

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders**

REFERENCE:  
AL KHM 7/2017

6 December 2017

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 34/18 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the situation of Mr. **Moeun Tola**, a human rights defender against whom legal proceedings have been initiated. We have sufficient grounds to believe these legal proceedings are closely linked to Mr. Tola's peaceful activities in supporting workers' rights in Cambodia and to the overall pattern of a crackdown on human rights defenders and civil society activists in the run-up to the upcoming national elections in Cambodia.

Mr. **Moeun Tola** is a human rights defender and the Executive Director of the Centre for Alliance of Labour and Human Rights (CENTRAL), an NGO which supports Cambodian workers by providing them with legal aid, and other appropriate means, to demand transparent and accountable governance on labour and human rights issues.

Previous allegations regarding a law suit filed against Mr. Tola have been addressed in a communication letter sent by the independent experts to your Excellency's Government on 6 October 2010 (Reference – KHM 4/2010). We regret not having received any response from your Excellency's Government to this letter as of today.

According to the information received:

On 8 September 2017, Mr. Pich Sros, the leader of the Cambodian Youth Party, filed a criminal complaint against Mr. Tola and two other civil society activists whom he accused of embezzling donations for Mr. Kem Ley's funeral arrangements. Mr. Kem Ley was a political analyst who was murdered on 10 July 2016. He was a friend of Mr. Tola. The murder of Mr. Ley has been subject to a previous communication by the independent experts (KHM4/2016) and we thank your Excellency's Government for the reply received on 25 August 2016.

On 22 September 2017, Phnom Penh Deputy Prosecutor signed a summons for Mr. Tola along with two other individuals, both of whom also took part in the fundraising campaign for Mr. Kem Ley's funeral. The summons cited the alleged crime of "Breach of Trust", which carries a prison sentence of between 6 months and 3 years, and a fine of 1 million to 6 million Cambodian riel (approximately

from 246 to 1475 USD), according to article 392 of the Cambodian Criminal Code.

On 7 November 2017, Mr. Tola was questioned at the Phnom Penh Municipal Court in relation to his role as a member of the funeral committee and on accusations that he misappropriated funds meant for the funeral. Civil society representatives, union leaders and media representatives gathered in front of the court to express their support and solidarity during his interrogation.

We express our concern at the legal proceedings initiated against Mr Tola and the charges he faces, which, if confirmed, may lead to a prison sentence and a considerable fine. These allegations seem to be aimed at sanctioning the human rights defender's legitimate right to exercise of freedom of expression, freedom of peaceful assembly and pursue his peaceful work in defence of human rights in Cambodia.

We also reiterate our concerns at the increasing targeting of human rights defenders, media representatives and political activists for their peaceful human rights activities in Cambodia especially at the approach of national elections in 2018.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

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

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 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. Please provide information on the legal and factual grounds which led to the summons being issued for Mr. Tola citing the alleged crime of "Breach of Trust" according to Article 392 of the Cambodian Criminal Code and how these measures comply with international human rights norms and standards, inter alia the International Covenant on Civil and Political Rights and the UN Declaration on Human Rights Defenders.
3. Please indicate what measures have been taken to ensure that human rights defenders in Cambodia, including those who carry out the important mission of advocating for labour rights, are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation directed against them or their family members and harassment of any sort.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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.

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

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

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 attention to the following human rights standards:

We would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), which Cambodia acceded to on 26 May 1992, and in particular to articles 14, 17, 19, and 22, which uphold the right to a fair and public hearing by a competent, independent and impartial tribunal on any criminal charges, the right to be free from unlawful attacks on one's honour and reputation, the right to freedom of expression and the right to freedom of association.

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 Declaration:

- article 5, point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully;
- 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;
- 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.

We would like to refer also to the Human Rights Council resolution 31/32 which in paragraph 2 calls upon all States to take all measures necessary to ensure the rights and safety of human rights defenders, including those working towards realization of economic, social and cultural rights and who, in so doing, exercise other human rights, such as the rights to freedom of opinion, expression, peaceful assembly and association, to participate in public affairs, and to seek an effective remedy.