

August 2, 2018

Dear Colleagues,

I am writing to inform you of a positive development in an important human rights case involving one of our key partners in Cambodia. For the past six months, Moeun Tola, Executive Director of a leading labor rights organization in that country, CENTRAL (the Center for the Alliance of Labor and Human Rights), has faced fabricated criminal charges and the possibility of indefinite pretrial detention, as part of a broader campaign of suppression of basic civil and human rights in Cambodia. On July 9, 2018, all pending charges against Tola were dismissed by the Phnom Penh Municipal Court. The end of this baseless prosecution removes the looming threat of wrongful imprisonment and will enable Tola to resume his efforts to protect the rights of Cambodian workers

Cambodia's clampdown in recent years on independent civil society advocates, media outlets, and the country's key opposition political party (which has been documented by Human Rights Watch among others),<sup>1</sup> coupled with damaging changes to Cambodia's labor law in 2016, has significantly restricted Cambodian garment workers' ability to exercise their associational rights, including at factories producing collegiate apparel. No Cambodian garment worker, including those producing university logo apparel, can freely exercise associational rights in this context.

Over the past year, the Worker Rights Consortium has played a leading role in convening human rights and workers' rights organizations to address the shrinking space for freedom of association and free speech in Cambodia, including the use of baseless criminal charges against Tola and other labor rights advocates. In response to the baseless charges against Tola, the WRC worked with other international human rights and labor rights organizations to contact university licensees and other brands sourcing from Cambodia, urging them to press the Government of Cambodia to dismiss all of these charges.

As a result, a number of brands took action individually, notably VF Corporation, whose responsiveness on labor rights issues in general has increased markedly in recent years, due in large part to university engagement with VF when it was a university licensee. Other brands acted jointly through industry organizations including the Fair Labor Association and the

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<sup>1</sup> Human Rights Watch, "Submission to the Universal Periodic Review of Cambodia" (July 2018), <https://www.hrw.org/news/2018/07/13/submission-universal-periodic-review-cambodia>.

American Apparel and Footwear Association. It is clear that this engagement with the Cambodian government by key buyers significantly contributed to this positive outcome.

As some of you may recall from the presentation he delivered when he attended the 2014 annual meeting of the WRC University Caucus, Tola played a central role in successful efforts in 2010 to increase the minimum wage for garment workers and, more recently, winning vital legal protections for Cambodian migrant workers in Malaysia and Thailand. Prior to establishing the labor rights organization, CENTRAL, Tola served as the director of the worker rights program at the Community Legal Education Center (CLEC), another leading Cambodian civil society organization. Due to this pivotal work, Tola has repeatedly faced threats and intimidation, both by government and private actors, in an attempt to halt his advocacy on behalf of Cambodia's working people. He and his colleagues at CLEC and now CENTRAL have played a key role in resolving worker rights violations at collegiate supplier factories in coordination with the WRC on a number of occasions.

As was reported in both the *Phnom Penh Post*<sup>2</sup> and the *Khmer Times*,<sup>3</sup> on January 18, 2018, Tola and two other prominent Cambodian human rights advocates, But Buntenh and Pa Nguon Teang, were charged with criminal offenses in response to a fabricated criminal complaint related to the funds raised for the funeral of Kem Ley, a prominent critic of the regime of Prime Minister Hun Sen who was murdered by unknown assailants in 2016.

Despite strong opposition from Kem Ley's family,<sup>4</sup> who attested to the baseless nature of the charges, a Cambodian court charged Tola with the criminal offense of "breach of trust" for allegedly mishandling funds raised for the funeral. Human Rights Watch accurately described these charges as "politically motivated legal harassment" and "emblematic of systematic scapegoating and harassment" of human rights advocates in the run-up to the general elections which were just held in Cambodia.<sup>5</sup>

The first indication that the WRC's appeal to brands and licensees to engage with the Cambodian government concerning the charges against Tola was bearing fruit was a statement issued by the Cambodian Ministry of Labour in April 2018 recommending that the country's courts move to dismiss the pending charges against Tola and cease any further investigation into the criminal complaint made against him. After the Ministry made this request, Tola, who had been residing outside the country for fear of being subjected to indefinite pretrial detention, returned to

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<sup>2</sup> See, Nachemson, Andrew, and Niem Chheng, "Three activists charged for allegedly misappropriating funds meant for Ley funeral," *Phnom Penh Post*, (January 18, 2018), <http://www.phnompenhpost.com/national/three-activists-charged-allegedly-misappropriating-funds-meant-ley-funeral>.

<sup>3</sup> See, "CYP to file complaint against Kem Ley funeral committee," *Khmer Times*, (September 8, 2017), <http://www.khmertimeskh.com/5082074/cyp-file-complaint-kem-ley-funeral-committee/>

<sup>4</sup> Id.

<sup>5</sup> See, "Cambodia's Imaginary Enemies," *Human Rights Watch*, (April 30, 2018), <https://www.hrw.org/news/2018/04/30/cambodias-imaginary-enemies>.

Cambodia in late May to be questioned by the legal authorities. On July 9, 2018, the investigative judge dismissed all of the charges against Tola.

The dismissal of these charges is an important development and a clear indication of the essential role that international apparel brands, including collegiate licensees, can play in safeguarding workers' rights in Cambodia. Continued engagement by labor organizations and key brands with the government on issues of worker rights and, in particular, freedom of association, remains essential. Baseless charges are still pending against the two other civil society activists who were charged along with Tola as a result of the same fabricated criminal complaint.

In addition, the heads of six leading Cambodian garment worker unions have been facing similarly baseless criminal charges since 2014, as a result of which they are subject to indefinite court supervision orders that limit their work and their associational rights.

The Worker Rights Consortium will continue to our work to address the misuse of the Cambodian legal system to silence garment worker leaders and advocates, as well as our ongoing efforts to address other systemic violations of associational rights in Cambodia.

As always, please feel free to contact us with any questions.

Best,

Scott Nova

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