

## **URGENT APPEAL - THE OBSERVATORY**

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### **New information**

**KHM 001 / 0715 / OBS 056.1**

Judicial harassment / Arbitrary detention

**Cambodia**

July 22, 2015

The Observatory for the Protection of Human Rights Defenders, a joint programme of the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), has received new information and requests your urgent intervention in the following situation in **Cambodia**.

### **New information:**

The Observatory has been informed by reliable sources about the ongoing judicial harassment against Mr. **Ny Chakrya**, Head of the Human Rights and Legal Aid Section of the Cambodian Human Rights and Development Association (ADHOC), an FIDH member organisation in Cambodia. ADHOC monitors human rights violations, provides legal assistance to victims of human rights violations – including victims of land disputes - and engages in human rights advocacy.

According to the information received, on July 19, 2015, the Deputy Prosecutor of the Phnom Penh Municipal Court decided to refer Mr. Ny Chakrya's file on charges of "public defamation", "acts of slanderous denunciation", and "publication of commentaries to put pressure on jurisdiction" (Art. 305, 311, and 522 of the Criminal Code respectively) to the investigating judge.

The investigating judge, who at this point is still unknown, will conduct judicial investigations in order to decide whether there are sufficient grounds to believe that Mr. Ny Chakrya committed the three counts of defamation. The investigating judge has the sole power to formally charge Mr. Ny Chakrya.

Mr. Ny Chakrya did not receive any notification from the Deputy Prosecutor, informing him that his complaint and evidence had been submitted to the investigating judge. He found out from the Cambodian press, which the Deputy Prosecutor had informed on July 18, upon an inquiry on the progress in Mr. Ny Chakrya's case.

The Observatory strongly condemns the ongoing judicial harassment against Mr. Ny Chakrya, which only aims at sanctioning his legitimate human rights activities.

The Observatory calls on the Cambodian authorities to put an end to threats and harassment against human rights defenders in the country.

### **Background information:**

According to the summons received by his lawyers on June 26, 2015, and by Mr. Ny Chakrya personally on July 1, 2015, the Phnom Penh Municipal summonsed Mr. Ny Chakrya to appear for questioning before the Deputy Prosecutor of the Phnom Penh Municipal Court on July 13, 2015.

This follows a complaint filed by the investigating judge of the Siem Reap Provincial Court and the Deputy Prosecutor of the Siem Reap Provincial Court on charges of "public defamation", "acts of slanderous denunciation", and "publication of commentaries to put pressure on jurisdiction" (Art. 305, 311, and 522 of the Criminal Code respectively).

The complaint was related to a press conference organised by ADHOC's office in Siem Reap

on May 12, 2015, during which Mr. Ny Chakrya, along with one ADHOC lawyer, Ms. **Pouk Yarann**, condemned the arbitrary arrest and detention of Mr. Ven Lorn and Mr. Beourn Sok, two residents of the Chup Romdeng Village (Phnom Sra Ngam area, Kantout Commune, Svay Leu District, Siem Reap Province) involved in a high profile land dispute in the Siem Reap Province.

On May 15, 2015, the Prosecution office of the Siem Reap Provincial Court published a statement threatening Mr. Ny Chakrya and Ms. Pouk Yarann that it would initiate legal proceedings against them, alleging that the "provocative comments" made during the press conference jeopardised the effective functioning of the Cambodian judicial institutions and the on-going proceedings in the concerned land dispute.

On May 20, 2015, Mr. Ny Chakrya filed a complaint with the President of the Disciplinary Council of the Supreme Council of Magistracy, claiming that the proceedings against Mr. Ven Lorn and Mr. Beourn Sok were not conducted in accordance with fair trial standards because of the lack of independence of the Deputy Prosecutor. No developments have been observed since the complaint was filed.

On June 22, 2015, the Cambodian Bar Association lodged a disciplinary complaint against Ms. Pouk Yarann, accusing her to provide Mr. Ny Chakrya with legal advice when submitting the complaint to the Supreme Council of Magistracy. She was summoned for questioning on July 3, 2015 by the Investigating Committee of the Cambodian Bar Association, which subsequently issued a report to the President of the Cambodian Bar Association. Since then, there have been no developments.

