

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the situation of human rights in Cambodia; 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 Working Group on discrimination against women and girls

REFERENCE:
AL KHM 8/2020

10 November 2020

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the situation of human rights in Cambodia; 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 Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 42/22, 42/37, 43/4, 41/12, 43/16 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 detention of a number of Cambodian human rights defenders in recent months for their participation in, intent to participate in or organization of, peaceful demonstrations against the detention of fellow human rights defenders and activists, and on environmental issues and labour rights.

Mr. Rong Chhun is a human rights defender and the President of the Cambodian Federation of Trade Unions, and a member of the Cambodia Watchdog Council. He has recently advocated for the Government to grant laid-off workers their unpaid wages and benefits; to release teachers arrested for comments they made on public health and COVID-19, and to address concerns raised by the European Union prior to the lifting of the 'Everything but Arms' preferential trade agreement. Most recently, he has campaigned against the irregular demarcation of border posts in Tbong Khmum Province, resulting in the loss of hectares of residential land.

Ms. Ouk Chhayavy is a woman human rights defender and President of the Cambodian Independent Teachers Association (CITA).

Friday Women of Cambodia is a network of family members of detained political activists who were associated with the now dissolved Cambodian National Rescue Party (CNRP). The group organizes demonstrations on Fridays, primarily in front of the Phnom Penh Municipal Court, the Supreme Court and the Appeal Court, calling for the release of their family members. Members of the group have also participated in peaceful demonstrations calling for the release of Mr. Rong Chhun, and other human rights defenders currently detained.

Mr. Hun Vannak is a human rights defender and the founder of the youth group Khmer Thavrak, which advocates against social injustices and raises awareness about environmental issues in Cambodia. Mr. Vannak was formerly a member of

Mother Nature Cambodia. Mr. Vannak was imprisoned for five months from September 2017 to January 2018 for documenting suspected illicit sand dredging. In May 2020, he was held in custody for several hours after protesting for debt-relief from banks and microfinance institutions amid COVID-19.

Ms. **Chhoeun Daravy** is a woman human rights defender and a member of Khmer Thavrak. As part of her work with the group, she works on a number of human rights issues in Cambodia, particularly on environmental issues. She regularly livestreams events and demonstrations organised by Khmer Thavrak on social media platforms, reaching large audiences.

Mother Nature Cambodia is an environmental organization that advocates for the protection and preservation of the country's natural environment. It also monitors the exploitation of environmental resources, and works to inform and educate people about such violations. Mother Nature Cambodia also supports local fishermen and indigenous communities to defend their rights, and had most recently campaigned against the exploitation of the Boeung Tamok lake, one of the last large lakes in Phnom Penh which over 300 families are dependent on.

Mr. **Thun Ratha** is an environmental rights defender and a member of the group Mother Nature Cambodia.

Ms. **Long Kunthea** is a woman human rights defender focusing on environmental issues. She is a member of the group Mother Nature Cambodia.

Ms. **Phuon Keoraksmeay** is a woman human rights defender, whose work focuses on environmental concerns in Cambodia. She is also a member of Mother Nature Cambodia.

Mr. **Koet Saray** is a human rights defender and a former Buddhist monk. He is also a member of the youth group Khmer Thavrak.

Mr. **Tha Lavy** is a human rights defender and a member of the youth group Khmer Thavrak.

Ms. **Eng Malai** is a woman human rights defender and a member of the youth group Khmer Thavrak.

Mr. **Mean Prommony** is a human rights defender and the Vice President of the Khmer Student Intelligence League Association (KSILA). The association focuses on mobilising students to participate in issues related to social development, good government, and the sustainable use of natural resources. Mr. Prommony has been a vocal advocate, particularly in youth circles, on human rights issues and social injustices.

Mr. **Muong Sopheak** is a human rights defender and a member of the KSILA.

Ms. **Yang Sophorn** is a woman human rights defender and the President of Cambodian Alliance of Trade Union (CATU).

