

THE MAM SONANDO CASE EXPLAINED

A LICADHO Briefing Paper
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LICADHO
CAMBODIAN LEAGUE FOR THE PROMOTION
AND DEFENSE OF HUMAN RIGHTS

Cambodian League for the Promotion and Defense of Human Rights (LICADHO)

LICADHO is a national Cambodian human rights organization. Since its establishment in 1992, LICADHO has been at the forefront of efforts to protect civil, political, economic and social rights in Cambodia and to promote respect for them by the Cambodian government and institutions. Building on its past achievements, LICADHO continues to be an advocate for the Cambodian people and a monitor of the government through wide ranging human rights programs from its main office in Phnom Penh and 12 provincial offices.

LICADHO pursues its activities through two programs:

Monitoring and Protection Program:

- **Monitoring of State Violations and Women's and Children's Rights:** monitors collect and investigate human rights violations perpetrated by the State and violations made against women and children. Victims are provided assistance through interventions with local authorities and court officials.
- **Paralegal and Legal Representation:** victims are provided legal advice by a paralegal team and, in key cases, legal representation by human rights lawyers.
- **Prison Monitoring:** researchers monitor 18 prisons to assess prison conditions and ensure that pre-trial detainees have access to legal representation.
- **Medical Assistance:** a medical team provides assistance to prisoners and prison officials in 14 prisons, victims of human rights violations and families in resettlement sites.
- **Social Work:** staff conduct needs assessments of victims and their families and provide short-term material and food.

Promotion and Advocacy Program:

- **Training and Information:** advocates raise awareness to specific target groups, support protection networks at the grassroots level and advocate for social and legal changes with women, youths and children.
- **Public Advocacy and Outreach:** human rights cases are compiled into a central electronic database, so that accurate information can be easily accessed and analyzed, and produced into periodic public reports (written, audio and visual).

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OVERVIEW

On Sunday morning, July 15, 2012, independent Beehive Radio station owner and director Mam Sonando was arrested at his radio station. Mr. Sonando holds both Cambodian and French citizenship, and is 70 years old. He is also the founder and president of the Association of Democrats, a registered NGO that aims to promote human rights and democracy in Cambodia – particularly through securing Cambodian ID cards to facilitate increased ease in voting.



Mam Sonando greeted by supporters and media at Phnom Penh Airport upon his return, three days before his arrest.

After spending a night in police custody, Mr. Sonando was brought before Phnom Penh Municipal Court Judge Sem Sakola for questioning. By about noon on July 16, Sonando was charged under six articles of Cambodia's Penal Code. He stands accused of crimes ranging from leading an insurrectionary movement and incitement to take up arms against the state, to obstruction of public officials. If convicted on all counts, he faces seven to thirty years in prison.

The government claims that the charges against Mr. Sonando are related to an alleged secession attempt by villagers in Kratie province. Those accused of attempted secession have been involved in an ongoing and escalating land dispute with a well-connected private company in Chhlong district's Kampong Domrey commune. On May 16, 2012, while Sonando was out of the country, hundreds of soldiers, military police and local police stormed the disputed land with the aid of a helicopter. Hundreds of families were kicked off the land. During the operation, a 14-year-old girl was killed. Authorities blocked access to the site by journalists, NGOs and the United Nations on the day of the eviction and, with the exception of a chaperoned visit by some UN officials, the lockdown continued for several days afterwards.¹

Many have criticized the "secession movement" justification for the involvement of soldiers on May 16th. None of the armed forces were injured, and there has still been no evidence presented that the residents of the area had armed themselves against the authorities. Nor is there any evidence that the residents had the intent, the plans, or the means to attempt to secede from Cambodia. And aside from the fact that some residents had previously joined the Association of Democrats, there is no indication that any statements by the NGO or reports broadcast on Beehive Radio mentioned attempted secession efforts in Cambodia.

International and Cambodian NGOs and journalist associations have since stated that the charges against Sonando are more likely linked to Beehive Radio's long history of independent and critical reporting.

