

**Mandates of the Special Rapporteur on the situation of human rights defenders; 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; and the Special Rapporteur on the rights to freedom of peaceful assembly and of association**

REFERENCE:  
AL KHM 3/2020

29 May 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; 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; and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 34/5, 42/37, 34/18 and 41/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged intimidation of human rights defender Mr. Am Sam Ath.

Mr. Am Sam Ath is Deputy Director of the Human Rights Monitoring Office of the Cambodian League for the Promotion and Defence of Human Rights (LICADHO). Mr. Sam Ath has been working with LICADHO for more than 20 years.

According to the information received:

In June 2017, the Ministry of Interior was ordered to investigate whether the registration of a coalition of human rights NGOs including LICADHO complied with the law, and in August of the same year, LICADHO was reportedly the subject of a smear campaign when the Head of Government alleged that LICADHO was operating illegally in the country and demanded that the organisation's finances be scrutinised.

On 28 March 2020, Mr. Sam Ath, Deputy Director of LICADHO, was interviewed by Radio Free Asia for a show which was broadcast on the morning of 29 March. Mr. Sam Ath commented on the recent wave of arrests of people expressing their concerns about the COVID-19 virus in Cambodia. Mr. Sam Ath claimed that a number of those arrests were politically motivated, based on pre-existing cases against opposition activists. He also stated that several of the arrests were allegedly not carried out in accordance with procedural guarantees, such as production of a warrant for arrest. Mr. Sam Ath further stated that the arrests likely constituted a curtailment of the right to freedom of expression.

On 31 March 2020, during a press conference on the Government's response to COVID-19, the Head of Government is reported to have incorrectly claimed that

Mr. Sam Ath had criticised the Government for arresting individuals selling fake COVID-19 tests and medicines, and alleged that Mr. Sam Ath's comments made him criminally liable as an accomplice. However, according to information received, no reference was made by Mr. Sam Ath in regard to the selling of fake COVID-19 tests and medicines during the interview. During the same press conference, Mr. Sam Ath was warned to be very careful about commenting on matters relating to the COVID-19 situation. He was further warned that even if the state of emergency law had not yet come into force, he could still be arrested because his comments allegedly constituted support for illegal activities, which would equate to colluding to commit illegal acts in Cambodia.

While we do not wish to prejudge the accuracy of these allegations, we are concerned that the public condemnation of and threat to arrest Mr. Am Sam Ath appear directly linked to his work in defence of human rights, and designed to curb the exercise of his right to freedom of expression and his right to defend human rights. We are further concerned at the alleged spreading of false information in regard to comments attributed to him.

We are also concerned that such public threats against a human rights defender can have a chilling effect on freedom of expression, freedom of opinion, and space for civil society and media to publicly report information and conduct awareness raising activities during the ongoing COVID-19 pandemic. We are further concerned that the alleged threat to Mr. Sam Ath may be contributing to an environment of self-censorship among human rights defenders, for fear of being misinterpreted and facing criminal action for the spreading of false information.

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 indicate what measures have been taken to ensure that Mr. Sam Ath, and human rights defenders in Cambodia in general, are able to carry out their peaceful and legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.
3. Please indicate what specific measures have been taken in light of the COVID-19 pandemic so that media and civil society organisations can assist with disseminating information about the pandemic and the national response free from threats and intimidation.

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.

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

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

David Kaye  
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

**Annex**  
**Reference to international human rights law**

In connection with above alleged facts and concerns, we wish to remind your Government of its obligations under the International Covenant on Civil and Political Rights (ICCPR), to which Cambodia acceded on 26 May 1992.

We call upon your Excellency's Government to take all necessary measures to respect Article 19(1) of the ICCPR which establishes 'the right to hold opinions without interference'. Article 19(2) establishes State Parties' obligations to respect and ensure the right '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'.

Under article 19(3), restrictions on the right to freedom of expression must be 'provided by law', and necessary 'for respect of the rights or reputations of others' or 'for the protection of national security or of public order (ordre public), or of public health and morals'.

In its General Comment No. 34 on Freedoms of opinion and expression (CCPR/C/GC/34), 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 (see above) as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination.

In its General Comment No. 25 on Participation in Public Affairs and the Right to Vote (CCPR/C/21/Rev.1/Add.7), the Human Rights Committee set out that '[i]n 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. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion.' It requires the full enjoyment and respect for the rights and freedoms to 'engage in political activity individually or through political parties and other organizations ... 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.'

The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights state that national security cannot be invoked as a reason for imposing limitations to prevent merely local or relatively isolated threats to law and order, or as a pretext for imposing vague or arbitrary limitations. It may only be invoked to protect the existence of the nation or its territorial integrity or political independence against force or threat of force, and where there are adequate safeguards and effective remedies against abuse.

In order for political and democratic engagement to be genuine and robust, unfettered public debate is crucial. Such debate depends on the free communication of ideas concerning public and political issues so that the public is fully informed of all points of view, even when such views might be opposing and even controversial. The rights to freedom of expression and of peaceful assembly are extremely important means for achieving this. In this context, we wish to refer to the concluding observations of the Human Rights Committee to Cambodia in relation to its implementation of article 19 of the International Covenant on Civil and Political Rights in 2015. The Committee recommended that the Government ‘...ensure that everyone can freely exercise his or her right to freedom of expression and association, in accordance with articles 19 and 22 of the Covenant and the Committee’s general comment No. 34 (2011) on freedoms of opinion and expression.’

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.