

AMNESTY INTERNATIONAL

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Open letter on the occasion of International Human Rights Day 2005 raising concern about the state of freedom of expression in the Kingdom of Cambodia.

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Prime Minister Hun Sen
Office of the Prime Minister
Phnom Penh Kingdom of Cambodia

10 December 2005

Dear Prime Minister,

I am taking the opportunity of International Human Rights Day 2005 to express Amnesty International's concern about the recent arrests of and legal action against a journalist, union leaders and civil society representatives. They have, directly or indirectly, raised criticism of the policies of the Royal Government of Cambodia in relation to the border treaties with Viet Nam, which is a peaceful exercise of their right to freedom of expression.

The recent events underline a trend of erosion of human rights in Cambodia. They follow the waiving of parliamentary immunity of three opposition party legislators; the subsequent sentencing of one of them to a lengthy prison term after a trial that fell far short of international standards of fairness; the recurring refusal by authorities to grant permissions for public demonstrations; new rules placing restrictions on the press and on the freedom of movement of commune representatives; and a number of convictions after seriously flawed investigations and trials in high-profile cases, including that against the suspected murderers of union leader Chea Vichea.

Amnesty International's concerns are further compounded by indirect warnings that pressure from the international community on the authorities will ultimately backfire. As an international campaigning organisation which uses international human rights law as the basis for its assessments, and international pressure and actions of ordinary people - the members of the organisation worldwide - to effect positive change, Amnesty International remains committed to the promotion of respect for human rights for all citizens in Cambodia.

Amnesty International recognizes efforts by the Royal Government of Cambodia to solve the long-standing border issues with its neighbouring countries. However the sensitivity of border affairs must not be used as a pretext to deny people the right to peacefully express different political views and to exercise fundamental human rights including the right to freedom of expression as established in

international law.

Furthermore, Amnesty International is concerned that these arrests and pending arrest warrants have had a chilling effect within the nascent union movement in Cambodia, the NGO sector as well as civil society at large, creating serious apprehension about exercising the rights to freedom of expression and association.

The right to freedom of expression is provided for in the Constitution of Cambodia and the International Covenant on Civil and Political Rights, to which Cambodia is a state party, and the aforementioned legal actions contravene both. Radio director Mam Sonando and trade union leader Rong Chhun, whom Amnesty International consider prisoners of conscience, risk several years in prison if found guilty on charges including criminal defamation and "incitement to commit a crime" over a radio interview and a written statement, respectively.

Although international human rights law acknowledges the right of individuals to protect themselves from unfair or untrue comment or criticism, freedom of expression, including criticism of government, is a key human right. Defamation suits originating from government authorities hold back open debate about matters of public interest. The UN Special Rapporteur on Freedom of Opinion and Expression has repeatedly called on states to repeal criminal defamation laws in favour of civil defamation laws. Besides using such civil laws, where necessary, a government also has ample opportunity to defend itself from criticism by other means, such as by responding directly to accusations without being seen to restrain the public debate.

Amnesty International further acknowledges that governments have a right and duty to act to ensure the security of their citizens. Under international law, restrictions on free speech on the basis of national security can be applicable if narrowly and clearly defined and if the reasons presented by the authorities for such limitations are relevant, sufficient and proportionate to the aim pursued. So far, Amnesty International has seen no indications whatsoever that the events over which Mam Sonando and Rong Chhun were charged, would in any way provide reasonable legal grounds warranting such restrictions.

In addition, the ongoing apparent influence by the executive over the courts in relation to the supplementary border treaty with Viet Nam has further undermined the independence of the judiciary. The already weak Cambodian courts are increasingly seen as a tool to stifle peaceful dissent.

The legality of the arrests, arrest warrants and charges has also been disputed. For instance, the charges of incitement brought against Rong Chhun for a statement he co-signed and against Mam Sonando for a radio interview have failed to detail which crime under the UNTAC Law the detainees are suspected of having incited. The writs of *capias* issued for their arrests were not preceded by the procedurally required court summons; no arrest warrants were produced at the time of the arrests.

Amnesty International urges the Cambodian authorities to release without delay and unconditionally Mam Sonando and Rong Chhun as prisoners of conscience. It calls on the Royal Government of Cambodia to withdraw the criminal complaints against Mam Sonando, Rong Chhun, Ea Channa, Men Nath, Chea Mony, Prince Sisowath Thomico and others who have committed no internationally recognizable crimes.

Finally, the organization appeals to the authorities to state publicly and ensure in practice that all Cambodians have the right to freedom of expression and association without fear of harassment or imprisonment.

Amnesty International would welcome receiving any comments that the Royal Government of Cambodia may wish to provide on the concerns raised in this letter.

Yours sincerely,

Irene Khan
Secretary General