



**CCHR Briefing Note – August 2012**

**The Case of Human Rights Defender Mam Sonando**

**Introduction**



This briefing note provides an overview of the case of Mam Sonando – the Director of independent Beehive Radio and President of the Democrat Association – who was arrested on 15 July 2012 at his home by a group of around 20 police, on accusations of leading a secessionist movement in Kratie province. He is currently being held without bail in Prey Sar Prison, Phnom Penh, despite willingly returning from abroad for questioning. This is not the first time Mam Sonando has been imprisoned on politically motivated charges: his willingness to criticize the Royal Government of Cambodia (the “RGC”) and his vocal stance against forced evictions and land grabbing in Cambodia have seen him put behind bars on two previous occasions.

The arrest and detention of the prominent human rights defender comes just one day after the close of the Association of South East Asian Nations (“ASEAN”) Regional Forum in Phnom Penh, which was attended by United States (“US”) Secretary of State Hilary Clinton, European Union High Commissioner of Foreign Affairs Catherine Ashton and representatives of ASEAN member countries, and is yet another setback for democracy in the Kingdom of Cambodia (“Cambodia”).

Mam Sonando’s arrest is believed to be connected with a report that was broadcast on Beehive Radio, discussing the communication brought to the Office of the Prosecutor of the International Criminal Court (the “ICC”) by the head of the Khmer People Power Movement (the “KPPM”), Suon Serey Rath, alleging the RGC’s involvement in crimes against humanity. The arrest of Mam Sonando came one day after the broadcast and serves as another example of the RGC using a politically pliant judicial system to intimidate and silence opposition.

This briefing note 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.

**Kratie incident**

Mam Sonando was arrested in connection with a long-running land dispute in Kratie province involving a Russian company, Casotim, the beneficiary of a 15,000-hectare economic land concession. On 16

May this year, hundreds of armed police and military police stormed Pro Ma village, in an effort to evict around 1,000 families living in the concession area. Villagers refused to move from their land and the authorities then opened fire, causing the death of 14-year-old Heng Chantha. The incident followed shortly after a promise by Prime Minister Hun Sen to temporarily halt the granting of land concessions and to review existing ones.

After the incident, police arrested a number of individuals from the area who they said were secessionists seeking to gain independence from Cambodia. It was claimed by the RGC that the so-called secessionists had been plotting with the Democrat Association, lead by Mam Sonando. Evidence for these claims has yet to be produced. On 26 June 2012, Prime Minister Hun Sen made a speech at Phnom Penh's Diamond Island in which he called for the arrest of Mam Sonando on the grounds that Mam Sonando was leading a plot to overthrow the RGC and attempting to establish a state within a state.

The charges against Mam Sonando (described in detail below) appear to be an attempt to create an alternative narrative of events that took place in Kratie on 16 May and effectively divert attention from the RGC's failure to hold a proper investigation into the death of Heng Chantha. On 6 July 2012, the Democrat Association held a press conference at which it denied any links between Mam Sonando and Bun Ratha, the man who has been identified by authorities as the alleged leader of the so-called secessionist plot. At the press conference, the Democrat Association stated that Bun Ratha was not an active member of the organization, and Ratha himself has also separately denied any involvement of Mam Sonando in the Kratie incident.

### **Charges leveled against Mam Sonando**

Mam Sonando was charged on 16 July 2012 under Articles 456, 457, 464, 504 and 609 of the Cambodian Penal Code<sup>1</sup>, which could see him facing a combined sentence of up to 30 years' imprisonment if he is found guilty. The charges and possible sentences faced by Mam Sonando are as follows:

- Participating in an insurrectionary movement, which is punishable by imprisonment from seven to 15 years (Articles 456 and 457).
- Inciting people to take up arms against state authority, which is punishable by imprisonment from 15 to 30 years if effective (Article 464)<sup>2</sup>.
- Obstruction of public officials, which is punishable by imprisonment from six months to one year and a fine (Article 504).
- Unlawful interference in the discharge of public functions, punishable by imprisonment from one to three years and a fine (Article 609).

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1 The International Federation for Human Rights ("FIDH"), 17 July 2012, "CAMBODIA: Independent radio station director Mam Sonando arrested and charged"

<http://www.fidh.org/CAMBODIA-Independent-radio-station> [accessed 30 July 2012].

2 Article 28 of the Penal Code defines what it is to be the instigator of a felony or a misdemeanor. The instigation of a felony is punishable by more than five years but no more than 30 years in addition to a fine; the instigation of a misdemeanor is punishable by imprisonment of between six days to five years and a fine.

## **Human rights violations**

The arrest and detention of Mam Sonando is in breach of both domestic and international law. The case encapsulates the lack of respect for human rights and fundamental freedoms by the RGC, the shrinking space for free speech, and the misuse of the judiciary to silence dissent.

