

AI Index: PRE 01/253/2009  
30 June 2009

## **Cambodia: Jailing of newspaper editor setback to free expression**

Cambodian judicial authorities should squash last week's conviction of newspaper editor Hang Chakra for spreading "disinformation" and order an immediate retrial, Amnesty International said today.

"This case demonstrates the absence of an independent judiciary in Cambodia, and the increasing intolerance of dissent and criticism within Cambodia's top echelons of power," said Brittit Edman, Amnesty International's Cambodia researcher.

The Phnom Penh Municipal Court sentenced Hang Chakra, editor-in-chief of the opposition Khmer Machas Srok newspaper, to a one-year prison term and a fine of nine million riel (approx. 2,250 USD) for "disinformation" on 26 June 2009. He was arrested later that day in Battambang Province and taken to Prey Sar Prison in Phnom Penh.

A government lawyer had filed a complaint against Hang Chakra for "disinformation" and "incitement" in a number of articles published in May related to alleged corruption within the office of Deputy Prime Minister Sok An.

Hang Chakra's defence lawyer had been assigned the case only one day before the hearing and was not able to represent his client in court at such short notice. The Court denied his request for a postponement of the hearing, denying Hang Chakra his right to adequate time to prepare his defense.

"This trial clearly fell short of international human rights law and standards," Edman said. "The law on disinformation is too broad and open to abuse. Government authorities are now using disinformation and defamation laws to harass, intimidate, and even jail their critics."

The Office of the High Commissioner for Human Rights recently noted that Cambodia's top leadership has lodged eight separate criminal defamation and disinformation complaints since April 2009.

"The use of disinformation and defamation charges against peaceful critics of government policy or action violates the rights to freedom of expression and opinion and stifles the political debate in Cambodia", Edman said.

Amnesty International calls on the Cambodian judicial authorities to order a retrial for Hang Chakra. Amnesty International also calls on the government and national assembly to repeal disinformation and defamation laws or else revise them so that they conform to international human rights law and standards.

## **Background**

The Cambodian Constitution guarantees the right to freedom of expression, and as a party to the International Covenant on Civil and Political Rights (ICCPR), Cambodia is obliged to ensure that everyone charged with a criminal offence is entitled to a fair trial. This includes the right to have adequate time and facilities for the preparation of his or her defence and to communicate with counsel of their choosing.

The 1995 Press Law provides for some protection of journalists, but is rarely used. Instead, Articles 62 and 63 of the so-called 1992 UNTAC Law, Cambodia's current penal code, are used in most legal cases against journalists or media representatives. Article 62 criminalises the publication, distribution or reproduction of false information that "has disturbed or is likely to disturb the public peace," with a custodial sentence of up to three years.

Article 63 provides that allegations against public figures "which the author, the journalist, editor, or producer knows to be false" may constitute defamation. Criminal defamation no longer carries a custodial sentence, since the authorities bowed to pressure to amend the legislation after controversial attempts in 2005 to silence dissent through the courts.