Fact Sheet: Mother Nature Activists Targeted Again

Timeline: December 2015

Snapshot: The recent illegal detention of Mother Nature activists and community members in Koh Kong province is the latest in a string of incidents aimed at preventing the Mother Nature group from exercising their fundamental rights.

Introduction

Against a background of the intensifying repression of environmental NGO Mother Nature (“MN”), this factsheet provides an analysis of the recent detention of several activists and community members affiliated with MN. This incident, during which the victims were detained and questioned for several hours, is in violation of Cambodian law and international human rights law. It is the latest in a string of incidents which highlight the erosion of fundamental freedoms in Koh Kong province, occurring at the hands of private actors and the Koh Kong authorities.

This factsheet is written by the Cambodian Center for Human Rights (“CCHR”), 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.

Background: Sand Dredging and Mother Nature

Since its formation in 2012, MN has become a leading Cambodian grassroots movement of environmental activists, who struggle against the widespread destruction of natural resources for private gain in Koh Kong province. MN’s current campaign against the dredging of Koh Kong’s estuaries started in April 2015, and has been met with vehement opposition by private actors and the Koh Kong local authorities, resulting in multiple arrests.

Sand dredging has been occurring in Koh Kong since 2008 and continues largely unabated, owing to a dearth of official impact assessments and reporting. The practice involves the underwater collection and exportation of riverbed sand, which is in itself inherently unsustainable, and often results in the acceleration of erosion and riverbank collapse. Boats, which transport sand from extractive mining cranes, impact significantly upon the livelihoods of local people by damaging property such as crab cages and other fishing equipment. According to Prime Minister Hun Sen in a letter written in response to a query from opposition lawmaker Son Chhay, and seen by CCHR, all of Cambodia’s coastal sand dredging is undertaken for export purposes.

One of the most worrying aspects of the sand mining issue is the lack of transparency surrounding the authorization and legality – or lack thereof – of the sand mining activities. The RGC has thus far failed to publicize the licenses that have been granted to sand mining companies, including Oudom Seima, or the social and environmental impact assessments that must be legally conducted before the grant of a mining license. Therefore, there is no means by which to monitor the legality of the activities of the dredging companies in Koh Kong and beyond. This works in favor of the corporations...
involved, enabling them to continue dredging with near total impunity, to the detriment of the local environment and the communities that depend on it.

Oudom Seima is a powerful company about which little is known. However, Ministry of Commerce documentation obtained by CCHR reveals that Hun Mana and Hun Maly (married to Deputy Prime Minister Sok An’s son) – both daughters of Prime Minister Hun Sen - were shareholders of the company until mid-2011, when their shares were given to a Cambodian woman named Sarin Dalin.

The Latest Incident: Unlawful Detention by the Oudom Seima Company
On 07 December 2015, seven people were detained for approximately two hours by private security guards in the employment of Oudom Seima, a sand dredging company in Koh Kong, who claimed that the activists had taken ‘illegal’ camera footage of their mining operations. The names of the people arrested are Rod Harbinson, an English journalist, MN activists Chek Nitra and Mot Kimry, as well as local community members Khiev Saleh, Mot Sopha, Lem Socheata, and a young girl.

According to Mot Kimry, the activists were on public land, taking photographs of dredging activities occurring in the mangroves near Smach Island, which they suspected were illegal. They were informed by a representative of Oudom Seima that the company’s activities were legal, and that they were in possession of a valid permit. Upon their arrest, they were ordered to erase their photographs and video footage, being told that authorization for photographing was required from both him and local authorities. In order to prevent the situation from escalating, the group allowed the guards to erase their photographs. Despite this, they were still prevented from leaving by the guards, and taken to a second location, where they were subjected to over an hour of intense questioning. After approximately an hour and a half of being intimidated by the guards, they were eventually released.

Eath Bunthol, a spokesperson from Oudom Seima (the dredging company involved) stated that his company has been licensed by the government to excavate and export sand, and that the activists and community members were present without having the correct authorization from the Ministry of Mines and Energy, thereby justifying the actions of the security guard. By contrast, there has been no official statement from the ministry to date that confirms Oudom Seima having a valid license, nor has MN been able to obtain valid records of these permits. Mr. Nitra, who was present during the incident, said that company security requested that the group erase their footage and photographs because their boss did not allow it. The activists were not physically harmed or touched by company security, but were required to produce ID or passports, which they refused to do. Four of the detained persons - Mot Kimry, Chek Nitra, Mot Sopha and Lem Socheata - filed a complaint to the prosecutor of Koh Kong provincial court on 28 December in relation to this incident.