Freedom of expression is guaranteed to all Cambodian citizens under Article 41 of the Constitution of the Kingdom of Cambodia (the “Constitution”) and Article 19 of the International Covenant on Civil and Political Rights (the “ICCPR”), ratified by Cambodia in May 1992. The allegations against Mam Sonando and his subsequent detention have effectively denied, not only his freedom of expression, but potentially the free expression of those who utilize his radio station to broadcast independent news and opinions, and the right to freedom of information of the station’s listeners.<sup>3</sup> According to Mam Sonando’s wife, on the back of her husband’s arrest, the radio station has gone into financial crisis. Indeed it appears that Mam Sonando’s detention is in part contingent on his willingness to provide a platform for others to express freely anti-government sentiment.<sup>4</sup> This conclusion is of particular concern considering that Beehive Radio is, as noted above, one of only three independent stations operating in Cambodia.

The circumstances of Mam Sonando’s arrest necessarily raise grave concerns about the independence of the Cambodian judiciary. Articles 109 and 111 of the Constitution hold that the judiciary must be independent and separate to the executive. In a public speech made on 26 June 2012 and broadcast on television, the Prime Minister himself called for the arrest of Mam Sonando on charges of inciting a secessionist movement in Kratie. By 2 July 2012, investigating judge Chok Nguon of Kratie Provincial Court had issued an arrest warrant accusing Mam Sonando of crimes related to participating in an “insurrectionary movement.”<sup>5</sup> This state of affairs indicates that the obligatory separation of powers between the executive and the judiciary – prescribed by the Constitution as well as by international law – is not being observed in Cambodia.

In addition, where the judiciary is controlled by the government, the head of which has already expressed beliefs of Mam Sonando’s guilt and called for his arrest, it is questionable as to whether the accused’s right to a fair trial by an impartial and independent court, as outlined in Article 14 of the ICCPR, will be honored. Article 14 of the ICCPR also states that everyone charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law. This benefit of the doubt is equally upheld under Article 38 of the Constitution: “The accused shall be considered innocent until the court has judged finally on the case”. Hun Sen’s public declaration of Mam Sonando’s guilt suggests that the latter will not be granted this right. In addition, Mam Sonando’s lawyer, Sok Sam Oeun, Executive Director of the Cambodian Defense Project, claims that his requests for bail for his client have been denied multiple times.

## **Beehive Radio and Mam Sonando:**

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<sup>2</sup> The right to freedom of information or “the right to know” is also protected under Article 19 of the ICCPR.

<sup>4</sup> See above.

<sup>5</sup> The Cambodian League for the Promotion and Defense of Human Rights (LICADHO) joint press statement, 16 July 2012, “Release Mam Sonando, Owner of Cambodia’s Oldest Independent Radio Station”.

The Kratie incident is the most recent incident in a long campaign of intimidation against Mom Sonando and Beehive Radio. Beehive Radio was founded in 1995, and is one of Cambodia's only independent radio stations. It is an important source of unbiased news in a country where the media is dominated by the ruling Cambodian People's Party (the "CPP"). A recent study commissioned by the Cambodian Center for Independent Media ("CCIM") confirmed that radio is the preferred means of accessing information by ordinary people in Cambodia,<sup>6</sup> but there are only three sources of news that are believed to be non-partisan and unbiased: Sarika FM run by CCIM; FM 102, run by the Women's Media Center; and Beehive Radio.<sup>7</sup> For over ten years, Beehive has been selling airtime to US government-funded broadcasters Radio Free Asia and Voice Of America ("VOA") to air their Khmer-language news and commentary. According to Mam Sonando's wife, Dy Phandara, Beehive Radio was created with the aim of providing true, accurate information on poverty and employment opportunities.

In 2003, Mam Sonando spent two weeks in prison following the broadcast of a telephone call made to Beehive Radio, which the RGC deemed as incitement to commit crimes and to discriminate, and "giving false information to the public",<sup>8</sup> under the law of the United Nations Transitional Authority in Cambodia ("UNTAC").<sup>9</sup> The charges were in response to allegations that the radio station helped to incite the anti-Thai riots that occurred on 29 January 2003. Mam Sonando was imprisoned again for three months in 2005 on charges of defamation and incitement under UNTAC, following an interview that he broadcast with France-based expert Sean Peng Se relating to a bilateral border demarcation treaty that the RGC planned to enter into with Vietnam. The interview allegedly criticized Prime Minister Hun Sen's involvement in the territorial concessions made to Vietnam in the controversial border treaty signed that year.<sup>10</sup>

Mam Sonando was arrested shortly after returning from a trip to Europe, where, on 22 June 2012, at the Office of the Prosecutor General at the ICC in the Hague, he interviewed Suon Sereyath, head of the KPPM, which advocates from abroad for democratic reform in Cambodia. Mr Sereyath had submitted a resolution to the ICC accusing the RGC of involvement in crimes against humanity related to land rights violations, acknowledged by receipt from the Office of the Prosecutor on 22 June 2012. The interview, along with a full report by Mam Sonando on the submission of the complaint, was broadcast on Beehive Radio on 25 June 2012. The following day, the Prime Minister gave the speech in which he called for the arrest of Mam Sonando.

