

JOINT STATEMENT: CSOs condemn discriminatory denial of medical care to #FreeThe5KH detainees

Phnom Penh, 28 June 2017 – We, the undersigned, condemn the discriminatory and arbitrary denial of medical care to three of the five ‘#FreeThe5KH’ detainees at Phnom Penh’s CC1 (Prey Sar) prison facility. Mr. Ny Sokha, Mr. Nay Vanda, and Mr. Yi Soksan have finally been granted access to doctors from the Cambodian League for the Promotion and Defense of Human Rights (LICADHO), after such access had been arbitrarily restricted since April 2017. All three detainees experienced a serious deterioration in their health while the restrictions were in place. They have now been held in pre-trial detention for 426 days, along with their colleague at the Cambodian Human Rights and Development Association (ADHOC), Ms. Lim Mony, and Deputy Secretary General of the National Election Committee and former ADHOC staff member, Mr. Ny Chakrya.

LICADHO doctors had been able to treat all five #FreeThe5KH detainees in the three different prison facilities located in Phnom Penh (CC1, CC2 and Police Judiciaire) since the beginning of their detention, until restrictions were imposed in April in relation to the three detainees in CC1. In the past two weeks, sporadic, application-by-application access to two of the three human rights defenders (“HRDs”) was granted by the Investigating Judge and the Director of CC1, due to serious health concerns regarding Mr. Yi Soksan and Mr. Ny Sokha. Full access was granted again just last week.

We are deeply concerned that the three detainees experienced serious deterioration in health - in particular that on 18 June 2017 Mr. Ny Sokha collapsed in a prison bathroom - which we believe has been exacerbated by the denial of regular medical check-ups by medical staff, as well as woeful conditions inside CC1. On 21 June, Ny Sokha, Nay Vanda, Yi Soksan and Lim Mony appeared at the Supreme Court for the hearing of their appeal against a further denial of bail in their case. During the hearing, Nay Vanda needed to be excused to rest in a side room as he was feeling nauseous, while Ny Sokha and Yi Soksan reported feeling weak due to a recent decline in their health.

“At the very least, Cambodian authorities must now take these serious health concerns into account and stop prolonging their baseless pre-trial detention through denial of bail,” said Naly Pilorge, LICADHO Deputy Director for Advocacy.

The right to adequate medical care, enshrined in Article 25 of the Universal Declaration of Human Rights, is a universal human right that is not diminished by incarceration. While there are prison medical staff in CC1, it is clear that the medical care currently provided by such staff is not adequate. The discriminatory obstruction of access to treatment by LICADHO medical teams therefore meant that the three were deprived of the adequate health care to which they are entitled under domestic and international law.¹ Prison conditions, which already fail

¹ Rule 24(1) of the United Nations Standard Minimum Rules for the Treatment of Prisoners¹ (the “Nelson Mandela Rules”) states that the provision of health care for prisoners is a state responsibility and prisoners should enjoy the same standards of health care that are available in the community. This obligation is also reflected in Cambodian domestic law: Article 38 of the 2011 Prison Law provides that “any ill prisoner shall receive proper health care from the prison medical officer on daily basis.” Article 12 of the International Covenant on Economic, Social and Cultural Rights, to which Cambodia is a party, recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; States are obliged to refrain from denying or limiting equal access for all persons, including prisoners or detainees (Committee on Economic, Social and Cultural Rights, General Comment No. 14, para. 34). In certain circumstances, denial of adequate medical care to prisoners may amount to cruel, inhuman and degrading treatment or even torture, in violation of the International Covenant on Civil and Political Rights and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Cambodia is a party.

to meet international standards, have significantly worsened since the Cambodian authorities began a crackdown on people who use drugs in January 2017. Mass arrests and the overuse of pre-trial detention have caused severe overcrowding in Prey Sar prison, leading to increasingly acute impacts on prisoners' health.

In addition to the obstruction of access by medical staff, in recent months requests by civil society organizations to visit the #FreeThe5KH detainees, as well as detained human rights defender and land activist Ms. Tep Vanny, have been denied or ignored. This restriction on contact with the outside world has negatively affected the HRDs' psychological health.

In November 2016 the UN Working Group on Arbitrary Detention ("UNWGAD") ruled that all five #FreeThe5KH detainees had been discriminated against based on their status as human rights defenders, that the violation of the detainees' rights to a fair trial, liberty, and freedom of association rendered their detention "arbitrary," and called on the Cambodian authorities to immediately release them.² More than seven months later, the five remain in prison, with their pre-trial detention extended for up to a further six months on 27 April 2017.

The on-going arbitrary detention of Ny Sokha, Nay Vanda, Yi Soksan, Lim Mony, and Ny Chakrya is in violation of international and Cambodian law and we call on the Cambodian authorities to comply with the UNWGAD's decision and release them immediately and unconditionally. We call upon the General Department of Prisons to make the procedure to access healthcare more transparent, as arbitrary and opaque restrictions have already risked endangering the health and lives of detainees, and we call on the Cambodian authorities to maintain unrestricted access to all detainees by medical teams and prison monitors.

This statement is endorsed by:

1. Action Aid Cambodia
2. Amnesty International
3. ASEAN Parliamentarians for Human Rights (APHR)
4. Asian Forum for Human Rights and Development (FORUM-ASIA)
5. Boeung Kak Community
6. Boeung Trabek Community
7. Cambodia Indigenous Youth Association (CIYA)
8. Cambodian Center for Human Rights (CCHR)
9. Cambodian Human Right and Development Association (ADHOC)
10. Cambodian Independent Teachers' Association (CITA)
11. Cambodian League for the Promotion and Defense of Human Rights (LICADHO)
12. Cambodian Youth Network (CYN)
13. Coalition for Integrity and Social Accountability (CISA)
14. Coalition of Cambodian farmer Community (CCFC)
15. Committee for Free And Fair Elections In Cambodia (COMFREL)
16. Community Legal Education Center (CLEC)
17. Equitable Cambodia (EC)
18. Gender and Development for Cambodia (GADC)
19. Housing Rights Task Force (HRTF)
20. Human Rights Watch (HRW)
21. Independent Democracy Of Informal Economy Association (IDEA)
22. Indigenous Youth at Prome Community, Preah Vihear Province

² See Joint Press Release, "CAMBODIA: In landmark decision, UN body declares the detention of five human rights defenders arbitrary #FreeThe5KH" (18 December 2016) <http://bit.ly/2gQKzNs>

23. Indradevi Association (IDA)
24. Land Community, I Village Preah Sihanouk province
25. Land Community, Prek Chik Village, Koh Kong
26. Land Conflict Community, Krous Village, Battambang province
27. Land Conflict Community, Skun Village, Siem Reap province
28. Lor Peang Community, Kampong Chhnang Province
29. Ponlok Khmer (PKH)
30. Railway Station, Tuol Sangkae A Community
31. Southeast Asian Press Alliance (SEAPA)
32. The Alliance for Conflict Transformation (ACT)
33. World Organisation Against Torture (OMCT)