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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the situation of human rights in Cambodia; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.

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REFERENCE: AL G/SO 216/1 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
KHM 5/2012

13 August 2012

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in Cambodia; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 18/25, 16/4, 15/21, and 16/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the situation of Messrs. **Pen Bonnar** and **Chim Savuth**, staff members of the human rights non-governmental organizations Cambodian Human Rights and Development Association (ADHOC) and the Cambodian Center for Human Rights (CCHR) respectively.

The CCHR, together with other human rights non-governmental organizations, was the subject of a communication sent on 26 September 2011 by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders. We acknowledge receipt of the responses of your Government's Excellency dated 9 and 23 January 2012.

According to the information received:

On 27 July 2012, Messrs. Pen Bonnar and Chim Savuth were delivering a training course on land rights issues in Patang village, Rattanakiri province, when law enforcement officials from the village and province (one of them carrying a M16 assault rifle), accompanied by village leaders, interrupted the session. The law

enforcement officials reportedly acted upon instructions from the provincial authorities because the organizers had allegedly failed to notify the authorities that they would be holding the training session. However, it is reported that under article 3 of the Cambodian Law on Demonstrations (2009), organizers are exempted from the notification requirement when conducting education/training activities related to social interests. Nevertheless, the CCHR had sent a letter to the Chief of Patang village to inform him of the forthcoming training session. The law enforcement officials further accused ADHOC of undertaking “incitement activities”, and warned both men to leave the area, otherwise their security would not be guaranteed. As a result, Messrs. Pen Bonnar and Chim Savuth ended the training session in fear for their safety and the safety of the participants. Both men filed complaints to the R’kiri Provincial Court.

Concerns are expressed that the disruption of the human rights training course by law enforcement authorities, and the threats against Messrs. Pen Bonnar and Chim Savuth, may be related to the exercise of their right to freedom of peaceful assembly, of expression and association. Further concerns are expressed for the physical and psychological integrity of Messrs. Pen Bonnar and Chim Savuth, ADHOC and CCHR staff members in general, as well as the individuals benefitting from training sessions organized by these two organizations.

While we do not wish to prejudge the accuracy of these allegations, we wish to recall article 19 of the International Covenant on Civil and Political Rights, which provides that “[e]veryone 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.”

Similarly, we would like to refer to article 21 of the International Covenant on Civil and Political Rights, which provides that “[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.”

We would further like to recall article 22 of the International Covenant on Civil and Political Rights, which provides that “[e]veryone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that “[c]alls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on

the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

Furthermore, we would like to refer to the thematic report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/HRC/20/27), in which he called upon States to:

- “ensure that the rights to freedom of peaceful assembly and of association are enjoyed by everyone and any registered or unregistered entities, including... activists advocating economic, social, and cultural rights” (para. 84(b));

- “ensure that administrative and law enforcement officials are adequately trained in relation to the respect of the rights to freedom of peaceful assembly and of association” (para. 84(h));

- “ensure that law enforcement authorities which violate the rights to freedom of peaceful assembly and of association are held personally and fully accountable for such violations by an independent and democratic oversight body, and by the courts of law” (para. 84(i)); and

- “ensure that victims of violations and abuses of the rights to freedom of peaceful assembly and of association have to the right to an effective remedy and obtain redress” (para. 84(j)).

The Special Rapporteur on the rights to freedom of peaceful assembly and of association also stated that “States should facilitate and protect peaceful assemblies” (para. 89), and “any associations, including unregistered associations, should be allowed to function freely, and their members operate in an enabling and safe environment” (para. 96).

Furthermore, we would like to refer Your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

We would also like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully;

- article 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations; and

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Moreover, as it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Are the facts alleged in the summary of the case accurate?
2. Please indicate the legal basis of the disruption of the human rights training course, and how this measure is compatible with international human rights norms and standards as contained, inter alia, in the International Covenant on Civil and Political Rights and the Declaration on Human Rights Defenders.
3. In the absence of such a basis, please provide the details, and where available the results, of any investigation or other inquiries. What penal, disciplinary or administrative sanctions are envisaged for holding those responsible to account?
4. Likewise, in relation to the threats made against Messrs. Pen Bonnar and Chim Savuth by law enforcement officials, please provide the details and where available the results, of any investigation or other inquiries and the status of the complaints filed by them with the Ranatikiri Provincial Court. What penal, disciplinary or administrative sanctions are envisaged for holding those responsible to account?
5. Please indicate what protective measures will be taken to ensure that ADHOC and CCHR staff members can work in a safe and conducive environment.
6. Please indicate whether and how will Messrs. Pen Bonnar and Chim Savuth be compensated.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Messrs. Pen Bonnar and Chim Savuth are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Surya Prasad Subedi
Special Rapporteur on the situation of human rights in Cambodia

Frank La Rue
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Maina Kiai
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