

KINGDOM OF CAMBODIA

Chan Rotana - prisoner of conscience

Amnesty International greatly regrets the imprisonment today of Yim Sokha, commonly known as Chan Rotana, a former newspaper editor and political party worker. The organization believes he is a prisoner of conscience and is calling for his immediate and unconditional release.

Background

Chan Rotana, who is married and has two children, is the 33-year-old former editor of *Samleng Yuvachen Khmae* ("Voice of Khmer Youth"). A medical doctor by training, he became editor of *Samleng Yuvachen Khmae* in September 1994, after the previous editor had been assassinated. Chan Rotana resigned the editorship of the newspaper in November 1995, in order to take up a position with *Cheat Khmae* ("Khmer Nation Party" or KNP), the political party founded by prominent government critic Sam Rainsy. *Samleng Yuvachen Khmae* regularly publishes articles which are strongly critical of the Royal Cambodian Government. In the 12-13 January 1995 issue of *Samleng Yuvachen Khmae*, an article appeared entitled "Ranariddh is more stupid than Hun Sen Three Times a Day". The article was a simplistic, satirical piece, written in the voice of a young woman, and was critical of Cambodia's first Prime Minister, Prince Norodom Ranariddh.

Prosecution

Chan Rotana was prosecuted, under the 1992 "Provisions relating to the Judiciary and Criminal Law and Procedure applicable in Cambodia during the Transitional Period". This law was adopted in Cambodia in 1992, during the time of the United Nations Transitional Authority in Cambodia (UNTAC). The law is commonly referred to as the UNTAC Penal Code. Chan Rotana was charged with disinformation under Article 62 which states:

"When the publication, distribution or reproduction 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; disturbs or is likely to disturb the public peace, the director or other representative of the publication or other means of communication whose decision it was to publish or reproduce these statements shall be liable to a penalty of imprisonment of from six months to three years, and a fine of from one to ten million riels."¹

During the trial hearing on 27 February 1995, the prosecutor argued that the article published by Chan Rotana had affected the honour of First Prime Minister Prince Norodom Ranariddh and had caused distrust among citizens and civil servants. In his defence, Chan Rotana's defender said that the newspaper article was an opinion piece not a statement of fact, and that in the six weeks that had elapsed since publication, it had not caused any disturbance of the public peace. The judge told Chan Rotana's defender that "this is not the time to interpret the law, that is for the judge to do." After arguments had been presented by both the prosecution and the defence, the judge announced a guilty verdict after less than five minutes deliberation. He said that the article had been degrading to Prince Ranariddh and therefore had affected public order. The

¹ This is a translation from the official French version of the law. The official English version allows for fines of up to three million riels, while the official French version and the Khmer translation (which appears to have been made from the French), allow for fines of up to ten million riels. It is not clear why this discrepancy occurred. Ten million riels is approximately US\$4,000.

judge sentenced Chan Rotana to one year's imprisonment and a fine of five million Cambodian riels (about US\$2,000).

Appeal

Chan Rotana appealed against his sentence. The appeal court hearing took place on 6 October 1995, and during the hearing, counsel for the prosecution requested that the charge be changed from "disinformation" under Article 62, to Article 63 of the law, relating to defamation and libel. The panel of three judges agreed to the request and without a trial on the amended charge, upheld the conviction and sentence. This clearly breached proper procedures under both Cambodian law and international standards for a fair trial.

Appeal to the Supreme Court

Chan Rotana filed an appeal to Cambodia's Supreme Court on 13 December 1995. The case was finally heard on 28 June 1996. The panel of five judges upheld the conviction under Article 63 of the UNTAC Penal code, and ordered that Chan Rotana go to prison for one year, and pay the fine as specified. They also ordered that *Samleng Yuvachen Khmae* be closed down. Heavily armed police immediately read an arrest warrant to Chan Rotana and took him from the court to T-3 prison in Phnom Penh.

Amnesty International believes that Chan Rotana is a prisoner of conscience, detained solely for exercising his rights to freedom of expression. The organization believes he should be immediately and unconditionally released. Amnesty International notes that Chan Rotana is being detained with common criminals in T-3 prison, and calls upon the Cambodian authorities to ensure that, for as long as Chan Rotana remains in detention, his treatment in prison conforms to the United Nations Standard Minimum Rules for the Treatment of Prisoners.

Other cases against journalists

Amnesty International notes with concern that another newspaper editor, Hen Vipheak, who edits *Sereipheap Thmei* ("New Liberty News") also faces a prison term because of an article published in his newspaper in February 1995. On 20 May 1995, the Phnom Penh Municipal Court found Hen Vipheak guilty of "disinformation" under Article 62 of the UNTAC Penal Code and sentenced him to one year's imprisonment and a fine of five million Cambodian riels (about US\$2000). The sentence was upheld on appeal on 22 December 1995. It is expected that Hen Vipheak's final appeal to the Supreme Court will be heard in the coming days. Should he be sent to prison following this appeal, Amnesty International believes Hen Vipheak would be a prisoner of conscience.²

A third newspaper editor who was also facing imprisonment because of the articles published in his newspaper was murdered in Phnom Penh on 18 May 1996. Thun Bun Ly was the

² For more details on the case of Hen Vipheak, see Amnesty International *Kingdom of Cambodia: Diminishing respect for human rights* (AI Index: ASA 23/02/96), May 1996.

editor of *Odomkete Khmae* (“Khmer Ideal”) and a party worker with the KNP. He was shot dead in broad daylight near his home by two men on a motorcycle. Amnesty International condemned the killing and called for an immediate investigation. No progress appears to have been made by the Cambodian authorities in identifying Thun Bun Ly’s killers.³ Chan Rotana’s predecessor as editor of *Samleng Yuvachen Khmae*, Nuon Chan, was also shot dead in broad daylight in Phnom Penh in September 1994. No one was ever brought to justice for his killing.⁴

The right to freedom of expression

Amnesty International believes that the fundamental human right to freedom of expression is under threat in Cambodia. The imprisonment today of a former newspaper editor, solely on account of an article published in his newspaper, which was a peaceful critique and did not advocate the use of violence is a step backwards for human rights in the country. Cambodia is a party to the ICCPR and must uphold its obligations as defined in the ICCPR, including the right to freedom of expression.

³ More details about the death of Thun Bun Ly are provided in Amnesty International *Kingdom of Cambodia: Killing of Thun Bun Ly* (AI Index: ASA 23/05/96), 20 May 1996.

⁴ The facts of Nuon Chan’s case can be found in Amnesty International *Kingdom of Cambodia: Human rights and the new government* (AI Index: ASA 23/02/95), 14 March 1995.