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# *amnesty international*

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## £KINGDOM OF CAMBODIA

### @Prison term for newspaper editor Chan Rotana

**MARCH 1995**

**AI INDEX: ASA 23/04/95**

**DISTR: SC/CO**

Amnesty International is concerned at the prison sentence imposed on newspaper editor Chan Rotana on 27 February 1995, at the Phnom Penh Municipal Court. Chan Rotana, editor of the newspaper *Samleng Yuvachen Khmer* (Voice of Khmer Youth), was found guilty of "disinformation" and sentenced to one year's imprisonment and a fine of five million Cambodian riels (approximately US\$2,000). He remains released on bail, pending an appeal against the sentence. If he were to be imprisoned, Amnesty International believes he would be a prisoner of conscience, imprisoned solely for the peaceful expression of his political opinions. During the last eight months the Cambodian Government has become increasingly intolerant of criticism of its policies. Newspapers have been shut down and their property confiscated; journalists and editors have been harassed, threatened and intimidated. Two were killed in the last four months of 1994, including the previous editor of *Samleng Yuvachen Khmer*.

The United Nations Transitional Authority in Cambodia (UNTAC), which organised democratic elections in the country in 1993, drew up a provisional criminal code during the period of its mandate in Cambodia. This code is still operative in Cambodia until domestic legislation can be drafted and approved to replace it. Chan Rotana was charged with offenses under Article 62 of the code, for an article published in *Samleng Yuvachen Khmer* on 12-13 January 1995, entitled "Ranariddh is more stupid than Hun Sen Three Times a

Day". Prince Norodom Ranariddh and Hun Sen are the First and Second Prime Ministers of Cambodia.

During Chan Rotana's trial, his defender drew attention to the provisions of Article 62, and argued that the newspaper article did not violate these provisions. The law states:

"When the publication...by whatever means, of statements which are false, fabricated, falsified or dishonestly attributed to a third party; made in bad faith and intended to cause hurt; threatens or is likely to threaten the public peace, the director or other representative of the publication...whose decision it was to publish...these statements shall be liable to a penalty of incarceration of from six months to three years, and a fine of from one million to 10 million riels."

The prosecutor argued that the newspaper article had affected the honour of Prime Minister Prince Norodom Ranariddh, and caused distrust among citizens and civil servants. Chan Rotana's defender argued that the newspaper article was an opinion piece, rather than a statement of fact, and that in the six weeks since it was published it had caused no disturbance of the public peace. During the defender's presentation, the judge told him, "this is not the time to interpret the law, that is for the judge to do."

The judge spent less than five minutes reviewing the case before announcing his verdict of guilty. He stated that the newspaper article had been degrading to the First Prime Minister and thus had affected public order. He then announced the sentence.

Under Cambodian law, Chan Rotana has two months within which to appeal against his sentence. During that period he will not be imprisoned. Amnesty International is concerned that criminal penalties have been imposed on a journalist for expressing his opinion; the organization takes no position on the sentiments expressed in the newspaper article. Article 19 of the International Covenant on Civil and Political Rights (ICCPR), to which Cambodia is a state party says "everyone shall have the right to freedom of expression."

It also recognises that this right carries with it "special duties and responsibilities" but this recognition does not give governments the right to impose criminal penalties on the press and broadcast media for exercising rights safeguarded under international standards. Amnesty International understands that the government pressed only for civil penalties in this case. The organization regrets the passing of a prison sentence by the judge.

A draft press law passed by the Council of Ministers in Cambodia in November 1994 retains criminal penalties. Cambodia is obliged to ensure that its domestic legislation conforms to international human rights law; the November 1994 draft press law does not meet this obligation. Amnesty International recognises that the law under which Chan Rotana was convicted is an UNTAC law, and thus was not drawn up by the Cambodian authorities. However, laws which criminalise the right to freedom of expression do not meet international standards and should be amended. Laws preventing and punishing criminal acts and laws which protect interests under civil law are sufficient to protect the legitimate interests of the state.

Amnesty International calls upon the Cambodian authorities not to imprison Chan Rotana for the article published in his newspaper on January 12-13 1995. The organization also calls upon the authorities to draft a new press law for Cambodia which meets international human rights standards, and replaces criminal penalties with civil sanctions. Amnesty International recalls that the previous editor of the newspaper *Samleng Yuvachen Khmer* was shot dead in Phnom Penh on 7 September 1994, after receiving warnings from the government about the content of his newspaper; no one has yet been brought to justice for this killing.

**KEYWORDS:** EDITORS1 / CENSORSHIP1 / TRIALS / LEGISLATION / CONDITIONAL RELEASE /

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