



# Human Rights Now

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### **Human Rights Now calls for the immediate release of human rights defenders in Cambodia**

#### **1. Introduction**

Human Rights Now (HRN), a Tokyo-based international human rights NGO, expresses grave concern over the recent oppression of human rights defenders and political opposition in Cambodia.

Four staff members of the Cambodian Human Rights and Development Association (ADHOC), and a deputy secretary-general of Cambodia's National Election Committee (NEC), have been imprisoned under spurious charges of "bribing a witness." A United Nations (UN) official has been charged as an accomplice to the crime.

The harassment and arbitrary detention of human rights defenders is contrary to Cambodia's human rights commitments and obligations, and continues the worrying trend in Cambodia of the tightening civic space ahead of the upcoming local and national elections in 2017 and 2018, respectively.

#### **2. The harassment and arbitrary detention of human rights defenders**

In early April 2016, human rights NGO ADHOC provided Khom Chandaraty, better known as Srey Mom, with legal advice and assistance after she was questioned by Cambodia's Anti-Terrorism Unit in relation to an alleged affair with deputy opposition leader Kem Sokha. ADHOC gave Khom Chandaraty US \$204 for expenses, including covering costs to attend court, and assigned her a lawyer – standard practice for legal aid NGOs.

On April 19, 2016, after further interrogation by Anti-Terrorism police and a prosecutor, Khom Chandaraty reversed her previous denial of the alleged affair. On April 22, 2016, she issued an open letter accusing a number of people, including four ADHOC staff members and a UN official, of telling her to lie to the authorities. All those named in the letter denied these unsubstantiated allegations.

Over April 27 and 28, 2016, Cambodia's Anti-Corruption Unit (ACU) summoned four ADHOC staff members – Lim Mony, Nay Vanda, Ny Sokha and Yi Soksan – as well as UN official Soen Sally, who had all been named in the letter. The ACU also summoned former ADHOC staff member Ny Chakrya, now a deputy secretary-general of Cambodia's National Election Committee.

On May 2, 2016, a Phnom Penh prosecutor filed bribery charges under Article 548 of the Cambodian Criminal Code against Ny Sokha, Yi Soksan, Nay Vanda, and Lim Mony. Ny Chariya and Soen Sally were charged with being accomplices to the crime under Cambodian Criminal Code Articles 29 and 548. Soen Sally was charged in absentia and an arrest warrant has been issued for him despite his diplomatic immunity as a UN official. All six face five to ten years in prison if found guilty.

Their imprisonment has sparked the “Black Monday” campaign – a peaceful civil society movement in which individuals wear black clothing to demonstrate solidarity with the detained human rights defenders. This campaign has resulted in at least twenty further arbitrary arrests since its inception, as civil society members participating in the campaign have been detained and forced to sign an agreement not to protest before they are released.

The arrests and imprisonment of the five human rights defenders come as part of an escalation in a far-reaching smear campaign and judicial harassment of deputy opposition leader Kem Sokha.

### **3. Government harassment and arbitrary detention of human rights defenders violates international law**

The arrest and detention of the above-mentioned human rights defenders violates Article 9 of the International Covenant on Civil and Political Rights (ICCPR), prohibiting arbitrary detention.<sup>1</sup> It also violates Article 12 of the Declaration on Human Rights Defenders, which provides that governments shall take all necessary measures to ensure the protection for human rights defenders “against any violence, threats, retaliation, de facto or *de jure* adverse discrimination, pressure or any other arbitrary action” as a consequence of their efforts to protect and promote human rights and fundamental freedoms.<sup>2</sup> Their activities fall within the definition of a human rights defender’s legitimate work. They provided professional legal advice and assistance to Khom Chandaraty, a person who came to them for help as a victim of human rights violations.

The arrest warrant for Soen Sally also violates the 1946 Convention on the Privileges and Immunities of the UN, which Cambodia acceded to on November 6, 1963. Regardless of Soen Sally’s diplomatic immunity, the Cambodian Prime Minister, Hun Sen, has stated that Soen Sally is not entitled to any special protection.<sup>3</sup> While Cambodia’s Ministry of Foreign Affairs has stated that the Convention should be obeyed and the legal action against Soen Sally stopped,<sup>4</sup> the Cambodian Prime Minister’s statement remains of great concern.

### **4. The lack of independence of the ACU**

The ACU was created to tackle the endemic corruption prevalent in Cambodia, and the Cambodian Law on Anti-Corruption requires the ACU to undertake its duties independently of political partisanship. However, a ruling party spokesman recently stated that it was natural for the government to appoint staff to the ACU who were sympathetic to the Cambodian People’s Party.<sup>5</sup> This calls into question the independence of the ACU and its ability to achieve what it was established to do: to tackle corruption, including within the government.

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<sup>1</sup> ICCPR Art. 9, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

<sup>2</sup> UN General Assembly A/RES/53/144, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, 8 Mar. 1999, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/770/89/PDF/N9977089.pdf?OpenElement>

<sup>3</sup> Phnom Penh Post, *Foreign Ministry Says UN Worker Has Immunity*, 9 May 2016, <http://www.phnompenhpost.com/national/foreign-ministry-says-un-worker-has-immunity>

<sup>4</sup> *Id.*

<sup>5</sup> LICADHO, *CSOs call upon authorities to immediately cease harassment of human rights defenders*, 29 Apr. 2016, <http://www.licadho-cambodia.org/pressrelease.php?perm=402>

## **5. Recommendations**

The harassment and detention of human rights defenders is extremely serious and could be interpreted as a challenge to democracy and the rule of law, as it violates Cambodia's obligations under international law. In light of the critical situation of democracy and freedom of human rights activities in Cambodia, Human Rights Now makes the following recommendations to the Cambodian Government.

Human Rights Now urges the Cambodian authorities to:

- Immediately release Ny Sokha, Nay Vanda, Yi Soksan, Lim Mony, and Ny Chakrya and drop all charges against them and Soen Sally.
- Ensure that all human rights defenders in Cambodia are able to carry out their legitimate human rights activities without fear of reprisals.
- Implement the UPR recommendations that it has accepted, especially those relating to human rights defenders and civil society.