On June 25th, the station aired a report describing a communication submitted to the International Criminal Court (ICC) accusing Cambodian officials of perpetrating crimes against humanity related to forced evictions and displacements. The next day, the Prime Minister publicly called for Mam Sonando's arrest during a speech which was broadcast

¹ Numerous other allegations of abuses carried out by authorities during the violent eviction have since been reported. Due to the site's lock-down, however, the reports are difficult to verify.

nationally on television, when he connected the head of the Association of Democrats to the events in Kratie.

The attempts to link Mam Sonando to a “secession movement” have been criticized as a pretext for silencing Beehive Radio by imprisoning its owner and main fundraiser. As Cambodia prepares for its upcoming national election, Beehive Radio is a crucial source for independent news and commentary in Cambodia that must be protected. Democracy ceases to function legitimately when journalists and media outlets are threatened with criminal sanctions for exercising their fundamental right to free speech.

BACKGROUND

On June 22, 2012, representatives from government critic Sourn Serey Ratha’s Khmer People Power Movement (KPPM) traveled to the Hague, the Netherlands. While there, they held a media event publicizing the ICC’s receipt of their submission alleging crimes against humanity in relation to Cambodia’s land conflicts. Sonando covered the event at the ICC as a journalist. Beehive Radio broadcast Sonando’s report on the ICC event on June 25, 2012.²

Twenty-four hours after the ICC report first aired, the Prime Minister publicly called for the head of the Association of Democrats’ arrest during a speech in Phnom Penh which was broadcast on national television. The NGO’s head was accused of inciting a so-called secession attempt in Kratie purportedly requiring military intervention on May 16, 2012. “Insurrection” or “secession” type allegations by the government against the Kampong Domrey residents surfaced almost immediately amid wide-spread condemnation of the violent forced eviction that resulted in the death of teenager Heng Chantha.

Since at least January this year, Kampong Domrey residents have been embroiled in a well-publicized land dispute with Casotim, a company that holds a 15,000 hectare land concession near their village. Residents of the disputed land report that company officials have stopped them from planting crops, and at least one of the community’s accused leaders – Bun Ratha – was arrested before on charges of destroying private property in relation to attempts to defend the community’s land claims.³

Kampong Domrey residents have also stated that Casotim has never shown them documents proving that the disputed land is part of the company’s concession. In fact, the most recent publicly available records show that the border of Casotim’s land concession is over 15 kilometers away from their village.

Regardless, in his June 25 speech, the Prime Minister stated that some of the villagers accused of having taken part in the alleged secession movement had “confessed” and implicated the head of the Association of Democrats. He then stated that other accused individuals still sought by the court in Kratie would be forgiven if they too came forward to confess and incriminate the NGO’s president.

By July 2, Kratie Investigating Judge Chok Nguon had issued an arrest warrant for Mr. Sonando. The warrant listed various charges related to inciting an insurrectionary movement in Kratie.

² Mr. Sonando left Cambodia in March 2012, and was out of the country until his return on July 12.

³ Bun Ratha was arrested on April 6, 2012 and released on April 9, 2012.

THE CHARGES

On July 16, in the Phnom Penh Municipal Court,⁴ Mr. Sonando was charged with crimes under articles 28, 456, 457, 464, 504, and 609 of the Penal Code:

- Article 456 and 457 describe the crime of leading an “insurrectionary movement,” which carries a prison sentence of seven to fifteen years.
- Article 464 states that one guilty of “inciting people to arms against state authority” faces a sentence of two to five years plus substantial fines. If the incitement is deemed effective, the potential prison sentence balloons to fifteen to thirty years.
- Article 504 states that obstruction of public officials with aggravating circumstances carries up to one year in prison plus fines.
- Article 609 describes the crime of interference in the discharge of a public functions, and carries up to three years in prison plus fines.
- Article 28 describes the criminal liability theory of instigation, which allows for an individual to be charged with crimes he or she did not personally commit. It is similar to accomplice liability or conspiracy. An instigator faces the same penalty as the perpetrator of the underlying crime.

If Mr. Sonando is found guilty of all charges and sentenced concurrently, he faces up to thirty years in prison.⁵

Sonando was out of the country when Kratie Investigating Judge Chok Nguon issued the arrest warrant. He returned to Phnom Penh on July 12 at about 10:15 pm, during the unfolding ASEAN summit. His arrest three days later came just after foreign ministers and diplomats from around the world departed the city, including United States Secretary of State Hillary Clinton and the High Representative of the European Union for Foreign Affairs, Catherine Ashton.