Mr. **Kao Sovath** is a human rights defender and the President of the Cintri Trade Union in Phnom Penh.

Mr. **Touch Kosal** is a human rights defender and the President of the Cambodia Tourism Workers' Union Federation (CTWUF).

Mr. Rong Chhun was the subject of previous communications, referenced KHM 5/2005, KHM 2/2006 and KHM 1/2014, sent on 28 October 2005, 28 February 2006 and 17 February 2014, respectively. We thank your Excellency's Government for the reply dated 18 February 2019.

Mr. Rong Chhun was also the subject of a recent communication, referenced KHM 6/2020, sent on 18 August 2020, in response to the alleged arbitrary arrest and detention of the human rights defender for his criticism of the land encroachment along the Cambodia-Viet Nam border. The letter outlined the reported violence against demonstrators calling for his release and also detailed an assault against Ms. Ouk Chhayavy. We thank your Excellency's Government for its reply to this communication, dated 30 October 2020, however we remain concerned by the characterization of his reporting on land rights issues as an attempt to deceive the public.

Mr. Hun Vannak was the subject of previous communications, referenced KHM 3/2017 and KHM 2/2018. We thank your Excellency's Government for the reply dated 31 May 2018.

According to the information received:

Concerning Mr. Rong Chhun

On 26 August 2020, Mr. Rong Chhun's lawyer's request for bail was rejected by the Phnom Penh Municipal Court. The Court alleged that if he were released, Mr. Rong Chhun would recommit the crime – "incitement to commit a felony". He remains in detention at Correction Centre (CC) 1 detention centre, where he has been in pre-trial detention since 1 August 2020.

Concerning Ms. Ouk Chhayavy

On 10 August 2020, following a visit to Mr. Rong Chhun in prison, two men on motorbikes attacked Ms. Ouk Chhayavy while she was riding home on her motorbike, causing her to fall and lose consciousness. Ms. Ouk Chhayavy incurred severe injuries, and required 10 stitches on her upper lip.

Following the reported attack on Ms. Ouk Chhayavy on 10 August 2020, the woman human rights defender has reported surveillance of her home, and of her, occurring on a daily basis. Her neighbours have observed an unknown man on a motorbike frequently visiting her home, with what appears to be an assault rifle, an AK-47, slung over his shoulder. The CITA office has also been under surveillance on an almost daily basis, by plain clothed individuals positioned directly outside and nearby the office. Ms. Ouk Chhayavy is fearful

of travelling on her motorbike due to the recent attack, as well as being in her own home and the CITA office, due to the alleged surveillance.

Concerning Friday Women of Cambodia

On 24 July 2020, the district security officials in Phnom Penh reportedly used excessive violence against woman human rights defenders and members of Friday Women of Cambodia, Ms. Prom Chantha, Ms. Phal Choeun, Ms. Nuo Noeun, Ms. Heng Borey, and Ms. Sath Pha, who were demonstrating in front of the Municipal Court. Publicly available footage showed security officials violently dragging the women, pushing them to the ground and against metal railings along the street.

On 31 July 2020, Ms. Sath Pha was forced into a police car by district security officials, while she was taking part in the weekly peaceful assembly organised by the group in front of the Phnom Penh Municipal Court. During the arrest, security officials repeatedly shut the car door onto her knee, causing injuries that required medical care. Whilst in the vehicle, a security officer reportedly pressed his knee onto her neck, and she felt like she was suffocating. Ms. Sath Pha was taken to a police station in Phnom Penh, where she was held for a few hours, and questioned. She was released after she reportedly signed a statement that she would not participate in demonstrations in the future.

On 4 September 2020, Ms. Seng Chanthorn, woman human rights defender and a member of the group, was reportedly assaulted by a district security officer whilst participating in the group's weekly demonstration in front of the Municipal Court. The district security officer threw her to the ground, leaving her unconscious and requiring medical attention.

