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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates 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 the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights in Cambodia; and the Special Rapporteur on the situation of human rights defenders

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 216/1
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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; 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; Special Rapporteur on the situation of human rights in Cambodia; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 15/18, 16/4, 15/21, 18/25, and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the charges brought against Mr. **Mam Sonando**, Director and Owner of independent radio station 105 (Beehive Radio). Mr Sonando is also president of the Democrats Association, a non-governmental organization established to promote democratic freedoms and to raise awareness of civil and political rights.

Mr. Mam Sonando was the subject of a number of communications submitted to your Excellency's government on behalf of Special Procedures, including an urgent appeal letter sent on 14 October 2005 by the Special Rapporteur on the right to freedom of opinion and expression, along with the Chair-Rapporteur of the Working Group on Arbitrary Detention, and an allegation letter sent on behalf of the then Special Representative on the situation of human rights defenders and the Special Rapporteur on the right to freedom of opinion and expression on 28 February 2006. A response has yet to be received from your Excellency's government on these communications.

According to the information received:

In the morning of 15 July 2012, Mr. Mam Sonando was arrested by police officers at his home in Phnom Penh. The warrant for his arrest was apparently issued while Mr. Sonando was out of the country however Mr. Sonando voluntarily

returned to Cambodia on 12 July despite the serious accusations levelled against him. On 16 July, Mr. Sonando was formally charged by the Phnom Penh Municipal Court in accordance with six articles derived from the Penal Code including “insurrection” and “inciting people to take up arms against the authorities”. If convicted, Mr. Sonando will face a lengthy prison sentence. The presiding judge reportedly denied Mr. Sonando’s application for bail and his lawyer has lodged an appeal. Mr. Sonando, who is 71 years of age, is currently in pre-trial detention in CC1 Prey Sar prison in Phnom Penh.

Reports suggest that the charges brought against Mr. Sonando may stem from a speech made by Prime Minister Hun Sen on 26 June, in which Mr. Sonando, along with members of the Association of Democrats, were accused of instigating a plot for a village in Kratie province to secede from Cambodia and become an independent state. The Prime Minister’s speech came a day after Beehive Radio broadcast a report about a complaint lodged at the International Criminal Court on 22 June accusing the government of committing crimes against humanity by displacing thousands of people through forced evictions. Mr. Sonando had been in the Netherlands to cover the case submission at the Hague.

The report broadcast by Mr. Sonando’s radio station referred to incidents which allegedly occurred on 16 May when approximately 1000 families living in the village in Kratie province were violently evicted from their homes by armed security personnel. A 14-year-old girl was reportedly shot dead during the village protest against the military siege. Sources indicate that to date an investigation into the raid and the consequent death of the young girl has yet to be initiated.

Since Mr. Sonando’s arrest, members of the Association of Democrats have allegedly been harassed, briefly detained and prevented from collecting thumbprints for a petition calling for his release.

Concern is expressed that the alleged arrest, detention and sentencing of Mr. Sonando may be directly related to his legitimate work in raising awareness of civil and political rights in Cambodia, and in particular, the reported forced evictions that took place in Kratie province. Further concern is expressed that the charges brought against Mr. Sonando may represent a direct attempt to prevent him from exercising his legitimate right to freedom of expression.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned person is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

In this connection, 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".

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.

We also deem it appropriate to make reference to the principle enunciated, inter alia, by the Commission on Human Rights in its Resolution 2005/38, which called upon all States to refrain from the use of imprisonment or the imposition of fines for offences relating to the media, which are disproportionate to the gravity of the offence and which violate international human rights law.

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of 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."

We would further 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 "[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.”

In relation to the death of the young girl, we would further like to appeal your Excellency's Government to take all necessary steps to ensure the right to freedom of peaceful assembly, as recognized in article 21 of the ICCPR. The Special Rapporteur on the rights to freedom of peaceful assembly and of association makes also reference to paragraph 84 (f) of his thematic report A/HRC/20/27, in which he calls upon States “to ensure no derogation is exercised to the rights to life” in the context of the exercise of the right to freedom of peaceful assembly and of association.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person in compliance with the above international instruments.

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, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged by or on behalf of Mr. Sonando?
3. Please clarify the legal basis for the arrest and detention of Mr. Sonando and how these measures are compatible with international norms and standards, as stated, inter alia, in the UDHR and ICCPR.
4. Please provide the details of the prosecution against Mr. Sonando and how it is compatible with the international norms and standards of the right to freedom of opinion and expression.
5. Please provide information concerning the national legislation related to freedom of opinion and expression, including freedom of the press, and its conformity with article 19 of the ICCP R and with other relevant provisions included in international treaties.
6. Please provide information and, where available, the results of any criminal investigation, prosecution and trial carried out in relation to the death of the young girl.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit 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 person 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.

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

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Special Rapporteur on the promotion and protection of the right to freedom of
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Maina Kiai
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