

**Mandates of the Special Rapporteur on the situation of human rights in Cambodia; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

Ref.: AL KHM 11/2021  
(Please use this reference in your reply)

10 December 2021

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 extrajudicial, summary or arbitrary executions and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 48/, 44/5 and 43/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning to the recent killing of [REDACTED].

According to the information received:

[REDACTED], a political activist affiliated with the disbanded Cambodia National Rescue Party (CNRP), was attacked in front of Pothiyaram Pagoda (also known as "Wat Chas"), in Chroy Changva district, Phnom Penh at 1 a.m. on Sunday 21 November. [REDACTED] was socializing with friends near the pagoda where he lived for the past 10 years and was chased by a single assailant and slashed with a machete or similar weapon, resulting in severe lacerations to his back and legs. [REDACTED] was rushed to hospital but died before he arrived or could receive treatment. The assailant discarded the weapon, throwing it into the pagoda, before getting on the back of a motorbike that was being driven by a second individual.

[REDACTED], a 31-year-old male from Takeo Province, was a regular commentator on social media, where he often posted his support for the CNRP and expressed his admiration for their leadership. The party was disbanded in 2017 following a decision by the Supreme Court of Cambodia and in the years since, many of its members and leadership have been subject to criminal proceedings in Cambodia.

The attack was not the first against [REDACTED]. In a recent report to the Human Rights Council (A/HRC/48/49), the United Nations Secretary-General described "a Cambodia National Rescue Party activist who had been providing humanitarian aid to families in Phnom Penh during the lockdown [who] was attacked by four unidentified men, thereby sustaining injuries to his head and a broken finger." The activist referred to here is [REDACTED] and the incident took place near Wat Chas on 12 May 2021. After the attack, [REDACTED] received threatening anonymous phone calls. No arrests were made following the attack in May 2021 and the identity of the attackers remains unknown.

Since the fatal attack on [REDACTED], the authorities confirmed the arrest of [REDACTED] a 29-year-old male, was arrested by military police and taken for

questioning. A video made public by the military police on 23 November includes footage of the alleged perpetrator confessing to the killing of [REDACTED]. In the video, [REDACTED] said that he had attacked [REDACTED] with a machete because the activist had been arguing with his brother, who runs a motorcycle maintenance shop in front of Wat Chas. The argument concerned a key to unlock the gate to Wat Chas. According to the confession, the argument took place at approximately 9 p.m. on 20 November. The alleged perpetrator said that he argued with [REDACTED] but left the area for a period. When he returned he saw that [REDACTED] was still engaged in an argument with his brother. Seeing this, he fell into a rage which caused him to drive a motorcycle to a friend's house near Wat Chas where he took a machete without his friend's knowledge. He said that he did not have a specific intention to harm [REDACTED] but when he returned and saw that the activist was still arguing with his brother, he slashed him around five times - three slashes to the back and two more on the legs as he chased [REDACTED] away. However, inquiries into the events leading up to the killing of [REDACTED] cast doubt on the narrative offered by [REDACTED], with different witnesses saying that there had been no confrontation at the motorcycle repair shop on the day and refuting the idea that such a confrontation could have occurred at 9pm, given that the door of the pagoda locks at 11pm.

According to reliable sources approximately two weeks before the killing of [REDACTED] two men visited Wat Chas where they confronted [REDACTED] saying, as follows: *You still have not stopped after a broken hand. Do you want your hand to be broken again? We heard that you will organize another call with groups?* The reference to the "call with groups" was interpreted by [REDACTED] as concerning his work with the CNRP. While the Facebook post of the Gendarmerie refutes the claim that [REDACTED] was a CNRP activist, the CNRP have since confirmed that he was actively working for them at the time of the killing. Given the timing of the visit by these men so close to the fatal attack on [REDACTED], and given the previous attack and intimidating calls received by the victim, concerns necessarily arise as to a political motivation underlying the fatal attack on [REDACTED].

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned about the killing of [REDACTED], especially in light of the history of attacks and intimidation against him that appear to be connected to his political activism.

