

Joint Legal Analysis of the draft Law on Unions of Enterprises

Today, CLEC and LICADHO release a legal analysis of the latest draft of the Law on Unions of Enterprises (Trade Union Law) obtained at the end of May, this year. As unions yesterday began a nationwide campaign for a \$177 per month minimum wage, the draft Trade Union Law underlines the government's intent to interfere with and infringe upon union formation and activities.

Ahead of the unions' planned events yesterday, soldiers from military brigades 70 and 99, as well as from the artillery unit, were stationed along Veng Sreng road and inside Canadia Industrial Park, highlighting the government's intent to intimidate and harass union leaders as well as threaten workers' freedoms of expression, assembly and association.

Prior to yesterday's events, the prosecutor of the Phnom Penh Municipal Court has filed a charging warrant with the investigating judge accusing six union leaders - Pav Sina, president of Collective Union of Movement of Workers (CUMW), Chea Mony, president of Free Trade Union (FTU), Ath Thun, president of Coalition of Cambodia Apparel Workers' Democratic Union (C.CAWDU), Morm Nhim, president of National Independent Federation Textile Union of Cambodia (NIFTUC), Yang Sophorn, president of Cambodian Alliance Trade Unions (CATU) and Rong Chhun, president of the Cambodian Independent Teachers' Association (CITA) - of intentional violence and intentional property damage with aggravating circumstances (Criminal Code articles 218 and 411), threatening to cause damage or destruction (Criminal Code article 424), and blocking public traffic (Traffic Law article 78) in relation to labor demonstrations held around Phnom Penh from December 25, 2013 through January 3, 2014.

Although the investigating judge has issued summons for all six leaders thus far, only Pav Sina and Chea Mony have been questioned. Subsequent to their questioning by the investigating judge, both have been placed under judicial supervision. The judge has not yet stipulated the conditions of judicial supervision for Pav Sina but the conditions for Chea Mony reportedly include prohibitions against meeting with other union leaders.

"The use of the military to threaten and intimidate workers from participating in union activities is unacceptable, as is the continued abuse of the judiciary for political purposes," said LICADHO Director, Naly Pilorge. "The disparity in the treatment of union leaders versus government security forces has never been more concrete as no single charge has been filed with the courts for the killing of at least four people by security forces during the same period of time."

Lurking underneath the government's efforts to intimidate workers and union leaders as the new minimum wage campaign begins is the draft Law on Unions of Enterprises which poses an even greater threat to freedom of association in its current form. Analysis by CLEC and LICADHO finds that the latest draft released at the end of May this year continues to threaten the rights of workers to freely associate through prohibitive registration requirements as well as vague and discretionary restrictions on union autonomy and activities. The analysis finds that the draft also purports to improperly expand the control of the Ministry of Labor (MOL) by delegating to it many powers that should be within the sole authority of the courts.

"A strong rule of law that builds public trust and confidence in the government can only be achieved by enacting and enforcing laws that protect peoples' fundamental rights," said Tola Moeun, head of CLEC's Labor Program. "Draft laws that instead threaten to infringe on peoples' fundamental rights must be amended through a transparent and inclusive consultation process or risk creating social and economic instability."

We call for a review of the latest draft of the Law on Unions of Enterprises to ensure the full protection of workers' fundamental rights to freely associate in order to maintain and improve their working conditions as well as allow the unions to freely exercise their rights to collective bargaining.

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