

## **Unjust Arrest and Illegal Detention of Lor Peang Village Representatives**

**Statement issued by: *Community Peace Building Network (CPN)-CDPS, Community Legal Education Center (CLEC), Focus on the Global South and United Sisterhood Alliance (US)***

***Phnom Penh, August 4<sup>th</sup>, 2014***

We, the above organizations, were alarmed to hear that on 21st July 2014, Mr. Seang Heng and Mr. Mang Yav, who are the members of the Community Peace Building Network, were arrested by about 100 police officers at Lor Peang village, Taches commune, Kompong Tralach district in Kompong Chhnang province. At the time of the arrests, Seang Heng and Mang Yav were at their homes. Since 2006, the residents of Lor Peang village have been embroiled in a land dispute with KDC International, a private company owned by Ms. Chea Kheng, the wife of Mines and Energy Minister, Mr. Suy Sem. This dispute escalated to violent conflict between village residents and company workers on 07<sup>th</sup> July 2014, when the company started building a two-meter concrete wall around 182 hectares of land that villagers have farmed since the 1980s, and which was illegally acquired by Ms. Kheng in 2007.

The police officers reportedly did not show an arrest warrant or state the reason for the arrest. The police told the villagers that if they wanted to know the charges, they would have to go to the provincial police headquarters. It is reported that Mang Yav and Seang Heng were later sent to Kompong Chhnang Provincial Court at 9:00 am on 22<sup>nd</sup> July 2014. They have not yet been released.

Reports by village residents and in the local news indicate that on 22<sup>nd</sup> July 2014, Mr. Seang Heng and Mr. Mang Yav were to be questioned by prosecutors and an investigating judge of the Kampong Chhnang Provincial Court regarding allegations of intentional damage to the property of KDC International and causing injuries during clashes to workers hired by KDC International.

While we condemn the violence between village residents and company workers, eye-witness accounts by human rights observers lead us to believe that village residents were provoked by some KDC employees who shot stones and iron chunks at village residents when they protested the construction of the wall. Further, we believe that Mr. Seang Heng and Mr. Mang Yav were arrested because of their attempts to prevent their lands from being taken by KDC International and not because of the damage of property and causing injuries to others. Seang Heng and Mang Yav have been active in land rights work since 2007 when KDC International started acquiring lands in the area. They have also been involved with the Community Peace Building Network since 2010. These arrests are yet another example of an alarming pattern of arbitrary arrests and detentions of rights defenders. Most frequently the victims of arbitrary arrest and detention are people who assert community members' rights in land disputes with powerful corporate land concession holders, who are closely tied to and have influence with senior government officials.

Whether or not charges of intentional damage of property and causing injury are laid, Seang Heng and Mang Yav are entitled to the presumption of innocence and to release pending trial pursuant to the provisions of the International Covenant on Civil and Political Rights (ICCPR) to which Cambodia is a party. The right to be presumed innocent until proven guilty is recognized by the Universal Declaration of Human Rights (UDHR), Article 11.(1) and guaranteed by the ICCPR Article 14.(2). Freedom from arbitrary detention and the right to release is recognized by Articles 3 and 9 of the UDHR and guaranteed by Article 14.(2) of the ICCPR. These provisions of the UDHR and the ICCPR preclude pretrial detention except when detention is necessary and the only means to protect public safety, ensure attendance in court and/or prevent interference with evidence. Cambodia's Constitution specifically guarantees recognition and respect for the UDHR and the ICCPR, and stated in Article 38 that accused persons "shall be

considered innocent until the court has judged finally on the case.” Cambodia’s *Code of Criminal Procedure*. Article 203 confirms these principles and must be read in conformity with the UDHR and the ICCPR. We are not aware of any lawful reason for the continued detention of Seang Heng and Mang Yav, and demand that they be released immediately.

Like others whose lands and livelihoods are being threatened, Mr. Seang Heng and Mr. Mang Yav are entitled to conduct peaceful human rights advocacy and be protected from all forms of retaliation including arbitrary arrest and detention, malicious prosecution and judicial harassment. The Declaration on Human Rights Defenders, adopted on 9 December 1998 by consensus of the member States of the United Nations General Assembly, states that:

- “everyone has the right, individually or in association with others, to promote the protection and realization of human rights and fundamental freedoms at the national and international levels” (Article 12.1);
- “everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms” (Article 1);
- “The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and 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.” (Article 12.2)

Therefore, we urge the Royal Government of Cambodia to:

- Immediately release Mr. Seang Heng and Mang Yav from prison;
- Unconditionally drop the false allegations for which Mr. Seang Heng and Mr. Mang Yav are being investigated;
- Conduct a thorough and credible investigation of the events that have taken place in Lor Peang since 07<sup>th</sup> to 21<sup>st</sup> July 2014, especially the causes that triggered the violence on 17<sup>th</sup> July 2014;
- Enforce the law equally to Lor Peang residents and employees of KDC International and arrest KDC employees who attacked village residents;
- Ensure the physical and psychological safety and wellbeing of Seang Heng and Mang Yav.

We also urge the Cambodian government to ensure that all judges, prosecutors and other officials in this case are mandated and empowered to act independently and in accordance with law, including the legal obligations recognized and created by the Universal Declaration of Human Rights, ICCPR and the Basic Principles on the Independence of the Judiciary. The Principles articulate State duties to ensure judicial independence and impartiality and to prevent interference.

Finally, we request that the Government ensure: 1) the safety of all land and human rights defenders advocating for collective and individual rights to lands and resources; 2) an immediate halt to all forms of intimidation and harassment of human rights defenders including land rights advocates, journalists and others calling for adherence to Cambodia’s international law and Constitutional obligations.

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