

Mandates of the Special Rapporteur on the situation of human rights defenders; 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 Working Group on discrimination against women and girls

REFERENCE:
AL KHM 8/2021

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; 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 Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 43/16, 42/22, 42/37, 46/7, 43/4, 41/12 and 41/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged arbitrary arrest of 6 and charges against 7 environmental rights defenders and members of Mother Nature Cambodia.**

Ms. **Sun Ratha**, Mr. **Ly Chandaravuth**, Mr. **Yim Leanghy**, Mr. **Alejandro González-Davidson**, Ms. **Long Kunthea**, Mr. **Thun Ratha** and Ms. **Phuon Keoreaksmeay** are environmental rights defenders and members of Mother Nature Cambodia, an environmental rights group and former non-governmental organisation founded in 2013. Mother Nature Cambodia advocates and campaigns for the preservation and protection of Cambodia's natural environment and promotes and raises awareness about environmental rights in the country. It also provides training and financial support to victims of environmental rights violations and provides training to environmental rights defenders.

In 2017, Mother Nature Cambodia was de-registered under the Law on Associations and Non-Governmental Organisations (LANGO). However, its members continue to carry out their human rights work as a movement of concerned citizens, and have allegedly been targeted and subjected to judicial and police harassment and violence as a result.

Members of Mother Nature Cambodia, including Ms. Long Kunthea, Mr. Thun Ratha and Ms. Keoreaksmeay, were the subjects of a previous communication sent on 10 November 2020 (KHM 8/2020). We thank your Excellency's Government for its reply to this communication, dated 26 January 2021, however we regret that aside from the information provided on Mr. Rong Chhun's case, no reference was made to the other 19 human rights defenders and organisations mentioned in the communication.

According to the information received:

On 3 September 2020, Ms. Long Kunthea, Mr. Thun Ratha and Ms. Phoun Keoreaksmeay were arbitrarily arrested for their participation in organising a peaceful protest calling for the protection of Phnom Penh's Bueng Ta-mouk lake, and placed in pre-trial detention in Prey Sar Prison on 6 September 2020.

The trial of the three human rights defenders took place between the 31 March and 8 April 2021. This trial did not constitute a fair and public hearing. Although a small group of observers including journalists, NGOs and diplomats were permitted to attend, the trial was closed to the public. Access was only allowed to those who had a pre-approved entry pass. The four lawyers representing the accused were allowed to attend. It has been reported that the judge appeared to show a potential bias against the accused and put at risk the presumption of innocence, when he expressed his views that the filling of lakes, highlighted by the accused in some of their advocacy, was for the good of the country. It has also been reported that there was a lack of factual evidence underpinning the charges, and the majority of evidence was based on Facebook posts and video clips of the human rights defenders raising awareness peacefully, evidence that could not prove how their actions could amount to social chaos.

On 5 May 2021, Mr. Thun Ratha was sentenced to 20 months in prison and remains detained in Phnom Penh's Correctional Centre 1, while Ms. Long Kunthea and Ms. Phoun Keo-reaksmeay were sentenced to 18 months in prison and remain detained in Phnom Penh's Correctional Centre 2. All three were convicted of "incitement to commit a felony" under articles 494 and 495 of the Cambodia Criminal Code. On the same day, Mr. Alejandro González-Davidson, who was deported from Cambodia in 2015 as a result of his human rights work, was also sentenced in absentia to 20 months in prison, for "incitement by accomplice".

Between 19 and 21 July 2021, the investigating judge at the Phnom Penh Municipal Court questioned Ms. Kunthea, Mr. Thun Ratha and Ms. Keoreaksmeay over the alleged charge of "plotting", under article 453 of the Cambodia Criminal Code. The three defenders brought for questioning by an investigating judge in the days prior to their conviction while their lawyers were not made aware of their transfer from prison for questioning nor were they present during the interviews. However, these questioning sessions have been rescheduled due to the human rights defenders' persistence that they be questioned in the presence of their lawyers. If charged and convicted, they face possible penalty of up to 10 years in prison. These new charges form part of the case opened against their Mother Nature Cambodia colleagues in June 2021.

On the morning of 16 June 2021, Ms. Sun Ratha, Mr. Ly Chandaravuth and presumably another human rights defender were allegedly arrested in the Duan Penh district of Phnom Penh by officers from the Central Security Department of National Police. A deputy prosecutor reportedly issued a summons for Ms. Sun Ratha and Mr. Ly Chandaravuth's arrest to the Central Security Department of National Police, calling for investigation due to "acts of creating social insecurity". The arrest was reportedly carried out in

cooperation with local authorities. Earlier that morning, the three human rights defenders had been allegedly filming in front of the Royal Palace to document the discharge of raw sewage into the Tonle Sap River.

On the same day, 16 June 2021, Mr. Yim Leanghy was arrested in Kandal province by officers from the Koh Thom district police, in cooperation with the Central Security Department of the National Police. The arrest was made following a summons reportedly issued against Mr. Leanghy to appear before the Central Security Department of National Police. Following their arrest, the whereabouts of Ms. Sun Ratha, Mr. Yim Chandaravuth and presumably other human rights defender were not known for 24 hours; the latter was allegedly released on 17 June 2021.

