Fact Sheet: Arrest of Vong Sokhengly typical of continued police intimidation

Timeline: 2014-present

Snapshot: Mr. Vong Sokhengly was detained without charge on Monday 04 January 2016 for questioning and ‘education’ in regards to his peaceful protest activities. Police also attempted to have him sign a letter promising to move the protest away. This illegal abuse of power by the authorities violates human rights and is part of an ongoing tactic of intimidation in the Kingdom of Cambodia (“Cambodia”).

Introduction
On Monday 04 January 2016 Mr. Vong Sokhengly was detained for approximately six hours in Preah Vihear province. He was detained without charge, supposedly for questioning about his involvement in a land dispute protest and, in the words of Preah Vihear Provincial Deputy Governor Su Serie, detained “to educate him” for taking part in this protest.¹ There are also reports that police refused to tell Mr. Sokhengly under which charge he was being detained. The activist and community representative had been involved in peaceful protests regarding two land disputes in Tbeng Meanchey and Rovieng districts, where villagers complained that Economic Land Concessions (“ELCs”) were encroaching on their land. He was freed only after fellow protestors blocked the gates to the Provincial Hall. Before freeing him, the police attempted to coerce Mr. Sokhengly to sign a letter stating he would tell other protesters outside the hall to leave.

This arbitrary detention of protestors, often used to break up protests or for other political purposes, has become commonplace in Cambodia. Also common is the practice of forcing detainees to sign letters before they are released, pledging to take some action or forego some right. Both of these unlawful practices infringe on the rights to freedom of movement, assembly, and expression, as enshrined in the Constitution of the Kingdom of Cambodia (“the Constitution”). In recent years the Cambodian authorities have been increasingly using such methods of intimidation to quash peaceful protests and repress activism.

This Factsheet is written by the Cambodian Center for Human Rights (“CCHR”), a leading, non-aligned, independent non-governmental organization (“NGO”) working to promote and protect democracy and human rights – primarily civil and political rights – throughout Cambodia.

Context of the arrest: widespread land disputes in Cambodia
Mr. Sokhengly is a community representative in Ros Rarnn commune, Rovieng district, Preah Vihear province. Villagers have lived there since 1997/98. In 2011, the Royal Government of Cambodia (“RGC”) granted a 9,000 hectare ELC that infringes on local villagers’ lands to Lan Feng, a Chinese company.² In response the community made requests to the Preah Vihear Provincial Hall to intervene, however, no solution was forthcoming. As a result Mr. Sokhengly and other villagers have protested to try and

resolve their dispute with the company. Recently they have gathered to sleep in front of the Provincial Hall, waiting for any response from the Provincial Governor.

In October 2015, Mr. Sokhengly and four other representatives were summoned by the Preah Vihear Provincial Court in relation to their protest activities under the charge of incitement to commit a felony (Article 495 of the Criminal Code) As they had no legal representative, they asked to adjourn the hearing. These representatives will appear again in Preah Vihear Provincial Court on 13 January 2016.

The trend in 2015: arbitrary detention and conditional release
The detention of protestors has been a continuing trend in 2015, and seems set to continue this year:

- **February**: union representatives detained after distributing letters to factory workers refuting claims of corruption in their union. The unionists were released after about two hours, after they were required to sign a document promising not to distribute letters without government permission.

- **June**: Three protestors from environmental NGO Mother Nature were arrested whilst attempting to protest peacefully against sand dredging in Koh Kong, outside the National Assembly in Phnom Penh. Police also arrested a protest monitor who was with them at the time. The four men were all released without charge, but not before the three activists were required to sign statements pledging to inform authorities of protests in future.

- **September**: Mr. Soth Piseth was detained, required to sign a letter and then released. He was organizing a roadblock in protest against the presence of a Chinese company on local villagers’ lands. The letter he signed required him to not block roads or lead more protests; he has no intention of honoring this obligation.

The practice of arbitrarily detaining human rights defenders and activists and then making their release contingent on signing statements agreeing to cease advocacy efforts and so forth appears to have started in earnest in January 2014, when the RGC instigated a crackdown on protests. From that time on, the practice of detaining protestors and activists and requiring them to sign letters seems to have become standard practice. It was enforced on at least 17 individuals on three occasions in January that year alone, as noted by CCHR’s Briefing Note, *Conditional Release of Human Rights Defenders Violates Fundamental Rights to Freedom of Expression and Assembly*, released in February 2014. CCHR at the time reported that this practice had also been used more sporadically in previous years, such as in April 2011, July and November 2013. As such, whilst this tactic has been used at least since 2011, it has become more widespread since January 2014.

Illegality of the practice

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The illegality of these tactics is clear. Arrest of protestors to break up protests and discourage dissent is in contravention to the right to freedom of assembly and expression as found in Article 41 of the Constitution. Whilst restriction of these rights is allowed for public safety reasons, it must be in pursuit of legitimate aims and done in proportion to the threat presented. In all of these above cases, the protestors presented no actual threat, as all were engaging in nonviolent protest. In regards to the signed letters, the specific restrictions placed on individuals with no record of violent protest cannot be justified as proportionate or legitimate. Government officials have admitted that there is no legitimate aim for these arrests except “education” of protestors to discourage them from further action. Ironically Phnom Penh Municipal Governor Pa Socheatvong was recently quoted asking NGOs to “stop teaching our people about protesting”. Therefore this anti-protest rights attitude appears widespread amongst Cambodian authorities. With higher officials giving such statements, it is unsurprising that this lack of respect for rights of individuals has reached the lower levels of police and other law enforcement officers.

Furthermore, the signed letters cannot have any legal force. Often police refuse to release detainees until they sign these letters, or threaten to take legal action against them if they do not sign. As such, they are signed under duress and so cannot reflect a freely given guarantee of that individual. Usually the conditions stated within the letters infringe the individual’s right to freedom of movement and right to freedom from arbitrary arrest. The letters may also, as in the above situation, force the individuals detained to take actions against their fellow protestors, in contravention of the rights of both parties.

Conclusion & Recommendations

This latest detention without charge for political purposes is yet another example of the RGC using intimidation tactics against protestors. The admission by the Deputy Governor of the political purpose behind this arrest shows blatant disrespect for the rule of law, making no attempt to justify the arrest on any legal basis. This practice shows the disrespect of many officials and law enforcement officers for Cambodians’ rights under the Constitution to freedom of expression, and freedom of assembly. Additionally, requiring detainees in police custody to sign a letter before they are released, a tactic now commonly used by police, erodes human rights and goes against Cambodian law.

In light of these human rights abuses, CCHR makes the following recommendations:
• CCHR renews the request made in February 2014 that the RGC stop the practice of forcing protestors to sign letters conditional to their release from detention.
• CCHR renews the request to make all signed letters of this type void.
• CCHR renews its call to stop the use of the police and judicial system for political means, and to respect the right to freedom of expression in opposition to the RGC.
• CCHR recommends the RGC reform the process of allocating ELCs in Cambodia, to respect the citizens’ right to own property, resolve disputes and make the system fairer for individuals. Land disputes are the cause of many of the protests quashed by the RGC in recent months; if these were resolved effectively then there would be less incentive for police to resort to illegal tactics.
For more details, please contact CCHR Protecting Fundamental Freedoms Project Coordinator Ms. Chhay Chhunly via telephone at +855 (0) 17 52 80 21 or e-mail: chhunly.chhay@cchrcambodia.org or CCHR Consultant Mr. Pat de Brún via telephone at +855 (0) 89 536 215 or e-mail at pat.debrun@cchrcambodia.org.