

Joint Statement on Strike Action by NagaWorld Employees

18 December 2021

We, as civil society organisations, trade union federations, confederations and associations working to promote and protect labour and human rights in Cambodia express our firm solidarity with striking employees at NagaWorld Limited who are currently exercising their fundamental rights to peacefully strike according to the Labour Law, the Law on Trade Unions and their statutes previously registered with the Ministry of Labour and Vocational Training. We are extremely disappointed with the provisional disposition issued by the Phnom Penh Court of First Instance on 16 December 2021 which declared this strike to be illegal and call on NagaWorld to engage with its employees and their representatives directly and in good faith to resolve this dispute.

On 18 December 2021, more than 1,300 employees of NagaWorld Limited, including members of the Labour Rights Supported Union of Khmer Employees of NagaWorld (LRSU) began strike action to demand reinstatement of 365 employees previously dismissed as part of a mass force layoff 1,329 workers in late April 2021. Amongst those dismissed include the entirety of the local LRSU leadership, including Union President Chhim Sithar, as well as elected shop stewards. Shortly after the strike began, representatives from the Phnom Penh Court of First Instance read out a provisional disposition issued by the Phnom Penh Court of First Instance on 16 December 2021 which declared the strike to be illegal and ordered striking workers to return to work. According to the order, those workers who do not return to work will be considered to have committed serious misconduct, paving the way for NagaWorld to terminate their employment. LRSU was not given notice of the court's decision until approximately 9:30 AM on December 18, 2021. The provisional disposition was issued with LRSU being provided no opportunity to contest or respond to Naga World's request to prohibit the strike prior to the decision being made. Paragraph 4 of Section 548 of the Code of Civil Procedure requires the court to hold a court date for either oral arguments or questioning prior to issuing a provisional disposition. In circumstances where the court has issued a provisional disposition before the strike had even occurred, it ought to have summoned LRSU for either oral arguments or questioning before making its decision.

Also on the afternoon of 18 December, the Phnom Penh Administration issued a letter to a number of LRSU leaders, instructing them to cease their "demonstration" as it did not comply with Article 5 of the Law on Peaceful Demonstrations. However, Point 3-1-2 of Section I of the Implementation Guide to the Law on Peaceful Demonstrations, issued by the Ministry of Interior through Decision No. 2337/10 states clearly that the Law on Peaceful Demonstrations does not apply to labour disputes which take place outside or adjacent to an enterprise. As such, the Phnom Penh Administration should not attempt to dissolve a strike by referring to a law which is not applicable for this case.

The strike at NagaWorld has occurred after consistent refusals by management to engage in genuine or good faith negotiation with LRSU and failures by the Ministry of Labour and Vocational Training and Phnom Penh City Hall to secure resolution. The right to collective bargaining and the right to strike are guaranteed to Cambodian workers both by virtue of the Cambodian Constitution, as well as International Labour Organisation (ILO) conventions nos. 87 and 98, both of which have been ratified by the Kingdom of Cambodia. The Constitutional Council of Cambodia has previously ruled that international treaties ratified and recognised by Cambodia form part of Cambodian domestic law.

We recall that in January 2020, NagaWorld employees conducted strike action demanding pay increases as well as the reinstatement of LRSU President Chhim Sithar. At the time, NagaWorld responded by similarly requesting the Phnom Penh Court of First Instance declare the strike as illegal and order employees to return to work. As civil society organisations, trade unions and associations working to protect and promote labour and human rights in Cambodia, we see Naga World's response to both the January 2020 and present strike as little more than a blatant attempt to silence the collective voice of LRSU members and NagaWorld employees more broadly. The Phnom Penh Court of First Instance should not have accepted Naga World's request for provisional disposition and its decision to issue such an order severely undermines the fundamental rights and freedoms guaranteed to NagaWorld employees by the Cambodian Constitution. The ILO has as recently as this year called on the Cambodian Government to take necessary measures to guarantee the lawful and peaceful exercise of the right to strike.

