

**NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME**

**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 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 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 Housing (2000-9) G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
KHM 5/2011

26 September 2011

Excellency,

We have the honour to address you in our capacities as 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 pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/8, 16/4, 15/21 and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the suspension, warnings and acts of intimidation against non-governmental organizations (NGOs), including **Sahmakum Teang Tnuat (STT)**, **Bridges Across Borders Cambodia (BABC)**, the **NGO Forum on Cambodia (NGOF)**, the **Cambodian Center for Human Rights (CCHR)** and the **Natural Resource Protection Group (NRPG)**.

STT, founded in 2005, raises awareness about urban issues and provides technical assistance to people living in poverty regarding housing and infrastructure. BABC is an international NGO which works to overcome poverty, injustice and inequity in the Kingdom of Cambodia. The NGOF is an umbrella group of local and international NGOs which promotes information sharing, debate and advocacy on issues affecting development. The CCHR is a non-governmental organization that works to promote and protect democracy and human rights. The NRPG is a human rights organization which, among other activities, provides seminars on the protection of natural resources.

A communication was sent on 13 May 2011 to your Excellency's Government, by the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights in Cambodia expressing concern over **the**

provisions contained in the second draft of the Law on Associations and Non-Governmental Organizations (draft NGO Law). We regret that to date no reply has been transmitted by your Excellency's Government to this communication.

According to the information received:

It is reported that STT has worked mainly on two high profile development projects, namely Boeung Kak Lake and the Rehabilitation of the Railway Project, which would allegedly result in the eviction and displacement of thousands of families. It is further reported that some families have been relocated in places without water and electricity supply and that the compensation provided is insufficient to build their houses.

On 4 July 2011, it is alleged that STT published a report called "Rehabilitation of Cambodia's Railways: Comparison of Field Data", which reported on lower rates of compensation being paid to home owners affected by the Rehabilitation of the Railway Project. In addition, the report allegedly stated that a higher number of households would be affected than officially reported.

On 5 July 2011, an official authority of the Political Affairs Department of the Ministry of the Interior reportedly called a senior STT staff member requesting a meeting, which was held on 14 July 2011. During the meeting, STT and BABC were accused of blocking national development. STT was allegedly requested to submit new regulations and organisational structures by the end of 2011. In addition, they were told that another ministry had requested that STT be closed.

On 23 and 29 July 2011, a television program, shown several times on the national television stations TVK, Bayon and Apsara, described the two NGOs as composed of foreigners and acting against public order.

On 4 August 2011, it is reported that STT received a phone call asking it to collect a letter from the Ministry of the Interior. The letter dated 2 August 2011, stated that STT was suspended for five months due to a failure to modify its leadership structure and revise its statute. Allegedly no legal basis was given as to why the suspension was imposed and no further explanation was provided in the letter in relation to the legal content of the suspension. On 28 July 2011, STT had submitted these revised regulations and organisational structures.

On 11 August 2011, a number of civil society organisations reportedly rallied together in protest against STT's suspension with 40 national and international NGOs writing a joint statement demanding an immediate reversal of the decision.

On 13 August 2011, a statement was released from the Ministry of the Interior citing further reasons for the suspension. It is reported that one reason was that STT had changed its leadership three times without informing the relevant Ministry. Another reason was reportedly that STT opened a branch office in Kampot without authorisation from the local authority; STT denies this allegation.

Finally, the Ministry of the Interior raises the possibility of criminal prosecution under article 495 of the Penal Code and accuses STT of inciting people to oppose the Government's development projects in order to suspend or cease the railway restoration project in the province of Kampong Speu and in the city of Phnom Penh.

On 18 August 2011, the Ministry of Foreign Affairs and International Cooperation reportedly invited BABC and the NGOF to a meeting in which they were given a letter. This letter made reference to the concerns raised by those NGOs to the President of the Asian Development Bank regarding the resettlement impact of the Rehabilitation of the Railway Project. In its letter, the Ministry accused the NGOs of inciting the public against the Royal Government of Cambodia and strongly warned them about a possible termination of their memorandums of understanding if they repeated similar denunciations.

