Permanent Mission of the Kingdom of Cambodia to the United Nations Office and other International Organizations at Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 30 May 2023



Office of the High Commissioner for Human Rights
Geneva

Clarification from the Ministry of Interior of the Kingdom of Cambodia to the Joint Communication of the Special Procedures No. AL KHM 1/2023 dated 20 January 2023, regarding the arrest of Ms. Chhim Sithar, President of the Labour Rights Supported Union of Khmer Employees of NagaWorld.

1. Please provide any additional information and/or comments(s) you may have on the above-mentioned allegations.

The Ministry of Interior would like to provide the special procedures with the following account of Ms. Chhim Sithar's activities prior to the large-scale strike that occurred in 2021.

- In January 2020, Ms. Chhim Sithar issued a press statement to her members, demanding the company's unconditional reinstatement and wage increases of \$500 for casino workers and \$300 for hotel workers. Ms. Chhim Sithar boldly announced gatherings of her members for strikes, depending on a foreign union named Uniting Food, Farm, and Hotel Worker's World Wide (IUF UITA IUL), based in Switzerland. This union organization had previously met with Ms. Chhim Sithar and the workers of NagaWorld and was the initiator of the demands submitted to the company. Ms. Chhim Sithar assured her union members by stating that, "Our union has a foreign guardian called IUF and has the support of local and foreign organizations to help us achieve success."
- Ms. Chhim Sithar, who was backed by foreigners, engaged in all kinds of illegal activities, including going on strikes while using the imagery of the "revolutionary fist." This symbol was used to oppose and overthrow governments in Eastern and Middle Eastern European countries. Furthermore, Ms. Chhim Sithar and the union members carried out activities in support of the protest leader of the umbrella revolution and face mask, ██████████ ██████████ in Hong Kong, against the Beijing government. She led the activists with banners that read, "NO EXTRADITION BILL, SUPPORT HONG KONG YOUTH & UNIONS TO DEFEND DEMOCRACY."
- All of Ms. Chhim Sithar's activities aligned with the protests of ██████████ ██████████ in Hong Kong, which aimed to oppose China using "Face mask." She also took strike actions at NagaWorld using the "Pink Mask" campaign organized by foreign union organizations and foreigners who were prepared to go on strike during the Cambodia's National Independence Day on November 9. This coincided with the outlawed rebellious factions ██████████ ██████████ ██████████ ██████████. Similarly, the Hong Kong protest leader, ██████████ ██████████ and continued their campaign plans "Pink Masks" during Cambodia's Water Festival but their plans were unsuccessful. After the failure of the "Pink Mask" campaign, the aforementioned foreign unions organized another campaign for Ms. Chhim Sithar, requiring her union members to wear "black ribbons" and participate in the "rubber blue bangle" campaign.
- Despite all their efforts to conduct all kinds of campaigns, the demands with the company for Ms. Chhim Sithar's reinstatement with other conditions remained

unsuccessful. Faced with a series of failures, Ms. Chhim Sithar began holding daily meetings from 10 o'clock in the morning to continue organizing strikes and devising strategies for members to put pressure on the company for reinstatement with other conditions by starting the large-scale strikes from 18 December 2021 onwards. The NagaWorld company lodged a complaint with the Phnom Penh Municipal Court of First Instance, requesting a protection order due to concerns about the potential impact on the company.

2. Please provide information concerning the factual and legal grounds for the arrest of Chhim Sithar, and whether an arrest warrant was presented. Please also clarify whether she is fully notified of her bail conditions and whether those contained a travel ban, and if her legal counsel was allowed to examine the relevant file. If that was not the case, please explain why and how these measures are compatible with international human rights norms and standards as stated, inter alia, in the UDHR and the ICCPR.

On 16 December 2021, the Phnom Penh Court of First Instance issued the following protection order:

- The prohibition of the strikes of NagaWorld workers from 18 December 2021 onwards.
 - The workers who persist in striking in violation of this decision will be considered engaged in an illegal strike and will be regarded as committing a serious offense.
- On 18 December 2021, the day of the first large-scale strikes directly led by Ms. Chhim Sithar, a bailiff of the prosecution at Phnom Penh Court of First Instance executed the order in front of the striking workers. However, the strikers still refused to listen and show respect, despite the issuance of a letter by the Phnom Penh Capital Hall administration. The letter stated that “the leading of the demonstrations was in violation of the agreement between the union representatives and the Phnom Penh Capital Hall administration, as well as in violation of Chapter 2, Article 4 of the Law on Demonstrations. The striking workers did not notify the authorities and failed to adhere to the health rules. The Phnom Penh Capital Hall administration requested an immediate end to the illegal protests, emphasizing that continued actions would result in legal consequences.
- Despite the protection order and appeal from the Phnom Penh Court of First Instance, Ms. Chhim Sithar and her members obstinately refused to listen, respect, and comply. She persisted in acting against the law by leading demonstrations, obstructing public roads, and arbitrarily closing entrances and exits of ministries, state institutions, and private buildings. They did not cooperate with the authorities in implementing the health rules. They prevented testing, which had a negative impact on public welfare, social order, and created social insecurity.
- Furthermore, Ms. Chhim Sithar's latest activities took place on 29, 30 and 31 2022, at 9:30. She conducted an online meeting (via Zoom) with over 900 members to continue planning the demonstrations as follows:

