

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the situation of human rights in Cambodia; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; 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

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Excellency,

We have the honour to address you in our capacities as First Vice-Chair of the Working Group on Arbitrary Detention; Special Rapporteur on the situation of human rights in Cambodia; Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; 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 24/7, 30/23, 19/10, 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 regarding the alleged arbitrary arrest and detention of four environmental rights defenders from the non-governmental organisation Mother Nature, as well as the ban imposed on a human rights training session organised by members of the same organisation. Mother Nature is a peaceful Cambodian environmental grassroots movement that works with local communities to protect the unique ecosystems and natural resources of Koh Kong province and human rights. Mother Nature works closely with indigenous communities of the Areng valley to protest against the construction of a controversial hydro dam, and with local fishing communities to protest against sand mining which threatens estuary ecosystems and consequently their livelihood.

According to the information received:

On 17 August 2015, Messrs. Try Sovikea aged 26, Sun Mala aged 24 and Sim Samnang aged 29, environmental rights defenders from the Cambodian NGO Mother Nature, were arrested by the Koh Kong Provincial authorities. They were reportedly arrested after failing to appear at the police station, following two summons received from the Police on 14 August 2015. They were allegedly

ordered to appear to answer questions about their involvement in a protest against the Vietnamese firms International Rainbow Co. Ltd. and Direct Access Company, which are allegedly engaged in illegal sand dredging activities in the Andoung Toek estuary, in the Koh Kong province. Messrs. Try Sovikea, Sun Mala and Sim Samnang have reportedly been charged with violating Article 424 of the Cambodian Criminal Code, (“threats to cause destructions followed by an order”) and, if found guilty, they face up to 2 years in prison and a fine up to US \$1000.

The defense lawyers submitted motions to the investigative judge for the release on bail of the three activists, but the motion was reportedly denied on 31 August 2015. The decision was appealed, but on 21 September 2015, the Investigation Chamber at the Appeal Court reportedly denied their bail request. On 4 November 2015, they were questioned by an investigative judge. To date, they remain in detention in Koh Kong provincial prison.

On 7 October 2015, Mr. Ven Vorn, aged 36, activist for the NGO Mother Nature and community leader for the indigenous Chong minority in the Koh Kong Province, was arrested by authorities and detained in the Koh Kong provincial prison. Mr. Ven Vorn is reportedly accused of illegal logging, and specifically of allegedly violating Article 98 of the Forestry Law (“the unauthorised harvesting [of] forest products and by-products”) which carries a maximum penalty of five years imprisonment and Article 533 of the Criminal Code (“destroying, displacing or removing of any object from the scene of a felony”) which carries a maximum penalty of three years imprisonment. Mr. Ven Vorn remains in detention. Both of these charges relate to the actions of Mr. Ven Vorn and a group of local activists in constructing a small visitor centre and community meeting place for local activists involved in a campaign against the proposed construction of a hydropower dam in the Areng Valley by the Pheapimex group and their Chinese partner Sinohydro.

Previously, on 2 September 2015, Mr. Ven Vorn was among the 17 people arrested outside Koh Kong provincial court demanding release of the three jailed activists Messrs Try Sovikea, Sun Mala and Sim Samnang. They were released after 8 hours.

On 22 October 2015, the commune chief from Ta Meak (Botum Sakor district, Koh Kong province), accompanied by local police and Cambodia People’s Party-aligned militia, reportedly surrounded a private home where members of Mother Nature were meeting. The meeting was to be a two-day human rights training session for Ta Meak community members on their rights to freedom of expression since their grievances in relation to industrial projects in the province had been quashed.

In addition, the local authorities ordered the organizers not to proceed with the training session, stating that such event had not been authorized. They threatened to arrest everyone present if they failed to respect their orders.

It is reported that Mother Nature had notified the local authorities about the upcoming event and its objectives even though such notification is not required for trainings under the Law on Peaceful Demonstrations. It is alleged that the authorities claimed that there was not sufficient documentation on which to base the authorization for the event.

Serious concern is expressed at the alleged arbitrary arrest and continued detention of Messrs. Try Sovikea, Sun Mal, Sim Samnang and Ven Vorn. Concern is also expressed that the charges brought against them may be directly related to their legitimate human rights work, defending and exercising their rights to freedom of opinion and expression, peaceful assembly and association. Further concern is expressed that the ban imposed on the human rights training session and the threat to arrest the participants may be linked to the legitimate human rights activities of Mother Nature who work closely with local communities to teach them about methods of direct but peaceful action to protect their environment and human rights.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the international principles and norms applicable to the present case.

We would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right of individuals in detention not to be deprived arbitrarily of their 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) to which your Excellency's Government acceded to in 1992.

We would also like to refer to articles 19, 21 and 22 of the International Covenant on Civil and Political Rights, which guarantee the rights to freedom of expression and opinion, freedom of peaceful assembly and freedom of association respectively.

We also wish to refer to the International Covenant on Economic, Social and Cultural Rights (ICESCR) to which your Excellency's Government acceded to in 1992, in particular, article 13 which guarantees the right of everyone to education and includes the right to receive human rights education.

Furthermore, we wish to refer to 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 articles 1, 2 and 6.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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

As 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. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide details of the legal basis for the alleged arrest and continued detention of Messrs. Try Sovikea, Sun Mala, Sim Samnang and Ven Vorn. Please indicate how these measures comply with Cambodia's international human rights obligations and other international human rights instruments, among them the ICCPR.
3. Please indicate the legal basis on which the ban was imposed on the human rights training session organized by Mother Nature. In this connection, please provide information as to the legal basis on which a civil society group has to request approval to hold a meeting.
4. Please indicate what measures have been taken to ensure that human rights defenders and environmental activists are able to carry out their legitimate work in a safe and enabling environment in Cambodia, including exercising their rights to freedom of peaceful assembly, freedom of association and freedom of opinion and expression, without fear of threats or acts of persecution and harassment of any sort.
5. Please indicate what measures are being taken to ensure prior and effective consultation and adequate compensation for communities who are negatively affected by the sand-dredging activities in Koh Kong. Do any monitoring mechanisms exist in order to mitigate any possible negative impact of such activities on the communities?

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.

José Guevara
First Vice-Chair of the Working Group on Arbitrary Detention

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

John Knox
Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a
safe, clean, healthy and sustainable environment

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 would like to draw your Excellency's Government attention to the following human rights standards:

We would like to refer to articles 19 and 21 of the International Covenant on Civil and Political Rights, ratified by Cambodia in 1992, which guarantee the rights to freedom of opinion and expression, and freedom of peaceful assembly, respectively.

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, 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 that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights; and
- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone 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.

We would like to further 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, human rights defenders... 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 addition, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, in his first thematic report to the Human Rights Council (A/HRC/20/27), stated that “[t]he exercise of the right to freedom of peaceful assembly should not be subject to prior authorization by the authorities, but at the most to a prior notification procedure, which should not be burdensome. In case an assembly is not allowed or restricted, a detailed and timely written explanation should be provided, which can be appealed before an impartial and independent court” (para. 90).