## Democrat Association

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6 Cambodian Center for Independent Media, April 2012, "Media Freedom of Information: Advancing Research & Actions" [http://www.ccimcambodia.org/report/FOI\\_survey\\_\(30\\_April\\_2012\).pdf](http://www.ccimcambodia.org/report/FOI_survey_(30_April_2012).pdf) [accessed 30 July 2012] – 59.7% of Cambodians surveyed preferred radio to other forms of media.

7 CCHR, July 2012, "New Media and the Promotion of Human Rights in Cambodia".

8 FIDH, 17 July 2012, "CAMBODIA: Independent radio station director Mam Sonando arrested and charged" <http://www.fidh.org/CAMBODIA-Independent-radio-station> [accessed 30 July 2012].

9 The law of UNTAC, 1992-1993, which was established to ensure the implementation of the Paris Peace Accords, signed in October 1991. The United Nations was given unprecedented powers in a sovereign state, and was responsible for, amongst other things: organizing free and fair elections, the rehabilitation of Cambodia's infrastructure after years of civil war, and to promote and protect human rights. For more information, please see <http://www.un.org/en/peacekeeping/missions/past/untac.htm>. Articles referred to above are 59, 61 and 62.

10 The Committee to Protect Journalists, 18 November 2005, "CPJ condemns detention of radio journalist in letter to Hun Sen" <http://cpi.org/2005/11/cpi-condemns-detention-of-radio-journalist-in-lett.php#more> [accessed 30 July 2012].

On 7 July 2010, Mam Sonando launched a new advocacy organization, the “Democrat Association,” based in Phnom Penh. It aims to: help Cambodia to become a country in which the rule of law is respected; promote human rights and democracy; protect the right to freedom of expression; and educate the Cambodian people, particularly the youth, about Cambodian history, culture and civilization. In short, it aims to help Cambodia’s transition to full democracy through education and the provision of information, and to contribute to the RGC’s strategy to reduce poverty in Cambodia. There is no connection between these aims and the so-called secession movement in Kratie. Indeed, on 17 July 2012, Bun Ratha – the man accused of leading the movement – confirmed in an interview with VOA that Mam Sonando was in no way involved in the land dispute in Kratie province. Furthermore, Bun Ratha has no position in the Democrat Association. As such, in the absence of any evidence that Mam Sonando made comments to incite people to secede from Cambodia and that Bun Ratha acted upon such comments to lead an insurrection movement, the allegations against Mam Sonando do not hold water. As Brad Adams, Asia Director of Human Rights Watch has said: “The narrative would be laughable if the consequences weren’t so tragic.”<sup>11</sup>

### **Political context behind the arrest of Mam Sonando**

Mam Sonando’s arrest comes at a time of significant unrest in Cambodia. 2012 has seen large numbers of Cambodian people taking to the streets protesting against, among other issues, unfair treatment where land and labor rights are concerned. Demonstrations have become increasingly charged, and the use of violence, sometimes deadly, by the Cambodian police and military police has become commonplace.<sup>12</sup> This radical crackdown on free expression is indicative of a government that is fearful of opposition.

Such suspicions are supported by recent reports that the government-controlled National Election Committee (the “NEC”) will prevent Sam Rainsy, head of the newly merged opposition, the Democratic Movement of National Rescue, from campaigning in next year’s National Assembly elections.<sup>13</sup> Sam Rainsy is currently in self-imposed exile in France, having been controversially charged with racial incitement and destruction of property after he and villagers from Svay Rieng province pulled up six temporary border markers that they claimed represented a Vietnamese encroachment on Cambodian territory in 2009.<sup>14</sup> Sam Rainsy’s trial fell far short of international fair trial standards: the court was closed to the public, journalists and human rights organizations; he was tried *in absentia*; and was denied his right to examine the evidence against him.<sup>15</sup> He was sentenced to two years in prison on 27 January 2010, a sentence that was upheld after appeal in October 2010. He also faced charges of disinformation and falsifying public documents after a map claiming to showcase the territorial encroachment was published on his party’s website. He was found guilty of these charges and sentenced, *in absentia*, to 10 years in prison, on 23 September 2010. In a response to recent calls from opposition parties to allow Sam Rainsy to return to Cambodia in time for next year’s elections,

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11 HRW, 17 July 2012, “Cambodia: After US, ASEAN Leave, Media Critic Jailed” <http://www.hrw.org/news/2012/07/17/cambodia-after-us-asean-leave-media-critic-jailed> [accessed 30 July 2012].

