

Cambodia: Release Ny Chakrya Immediately and Unconditionally

(Bangkok, 29 September 2016) – The Asian Forum for Human Rights and Development (FORUM-ASIA) condemns the sentence passed on Ny Chakrya, the Deputy Secretary General of the National Election Committee (NEC) and former Head of Human Rights and Legal Aid Section of the Cambodian Human Rights and Development Association (ADHOC), by the Phnom Penh Municipal Court on 22 September 2016. The sentence poses a serious threat to the rule of law and adds grave concerns to the deteriorating human rights situation in the country. FORUM-ASIA calls for the immediate and unconditional release of Chakrya.

On 22 September 2016, the Phnom Penh Municipal Court sentenced Ny Chakrya to six months imprisonment and a six-million Cambodian Riel (approx. US\$ 1,500) fine for "public defamation", "acts of slanderous denunciation", and "commentaries to put pressure on jurisdiction" under Articles 305, 311 and 522 of the Cambodian Criminal Code¹. Chakrya has been sentenced due his comments on the independence of judicial officers involved in a land dispute case in Siem Reap in [May 2015](#). The criticisms, voiced during two press conferences organised by ADHOC, were subsequently misquoted in a news article.

The trial of Chakrya commenced on 18 July 2016 with him objecting to the continuation of the proceedings due to the absence of the two judicial officials of the Siem Reap Provincial Court. Later on, Chakrya's lawyer filed a motion to the Court of Appeal, requesting for a change in the composition of the trial judge due to lack of impartiality and unwillingness to hear his objection. Despite such concerns, the Court of Appeal did not change the composition of the trial judge for the latest proceeding, where again the plaintiffs did not show up.

¹ **Article 305** of Cambodian Criminal Code: "Any allegation or slanderous charge that undermines the honour or the reputation of a person or an institution constitutes defamation. The defamation that was committed by one of the following means, is punishable by a fine of between 100,000 (one hundred thousand) and 10,000,000 (ten million) Riels: (1) by speeches, by any means whatsoever, announced in a public place or in public meeting; (2) in writing or sketches by any means whatsoever, circulated in public or exposed to the sight of the public; (3) by any means of audio-visual communications intended for the public."

Article 311 of Cambodian Criminal Code: "The act of denouncing a fact that is known to be incorrect and it is so knowingly to result in criminal or disciplinary sanctions constitutes a slanderous denunciation, when it is addressed to: (1) a competent authorities, such as a judge, a judicial police officer, or an employer; or (2) a person with power to refer the matter to the competent authorities."

Article 522 of Cambodian Criminal Code: "Any publication, prior to the final decision of the court, of any commentaries aiming at putting pressure on the court where a law suit is filed, in order to influence over the decision of the court is punishable by an imprisonment from 1 (one) month to 6 (six) months, and a fine from 100,000 (one hundred thousand) Riels to 1,000,000 (one million) Riels."

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The legal proceedings lacked due process of law, a crucial element for a fair trial. The prosecution did not call any witness to support the charge against Chakrya, while the plaintiff's lawyer even argued that it is not important whether the media misquoted Chakrya or not. Moreover, the presiding judge, who is required to have a neutral approach, was instead particularly hostile towards Chakrya, with two occasions of high tension between them.

The abovementioned actions from Cambodia law enforcement authorities should be seen as another attempt to silence and criminalise human rights defenders, who are denouncing human rights violations in the country. The people of Cambodia are still mourning for the loss of Kem Ley, a prominent human rights defender assassinated on 10 July 2016², and are also witnessing judicial harassment against Tep Vanny, who is currently detained for her participation in a protest near Prime Minister Hun Sen's house in 2013. On 19 September 2016, Vanny and her three colleagues were convicted and sentenced for six months in jail for another case related to a November 2011 protest on Boeung Kak Lake in Phnom Penh. They were charged for insulting and obstructing a public official with aggravating circumstances.³ The verdict against Chakrya showcases that fundamental freedoms are at a critical juncture in Cambodia as law enforcement agencies continue to criminalise human rights defenders with fabricated charges.⁴

The Government of Cambodia, as a state party to the International Covenant on Civil and Political Rights (ICCPR), should respect its international obligations, and protect the fundamental freedoms of its people to freely express themselves and peacefully gather without fearing for prosecutions or extrajudicial killings. The 25th Anniversary of the Paris Peace Accords in October 2016 shall be seen as a momentum for the Government of Cambodia to prove its genuine commitment to creating an enabling environment for the enjoyment of human rights and fundamental freedoms, as enshrined in the Paris Peace Accords and the Constitution of Cambodia.

FORUM-ASIA, together with its 58 member organisations from 19 countries across Asia, reaffirms its full support to Ny Chakrya and all Cambodian human rights defenders. FORUM-ASIA expresses outrage at the ongoing judicial harassment against dissenting voices, and call on the Government of Cambodia to halt all forms of judicial harassment against human rights defenders, to ensure the accountability and impartiality of all legal process, and to uphold the principles of the right to a fair trial.

² <http://www.forum-asia.org/?p=21207>.

³ Ms. Tep Vanny was sentenced for 6 months of imprisonment because of her protest in November 2011, where the government sent security guards to shut down the demonstration See: <http://www.phnompenhpost.com/national/boeung-kak-activists-found-guilty>.

⁴ There is ongoing charge against Mr. Ny Chakrya and 4 ADHOC staff members, see: <http://www.forum-asia.org/?p=21315> and <http://www.forum-asia.org/?p=20669>.

About FORUM-ASIA:

FORUM-ASIA is a regional human rights group with 58 member organisations in 19 countries across Asia. FORUM-ASIA has offices in Bangkok, Jakarta, Geneva and Kathmandu. FORUM-ASIA addresses key areas of human rights violations in the region, including freedoms of expression, assembly and association, human rights defenders, and democratization.

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