

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the situation of human rights in Cambodia

REFERENCE: AL KHM 4/2016:

12 July 2016

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; 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; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the situation of human rights in Cambodia, pursuant to Human Rights Council resolutions 26/12, 25/2, 24/5, 25/18, and 30/23.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged murder of Mr. Kem Ley.

Mr. Ley was the founder of the grassroots Khmer for Khmer advocacy group, established in 2014. Mr. Ley was a popular political commentator known for his criticism of the Government.

According to the information received:

On 10 July 2016, at 9 a.m., Mr. Ley was shot dead at a convenience store attached to a gas station at the intersection of Monivong and Mao Tse Toung boulevards in Phnom Penh. One hour and a half after the shooting, the spokesman for the National Police reportedly announced that police officers had arrested a man, who allegedly confessed to having killed the activist over an unpaid debt.

It is reported that the shooting takes place at a time of increasing tensions between Prime Minister Hun Sen and political opposition activists. The week before his death, Mr. Ley had spoken out about a recently published civil society report raising concern about the wealth accumulated by the family of the Prime Minister, as well as the use of the judiciary as a political tool against the opposition.

Grave concern is expressed that the death of Mr. Ley may be related to the legitimate exercise of his right to freedom of expression, in particular his advocacy

activities related to matters of political and public concern and his work in favor of human rights.

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 any comment(s) you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any investigation carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why. Please provide the full details of any prosecutions which have been undertaken in this case.

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 prevent the re-occurrence of such a human rights violation 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 intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue in question.

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

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

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

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

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:

The above mentioned allegations appear to be in contravention of article 6 (1) of the International Covenant on Civil and Political Rights (ICCPR), acceded by Cambodia on 26 May 1992, which provides for the right to life, security and not to be arbitrarily deprived of life.

In its General Comment 6, paragraph 3, the Human Rights Committee noted that it considers article 6 (1) of the ICCPR to include that States parties should take measures to prevent and punish deprivation of life by criminal acts. In addition, in its General Comment No. 31, the Committee stated that there is a positive obligation on States Parties to ensure the protection of the rights contained in the Covenant against violations by private persons or entities, which includes the duty to take appropriate measures to prevent, investigate, prosecute and punish those responsible and repair the damage caused by private persons or entities (CCPR / C / 21 / Rev.1 / Add.13, paras. 8 and 18). A failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR.

We moreover refer to the right to freedom of opinion and expression, guaranteed under article 19 of the ICCPR. In particular, we would like to remind your Excellency's Government that in the context of political discourse, involving public figures, the value placed by the Covenant upon inhibited expression is particularly high (CCPR/C/GC/34).

We would like to appeal to your Excellency's Government to take all necessary steps to secure this right in accordance with international human rights law. We deem it appropriate to make reference to Resolution 12/16 of the Human Rights Council, which calls upon states to ensure that victims of violations of the right to freedom of expression have an effective remedy, to investigate effectively threats and acts of violence, and to bring to justice those responsible to combat impunity.

Furthermore, we would also like 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, 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 such provisions in the Declaration as article 12, which provides that State must 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. Articles 5 and 6 reiterate the rights to meet or assemble peacefully; to form, join and participate in non-governmental organizations, associations or groups; to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms; as well as 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.