On 23 August 2011, about 130 national and international NGOs published a statement condemning STT's suspension.

It is further reported that human rights training sessions provided by CCHR and NRPNG to communities affected by the deforestation of Prey Lang forest have been disrupted. Their training sessions seek to inform people affected by the project about their legal rights established by the Constitution and international instruments.

It is reported that on 6 September 2011, CCHR was informed that monks in the community Dang Kambith of Kampong Thom province, were summoned by the District Governor. He reportedly prohibited the monks to provide access to CCHR and NRPNG to conduct a human rights training sessions.

On 7 September 2011, commune and district authorities as well as heavily armed police disrupted a human rights training session in the Mean Rith commune of Kampong Thom province. The reason for the disruption was allegedly the failing by NGOs to provide adequate notice concerning the convening of the training event. However, it is alleged that the organizers previously informed provincial authorities about it.

It is reported that some participants were not allowed to travel to participate in the event and that the attendants were photographed and they had to present their identification cards. After two hours of disruption and threats of arrest, the event was allowed to take place.

It is reported that the allegations against CCHR and NRPNG relate to two previous human rights training events which took place in the community of Dang Kambith on August. The training events, which were temporarily disrupted by armed police, were attended by individuals affected by the deforestation of Prey Lang forest.

It is further reported that authorities in Kampong Thom will seek the suspension of the CCHR and NRPNG if they decide to continue providing their human rights training programmes.

The suspension of STT and the warning and acts of intimidation against BABC, the NGO Forum, the CCHR and the NRPNG occur reportedly at a time when the third draft of the Law on Associations and Non-Governmental Organizations is with the Council of Ministers for consideration. It is reported that certain provisions as contained in the draft NGO Law may hamper and restrict the legitimate work of NGOs in the promotion of human rights.

Concern is expressed that the suspension of STT, the warning and acts of intimidation against BABC, the NGOF, the CCHR and the NRPNG is a direct result of their human rights work, in particular with poor urban communities on issues relating to land and housing rights. Furthermore, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living is particularly concerned that suspension of STT will impede civil society advocacy and promotion of the right to adequate housing in Cambodia. Further serious concern is expressed that the enactment of the draft NGO Law, under consideration by the Council of Ministers will severely restrict the work of civil society organizations in Cambodia.

While we do not wish to prejudge the accuracy of these allegations, we would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression of the members of the aforementioned NGOs in accordance with fundamental principles as set forth in article 19 of the Universal Declaration of Human Rights (UDHR) and the ICCPR, 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."

In relation to the allegations regarding the disruption of human rights training sessions, we would also like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the International Covenant on Civil and Political Rights (ICCPR), 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."

In addition, we would like to appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of association, as recognized in article 22 of the ICCPR, 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".

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, 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;

- 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; and

- 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.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the members of the aforementioned NGOs are respected and that accountability of any person guilty of the alleged violations is ensured. We also request that your Excellency's Government adopts effective measures to prevent the recurrence of these acts and ensure that any legislation concerning civil society organizations is in accordance with international human rights standards.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of these cases accurate?
2. Has a complaint been lodged by or on behalf of the aforementioned NGOs?
3. Please provide the details, and where available the results, of any investigation, judicial or other inquiries which may have been carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any legal basis for the suspension of STT and the warning against BABC, NGOF, CCHR and NRPG.
5. Please provide any details of proposed amendments to be made to the third draft of the Law on Associations and Non-Governmental Organizations, and how appropriate suggestions regarding the strengthening of the associations' human rights work are to being incorporated.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

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

Raquel Rolnik

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

Frank La Rue

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

Maina Kiai

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Margaret Sekaggya

Special Rapporteur on the situation of human rights defenders