- We have reached the second stage.
 - The court order for protection has been issued on 16 December 2021, but we ignore.
 - The Phnom Penh City Hall has issued a press release alleging that the demonstrations are illegal, but we still ignore.
 - We have the front blocked, we have the back blocked, but we managed to go through.
 - [REDACTED]
 - We wish to set up an end-of-year tent specifically for single people with the intention of urging them to promptly complete the COUNTDOWN program. We want to have a solution before 31 December 2021.
 - The authorities now no longer dare to touch us. We have gone through all the stages. Now it is our turn to put pressure on them, as a few days ago, they imposed suffering on certain individuals. Now those people can no longer endure any more hardships.
 - As I have repeatedly said, I am a driver, I know the roads to drive. We are prepared and ready; but it is only you all who are not.
 - In war, it requires psychology to fight against giant companies. We will not win if we use emotions. So, let's stop using them.
 - We must remember that we are the heroes. In war, it's not just about using weapons; we need to employ strategies to win. Let's endure a little longer, and soon we will move past this stage.
 - On 31 December 2021, we will use our large groups. We will use strike funds to buy rice for our groups. we all must have flashlights. If you have young children, please send them to your relatives (we will discuss further tomorrow) to get involved as much as possible.
 - The strike to block entrance/exit will take place at the same location as planned on 29 December 2021.
 - It is a rare chance to go on strike at the end of the year. It will be recorded in our union's history.
 - We hope to achieve 98% success today, leaving 2% for insiders.
 - Today, on 31 December 2021, we will commence at 2:00 pm.
 - The Phnom Penh Capital administration has made an appeal, and if they do not allow it, we will still proceed. It is our rights.
 - it is extremely rare for us to experience strikes during the New Year's countdown. Even I myself am uncertain whether I will have another chance to participate in an end-of-year strike.
 - Our previous principle has been to stand where they block us. We will be at the place where they block us.
 - We want to carry out strikes late into the night until 2 am to find a quick solution.
- On 3 January 2022, the spokesperson of the prosecution at Phnom Penh Court of First Instance issued a press statement informing the public that on 2 January 2022, the prosecution at Phnom Penh Court of First Instance handled the case of nine suspects: [REDACTED]

- [REDACTED]
- Ms. Chhim Sithar, who displayed stubbornness and disregarded the law, led the demonstrators in staging anarchic protests that resulted in social unrest. She particularly refused to comply with the notifications issued by the Phnom Penh Capital Administration and broke the health rules. As a result, she was detained by the national police on 4 January 2022.
 - The police conducted a forensic examination of mobile phones and computers, revealing evidence of financial support from overseas and three organizations (one foreign organization and two local organizations). Tens of thousands of dollars were provided to support the illegal demonstrations. These funds were transferred step by step through banks, with the funds originating from abroad, and eventually reached the demonstrations. Tens of thousands of dollars were transferred to an individual, who then directly passed them on to Ms. Chhim Sithar, the leader of the protests, on multiple occasions. These evidences were discovered in the computers belonging to the groups of illegal protest movement.
 - On 5 January 2022, the Phnom Penh Court of First Instance ordered a temporary detention of Ms. Chhim Sithar in Prey Sar Prison.
 - On 12 March 2022, Ms. Chhim Sithar wrote a letter to [REDACTED], the Minister of Labor and Vocational Training, requesting legal intervention for temporary bail. The purpose of this request was to enable her participation and facilitate finding a solution to the labor disputes at NagaWorld. At the same time, Ms. Chhim Sithar pledged to cooperate with the authorities and strictly adhere to the health rules. She assured that she would not obstruct testing, refrain from gathering people, or lead any protests that could disrupt public order and national security.
 - Through coordination of the Ministry of Labor and Vocational Training and the Ministry of Justice, the Phnom Penh Court of First Instance granted legal intervention to allow Ms. Chhim Sithar to be on temporary bail.
 - On 14 March 2022, the Phnom Penh Court of First Instance ordered release of Ms. Chhim Sithar on bail. The court instead ordered the accused to be under judicial supervision for the charges of "incitement to cause serious chaos to social security committed in Cambodia in 2021," in accordance with Articles 494 and 495 of the Criminal Code. The court requires the accused, Ms. Chhim Sithar, a Cambodian national born on 15 December 1987, to fulfil the following legal obligations:
 - She must not change her place of residence without permission from the judicial authorities.
 - She must not leave the territory of the Kingdom of Cambodia without permission from the judicial authorities.
 - She must appear when summoned by the judicial authorities.
 - She must appear at Sangkat Phsar Thmey III Administrative Police Station once a month at the beginning of the first week of each month.
 - The Chief of the Sangkat Phsar Thmey III Administrative Police Station must enforce the order and provide regular reports to the investigating judge in case the accused intentionally fails to comply.