We hope that LRSU members and NagaWorld employees will not be cowed into silence through these forms of legal action and intimidation. The only way to resolve this dispute is for the company to immediately engage in genuine and good faith negotiations with NagaWorld workers and their representatives to find a mutually acceptable solution. The legal system must not be used as a tool by which to silence workers' voices. We appeal to NagaWorld, the Ministry of Labour and Vocational Training and all relevant local authorities to immediately make all necessary efforts to peacefully resolve this dispute.

This statement is supported by:

1. 197 Land Community (Koh Kong)
2. Andong Trabek Land Community (Svay Rieng)
3. Areng Indigenous Community (Koh Kong)
4. Boeung Pram Community (Battambang)
5. Bos Snor Community (Tbong Khmum)
6. Building and Wood Workers' Trade Union Federation of Cambodia (BWTUC)
7. Cambodia Informal Workers' Association (CIWA)
8. Cambodian Alliance of Trade Unions (CATU)
9. Cambodian Center for Human Rights (CCHR)
10. Cambodian Food and Service Workers' Federation (CFSWF)
11. Cambodian Human Rights Action Coalition (CHRAC)

12. Cambodian Human Rights and Development Association (ADHOC)
13. Cambodian Independent Civil Servants' Association (CICA)
14. Cambodian Informal Employment Reinforcement Association (CIERA)
15. Cambodian League for the Promotion and Defence of Human Rights (LICADHO)
16. Cambodian Tourism Workers' Union Federation (CTWUF)
17. Cambodian Youth Network (CYN)
18. Center for Alliance of Labor and Human Rights (CENTRAL)
19. Charay Indigenous Community (Ratanakiri)
20. Chi Kha Kraom Land Community (Koh Kong)
21. Chi Kha Leu Land Community (Koh Kong)
22. Coalition of Cambodian Apparel Workers' Democratic Union (CCAWDU)
23. Coalition of Cambodian Farmers Community Association (CCFC)
24. Coalition of Free Trade Unions of Women Textile (CFTUWT)
25. Committee for Free and Fair Elections in Cambodia (COMFREL)
26. Community to Protect Nature (Pursat)
27. Dak Por Community (Kampong Speu)
28. Free and Independent Trade Union Federation (FUF)
29. Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC)
30. Haong Samnam Community (Kampong Speu)
31. Independent Democratic of Informal Economy Association (IDEA)
32. Independent Trade Union Federation (INTUFE)
33. Indigenous Community in Prame Commune (Preah Vihear)
34. Klaing Toek 78 Community (Siem Reap)
35. Koh Sralao Fishery Community (Koh Kong)
36. Kouy Indigenous Community (Preah Vihear)
37. Land Community (Pailin)
38. Lor Peang Community (Kampong Chhnang)
39. Ou Chamsrey Tradakpong Community (Kampong Thom)
40. Ou Damdaek Community (Kampong Thom)
41. Ou Vor Preng Community (Battambang)
42. Peam Ros Community (Kampong Speu)
43. Phnom Tnaut Community (Kampot)
44. Prey Chher Pech Changvar Laor Chhert Community (Kampong Chhnang)
45. Prey Lang Community (Kampong Thom)
46. Prey Peay Land Community (Kampot)
47. Samaki Sangkae Pir Mean Rith (Preah Vihear)
48. Samakum Teang Tnaut (STT)
49. Solidarity House (SH)
50. Sre Ampel Water Fall Tourism Forestry Community (Kampong Chhnang)
51. Sre Prang Community (Tboung Khmum)
52. Steung Khsach Sor Forestry Resource (Kampong Chhnang)
53. Ta Ni Land Community (Siem Reap)
54. Ta Noun Land Community (Koh Kong)
55. Thmar Da Community (Pursat)
56. Tonlung Community (Tboung Khmum)
57. Workers' Solidarity Strength Independent Union (WSSIU)
58. Youth Resource Development Program (YRDP)
59. Equitable Cambodia (EC)