On June 17, 2015, at 8:30am, Mr. Ven Lorn and Mr. Beourn Sok were found guilty on charges of inciting a group of residents of Chup Romdeng Village to destroy and intrude on the property of the agricultural development company, Community Takhmao Development Agricultural & Industrial<sup>1</sup>. Mr. Ven Lorn and Mr. Beourn Sok were sentenced to six and eight months in prison respectively. Whereas Mr. Ven Lorn was released on July 3, 2015, after serving his sentence, Mr. Boeurn Sok has still two months to serve.

#### **Actions requested:**

Please write to the authorities of the Kingdom of Cambodia asking them to:

- i. Put an end to all forms of harassment, including at the judicial level, against Mr. Ny Chakrya and Ms. Pouk Yarann as well as of all human rights defenders in the country;
- ii. Guarantee in all circumstances the physical and psychological integrity of Mr. Ny Chakrya and Ms. Pouk Yarann as well as of all human rights defenders in Cambodia;
- iii. Comply with all the provisions of the United Nations Declaration on Human Rights Defenders, adopted by the UN General Assembly on December 9, 1998, in particular with:
  - article 1, which states that "everyone has the right, individually or collectively, to promote the protection and fulfilment of human rights and fundamental freedoms at the national and international levels",
  - article 6.c which stipulates that everyone has the right [...] "to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw

<sup>1</sup> In 2014, TCIDA started clearing plots of agricultural land owned by village residents, affecting 31 families and a total of 90 hectares of land. A complaint has been filed by the families affected, demanding the return of their land as well as the continuation of the use of their land for cultivation purposes.

public attention to those matters";

- article 9.a which provides that everyone has the right [...] "to complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay";
- as well as article 12.2, which provides that "the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually or in association with others, 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 present Declaration";

vi. Guarantee the respect of human rights and fundamental freedoms in accordance with the Universal Declaration on Human Rights and other international human rights instruments signed or ratified by the Kingdom of Cambodia.

#### Addresses:

- Mr. Hun Sen, Prime Minister, Office of the Prime Minister, 41 Russian Federation Blvd, Phnom Penh, Kingdom of Cambodia. Fax: +855 23 360666 / 855 23 880624 (c/o Council of Ministers), Email: leewood\_phu@nida.gov.kh / cppparty@gmail.com
- Mr. Sar Kheng, Minister of Interior, Ministry of Interior, 275 Norodom Blvd, Phnom Penh, Kingdom of Cambodia. Fax: + 855 23 212708
- Mr. Ang Vong Vathna, Minister of Justice, Ministry of Justice, 240 Sothearos Blvd, Phnom Penh, Kingdom of Cambodia. Fax: + 855 23 364 119
- Mr. Hor Nam Hong, Minister of Foreign Affairs, 161 Preah Sisowath Quay, Phnom Penh, Kingdom of Cambodia. Fax: + 855 23 216 144 / 855 23 216 141 Email: mfaic@mfa.gov.kh
- Mr. Om Yentieng, Minister & President of the Cambodian Human Rights Committee, Office of the Prime Minister, Phnom Penh, Kingdom of Cambodia, Fax: +855 12 81 37 81 / +855 23 21 11 62 or +855 23 88 10 45 (c/o Council of Ministers)
- Mr. Bun Hun, President of the Cambodian Bar Association, Building at the corner of Street 1129 and 1930, Sangkat Phnom Penh Thmei, Khan Sen Sok, Phnom Penh, Kingdom of Cambodia, Tel: (855) 23 864 078, Fax: (855) 23 864 076, Email: info@bakc.org.kh
- Mr. Sok An, Deputy Prime Minister, Fax: + (+855) 23 882 065, Email: leewood\_phu@nida.gov.kh, info@pressocm.gov.kh
- Ambassador Mr. Ney Samol, Permanent Mission of the Kingdom of Cambodia to the United Nations in Geneva, Chemin de Taverney 3, Case postale 213, 1218 Grand-Saconnex, Switzerland, Fax: + 41 22 788 77 74, Email: camemb.gva@mfa.gov.kh / cambodge@bluewin.ch

Please also write to the diplomatic representations of Cambodia in your respective countries.

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Paris-Geneva, July 22, 2015

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

The Observatory, a FIDH and OMCT venture, is dedicated to the protection of human rights defenders and aims to offer them concrete support in their time of need.

To contact the Observatory, call the emergency line:

- E-mail: [Appeals@fidh-omct.org](mailto:Appeals@fidh-omct.org)
- Tel and fax FIDH + 33 1 43 55 25 18 / +33 1 43 55 18 80
- Tel and fax OMCT + 41 22 809 49 39 / + 41 22 809 49 29