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. Under the International Covenant on Civil and Political Rights (ICCPR), Cambodia is bound to uphold the right to life of [REDACTED]. The right to life not only obliges state parties to take measures to protect the lives of individuals, it also requires positive obligations on the part of the authorities to investigate the loss of life. As outlined by the Human Rights Committee in General comment No. 36 (2018) on article 6 of the ICCPR on the right to life, "an important element of the protection afforded to the right to life by the [ICCPR] is the obligation [...] to investigate and [...] prosecute such incidents" (CCPR/ CGC/36, para. 27). Such investigations should be undertaken in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially

Unlawful Death (2016).<sup>1</sup> The Minnesota Protocol requires such investigations to be prompt, effective and thorough, independent and impartial, and transparent. A failure to investigate a loss of life is itself a further violation of the right to life. The right to life is also guaranteed by the Constitution of the Kingdom of Cambodia.

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 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 details on ongoing efforts to investigate the killing of [REDACTED] including information on the authority carrying out the investigation and whether this complies with applicable standards including the Minnesota Protocol. This requires that every investigation into potentially unlawful death be prompt, effective and thorough, independent and impartial, and transparent.
3. Please provide information on the situation of the alleged perpetrator and the proceedings he is currently facing, including whether he is represented by a lawyer.
4. Please provide information on whether the authorities were aware of the previous attack and threats against [REDACTED] and, if so, any assessment made or steps taken in relation to the attack and threats.

We would appreciate receiving a response within 60 days. Past 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.

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

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

Morris Tidball-Binz  
Special Rapporteur on extrajudicial, summary or arbitrary executions

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<sup>1</sup> Available at: <https://www.ohchr.org/Documents/Publications/MinnesotaProtocol.pdf>

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

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 6 (1), 19 and 25 of the International Covenant on Civil and Political Rights, ratified by Cambodia on 26 May 1992, which provide that no one shall be arbitrarily deprived of their life, the right to freedom of opinion and expression and the right to take part in the conduct of public affairs, directly or through freely chosen representatives.

We would like to refer to Human Rights Committee General Comment 36. In addition to the obligation to investigate potentially unlawful deprivations of life recalled above, the General Comment further observes that States parties are under a due diligence obligation to take reasonable, positive measures that do not impose disproportionate burdens on them in response to reasonably foreseeable threats to life originating from private persons and entities whose conduct is not attributable to the State. The duty to protect the right to life requires States parties to take special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence. States parties must respond urgently and effectively in order to protect individuals who find themselves under such a specific threat, including for example by adopting special measures such as the assignment of around-the-clock police protection and the issuance of protection and restraining orders against potential aggressors.

Article 19 of the ICCPR guarantees the right to freedom of expression, which includes "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", and protects, inter alia, political discourse, commentary on one's own and on public affairs, discussion on human rights, journalism, among others (Human Rights Committee, General Comment no. 34, para. 11). Paragraph 3 of article 19 sets out the requirement that any restrictions to the right to freedom of expression must be necessary, proportionate and prescribed by law. In this regard, we wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

With regard to article 25 of the ICCPR, the Human Rights Committee set out in its General Comment No. 25 on Participation in Public Affairs and the Right to Vote (CCPR/C/21/Rev.1/Add.7), that: "In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. [...] It requires full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the Covenant, including freedom to engage in political activity individually or through political parties and other organizations, freedom to debate public affairs, to

hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas.”.

We recall in this context the 2015 Concluding Observations by the Human Rights Committee concerning Cambodia, in which the Committee expressed its concerns about the reports of harassment and intimidation of members of the political opposition, as well as human rights defenders, journalists, trade union workers and land and environmental activists. The Committee also expressed concern in response to reports of killings of a number of such civil society actors, and recommended that immediate action be taken by the State to investigate complaints of killings and provide effective protection to civil society actors who are subjected to intimidation and attacks owing to their professional activities (CCPR/C/KHM/CO/2 para. 21).