On 1 October 2020, Ms. Prom Chantha and Ms. Sath Pha were reportedly pushed to the ground by district security officers whilst demonstrating outside the Supreme Court in Phnom Penh. Ms. Pha was pushed to the ground a second time, sustaining injuries to her finger.

Concerning Mr. Hun Vannak and Ms. Chhoeun Daravy

On 13 August 2020, Mr. Hun Vannak and Ms. Chhoeun Daravy participated in a peaceful demonstration outside the Municipal Court in Phnom Penh, calling for the release of human rights defender and trade unionist Mr. Rong Chhun, whose arrest on 31 July 2020 triggered a number of protests in the city. According to the information received, a group of about 30 demonstrators, including Mr. Hun Vannak and Ms. Chhoeun Daravy, was forcibly dispersed away from the court building by members of the security forces. Those who did not cease protesting were allegedly beaten and kicked by the security personnel, causing injuries to at least 10 persons.

Ms. Chhoeun Daravy, who had remained outside the premises of the court, was approached and reportedly slapped by a member of the district security personnel. The backpack she had with her, containing some money, along with her ID and bankcard, were seized. Following this, she moved to a different

area outside the court, and, whilst being protected by the crowd, began to livestream on Facebook the excessive use of force by the security personnel to disperse the demonstrators. She then unsuccessfully tried to get her backpack back from the chief security officer. As she left, two plainclothes officers grabbed her hair from behind and dragged her towards a black SUV. She was forced into the back of the SUV, and driven to her home. A search warrant for Ms. Chhoeun Daravy's home by the Phnom Penh Municipal Court was presented and her home was searched, in her presence, and the police collected material.

Mr. Hun Vannak returned home from the protest, to find that around 50 police officers were outside the property where several Khmer Thavrak members were living, in the Pur Senchey district. Mr. Hun Vannak had been livestreaming on Facebook whilst walking home from the protest, explaining what had happened to Ms. Chhoeun Daravy. Towards the end of the video, approximately five minutes long, plainclothes police and uniformed police officers can be seen waiting outside the premises.

The same day, Ms. Chhoeun Daravy, Mr. Hun Vannak and three other members of Khmer Thavrak were arrested at the house and brought to the Phnom Penh Police Commissariat, where all five were reportedly questioned without the presence of a lawyer. The arrest reportedly took place without a warrant. The police alleged that members of Khmer Thavrak had tried to incite disorder and insecurity by participating in the protest.

On 14 August 2020, Mr. Hun Vannak and Ms. Chhoeun Daravy were formally arrested, and the three other Khmer Thavrak members were reportedly released. That day, the two human rights defenders were brought to Phnom Penh Municipal Court, where they were informed that they had been charged under articles 494 and 495 of the Penal Code, "incitement to commit a felony or cause social unrest". At the Court, they were asked to provide a thumbprint for a document, without explanation.

On 20 October 2020, the Phnom Penh Appeal Court rejected the request for bail for both Ms. Daravy and Mr. Vannak. In explaining its decision, the Court cited the alleged risk that the defendants may flee and so their presence in future hearings was ensured.

Mr. Hun Vannak and Ms. Chhoeun Daravy are currently held in pre-trial detention in the Phnom Penh Correctional Centre (CC) in CC1 and CC2 respectively.

Concerning members of Mother Nature Cambodia

In August 2017, the founders of the Mother Nature Cambodia group took the decision to remove the organization from the official government registry of NGOs, in attempts to cease the harassment the group's members had been experiencing, and the arrests of its members.

The group had recently been advocating online against the filling of the Boeung Ta-mouk lake in Phnom Penh to create a military base. The group has criticised the project for its impact on the biodiversity of the area, and destruction of the habitat for many bird species. The procedure of filling the lake is also expected to cause significant flooding in Phnom Penh.