On 20 June 2021, Ms. Sun Ratha, Mr. Chandaravuth and Mr. Leanghy appeared before the Phnom Penh Municipal Court. All three human rights defenders were charged with “plotting” under article 453, while Ms. Sun Ratha and Mr. Leanghy were also charged with “insulting the King” under article 437 of the Cambodia Criminal Code. During the hearing, Mr. González-Davidson was allegedly charged in absentia under articles 453 and 437 of the Criminal Code.

On 21 June 2021, the three human rights defenders were transferred to Prey Star Correctional Centres 1 and 2 in Phnom Penh, where they are currently being held in pre-trial detention. There has reportedly been a recent COVID-19 outbreak in Prey Star prison.

It has been reported that the charges against them relate to their alleged use of foreign funds to undermine and overthrow the government and are not directly related to their environmental work. On 22 June 2021, a government spokesperson accused Mother Nature Cambodia of using the guise of environmentalism to plot against the government. On the same day, a video allegedly depicting a private Zoom meeting between the accused Mother Nature Cambodia members was released by Fresh News, in which they allegedly refer to the King and the Prime Minister using disrespectful language. The identity of the individuals from Mother Nature Cambodia in this video has not been verified.

Without prejudging the accuracy of the above-mentioned allegations, we raise our concern over the targeting of the above-mentioned environmental rights defenders and members of Mother Nature Cambodia. The apparent illegal arrest, detention, and prosecution, of Ms. Sun Ratha, Mr. Ly Chandaravuth, Mr. Yim Leanghy, Mr. Alejandro González-Davidson, Ms. Long Kunthea, Mr. Thun Ratha and Ms. Phoun Keoreaksmey is worrying as it appears to form part of a wider strategy of a government campaign to silence human rights defenders in the country, in particular environmental rights defenders who speak out against the government’s handling of the climate crisis and expose the corruption of businesses and the elite who exploit Cambodia’s natural resources. We are also concerned that harassment, violation of due process and violations of privacy suggests suggest a worrying pattern of targeting human rights defenders in the country.

We are also concerned at the use of harsh charges, which carry prison sentences of up to 10 years, levied against human rights defenders in response to their

legitimate and peaceful human rights work. We fear that the escalation of criminalisation of these environmental defenders will have a negative impact on other human rights defenders in the country and deter them exercising their freedom of opinion and expression and from promoting, protecting and defending human rights for fear of reprisal.

Finally, in light of the publication of the alleged Mother Nature Cambodia private Zoom meeting, we are concerned about the Cambodian authority's increased power to violate the privacy of Cambodian citizens, including human rights defenders. We are concerned that the Law on Telecommunications introduced in 2015 has granted broad powers to the Cambodian government to increase surveillance on private communications. We are concerned that this surveillance is not overseen by an independent body and lacks transparency and procedural safeguards. We are also concerned that since 2015, further measures, such as the National Internet Gateway (NIG), have further increased the Government's ability to monitor individual online activity. In this line, we are concerned about the cybercrime law currently under consideration, which further threatens the right to privacy and freedom of opinion and expression.

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.

We are issuing this appeal in order to safeguard the rights of the abovementioned individuals from irreparable harm and without prejudicing any eventual legal determination.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide the factual and legal basis for the arrest, pre-trial detention and charges against Ms. Sun Ratha, Mr. Ly Chandaravuth, Mr. Yim Leanghy, Ms. Long Kunthea, Mr. Thun Ratha and Ms. Phuon Keoreaksmey, and explain how these are compatible with international human rights law.
3. Please explain the legal basis for the charges levied against Mr. Alejandro González-Davidson in absentia.
4. Please provide information of the whereabouts of Ms. Sun Ratha, Mr. Ly Chandaravuth, Mr. Yim Leanghy and the other human rights defender during the 24 hours that followed their arrest on the 16 June 2021.
5. Please provide the factual basis for the de-registration of Mother Nature Cambodia in 2017, and how this is compatible with the international human rights standards on freedom of association and

peaceful assembly.

6. Please explain how the increased surveillance measures, such as the 2015 Law on Telecommunications, the NIG and the newly proposed cybercrime law, are compatible with international human rights law which safeguard against arbitrary and unlawful intrusion of privacy. Please indicate the measures your Excellency's government plans to implement to ensure that the right to privacy in Cambodia is guaranteed to all individuals and organisations.
7. Please outline the steps your Excellency's government has put in place, or plans to implement, to ensure that all human rights defenders in Cambodia, including those who work on environmental issues, are protected and are enabled to carry out their peaceful and legitimate human rights work free from any barriers, including threats, intimidation, arrest, detention, judicial harassment and criminalisation.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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.