- If the charged person intentionally evades and does not comply with the first point, the charged person will be re-detained in accordance with Article 230 of the Criminal Procedure Code.
- This order is effective immediately.
- Since Ms. Chhim Sithor was granted bail, the negotiations aimed at finding a solution to the NagaWorld collective labor dispute, coordinated by the Ministry of Labour and Vocational Training (MLVT), as she had promised with the Minister of MLVT, have been held 21 times without yielding any results. Not only has she failed to help resolve the labor dispute as outlined in the contract, but she has also devised a plan to mobilize forces for demonstrations, causing insecurity and disrupting social order. Additionally, she has continued her activities with local and international civil society groups abroad, even daring to travel abroad once or twice without obtaining permission from the Phnom Penh Court of First Instance.
- On 23 November 2022, the Phnom Penh Court of First Instance issued an arrest warrant of Ms. Chhim Sithar as she had left the territory of the Kingdom of Cambodia without permission from the judicial authorities. On 26 November 2022, upon her return from Australia, Ms. Chhim Sithar was arrested at Phnom Penh International Airport in accordance with the arrest warrant.
- On 29 November 2022, the spokesperson of the Prosecution at Phnom Penh Court of First Instance provided a clarification regarding the detention of Ms. Chhim Sithar, based on Article 230 of the Code of Criminal Procedure. The article states that states “if the charged person intentionally evades the obligations of judicial supervision, the investigating judge can decide to provisionally detain the charged person.” In this sense, “if the accused Chhim Sithar leaves the territory of the Kingdom of Cambodia without permission from the investigating judge, it is considered a violation of the obligations of judicial supervision.
- In conclusion, the national police arrested Ms. Chhim Sithar in compliance with the judicial orders. While, the authority to permit her lawyer to examine related documents does not fall within the jurisdiction of the Ministry of Interior.

3. Please provide information on whether all detainees have access to family members and legal counsel.

The Ministry of Interior respects and implements the 2011 Law on Prisons.

4. Please explain what measures have been taken to ensure that all human rights defenders in Cambodia, including union leaders, can carry out their peaceful and legitimate activities without fear of judicial harassment, or other restrictions.

- The Ministry of Interior wishes to inform the special procedures that the Kingdom of Cambodia is a country governed by the rule of law, where the constitution serves as the supreme law that every citizen is obligated to respect and uphold. Furthermore, Cambodia has Labor Law, Law on Trade Union, and other laws that human rights defenders or trade union leaders must comply with. They are also required to follow the guidelines set by the relevant authorities.

- The Ministry of Interior cooperates and protect human rights defenders and union leaders who conduct rallies, protests, and expressions as exercises of their legally guaranteed rights and freedoms while adhering to security measures and maintaining public order. However, in the case of protests and unannounced expressions that do not involve cooperation with the competent authorities and violate security measures and disrupt social order, causing acts of violence and unrest that affect public order and the rights and freedoms of others, the relevant competent authorities are obliged to take action to prevent such violations. Individuals opposing these measures are also legally responsible. the National Police has never arrested or prosecuted workers or union leaders for their lawful actions in exercising the right to freedom of professional organization.

5. Please provide information on what action taken by the authorities, including the police, to protect the human rights and fundamental freedoms of the participants in these and other peaceful strikes.

- The Ministry of Interior wishes to inform the special procedures that the National Police cooperates with specialized officers to safeguard the rights and freedoms of individuals and enable participants in professional organizations and civil society organizations to exercise their right to assemble and freedom of expression. This can be done through forums or workshops aimed at protecting rights and freedoms in a non-violent and non-coercive manner, without posing any threats. However, the exercise of rights and freedoms should not infringe upon the rights and freedoms of others, and it must be in accordance with the conditions stipulated by law.