On 3 September 2020, Ms. Long Kunthea was arrested by around 10 police officers in Chbar Ampov district, Phnom Penh as she was planning to begin her one-person demonstration, marching from the Wat Phnom temple to the residence of Prime Minister Hun Sen to request a meeting regarding the Boeung Ta-mouk lake and other environmental issues. Police also arrested Ms. Phuong Keoraksmeay, who was accompanying Ms. Long Kunthea to livestream the demonstration.

Hours later, around 25 police officers from Phnom Penh also surrounded the home of Mr. Thun Ratha in Pur Senteay district for approximately two hours, before arresting him. No arrest warrant was provided upon the arrest. Before leaving the premises, the police officers padlocked the property shut and posted a letter on the door, stating that the operation was carried out on the basis that Mr. Thun Ratha had “published the information without legal permission”. The letter did not provide any specification as to what information was being referred to, and the permission required to publish such information. Whilst the police were questioning him, without the presence of his lawyer, he was informed that the police had hacked into his Facebook account.

On 6 September 2020, all three human rights defenders were also charged under articles 494 and 495 of the Penal Code. All three were placed in pre-trial detention on the same day, Mr. Thun Ratha in CC 1, and Ms. Long Kunthea and Ms. Phuong Keoraksmeay in CC 2. The request for bail made by their lawyers was rejected by the investigating judge.

On 20 October 2020, the Phnom Penh Appeal Court also rejected their request for bail, citing the risk they may flee if granted bail. Their lawyers have been permitted to visit them twice since they were detained.

Concerning Freedom Park

Freedom Park is the only designated space in Phnom Penh where citizens can exercise their right to peaceful assembly. In 2017, the park was relocated to its current location on the outskirts of Phnom Penh, 5km away from the original location, as according to officials, the central location was allegedly causing disruption.

On 7 September 2020, police officers and district security guards blocked access to the space, where a peaceful protest against the detention of human rights defenders was due to take place from 7-15 September 2020. The demonstration had been organised by the group Active Citizen, who had publicised the event on Facebook.

On 29 August 2020, the Active Citizen Facebook page had posted about the “peaceful rally” in a post reading, “If we want justice we need to demand justice” and, “Please join us to express your opinion”. Human rights defenders Mr. Mean Prommony, Mr. Tha Lavy and Mr. Koet Saray also posted about the planned demonstration on their personal Facebook profiles, reiterating the call for participation.

On the same day, the Active Citizen group had sent a letter to the Phnom Penh Municipality informing it of the planned demonstration. The letter did not seek permission for the demonstration, as the existing Law on Peaceful Assembly does not require participants to seek permission from local authorities; rather it requires the authorities be notified.

On 31 August 2020, the Phnom Penh Municipality invited members of Khmer Thavrak to a meeting at 4:00 p.m. at City Hall to discuss the planned demonstration at Freedom Park from 7-15 September 2020. The details of the contents of this meeting remain unknown.

On 2 September 2020, this letter was acknowledged by the municipality, in a response letter in which it rejected the planned demonstration, citing that the group could not provide assurance of the number of participants, therefore posing a risk to public order. The municipality also cited the posts on social media, calling for participation in the protests, as a criminal incitement to disrespect a court order.

On 7 September 2020, those intending to participate in the demonstration arrived to Freedom Park to find that access to the space had been blocked by barricades. Approximately 100 police and anti-riot officers from stood shoulder to shoulder, blocking access to the area. The demonstration did not take place as planned, since participants were unable to access to the designated space.

Concerning members of Khmer Thavrak

On 6 September 2020, Mr. Koet Saray was arrested by Phnom Penh police at the office of the Khmer Student Intelligence League Association (KSILA), allegedly in advance of his plan to attend the peaceful assembly the following day at Freedom Park to call for the release of Mr. Rong Chhun, Mr. Hun Vannak and Ms. Chhoeun Daravy.