We would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Miriam Estrada-Castillo
Vice-Chair of the Working Group on Arbitrary Detention

Vitit Muntarbhorn
Special Rapporteur on the situation of human rights in Cambodia

David R. Boyd
Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Melissa Upreti
Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, and while we do not wish to prejudice the accuracy of these allegations, we would like to refer to your Excellency's Government to the international norms and standards applicable to the case.

Relating to allegations of violations of freedom of opinion and expression, we would like to draw your Excellency's attention to the International Covenant on Civil and Political Rights (ICCPR), acceded to by Cambodia on 26 May 1992. In particular, we refer to article 19, which guarantees the right to seek, receive and impart information and ideas of all kinds, and the right to hold opinions without interference. As interpreted by the Human Rights Committee in General Comment No. 34 (CCPR/C/GC/34), such information and ideas include, inter alia, political discourse, commentary on one's own and on public affairs, cultural and artistic expression, and discussion of human rights (Paragraph 11), and all forms of expression and the means of their dissemination are protected, including audio-visual modes of expression (Paragraph 12). In paragraph 23 of the same General Comment No. 34, the Human Rights Committee has recognized that those "persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports", are "frequently subjected to threats, intimidation and attacks because of their activities." An attack on a person because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest and torture, can under no circumstance be compatible with article 19. The Committee has urged States parties to protect against attacks aimed at silencing those exercising their right to freedom of expression.

We would also like to refer to article articles 9, articles 14, 21 and 22 of the ICCPR, which provide for the right to liberty and security of a person, the right to a fair and public hearing, the right to peaceful assembly and the right to freedom of association. In its General Comment No. 35 (CCPR/C/GC/35), the Human Rights Committee has stated that arresting or detaining an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including freedom of opinion and expression, and freedom of association, is arbitrary (Paragraph 17). In relation to article 22, we would like to highlight that no restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

We further refer to article 17 of the ICCPR, relating the international human rights law on privacy. This article states that no individual or association should be subjected to arbitrary intrusion or interference that violates their right to privacy.

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. We would also like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (a), which provides for the right to meet or assemble peacefully;
- article 5 (b), which provides for the right to form, join and participate in non-governmental organizations, associations or groups;
- 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;
- 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.

Both the General Assembly and the Human Rights Council repeatedly urged the States to create and maintain a safe and enabling environment in which human rights defenders can operate free from hindrance, reprisals and insecurity (e.g., the General Assembly resolutions 74/146 (A/RES/74/146) and 70/161 (A/RES/70/161), and the Human Rights Council resolutions 22/6 (A/HRC/RES/22/6) and 13/13 (A/HRC/RES/13/13)). They also repeatedly called upon the States to take all measures necessary to ensure the rights and safety of human rights defenders who exercise the rights to freedom of opinion, expression, peaceful assembly and association (e.g., the General Assembly resolutions 74/146 (A/RES/74/146), 72/247 (A/RES/72/247), 70/161 (A/RES/70/161), 66/164 (A/RES/66/164), and the Human Rights Council resolution 22/6 (A/HRC/RES/22/6)).

Furthermore, we would like to remind your Excellency's Government of its obligations under the International Convention on the Elimination of Discrimination against Women (CEDAW) through its accession in 1992, in particular Article 7 which provides that States shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country, including the right to participate in non-governmental organizations and associations concerned with the public and political life of the country.

As stressed by the Working Group on discrimination against women and girls in one of its thematic report to the Human Rights Council (A/HRC/23/50), stigmatization, harassment and outright attacks are used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Women defenders are often the target of gender-specific violence, such as verbal abuse based on their sex, sexual abuse or rape; they may experience intimidation,

attacks, death threats and even murder. Violence against women defenders is sometimes condoned or perpetrated by State actors. The Working Group recommended to accelerate efforts to eliminate all forms of violence against women, including through a comprehensive legal framework to combat impunity, in order to fulfil women's human rights and to improve the enabling conditions for women's participation in political and public life.

In its report to the Human Rights Council on Women Deprived of Liberty (A/HRC/41/33), the Working Group stressed that women human rights defenders, perceived as challenging traditional notions of family and gender roles in society, are increasingly at risk of facing criminalization and detention as a result of their legitimate public activism, and are likely to be targets of criminal persecution and imprisonment. It recommended States to support women's engagement in public and political life, including the work of women human rights' defenders, and eliminate any laws or policy measures designed to criminalize the public roles of women.

We would also like to refer to General Assembly Resolution 68/181, adopted in 2013, on the protection of women human rights defenders. In particular, articles 7,9 and 10, whereby States are called upon to, respectively, publicly, acknowledge the important role played by women human rights defenders, take practical steps to prevent threats, harassment and violence against them and to combat impunity for such violations and abuses, and ensure that all legal provisions, administrative measures and policies affecting women human rights defenders are compatible with relevant provisions of international human rights law.

In addition, the Framework Principles on Human Rights and the Environment, presented to the Human Rights Council in March 2018 (A/HRC/37/59) set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. Principle 4 provides, specifically, that "States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence."