Joint Statement

Civil society condemns conviction of human rights defender Ny Chakrya

Phnom Penh, 22 September 2016

We, the undersigned civil society organisations, condemn in the strongest terms today’s unjustified conviction of former Head of the Human Rights and Monitoring Section of the Cambodian Human Rights and Development Association (ADHOC) and Deputy Secretary-General of the National Election Committee (NEC), Mr. Ny Chakrya, by the Phnom Penh Municipal Court. After a four and a half hour trial, Judge Khy Chhay deliberated for a mere 15 minutes before deciding to convict Mr. Ny Chakrya on charges of defamation, malicious denunciation, and publication of commentaries intended to unlawfully coerce judicial authorities, under Articles 305, 311 and 522 respectively of the Cambodian Criminal Code. Mr. Ny Chakrya was sentenced to six months in prison and given a fine of six million Riel (approximately $1,500).

Today’s conviction comes in the context of the Cambodian government’s escalating crackdown on independent voices over recent months, and represents a troubling new level of severity in the government’s instrumentalization of Cambodia’s judiciary and criminal justice system to restrict democratic space in Cambodia ahead of the upcoming elections. It also represents a disturbing criminalization of the legitimate activities of human rights defenders. Coming almost one month to the day before the twenty-fifth anniversary of the Paris Peace Agreements, in which Cambodia committed to uphold human rights and a system of liberal multi-party democracy, this farcical judicial process raises serious doubts as to whether the upcoming elections can be considered free, fair or credible.

The initial complaint against Mr. Ny Chakrya was submitted by Investigating Judge at Siem Reap Provincial Court, Mr Ky Rithy, and Deputy Prosecutor at Siem Reap Provincial Court, Mr Sok Keo Bandith, in relation to criticism he voiced in May 2015 during two press conferences organised by ADHOC, calling for investigation into procedural irregularities in their handling of a land dispute and the release of two victims of land rights violations in that conflict, to whom ADHOC provided legal representation. Mr. Ny Chakrya’s comments clearly fall within the protection of international human rights law, which requires a significant degree of tolerance to be extended to political speech, even where it results in insult to public figures or institutions. The Cambodian government’s increasingly frequent use of defamation and other provisions of the Criminal Code to criminalize speech critical of the authorities is not consistent with international human rights law and has a clear chilling effect on the fundamental right to freedom of expression. Neither of the civil parties were present at the trial, denying Mr. Ny Chakrya the opportunity to confront his accusers directly. Prior to today’s trial, the court also refused a request to replace the trial judge based on his aggressive conduct towards Ny Chakrya in the first trial hearing on 18 July 2016.

Mr. Ny Chakrya’s right to prepare and conduct his defense was further undermined by the fact that since May this year he has been held in pre-trial detention on charges of acting as an accomplice to the crime of bribery of a witness (Criminal Code Articles 29 & 548) in a separate case which also bears all the hallmarks of politically motivated harassment of individuals engaged in legitimate
human rights work. Four senior staff of ADHOC – Ny Sokha, Nay Vanda, Yi Soksan and Lim Mony – have been informally charged with bribery of a witness and remain in pre-trial detention in connection with their legitimate provision legal and material assistance to the woman alleged to have had an extra-marital relationship with deputy opposition leader Kem Sokha. As of today, the four human rights defenders and Mr. Ny Chakrya have been arbitrarily detained for 147 days. A joint civil society campaign, #Freethe5KH, was launched on 8 August 2016 to draw attention to their continued imprisonment and call for their release.

Civil society reiterates its strong condemnation of the conviction of Ny Chakrya, and urges the Court of Appeal to rightfully overturn this flawed and unfair decision. In accordance with their binding obligations under the Cambodian Constitution and international human rights law, we call on the Cambodian judiciary to act with genuine independence, and on the Cambodian government to immediately cease its instrumentalization of state institutions to attack civil society and other independent voices.

This statement is endorsed by:

1. Alliance for Conflict Transformation (ACT)
2. Boeung Kak Community
3. CamASEAN Youth Future
4. Cambodian Alliance of Trade Unions (CATU)
5. Cambodian Center for Human Rights (CCHR)
6. Cambodian Food and Service Workers’ Federation (CFSWF)
7. Cambodian Human Rights Action Coalition (CHRAC)
8. Cambodian Human Rights and Development Association (ADHOC)
9. Cambodian Independent Teacher Association (CITA)
10. Cambodian League for the Promotion and Defense of Human Rights (LICADHO)
11. Cambodian Youth Network (CYN)
12. Center for Alliance of Labor and Human Rights (CENTRAL)
13. Coalition of Cambodian Farmer Community (CCFC)
14. Committee for Free and Fair Election in Cambodia (COMFREL)
15. Community Peace-Building Network (CPN)
16. Democracy and Human Rights Organization in Action (DHRAC)
17. Equitable Cambodia (EC)
18. Gender and Development for Cambodia (GADC)
19. Housing Rights Task Force (HRTF)
20. Independent Democratic Association of Informal Economic (IDEA)
21. Indigenous Youth at Brame Commune, Preah Vihear Province
22. Indradevi Association (IDA)
23. Khmer Youth Association (KYA)
24. Kuoy Ethnic Community at Prame Commune, Preah Vihear Province
25. Land Community, Village I, Sangkat III, Preah Sihanouk Province
26. Land Conflict Community, Krous Village, Battambang province
27. Legal Aid of Cambodia (LAC)
28. LICADHO Canada (LC)
29. Lor Peang Community
30. Mother Nature
31. People Center for Development and Peace (PDP-Center)
32. Ponlok Khmer
33. Toul Sangke A Community
34. SOS International Airport Community
35. Strey Khmer Organization (SKO)