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**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

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**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**

REFERENCE: AL G/SO 216/1 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)  
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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 24/29, 16/4, 24/5, 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 **current ban on demonstrations imposed in Phnom Penh, and the related arrest and detention of, and the alleged excessive use of force against, several peaceful protesters.**

Ms. Tep Vanny was the subject of a an urgent appeal sent on 4 June 2012 by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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; the Special Rapporteur on the situation of human rights in Cambodia; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on violence against women, its causes and consequences. We regret that we have not received responses to this urgent appeal to this date. We consider responses to our communications as an important part of the cooperation of Governments with the Special Procedures mandates, and urge the authorities to provide as soon as possible detailed responses to all the concerns raised in our communications.

According to the information received:

On 4 January 2014, hundreds of police and military police cordoned off Freedom Park in Phnom Penh – the epicenter of daily marches and demonstrations by the opposition Cambodia National Rescue Party (CNRP) in the preceding weeks – as around 100 men, mostly in blue uniforms without police or gendarmerie insignia, wearing motorcycles helmets, entered Freedom Park to dismantle tents and a stage that had been erected for the demonstrations. Instructions asked people to leave the Park, and many did. The men, armed with metal poles, iron bars, sticks axes and batons, chased hundreds of remaining opposition supporters, including Buddhist monks, from the park, indiscriminately beating people as they went.

Under the Law on Peaceful Demonstration, a “Freedom Park” is a designated area for public demonstrations, defined as “an appropriate compound or center, which the general public can easily hear and see [...] for holding peaceful assembly or public expression”. Although the Law on Peaceful Demonstration provides that there should be a designated Freedom Park in every province, currently only Phnom Penh has such a designated area. The above acts undertaken to clear Freedom Park of any facility set up for the demonstrations took place the day before the first of a three-day series of demonstrations planned by the CNRP to start on 5 January. The CNRP had duly notified the Phnom Penh Municipality of its intention to organize demonstrations on 5-8 January, which the Municipality rejected for reasons of public order.

In a letter dated 4 January from Phnom Penh Municipality to Mr. Sam Rainsy, the leader of CNRP, the Municipality explained that it had “decided not to allow the CNRP to continue demonstrations at Freedom Park or marches along the street in Phnom Penh starting from January 4, 2014, until security and public order is guaranteed”. The same day, the Ministry of Interior issued a statement which explained that: “to guarantee public order, demonstrations through gathering and marches must stop temporarily until security and order are restored to their normal state”. A letter from the Ministry of Foreign Affairs and International Cooperation of the Kingdom of Cambodia to “all Diplomatic Missions and International Organizations in Phnom Penh”, also dated 4 January, explained that as a result of “the activities of incitement that led to violence, loss of human lives, destruction of public and private properties, closures of public roads and repeated disturbances in the last few days, the Phnom Penh Municipality has decided not to grant permission to the [CNRP] to hold demonstrations and march along various streets in Phnom Penh city effective from 04 January 2014 onward until the security situation and social order returns to normalcy”.

Since the ban on demonstrations was announced, civil society representatives – including union activists, staff of non-governmental organizations, and community activists – have held a number of small to medium size demonstrations. For the most part, these gatherings have been dispersed by the authorities and some have resulted in arrests and detention without charge of the organizers. For example:

- On 6 January 2014, activists from Boeung Kak Lake were arrested while walking the short distance from their homes in Boeung Kak to the French Embassy in Phnom Penh where they planned to submit a petition calling for the release of the 23 arrested over alleged involvement in the violent incidents linked to protests of 2 and 3 January. Five women – Yorm Bopha, **Tep Vanny**, **Phan Chhunreth**, **Song Srey Leap**, and **Bo Chhorvy** – were released later that day after thumb printing documents stating that they would not protest again until the Government had determined that public order had been restored and had lifted the ban on public gatherings.

- On 19 January, **Sok Chhun Oeung**, acting president IDEA, was arrested at a peaceful vigil for the 23 people arrested on 2 and 3 January, which was attended by around 50 people. Sok Chhun Oeung is the acting president for IDEA as the president, Vorn Pao, was amongst the 23 arrested on 2 and 3 January. Sok Chhun Oeung was released without charge the following day after signing a document stating that he would (1) stop participating in acts the government deems illegal; (2) stop inciting others to commit acts the government deems illegal; and (3) report any demonstrations that the government deems illegal to the authorities.