Later that day, Mr. Koet Saray, a Buddhist monk, was reportedly defrocked by police, depriving him of his ecclesiastical status, prior to his appearance before the Phnom Penh Municipal Court. The Court charged him under articles 494 and 495 of the Penal Code for “incitement to commit a felony or cause social unrest”. The following day, he was placed in pre-trial detention in CC 1.

On 7 September 2020, Phnom Penh police arrested Mr. Tha Lavy and Ms. Eng Malai, also members of Khmer Thavrak. Mr. Tha Lavy was arrested whilst alighting a tuk-tuk at Freedom Park, where he was due to participate in the demonstration. Woman human rights defender Ms. Eng Malai was chased by

police after leaving the demonstration at Freedom Park. She sought refuge in the Office of the High Commissioner for Human Rights (OHCHR) in Phnom Penh. Ms. Eng Malai was arrested by unidentified officers in plain clothes soon after leaving the OHCHR premises. The officers did not provide a warrant for her arrest.

The officers brought Ms. Eng Malai to the Phnom Penh Police Commissariat, where she refused to sign a statement that she had committed any felony. Her lawyer was not present during the questioning. The police officers present allegedly threatened her to sign the statement. Ms. Eng Malai was made to sleep in a cell in the Commissariat that night, which was reportedly unsanitary.

The previous day, on 6 September 2020, police officers had reportedly followed Ms. Eng Malai. This incident is thought to be in connection with an event that Khmer Thavrak had planned to take place from 7-10 September. The group had attempted to obtain permission from the municipality, but was threatened against holding the event.

On 8 September 2020, Mr. Tha Lavy and Ms. Eng Malai were both charged with “incitement to commit a felony or cause social unrest” and placed in pre-trial detention in CC1 and CC2 respectively. The lawyers for Mr. Tha Lavy and Ms. Eng Malai’s have been permitted to visit them twice since their detention.

Concerning members of the Khmer Student Intelligence League Association

On 6 September 2020, vice-President of the Khmer Student Intelligence League Association (KSILA) Mr. Mean Prommony was arrested by police at his home in Phnom Penh, allegedly for his expressed intent online to lead the demonstration in Freedom Park the next day. Later that same day, he was brought before the Phnom Penh Municipal Court and charged under articles 494 and 495 of the Penal Code, and placed in pre-trial detention in CC1.

On 7 September 2020, fellow member of the KSILA Mr. Muong Sopheak went to Freedom Park to participate in the planned demonstration. On 11 September 2020, Mr. Muong Sopheak was arrested in front of Sothearos primary school in Phnom Penh, following the issuance of an arrest warrant by the Phnom Penh Municipal Court. He has also been charged under articles 494 and 495 of the Penal Code for his intent to participate in the planned peaceful demonstration in Freedom Park. He is also currently in pre-trial detention in CC1.

Concerning searches of CSO offices

In recent months, according to information received, authorities have carried out searches of the offices or bases of independent NGOs, membership groups and trade unions that have vocalised concerns regarding the state of human rights in the country, the dismissal of workers and current economic difficulties faced by Cambodians. In some instances, the authorities sent notices of planned searches of the premises of the groups in question, and in

other instances, the organizations were not given prior warning. The alleged purpose of the searches, is to enquire about questions related to registration of the organisations, employment records and finances.

Since 3 September 2020, eight organizations have been notified that they would be visited by the district police. The organizations concerned are the Coalition of Cambodian Farmer Community (CCFC), the International Democratic Association of Informal Economy (IDEA), Coalition of Cambodian Apparel Workers' Democratic Union (CCAWDU), and Cambodian Youth Network (CYN). Cambodia Labour Confederation (CLC), the Center for Alliance of Labour and Human Right (CENTRAL), the Cambodian Independent Teachers' Association (CITA) and the Cambodian Alliance of Trade Union (CATU).