The Law: Freedom of Expression and the Prohibition of Unlawful Detention
The right to freedom of expression and the prohibition of unlawful detention are protected under Cambodian national law. Article 41 of the Constitution of the Kingdom of Cambodia (“the Constitution”), provides that Khmer citizens shall have the right to freedom of expression, press,

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publication and assembly. This provision includes the freedom to take photographs, as occurred in this case. Article 38 of the Constitution prohibits the “prosecution, arrest, or detention of any person” unless it is done in accordance with the law. As such, Article 253 of the Cambodian Criminal Code stipulates that “any person who arrests, detains or confines other persons without order from the legitimate authorities” is committing a criminal offence. In this case, it is clear that the arrest was not conducted in accordance with the law, and therefore falls foul of the Constitution and the Criminal Code.

Additionally, Article 31 of the Constitution states that Cambodia shall recognize and respect the Universal Declaration of Human Rights (“UDHR”) and the covenants and conventions related to human rights, thereby incorporating the UDHR and the International Covenant on Civil and Political Rights “ICCPR” into domestic law. Article 9 of the UDHR and Article 9 of the ICCPR, ratified by the Royal Government of Cambodia (“RGC”) in 1992, both contain provisions that prohibit arbitrary detention.

Moreover, according the UN Guiding Principles on Business and Human Rights, there is an obligation on the Udom Seima company, as well as the RGC, to respect all human rights. The Guiding Principles further state that the RGC must provide an adequate and appropriate remedy for any human rights violations for which the company is responsible. As demonstrated, the Udom Seima company has violated the human rights of those who were detained by its representative, thus obliging the RGC to provide a remedy in the form of a prompt and effective judicial investigation.

**Background: Intensifying Repression of Mother Nature**

On 23 February 2015, Alex Gonzalez-Davidson, the co-founder of MN, was detained and deported, following the decision of the Interior Ministry not to renew his visa. Gonzalez-Davidson’s deportation has been widely interpreted as being emblematic of sustained attempts by the RGC to suppress grassroots advocacy and quell dissent, in order to cultivate an environment in which it is free to operate with relative immunity from independent critique.

On 26 June 2015, three activists were detained whilst trying to deliver a petition to the National Assembly, as previously reported by CCHR. On 17 August 2015, three youth members of Mother Nature were arrested and imprisoned after refusing to appear for questioning at the district police station in connection with their alleged involvement in peaceful, non-violent protests against sand dredging. As of January 2015, the activists remain in detention. This incident sparked further arrests, with another 17 people – including four rights workers and a journalist – being temporarily detained on 2 September 2015, at a protest calling for the release of the three activists. The situation escalated further on 07 October 2015, when Ven Vorn, a prominent leader of the indigenous community in the Areng Valley, with close links to MN, was arrested and sent to Koh Kong’s provincial prison, as reported by CCHR. Ven Vorn also remains in detention.

Also in October 2015, a training session on human rights that was being jointly conducted by MN and NGO Equitable Cambodia, was shut down by a local commune chief and police in Koh Kong’s Botum Sakor district. In response, Interior Ministry spokesperson Khieu Sopheak stated, “Authorities have done the right thing... Mother Nature always causes problems and incites people.”
Conclusion & Recommendations

The powerful and well-connected Oudom Seima company is responsible for the unlawful arrest and detention of seven people, including a young child, in violation of Cambodian law and international human rights law. This incident is the latest in a series of arrests and detentions that have occurred in response to the peaceful actions of MN. CCHR condemns the actions of Oudom Seima, and any company that conducts itself in a similar manner. The RGC has a duty to ensure that the rights of environmental activists are protected, and an obligation to ensure transparency and accountability in the actions of companies to which it has granted official licenses. As such, CCHR makes the following recommendations to the Royal Government of Cambodia:

- CCHR urges a prompt and independent investigation into this incident of unlawful detention;
- CCHR urges the immediate publication of all licenses issued to companies engaged in coastal sand mining in Koh Kong province, along with the accompanying environmental and social impact assessments and all other legally required documentation;
- CCHR recommends a comprehensive review and reform of the procedure by which mining licenses are granted, in order to make the process transparent, consultative, and open to public scrutiny;
- CCHR requests the RGC to provide protection and security to the activists and human rights defenders who take a stand against the destruction of their local environment and livelihoods.

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