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**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 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the independence of judges and lawyers.**

REFERENCE: AL G/SO 216/1 G/SO 214 (67-17) Health (2002-7) G/SO 214 (107-9) G/SO 214 (3-3-16)  
KHM 7/2012

25 October 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolution 18/25, 16/4, 15/22, 16/5, and 17/2.

In this connection, we would like to bring to your Excellency's Government's attention information we have received regarding **the trial of Mr. Mam Sonando**, Director and Owner of the 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 joint urgent appeal sent on 29 August 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 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. He was also the subject of a joint allegation letter sent by 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, and of a joint urgent appeal sent on 14 October 2005 by the Special Rapporteur on the right to freedom of opinion and expression and the Chair-

Rapporteur of the Working Group on Arbitrary Detention. Responses have not been received from your Excellency's Government on these communications.

According to the information received:

Mr. Mam Sonando, together with 13 other defendants (including three in absentia), were tried in Phnom Penh Municipal Court between 11 and 14 September 2012. At the beginning of the trial, NGOs, opposition parliamentarians and journalists were denied access to the courtroom. At the beginning of the trial access to the courtroom was granted to diplomats, UN staff members and pro-government journalists only, while NGOs, opposition parliamentarians and journalists being denied such access as the courtroom was considered to be too small. Ultimately, all were given access, but during the trial, roadblocks were put in place around the court to control access to the general public.

Reportedly, during the trial, the panel of three judges asked the defendants and witnesses many leading, rather than open questions. Despite a request from the defence lawyer not to proceed, three witness statements were read in court without the authors of such statements being available for cross examination so that the statements' credibility could be tested. Following a second request from the defence lawyer, the court clerk was asked to stop reading the remaining statements in the absence of the concerned witnesses. The prosecution presented a number of farming instruments which were allegedly used as weapons by the defendants. Such use was not confirmed by all witnesses. The defence lawyers requested that a radio interview be played in court, but that request was denied on the ground that it would be difficult to check the authenticity of such recording.

Two co-defendants who had surrendered after the Prime Minister of the Kingdom of Cambodia speech on 26 June 2012 appeared to have been promised a suspended prison sentence (and other material benefits) in exchange for testifying against Mr. Sonando. The other co-defendants merely stated that they did not know Mr. Sonando. In one instance, a witness testified against Mr. Sonando. When such testimony was challenged during cross-examination by the defence lawyer, the presiding judge invited him to take a break and leave the courtroom. Despite the request from the defence lawyer that he continues cross-examination of this witness at a later stage, the witness never came back to court.

During the trial, evidence was presented by the prosecution of the alleged links between Mr. Sonando and the US-based Khmer People Power Movement (KPPM), regardless of whether such information had any direct relation with the charges against Mr. Sonando. Throughout the trial, witnesses gave conflicting statements. Nonetheless, the prosecution concluded that the evidence presented in court demonstrated beyond reasonable doubt that Mr. Sonando was guilty of all charges.

On 1 October 2012, Mr. Sonando was found guilty of all charges under articles 28, 456 and 457 of the Penal Code for being the instigator of an insurrectionary movement, article 464 on inciting people to take arms against State authority, article 504 on obstruction of public officials with aggravating circumstances, and article 609 on unlawful interference in the discharge of public functions. He was sentenced to a 20-year prison sentence and a fine of 10 million Riels (about \$2500). The other defendants were also convicted and received a variety of punishments, some custodial, some not. Those defendants who "confessed" following an offer by the Prime Minister of the Kingdom of Cambodia were given suspended prison sentences and immediately released.

Mr. Sonando, who is 71 years old, reportedly contracted a serious respiratory infection in prison and requires access to the necessary medical care.

It is reported that Mr. Sonando appealed against the verdict on 17 October 2012.

Serious concern is expressed that the long prison sentence imposed on Mr. Sonando may represent a direct attempt to prevent him from exercising his legitimate right to freedom of expression. In addition, concern is expressed at allegations received indicating that the situation of Mr. Sonando could be linked to his activities in the promotion of human rights and fundamental freedoms.

While we do not wish to prejudge the accuracy of these allegations, we wish 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 International Covenant on Civil and Political Rights, 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 also deem it appropriate to make reference to the principle enunciated, *inter alia*, by the Human Rights Council in its Resolution 12/16, 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.

Regarding allegations indicating that the situation of Mr. Sonando could be linked to his activities in the promotion of human rights and fundamental freedoms, 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 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; 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.

Regarding allegations that members of the public were denied access to the trial, we would like to refer your Excellency's Government to article 14(1) of the International Covenant on Civil and Political Rights, which states: “All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice [...].”

In its General Comment 32, the Human Rights Committee stated that: “Article 14, paragraph 1, acknowledges that courts have the power to exclude all or part of the public for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would be prejudicial to the interests of justice. A part from such exceptional circumstances, a hearing must be open to the general public, including members of the media, and must not, for instance, be limited to a particular category of persons.”

As regards allegations that the defence did not have equal access to the witnesses, we would like to refer your Excellency’s Government to article 14(3) of the International

Covenant on Civil and Political Rights, which states: “In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.”

Concerning reports of Mr. Sonando’s poor health condition that requires medical attention, we would appreciate information from your Excellency’s Government on steps taken by the competent authorities to ensure Mr. Sonando’s enjoyment of the right to the highest attainable standard of health. This right is reflected, *inter alia*, in article 12 of the International Covenant on Economic, Social and Cultural Rights (acceded to by your country on 26 May 1992), which provides for the right of everyone to the enjoyment of the highest attainable standard of mental and physical health. The right to health requires States to ensure that quality health facilities, goods and services are accessible to everyone without discrimination. We would also like to refer your Excellency’s Government to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which holds that “States are under the obligation to respect the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal immigrants, to preventive, curative and palliative health services...” (para. 34).

We also wish to draw the attention of your Excellency’s Government to the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides that, “Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers”. While Rule 25(1) provides that, “The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.” Furthermore, we would also like to refer to the Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111, according to which “Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation” (principle 9).

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 summary of the case accurate?
2. Please provide detailed information on each stage of the judicial proceedings against Mr. Sonando and indicate how they comply with the requirements and guarantees of a fair trial and due process as enshrined in article 14 of the ICCPR.

3. Please provide the details of the verdict against Mr. Sonando, including a copy of the judgment which was read in court on 1 October 2012.

4. Please indicate whether an appeal has been lodged by Mr. Sonando and if it has been, when it will be heard by the Court of Appeal.

5. Kindly indicate the measures taken in order to ensure that human rights defenders are able to carry out their legitimate activities in a conducive environment.

6. Please provide details of measures taken to ensure the enjoyment by Mr. Sonando of the right to the highest attainable standard of health.

We would appreciate a response within sixty days which will be made available in a report to the Human Rights Council for its consideration. We reiterate our concerns about the situation of Mr. Sonando which have been raised in earlier communications with your Excellency's Government.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Mam Sonando 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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Frank La Rue  
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