

CAMBODIA: Supreme Court Tested by Labor Leader's Murder Case

Lack of Justice Leaves Unionists in Fear for Their Lives

(New York, December 28, 2008) -- *Cambodian authorities should exonerate and free Born Samnang and Sok Sam Oeun, who were unfairly sentenced to 20 years' imprisonment in 2005 for the murder of labor leader Chea Vichea, according to a joint statement released today by three international human rights organizations and the world's largest trade union confederation.*

The Cambodia Supreme Court will hear the case on appeal on December 31, 2008.

The joint statement was issued by Human Rights Watch, the International Trade Union Confederation, and the Observatory for the Protection of Human Rights Defenders (a joint program of the International Federation for Human Rights and the World Organization Against Torture), which have all closely followed the case since Vichea's murder.

"The Cambodian Supreme Court should rely on the evidence and not give in to government pressure when it reviews the case," said Sara Colm, senior researcher for Human Rights Watch. "Born Samang and Sok Sam Oeun have already spent five years behind bars for a crime they did not commit, and it is time for justice to be done in this case."

Chea Vichea, 36, was the founder and president of the Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC) and a vocal supporter of the opposition Sam Rainsy Party. He was shot and killed in broad daylight in front of a newsstand in Phnom Penh on January 22, 2004. Vichea was well known for his outspoken efforts to organize garment workers and to fight for improved working conditions in Cambodia, work he continued in spite of death threats.

The investigation into the high profile murder was marred by alleged police brutality and forced confession by one of the suspects, intimidation of witnesses, and political interference in the judicial process. The prosecution and conviction of Born Samnang and Sok Sam Oeun has drawn extensive criticism from Cambodian and international human rights activists, union advocates, lawyers, and United Nations officials.

The International Labour Organization (ILO), which sent a fact finding mission to Cambodia in April 2008 to investigate the murders of trade unionists, has repeatedly expressed strong concerns about the convictions of the two men and called for a fresh investigation into Chea Vichea's murder.

"The lack of justice in this case leaves trade unionists in fear for their lives," said Guy Ryder, general secretary of the International Trade Union Confederation, whose 311 affiliates represent 168 million workers worldwide. "Even ILO leaders who were on an official ILO mission to Cambodia earlier this year were subject to intimidation."

In a report released in November, the ILO sharply criticized the Cambodian government for not effectively stemming a series of violent and deadly attacks against trade unionists. At the core of the problem, the report said, is Cambodia's lack of an independent judiciary, which allows the real perpetrators of such attacks to evade justice. The atmosphere of impunity in Cambodia reinforces the climate of violence and insecurity, the report said, which in turn "is extremely damaging to the exercise of trade union rights."

The ILO report's findings, which could affect the future of Cambodia's important garment industry, noted that during the ILO mission in April, the government "demonstrated an unwillingness to engage in fully frank discussions" and "provided no concrete indications" that it would act upon any of the ILO's recommendations.

In addition to the murder of Chea Vichea, there has been an ongoing pattern of violence against trade union activists in Cambodia. This includes the murders of FTUWKC official Hy Vuthy in February 2007 and FTUWKC

Steering Committee member Ros Sovannarith in 2004, and a series of threats and physical assaults against FTUWKC representatives and other trade unionists.

The four organizations urged the Cambodian government to launch a full and impartial investigation into Chea Vichea's murder, as well as an independent and public inquiry into the handling of the prosecution of Born Samnang and Sok Sam Oeun.

"If the Supreme Court fails to provide long-overdue justice by releasing these two innocent men, it will only further highlight the lack of progress toward rule of law in Cambodia," said Souhayr Belhassen, president of the International Federation for Human Rights.

The organizations also urged the Cambodian government to take prompt action to address the key issues highlighted by this case: Cambodia's endemic impunity and lack of rule of law, government interference in the judiciary, intimidation and violence faced by trade union members and leaders, and widespread torture by the police.

"It's time for the Cambodian authorities to finally deliver justice to Born Samnang and Sok Sam Oeun, and stop the widespread practice of torture by Cambodian police to force confessions out of criminal suspects," said Eric Sottas, secretary general of the World Organisation Against Torture.

Background

The police and court investigations into Vichea's killing were marred by series of procedural flaws and violations of international legal standards. The police allegedly tortured Born Samnang to obtain a confession. A judge who initially dropped the charges against the two men for lack of evidence was swiftly removed from his position, and the charges were reinstated. The subsequent trial of the two men was conducted in a manner that flagrantly violated Cambodian law and international fair trial standards. In April 2007, the country's Appeal Court upheld their convictions despite the state prosecutor acknowledging that there was insufficient evidence.

Chea Vichea's family members say they believe Born Samnang and Sok Sam Oeun are not responsible for the crime, as has Var Sothy, the newsstand proprietor who was the key eyewitness to the killing. She subsequently fled Cambodia in fear for her life.

As an example of the politicization of the Cambodian judiciary, the Chief Justice of the Supreme Court, Dith Munthy, is a member of the Standing Committee of the ruling Cambodian People's Party. The lack of judicial independence has been cited in successive UN human rights reports for the past 15 years and is a major concern in the ongoing attempts to bring Khmer Rouge leaders to justice. The Cambodian government has long acknowledged weaknesses in the judiciary and made commitments to address this, but has taken no meaningful steps to do so.

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For additional background on Chea Vichea's murder and the prosecution of Born Samnang and Sok Sam Oeun, please see:

- November 2008 Conclusions of the International Labour Organization's Committee on Freedom of Association regarding violence against Cambodian trade unionists, at:

http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_100625.pdf

- June 2007 Licadho briefing paper, “Innocent Prisoners Awaiting Justice,” at: <http://licadho.org/reports/files/107LICADHOPaperSummaryBSSSO07.pdf>
- April 12, 2007 statement by the UN Secretary-General’s Special Representative for Human Rights in Cambodia, “The Special Representative expresses deep regret over the upholding of the sentences against Born Samnang and Sok Sam Oeun,” at: <http://cambodia.ohchr.org/Documents/Statements%20and%20Speeches/English/322.pdf>
- August 10, 2006 written statement by the prime witness to Chea Vichea’s murder, at: <http://licadho.org/news/files/VaSothyStatementTransEN.pdf>
- October 3, 2006 complaint about the Chea Vichea case filed by the International Confederation of Free Trade Unions (now the International Trade Union Confederation) to the International Labour Organization, at: <http://www.icftu.org/www/PDF/CFAComplaint2318CheaVichea2006.pdf>
- Further background documents, at: <http://www.hrw.org/english/docs/2006/10/03/cambod14314.htm>