12 “Failing justice, protests and violence”, [http://www.atimes.com/atimes/Southeast\\_Asia/ND05Ae01.html](http://www.atimes.com/atimes/Southeast_Asia/ND05Ae01.html).

13 HRW, 17 July 2012, “Cambodia: After US, ASEAN Leave, Media Critic Jailed” <http://www.hrw.org/news/2012/07/17/cambodia-after-us-asean-leave-media-critic-jailed> [accessed 30 July 2012].

14 Human Rights Watch, 28 January 2010, “Cambodia: Opposition Leader Sam Rainsy’s Trial a Farce”, available at: <http://www.unhcr.org/refworld/docid/4b6abe8dc.html> [accessed 30 July 2012].

15 Human Rights Watch, 28 January 2010, “Cambodia: Opposition Leader Sam Rainsy’s Trial a Farce”, available at: <http://www.unhcr.org/refworld/docid/4b6abe8dc.html> [accessed 30 July 2012].

the Press and Quick Reaction Unit at the Council of Ministers immediately quashed any hopes, saying that the opposition leader would not be permitted to return, stating that “in this century, there is no more compromise.”<sup>16</sup>

## Conclusion

The charges leveled against Mam Sonando are unsupported by evidence. All available evidence suggests that he played no part in any revolutionary or secessionist activity; his only involvement in the Kratie incident was to report the violent evictions on Beehive Radio. Bun Ratha, the community organizer in the conflict-affected area, has publicly affirmed that the protests in Kratie were not connected with the Democrat Association or Mam Sonando. Furthermore, no evidence has been produced to suggest that Bun Ratha led a secessionist plot. The RGC announced on 22 July 2012 that a total of six villagers had confessed to secession in Kratie, but, as one of the accused, Mr. Sok Tong, noted, people have been pressured into confessing to avoid arrest and the RGC has failed to produce any credible evidence to back up its allegations: “Prime Minister Hun Sen has to show evidence that accuses us of creating an autonomous zone, and what is it? ...How can I admit fault, if I did not do anything wrong as they accused me?”<sup>17</sup> In addition, the Cambodian police have begun to crack down on supporters of Mam Sonando, preventing them from gathering thumbprints for a petition calling for his release. The authorities in at least four provinces – Kratie, Kandal, Prey Veng and Takeo – prohibited members of the Democrat Association from gathering thumbprints on the basis of “disturbing public order”.

The silencing of opposition by the RGC is nothing new. Threats and repressive attacks on those who speak out have become hallmarks of Hun Sen’s regime. In the current climate of ubiquitous land-grabs and forced evictions – which have recently been garnering increasing international media coverage<sup>18</sup> and drawing further ire at home – Hun Sen has again shown that he will deal with dissent with force rather than dialogue, and would rather justify the death of a 14-year-old girl through spurious claims of secession rather than launch a proper investigation into her killing.

Amidst a shrinking of space for human rights in Cambodia, independent media outlets such as Beehive Radio and human rights defenders such as its outspoken director are critical. CCHR calls on the RGC to drop all charges against Mam Sonando and release him immediately. If free and fair democracy is ever to become a reality in Cambodia, the RGC cannot continue to choke its opposition and suffocate those who criticize it.

**For more information, please contact CCHR President Ou Virak via telephone at +855 (0) 12 40 40 51 or e-mail at [ouvirak@cchrcambodia.org](mailto:ouvirak@cchrcambodia.org) or CCHR Legal Consultant Robert Finch via telephone at +855 (0) 78 80 99 60 or e-mail at [robert.finch@cchrcambodia.org](mailto:robert.finch@cchrcambodia.org).**

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<sup>16</sup> “Sam Rainsy Will Not be Allowed Back, Gov’t Says”, *The Cambodia Daily*, 26 July 2012, p. 16.

<sup>17</sup> “More Confess to Kratie ‘Secession’”, *The Phnom Penh Post*, 23 July 2012.

<sup>18</sup> Mu Sochua and Cecilia Welkstrom, 18 July 2012, “Land Grabs in Cambodia” [http://www.nytimes.com/2012/07/19/opinion/land-grabs-in-cambodia.html?\\_r=1](http://www.nytimes.com/2012/07/19/opinion/land-grabs-in-cambodia.html?_r=1) [accessed 30 July 2012].