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Cambodia: Sentencing of parliamentarian reflects continuing flaws in the judicial system

Amnesty International strongly condemns the seven-year prison sentence imposed on Cheam Channy by the Military Court on 9 August as yet another indicator of Cambodia's failure to respect and protect human rights and to live up to international fair trial standards.

Cheam Channy, a parliamentarian for the opposition Sam Rainsy Party (SRP), was arrested on 3 February 2005 immediately following the removal of his parliamentary immunity. He was charged with "organized crime" and "fraud" under articles of the 1992 Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia during the Transitional Period (UNTAC Law) currently in force, and with violation of the 1997 Political Parties Law.

"This travesty of justice is a clear attempt to stifle political opposition in Cambodia and to curtail freedom of expression and association. Cheam Channy should be immediately and unconditionally released", Amnesty International said.

Despite the fact that he is a civilian charged with non-military offenses, he was detained in a military prison and brought before the Military Court some five days beyond the six month pre-trial detention period allowed under Cambodian law. There is no provision for civilians to be tried by a military court in Cambodian law. Amnesty International has previously raised concerns with the authorities about the use of the Military Court to judge cases over which it has no jurisdiction. According to reports of the trial proceedings no credible evidence to substantiate the charges was presented. Basic international fair trial standards were also flouted, including lack of credible evidence, no defense witnesses were allowed to testify and defense counsel was not allowed to question all prosecution witnesses.

Cheam Channy's arrest was linked to allegations made in July 2004 regarding activities of the SRP's Committee No 14, of which he was the Chair, and the alleged establishment of a militant armed force or "shadow army". This is not the first time that government opponents have been accused of posing a military threat seemingly without basis.

The SRP has always been open about Committee No 14, which was set up to monitor the performance of government ministries covering national defense, veterans' affairs, demobilization and public security, modelled after opposition party "shadow ministries" around the world. To Amnesty International's knowledge, there is no credible evidence supporting the official charges against Cheam Channy, and he is now facing a long term in prison for being in opposition to and critical of the government.

Khom Piseth, a former SRP member, was sentenced in absentia to five years' imprisonment at the same trial. He was accused of being involved in the "shadow army" and fled Cambodia in August 2004. He was granted refugee status and was resettled to a third country in May 2005.

Two other SRP parliamentarians, Sam Rainsy and Chea Poch, whose parliamentary immunities were lifted at the same time as Cheam Channy, subsequently left the country under threat of arrest. Amnesty International is concerned that they may also be subject to politically motivated criminal charges should they return to Cambodia.

Background

The sentencing of Cheam Channy comes just one week after another emblematic trial of suspects charged with the killing of prominent trade unionist and human rights activist Chea Vichea in January 2004. Born Samnang and Sok Sam Oeun were both sentenced to 20 years' imprisonment after an investigation marred by failures at every level of the justice system, and a trial which failed to meet international fair trial standards. Police reportedly tortured and intimidated suspects and witnesses and there has been blatant political interference with the judiciary. Amnesty International is deeply concerned that serious flaws remain in the Cambodian judicial system whereby, as this case illustrates, innocent people may be wrongly accused and imprisoned for crimes they did not commit, while the perpetrators of crimes continue to enjoy impunity.

As Cambodia's judiciary comes under the spotlight again, Amnesty International reasserts its assessment that the judicial system is so weak and subject to political pressures especially in high profile cases, that it is incapable of ensuring that investigations and trials are conducted in a manner that would conform to international law and fair trial standards.