Introduction

This factsheet provides an overview of recent obstacles faced by the Cambodian Center for Human Rights (“CCHR”) in attempting to conduct prison visits, in support of individuals who have been unlawfully deprived of their liberty for exercising their fundamental freedoms. Despite the important role that civil society organizations have to play in carrying out independent monitoring of human rights conditions in places of detention, the government has restricted access to prisons on a number of recent occasions.

CCHR is a non-aligned, independent, non-governmental organization that works to promote and protect democracy and respect for human rights – primarily civil and political rights – throughout Cambodia.

Case Background

On 15 January 2014, CCHR requested permission from the General Department of Prisons, a department of the Ministry of Interior, for a CCHR team to visit Mr. Vorn Pao and seven other detainees who had been arrested while peacefully demonstrating, calling for an increase of the minimum wage to 160$ in front of the Yak Jing Factory on 2 January 2014. The request was refused, on the basis that the case was still in the investigation stage, and that therefore only family members and lawyers were permitted to visit the detainees. CCHR pointed out that only an investigating judge can prohibit visits in order to guarantee the good conduct of an investigation, and as such, the refusal had no legal foundation.\(^1\)

On 25 November 2014, CCHR requested permission to visit Nget Khun, Tep Vanny, Song Srey Leap, Kong Chantha, Phan Chhunreth, Bo Chhorvy, and Nong Sreng of the Boeung Kak Lake community, who were arrested on 10 November 2014, charged with obstructing public traffic, tried and convicted within 36 hours, receiving a maximum sentence of one year in prison and a US$500 fine.\(^2\) The seven women had been protesting, calling on the authorities to take action to remedy flooding in their community. The area has suffered flooding problems since 2008, when the lake was filled with sand by the Shukaku Inc Company. The request also included a visit to Ms. Ly Seav Minh and her father Mr. Ly Srea Kheng, who were arrested on 18 November 2014 in the context of a land dispute with the Khun Sear Import Export Company after they refused to vacate a plot of land in the Boeung Kak 1 area of Phnom Penh. The family has suffered death threats,

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violent attacks and intimidation as a result. Mr. Kheng was bailed on December 5, but bail was
denied to Ms. Seav Minh on 5 January 2015 on the grounds that it was necessary to prevent the
commission of further crimes, the destruction of evidence or threats against witnesses, without
explaining why such risks were applicable to her case. Mr. Ly Srea Kheng has been released on
bail. The other eight detainees are currently in detention at Prey Sar Correctional Center Two on
the outskirts of Phnom Penh.

CCHR received a written response on 16 December, which had been signed on 4 December,
stating that the visit would not be allowed, as the request had specifically mentioned ‘activists’ in
detention, and that only visits to ‘general detainees without relatives’ were permitted. A
delegation comprising staff members from CCHR and the World Organisation Against Torture
(“OMCT”) had in fact been permitted to visit Tep Vanny and Song Srey Leap in prison on 2
December, although the CCHR staff member had stated that she was only attending as a translator
to assist OMCT, and did not state her official affiliation with CCHR. Furthermore, a CCHR team was
permitted to visit Tep Vanny, Song Srey Leap, Kong Chantha and Nget Khun on 23 December, but
again, did not state their affiliation with CCHR and instead visited in their capacity as friends of
the detainees.

On 19 January 2015, CCHR submitted a follow up letter to H.E. Sar Kheng, Interior Minister,
requesting bimonthly visits to the eight detainees. CCHR received a response from the Ministry
of Interior six weeks later, on 5 March 2015, allowing only one official visit to be carried out
during the month of February. The letter was dated 27 February 2015 and delivered six days
later, making the permission effectively meaningless. CCHR will repeat its request for access until
it is granted.

On 20 February 2015, a delegation comprising national and foreign staff of CCHR again attempted
to visit several of the detainees held at Prey Sar Correctional Center Two, Tep Vanny, Ly Seav
Minh, and Song Srey Leap. Despite again concealing their affiliation to CCHR, the delegation was
told by prison officials that they had received verbal orders not to allow foreigners access without
an official letter of permission from General Department of Prisons or an embassy. One national
staff member of the delegation was permitted to visit one of the detainees as a friend. Again, on
23 February 2015, the same staff member visited Tep Vanny as a friend, and was able to meet six
other detainees at the same time along with their lawyers who were also visiting them.

Other human rights organisations have also recently faced difficulties when conducting prison
visits, including Licadho and ADHOC. 4

Independent Monitoring of Human Rights Conditions in Places of Detention

Article 55 of the Prison Law provides for visits by family members, but Cambodian domestic law
provides little guidance on access to detainees by members of civil society organisations, and
there seems to be little consistency in practice. It has long been recognized that regular visits to

3 CCHR, ‘Arbitrary arrests in Boeung Kak 1’ November 20 2014 Joint Statement
http://www.rfa.org/khmer/news/human-rights/Adhoc-disappointed-with-prison-dept-03052015000809.html?searchterm=utf8&usfringe=E1%9E%9F%E1%9E%98%E1%9E%B6%E1%9E%82%E1%9E%98%E2%80
%8B%E1%9E%A2%E1%9E%B6%E1%9E%8A%E1%9E%AO%E1%9E%8B%E1%9E%80
places of detention can help strengthen the protection of persons deprived of their liberty against human rights violations. According to article 31 of the Constitution, Cambodia "shall recognize and respect human rights as stipulated in the United Nations Charter, the covenants and conventions related to human rights, women's rights and children's rights." The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ("Protocol"), which Cambodia ratified in 2007, states in its preamble that "the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment can be strengthened by non-judicial means of a preventive nature, based on regular visits to places of detention."

The Protocol recognizes that national and international monitoring mechanisms that are independent from the detaining authority are key to ensuring adequate safeguards, establishes an international Subcommittee on the Prevention of Torture and provides for the establishment of National Preventive Mechanisms.

CCHR believes that civil society organizations can play a key role in national efforts to monitor places of detention, enhance the protection of detainees and strengthen transparency and accountability. This is particularly important in Cambodia, as by the government's own admission, most of its prisons are old and "they do not comply with international standards;" Cambodia lacks a separate juvenile justice system; and given the serious allegations of violations committed in detention centers used to house homeless and other "undesirable" people, and that the government has yet to establish a National Human Rights Institution in line with the Paris Principles with a mandate to conduct regular monitoring.

Civil society organizations have particular expertise in local human rights conditions, and as pointed out by the Association for the Prevention of Torture, are able to offer unique, first-hand observations about the situation for people deprived of their liberty. Restricting the access of civil society organizations to persons deprived of their liberty would hinder the provision of essential care packages and an important source of moral support. Furthermore, in the absence of the above-mentioned national monitoring mechanisms, allowing civil society organizations to regularly monitor places of detention would go a long way to demonstrating the government's commitment to protecting persons deprived of their liberty against human rights violations.

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5 Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Adopted on 18 December 2002 at the fifty-seventh session of the General Assembly of the United Nations by resolution A/RES/57/199, entered into force on 22 June 2006 https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx


7 Ibid, page 12.