A large crowd of supporters gathered to greet Mam Sonando at the airport.

Despite the fact that Sonando returned to Cambodia to face the charges against him, and despite the fact that no evidence has been presented in support of the accusations, bail requests for his release pending trial have already been denied on two occasions. He is currently in pre-trial detention in Phnom Penh’s notoriously overcrowded CC1 prison at Prey Sar. There are concerns about his health.

Sonando’s Previous Arbitrary Imprisonments

This is not the first time Mr. Sonando has been criminally charged after Beehive Radio broadcasts. On January 31, 2003, months before Cambodia’s third national election, Sonando faced charges in the Phnom Penh Municipal Court of announcing false information, inciting people to discriminate, and inciting people to commit crimes. The charges came after

⁴ The case was transferred to Phnom Penh from Kratie in mid-July.

⁵ Under article 137 of the Penal Code, the Prosecutor could potentially attempt to seek consecutive, rather than concurrent, sentences. This attempt should fail. Even if this case should proceed, the charges should at least be held similar under the law, requiring concurrent sentencing.

Beehive Radio broadcast a phone call from a listener who accused a member of the Thai royal family of making certain incendiary comments, right around the time that anti-Thai riots occurred in Phnom Penh. That time, Sonando was released after 2 weeks detention.

Mr. Sonando was arrested again on October 11, 2005, and eventually charged with defamation, incitement, and broadcasting false information. Those charges related to Beehive Radio's broadcast of an interview with an independent expert on a politically sensitive issue. Following the 2005 charges, Sonando served three months before being released on bail in January 2006. His release came after intense international pressure and a visit by United States Assistant Secretary of State for East Asia, Christopher Hill. The Prime Minister reportedly openly referred to Sonando's release in January 2006 as a "gift" to Assistant Secretary Hill.⁶



Association of Democrats banner which states three goals: 1. Strengthen Democracy in the Kingdom of Cambodia; 2. Protect the Rights of the People According to the Laws; 3. Help the People to Make IDs for Voting Participation.

Campaign for Mam Sonando's Release

Mam Sonando's arrest and prosecution, like the implausible "secession plot" justification for the May 16th violent eviction, has been met with immediate and wide-spread criticism. Dozens of international and Cambodian NGOs and journalist associations have called for his immediate release.⁷

On July 23, hundreds gathered in a peaceful prayer ceremony in Phnom Penh in his support. And on August 2, Amnesty International designated Mam Sonando a prisoner-of-conscience, expressly finding that he was arrested and imprisoned solely for exercising his right to freedom of expression.

Most recently, the Association of Democrats reports that it has gathered over 110,221 endorsements of a petition circulated in Cambodia seeking Sonando's immediate release. The high number of endorsements was reached despite government interference. Throughout the country, LICADHO collected many reports of people being detained and questioned while circulating the petition.

⁶ See Milestones, Alex Pasternack, Time Magazine, Jan. 23, 2006, available at <http://www.time.com/time/magazine/article/0,9171,1151841,00.html> (last accessed August 3, 2012).

⁷ Those vocally criticizing Sonando's arrest and calling for his immediate release include: Human Rights Watch; Amnesty International; The Observatory for the Protection of Human Rights Defenders, a joint programme of the International Federation for Human Rights and the World Organisation Against Torture; Freedom House; Reporters Without Borders; ARTICLE 19; Asian Forum for Human Rights and Development (FORUM-ASIA); Southeast Asian Press Alliance; Centre for Law and Democracy; International Federation of Journalists; Lawyers' Rights Watch Canada; and William Nicholas Gomes, Human Rights Ambassador for Salem-News.com.

RECOMMENDATIONS

As land disputes continue to escalate, the protection of the country's few surviving independent media outlets is increasingly vital. Under the Cambodian Constitution and the International Covenant on Civil and Political Rights, which Cambodia has ratified, the government is required to uphold and protect its citizens' fundamental rights to freedom of expression and due process.

Mam Sonando's unjustified pre-trial detention and the unsupported charges against him are in violation of these obligations. In the continuing absence of credible evidence, Sonando should be released immediately, and the charges against him should be dropped unconditionally.

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