- Similarly, on 21 January, 11 people were arrested in Phnom Penh as they tried to submit petitions to western embassies in the capital calling for the release of the 23 people detained on 2 and 3 January, together with around two dozen persons. The 11 were **Rung Chhun**, the President of the Cambodian Confederation of Unions, **Long Kimheang** from local non-government organization Housing Rights Task Force, and **Cheang Thida** from the Cambodian Alliance of Trade Unions, as well as eight activists from Phnom Penh's Boeung Kak community – an area in Phnom Penh that has been the subject to a high profile land dispute – as follows: **Tep Vanny**, **Song Srey Leap**, **Phan Chunreth**, **Bov Sorphea**, **Yorm Bopha**, **Em Sreytouch**, **Nguon Kimleng** and **Choung Sopheap**. They were released later on the same day without charge after being made to thumbprint documents stating they will (1) behave as good citizens; (2) not take any actions that are prohibited by law; (3) not participate in, lead, or incite people to illegally demonstrate; and (4) report any illegal activities that they observe to the authorities.

- On 27 January, a peaceful protest by several hundred persons led by **Mam Sonando** was violently dispersed by about one hundred military police and private security guards employed by a municipal district, with smoke grenades and batons. Deputy District Governor of Daun Penh Sok Penh Vuth, was reportedly seen directing district guards, calling for Sonando's arrest, striking a man on his motorbike and allowing guards and plainclothes men to continue beating him with batons. Multiple injuries were reported that day. A number of motorbikes and tuk-tuks at the scene were taken into the possession of the

authorities. A week later, on 5 February, the owners of these vehicles claimed them back from the Phnom Penh Municipality office without success.

In contrast, on 7 January, senior members of the ruling Cambodian People's Party – including the Prime Minister – presided over a gathering of up to 20,000 in Phnom Penh in commemoration of the fall of the Khmer Rouge on 7 January 1979. "Victory Over Genocide Day" is a public holiday and is commemorated each year by the Government.

Serious concern is expressed about the current ban on demonstrations imposed in Phnom Penh. Further concerns are expressed about the related arrest and detention of, and the alleged excessive use of force against, several peaceful protestors, in the exercise of their rights to freedom of opinion and expression and peaceful assembly.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer to your Excellency's Government to the following provisions of the International Covenant on Civil and Political Rights (ICCPR) ratified by Cambodia:

- article 19, which 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 any other media of his choice."
- article 21, which provides that "The 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.
- article 22, which provides that "Everyone 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 connection, we would like to further refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and 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."

We would also like to refer to the thematic report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/HRC/23/39), in which he stated that “blanket bans are intrinsically disproportionate and discriminatory measures as they impact on all citizens willing to exercise their right to freedom of peacefully assembly” (para. 63). He also called upon States to “ensure that any restriction complies with international human rights norms and standards, in particular in line with the strict test of necessity and proportionality in a democratic society, bearing in mind the principle of non-discrimination” (para. 81(b)). He further called to “provide organizers, whenever an assembly is restricted in compliance with international human rights norms and standards, with reasonable alternatives to hold their peaceful assemblies, which should be facilitated within “sight and sound” of the target audience” (para. 83(c)).

We would also 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”.

Furthermore, we would 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 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.
- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination,

pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

In addition, we would like to refer to the 2006 report to the General Assembly (A/61/312) (of the Special Representative of the Secretary-General on the situation of human rights defenders) and in particular its paragraph 98 which states that “in conformity with article 15 of the Declaration [on Human Rights Defenders], the Special Representative urges States to ensure that law enforcement agencies and their members are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies, including the Declaration on Human Rights Defenders, the Code of Conduct for Law Enforcement Officials and other relevant treaties, declarations and guidelines. The Special Representative also advises all States that all allegations of indiscriminate and/or excessive use of force by law enforcement officials should be properly investigated and appropriate action taken against the responsible officials”.

Moreover, since 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 a) the current ban imposed on demonstrations, b) the arrests and detention of the aforementioned peaceful protestors, and c) the documents these individuals have been asked to sign/thumbprint in order to be released. Please further indicate how these measures are compatible with the aforementioned international human rights norms and standards.
3. Please provide information about any investigations undertaken and sanctions imposed on public officials and members of the security forces, whether public or private, accused of exercising or ordering excessive use of force.

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 the above mentioned persons 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.

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