

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
KHM 6/2015:

2 December 2015

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 30/23, 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **alleged physical harassment of two parliamentarians belonging to the minority party in their legitimate and peaceful exercise of the rights to freedom of opinion and expression, freedom of association and to participate in political and public life.**

According to information received:

On 26 October 2015, Mr. Kong Saphea and Mr. Nhay Chamroeun, two Parliamentarians of the minority party, Cambodia National Rescue Party (CNRP), were violently assaulted following what appears to have been an organised protest by a group of approximately 2,000 pro-Government protestors outside the National Assembly building in Phnom Penh. Eyewitnesses are reported to have identified members of the military, police and paramilitary forces as well as members of the Prime Minister's bodyguard unit in civilian clothing among the protestors who were calling for the removal of Mr. Kem Sokha, the Vice-President of the opposition party and the First Vice-President of the National Assembly. The protestors were all allegedly driving similar red motorbikes with numbers (from 1 to 123) on the back, wearing the same helmets; other cars bringing the demonstrators to the front of the National Assembly were bearing State and armed forces plate numbers. Allegedly, many of the demonstrators were wearing the same traditional scarf (krama) attached around their hips and some had also red stickers on their tee-shirts and many of them were communicating

among each other's with "Icom" two way radio transceivers, which are ordinarily used only by governmental security officers. It is alleged that there was almost no security or uniformed police personnel deployed on site during the whole morning.

At approximately 12.30pm, Mr. Kong Saphea and Mr. Nhay Chamroeun were reportedly dragged out of their official vehicles 1 by a group of masked men as they attempted to leave the National Assembly and severely beaten one after the other, sustaining serious injuries as a result. They were later flown to Thailand for urgent medical care. Mr. Nhay Chamroeun is reported to have suffered a double arm fracture, a broken nose and chipped front teeth. While most of the protestors were said to have dispersed by the time of the attack, a smaller group had reportedly stayed behind, including several persons equipped with Icoms similar to the one used by one of the assailants. Neither members of the police or security forces, nor any of the National Assembly security guards were seen attending to the scene.

While we do not wish to prejudge the accuracy of these allegations, serious concern is expressed that the alleged violations of the physical integrity of Mr. Kong Saphea and Mr. Nhay Chamroeun may have been motivated by their legitimate and peaceful exercise of their rights to freedom of opinion and expression, freedom of association and to participate in political and public life.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Are the facts alleged in the summary of the case accurate?
3. Has a complaint been lodged by or on behalf of the alleged victims?
4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide the full details of any criminal investigations or prosecutions which have been undertaken.

6. Please indicate whether compensation will be provided to the victims.
7. Please provide information on the measures taken to ensure the safety of those who express their opinions publicly, including members of political parties, and ensure that human rights defenders are able to carry out their peaceful and legitimate work in a safe and enabling environment without fear of threats, intimidation or harassment of any sort.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Rhona Smith
Special Rapporteur on the situation of human rights in Cambodia

David Kaye
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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we wish to draw your Excellency's Government's attention to articles 19, 22 and 25 of the International Covenant on Civil and Political Rights (ICCPR), acceded by Cambodia in 1992, which respectively guarantee the rights to freedom of opinion and expression, freedom of association and the right to take part in the conduct of public affairs, directly or through freely chosen representatives.

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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels, and article 12 paras 2 and 3 which provide that the State has the duty to protect human rights defenders.

We would also like to refer to Human Rights Council resolution 24/5, and in particular its operative paragraph 2, in which the Council "reminds States of their obligation to respect and fully protect the rights of all individuals to associate and assemble peacefully, ... including persons espousing minority or dissenting views or beliefs... 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 also would like to refer to General Comment 34 of the Human Rights Committee on the right to freedom of opinion and expression (Article 19 of ICCPR) which indicates that "States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. (...) All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress."