

# Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations

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Your Excellencies:

## **Re: Judicial harassment and arbitrary detention of Mr. Kuch Veng,**

I am writing on behalf of Lawyers Rights Watch Canada (LRWC), a committee of Canadian lawyers who promote human rights and the rule of law internationally. LRWC also provides support to lawyers and other human rights defenders in danger because of their advocacy.

LRWC is alarmed to hear that on 19 May 2013 at 9:30 am, Mr Kuch Veng, a land rights activist and community forestry leader and member of the Community Peace Network, was arrested by four police officers at Kbal Trach commune, Krako district, Pursat village. At the time of this arrest, Kuch Veng was visiting ten families of villagers affected by the community's land conflict with the Pheapimex Company Ltd. This corporation is owned by Ms. Choeung Sopheap (also known as Yeay Phu), whose husband is also an influential business person and a Cambodia People's Party Senator, Mr Lao Meng Khin.

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 district police station. It is reported that Kuch Veng was later sent to the Pursat Provincial Court at 9:00 am on 20 May 2013. He has not been released.

Although reports indicate that on 29<sup>th</sup> May 2013 Kuch Veng is to be questioned by an investigating judge of Pursat provincial court regarding allegations of fraud in 2010, LRWC believes his arrest is motivated by his peaceful and legitimate work as a human rights defender and not by the fraud allegations. Kuch Veng has been active in land rights work since 2000 when the Pheapimex Group commenced activities in the area. He has been involved with the Community Peace Network since 2010. He has been arrested a number of times because of his land rights work. The 19 May 2013 arrest is part of an alarming pattern of arbitrary arrests and detentions of human rights defenders. Most frequently the victims of arbitrary arrest and detention are people asserting community members' rights in land disputes with powerful corporate land concession holders who have influence with government officials.

Whether or not charges in relation to the 2010 fraud allegations are laid, Kuch Veng is entitled to the presumption of innocence and to release pending hearings or 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 both 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 states 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. LRWC is aware of no allegations or evidence of any lawful reason for continued detention of Kuch Veng, and he should be released immediately.

Human rights defenders such as Kuch Veng are entitled to conduct peaceful human rights advocacy and to be protected from all forms of retaliation including arbitrary arrest and detention, malicious prosecution and judicial harassment. The Declaration on Human Rights Defenders, adopted 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)

LRWC requests all necessary steps be immediately taken to:

- Immediately release Mr. Kuch Veng;
- immediately and unconditionally drop the false allegations for which Kuch Veng is being investigated;
- ensure the physical and psychological safety and wellbeing of Kuch Veng.

We also urge your 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.

LRWC also requests that your government ensure: 1) the safety of all human rights defenders advocating for community and individual rights to the occupation and use of 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.

Yours sincerely,



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