Concerning threats against trade union leaders

On 1 July 2020, Ms. Yang Sophorn, the President of Cambodian Alliance of Trade Union (CATU), received a letter issued by the Ministry of Labour and Vocational Training, alleging that she had conducted illegal activities by organizing a demonstration in front of Violet Apparel Co. Ltd. Ms. Yang Sophorn had been supporting Violet Apparel workers after the company closed down its operation without providing advance notice to the employees. The letter threatened CATU with possible deregistration in the event that Ms. Yang Sophorn does not cease her activities related to Violet Apparel.

On 5 October 2020, Mr. Kao Sovath, the President of the Cintri Trade Union in Phnom Penh, received a written warning from the Ministry of Labour and Vocational Training that he must stop the organised protests against Cintri, a rubbish collection company. Worker from the company have gone on strike to pressure their employer to guarantee benefits and compensation, should they lose their job. The letter stated that the act of demanding Cintri to pay wages and benefits was illegal (Art 65 of the Law on Trade Unions), that the strike had not been conducted according to the legal procedures of the law (Art 65), and that it was inciting employees to commit serious wrongdoing (article 83 of the Labour Law). The letter warned Mr. Kao Sovath that should he fail to comply, a legal complaint would be filed for the dissolution of the Union, as well as other legal actions.

On 8 October 2020, the Ministry of Labour sent a letter to Mr. Touch Kosal, the President of the Cambodia Tourism Workers' Union Federation (CTWUF), alleging that he had violated the Labour Law. The letter accused Mr. Touch Kosal of inciting workers from Cintri to go on strike. In the letter, the Ministry alleged that Mr. Touch Kosal led a strike of around 2,000 Cintri workers on 2 October 2020, and ordered that he cease his activities. Mr. Touch Kosal reported that this is the third time this year that he has been warned to cease his efforts to protect labour rights. The previous two warnings were issued by the Siem Reap Provincial Labour Department and the Siem Reap Provincial Court, following his efforts to support the workers from Le Meridien Angkor Hotel, who have been on strike since August.

On the commemoration of the Paris Peace Agreements

On 23 October 2020, demonstrations took place in front of the Embassies of China, the United States and France, in that order, in Phnom Penh, in commemoration of the signing of the Paris Peace Agreements in 1991 and calling on the signatories to respect the human rights provisions within the agreement.

Two staff members of the Cambodian Centre for Human Rights (CCHR) were monitoring the demonstration taking place in front of the Chinese Embassy, which was also protesting against the alleged construction of a Chinese naval base in Cambodia. The monitors arrived to the Embassy at around 8 a.m. that morning, wearing recognizable vests with the CCHR logo. The two monitors were taking photos and videos of the protest, as per usual practice, when district security officials allegedly warned them to stop filming the event, or their phones would be confiscated. One security officer attempted to grab their phones. At around 8:30 a.m., when the monitors attempted to record the arrest of Ms. Sath Pha, security officers chased them away to prevent them from doing so. When the two monitors attempted to return to the demonstration following this, they were chased away again and were only permitted to remain at the demonstration once UN human rights monitors arrived.

Following this demonstration, Ms. Sath Pha was taking part in the demonstration in front of the US Embassy when district security officials forcefully confiscated a megaphone and banner from her hand, and then dragged her before pushing her to the ground. According to information received, district security officers kicked her in the back repeatedly. Ms. Sath Pha was brought to Khmer-Soviet Hospital to receive medical treatment for the respiratory injuries she suffered.

On 27 October 2020, Ms. Sath Pha was transferred to the Loksang hospital, where she continued to receive medical treatment. At about 6 p.m. that day, it is reported that district security officials and gendarmeries arrested Ms. Sath Pha without an arrest warrant at Loksang Hospital, and transported her to Don Penh police inspectorate where she was questioned without the presence of her lawyer and held overnight.

On 28 October 2020, Ms. Sath Pha appeared before the Phnom Penh Municipal Court, where she was charged with incitement to commit a felony under section 494 and 495 of the Criminal Code, reportedly for her participation in the demonstration on 23 October, and her participation in calling for the release of Mr, Rong Chhun and CNRP detainees. On the same day, she was taken to Correctional Centre 2 for further investigation by the investigating judge.

Without prejudging the accuracy of the allegations, we would like to express our deep concern regarding the detention of and charges against the human rights defenders mentioned above, in response to their defence of human rights and exercise of their right to freedom of peaceful assembly and association, and freedom of expression.

We express our grave concern regarding the criminalization of the means by which human rights defenders carry out their work, inhibiting their ability to report on and advocate against human rights violations in Cambodia. Such means include but are not limited to, organizing and participating in peaceful demonstrations and conducting advocacy online via social media platforms, as well as organizing themselves in groups on such platforms. We are particularly concerned by the criminalization of such means under the vaguely worded provisions of the Penal Code, such as articles 494 & 495 (“incitement to commit a felony or cause social unrest”), which seems to be used against human rights defenders and activists who have merely exercised their right to freedom of peaceful assembly and association, and freedom of expression.

We also wish to express deep concern regarding the apparent attempts to incite fear amongst human rights defenders for carrying out their legitimate work including women’s human rights defenders and women’s rights organisations, through intimidation, surveillance, threats to cease this work and carrying out visits of their organizations’ premises. We are also troubled by the alleged attempts to preclude human rights defenders from monitoring peaceful demonstrations to ensure the right to freedom of assembly is assured. We find such treatment of human rights defenders deeply troubling, for it contributes to the erosion of civic space in Cambodian society, the silencing of human rights defenders, and the obstruction of the important and legitimate human rights work they carry out.

We are further concerned by the alleged arbitrary arrest of the above-mentioned human rights defenders in what appears to be a response to their participation in, expressed intent to participate in or organization of a peaceful demonstration, and therefore a violation of their right to freedom of peaceful assembly. Individuals should never be arrested or criminally prosecuted for their peaceful participation in assemblies. The excessive use of force against human rights defenders and those participating in peaceful demonstrations is also cause for serious concern. Furthermore, we are concerned by the attempts to prevent the organizers of peaceful demonstrations from holding them, despite their adherence to procedure for holding peaceful assemblies as outlined in the Law on Peaceful Demonstrations, by notifying the authorities in advance, and organizing for them to take place in the designated space.

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 information on the factual and legal basis for the arrest of the human rights defenders Mr. Rong Chhun, Mr. Hun Vannak, Ms. Chhoeun Daravy, Mr. Thun Ratha, Ms. Long Kunthea, Ms. Phoun Keoraksmeay, Mr. Tha Lavy, Ms. Eng Malai, Mr. Mean Prommony, Mr. Muong Sopheak and Ms. Sath Pha.
3. Please provide information on the reasons for the pre-trial detention as well as charges against abovementioned individuals and their access to legal assistance.
4. Please provide information on the dispersal of and reported excessive use of force against peaceful demonstrators and members of Friday Women of Cambodia outside the Phnom Penh Municipal Court on 24 July 2020, 31 July 2020, 4 September 2020 and outside the Supreme Court on 1 October 2020, and how these actions were in conformity with your Excellency's Government's legal obligations under the ICCPR, and Cambodian law.
5. Please provide information on the dispersal of and disproportionate use of force against peaceful demonstrators outside the Phnom Penh Municipal Court on 13 August 2020, and how these actions were in conformity with your Excellency's Government's legal obligations under the ICCPR, and Cambodian law.
6. Please provide information on the factual and legal basis for preventing the planned demonstration at Freedom Park on 7 September 2020 from taking place even though it was in adherence with the procedure for holding peaceful assemblies as outlined in the Law on Peaceful Demonstrations.
7. Please provide information on the factual and legal basis for the planned searches of the premises of the eight organizations mentioned above, and the visits already conducted in recent months.
8. Please indicate what measures have been taken to ensure that human rights defenders including defenders working for the promotion and protection of women's rights in Cambodia are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. 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 an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the allegation letter and the regular procedure.

We may 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/s in question.

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

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

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

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Elizabeth Broderick
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 prejudge 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. We would like to draw your attention to the International Covenant on Civil and Political Rights (ICCPR), acceded to by Cambodia on 26 May 1992, in particular article 9(1) which guarantees the right to liberty and security of all persons, article 19 which guarantees the right to freedom of expression and article 21 which guarantees the right to peaceful assembly.

We would like to remind your Excellency's Government that article 9 (1) of the ICCPR upholds the right of everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. Authorities have an obligation to follow appropriate procedures for arresting and especially the obligation to present before a judge. Both article 9 (3) and article 9 (4) underline the right to legal assistance. Furthermore, article 9 (3) highlights that it shall not be the general rule that persons awaiting trial shall be detained in custody. Pre-trial detention should therefore be an exception but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

Furthermore, we would like to refer to the paragraph 17 of the Human Rights Committee's General Comment No. 35, in which the Committee observes that detention due to peaceful exercise of rights protected by the ICCPR may be arbitrary. We also note that as per jurisprudence of the Working Group on Arbitrary Detention, conviction and subsequent imprisonment of individuals under vague and broadly formulate laws which lack the requisite degree of legal certainty may be arbitrary.

With regard to peaceful assemblies, we would also like to bring to the attention of your Excellency's Government General Comment No.31, in which the Committee observes that there is a positive obligation on State Parties to ensure protection of Covenant rights of individuals against violations by its own security forces. We also wish to refer to General Comment No.37 of the Human Rights Committee on the Right of peaceful assembly (CCPR/C/GC/37), which emphasises that "the possibility that a peaceful assembly may provoke adverse or even violent reactions from some members of the public is not sufficient grounds to prohibit or restrict the assembly. [...] States are obliged to take all reasonable measures that do not impose disproportionate burdens upon them to protect all participants and to allow such assemblies to take place in an uninterrupted manner."

We would also like to underline that according to General Comment 34 of the Human Rights Committee, "the obligation to respect freedoms of opinion and expression is binding on every State party as a whole [...] The obligation also requires States parties to ensure that persons are protected from any acts by private persons or entities that would impair the enjoyment of the freedoms of opinion and expression to

the extent that these Covenant rights are amenable to application between private persons or entities.” (CCPR/C/GC/34, paragraph 7). In the same General Comment, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedoms of opinion and expression, including inter alia ‘political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism’, subject only to admissible restrictions as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination.

Furthermore, we would like to reiterate to your Excellency’s Government of its obligation under the International Convention on the Elimination of Discrimination against Women (CEDAW) through its accession on 15 October 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 stresses 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 has 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 your Excellency’s Government to General Assembly Resolution 68/181, adopted on 18 December 2013, on the protection of women human rights defenders. Specifically, we would like to refer to 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.

Moreover, we would like to draw your Government attention to the principles enunciated by Human Rights Council resolution 24/5, and in particular operative paragraph 2, which “reminds States of their obligation to respect and fully protect the [right] of all individuals to... associate freely, online as well as offline... including 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 [right] to freedom of... association are in accordance with their obligations under international human rights law”.

We would also like to further 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;

We would like to draw your attention General Assembly Resolution 68/181 whereby States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling

environment for the defence of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women defenders. Such policies and programmes should be developed with the participation of women defenders themselves. (OP5, 19 and 20)

We would also like to refer to Human Rights Council Resolution 22/6, which indicates that domestic law should create a safe and enabling environment for the work of human rights defenders (PPs 10-13), and urges States to ensure the legislation designed to guarantee public safety and public order contains clearly defined provisions consistent with international human rights law, and that it is not used to impede or restrict the exercise of any human right (OP4). We would also like to recall this Resolution, with regard to its urge to States to acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law (OP5).