



Cambodia

14 February 2011

Asian civil society condemns the conviction of Mr. Sam Chankea, a Cambodian human rights defender, for the exercise of his right to freedom of expression

We, the undersigned human rights NGOs, human rights defenders and women human rights defenders of Asia, deeply regret the conviction of Mr. Sam Chankea, provincial coordinator of the Cambodian Human Rights and Development Association (ADHOC). Mr. Chankea is a human rights defender active in land rights issues in Kampong Chhnang province. He was charged with defamation under Article 305 of the New Penal Code by the KDC International Company, a development company allegedly owned by Lauk Chumteav Chea Kheng, the wife of the Minister of Mining and Energy in Cambodia. On 25 January 2011, the Kg. Chhnang Provincial Court ruled against Mr. Sam Chankea and ordered him to pay a 1 million Riel fine and an additional 3 million Riel in compensation. If he does not pay the 4 million Riel (approximately 1,000 USD), he faces imprisonment.

Mr. Sam Chankea was charged for defamation by the KDC International Company because of a statement he made during a radio interview on Radio Free Asia (RFA) on 26 December 2009. In this interview he expressed his opinion on an ongoing land case in Kampong Chhnang between 108 families and the KDC International Company. There is a pending case between the families of Kampong Chhang and the KDC International Company, but still, the KDC International Company sent in its machinery to undertake land levelling.

Mr. Sam Chankea considered the activity of land levelling by the KDC Company as an unlawful act. He stated that "what the company has done is an act of violation since the court has yet to rule on the merits of the case. Therefore the company should suspend the activity and await the ruling on the merits of the case".

Mr Sam Chankea was well within his rights as a human rights defender to speak publicly on his opinion on a human rights issue. Under Article 6(b) of the UN Declaration on Human Rights Defenders, he has the right to freely impart his views on all human rights and fundamental freedoms. Furthermore, Cambodia is a State party to the International Covenant on Civil and Political Rights (ICCPR), and the right to freedom of expression is protected under Article 19(2) of the Covenant. It is expressly stated there that "everyone shall have the right to freedom of expression." The right to freedom of expression is also protected under Article 41 of the Constitution of Cambodia, which states that "Khmer citizens shall have freedom of expression, press, publication, and assembly." This right, however, can be subject to certain limitations, such as those provided by law and those that are necessary "for the protection of national security or of public order."

Article 305 of the New Penal Code is meant to be a limitation of this right. However, calls have been made by several human rights groups for the review of this defamation law on the ground that it is not a lawful derogation of the right

to freedom of expression. A close inspection of Article 305 of the Penal Code reveals that it is too broad and ambiguous. This means that there would be great potential for the misuse and abuse of this law, which would lead towards an unlawful infringement of the very right itself. The UN Human Rights Committee, in its General Comment No. 10, explains that "when a State party imposes certain restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself."

We, the undersigned human rights defenders and women human rights defenders, believe that the present case is an example of the abuse of the defamation law by a non-state actor. The statement of Mr Sam Chankea is a mere expression of opinion and a legitimate criticism of the acts of KDC International Company. A final verdict against Mr. Sam Chankea will have a chilling effect upon human rights defenders who work to expose abuses committed by businesses in Cambodia, especially those involved in land-grabbing and other acts in violation of the rights of Cambodian citizens. This case is a clear illustration of the defamation laws being used to silence dissenting and critical voices of human rights defenders.

We strongly urge the Appeal Court to promptly review the case of Mr. Sam Chankea in conformity with relevant international human rights standards, and therefore overturn the verdict issued by the Kg. Chhnang Provincial Court and acknowledge the fact that the defamation charge against Mr. Sam Chankea was clearly intended to hinder his work as a human rights defender.

We strongly urge the government of Cambodia to guarantee the protection of human rights defenders who face reprisals from state and non-state actors because of their exercise of the right to freedom of expression. We also call on the government to repeal Article 305 of the Penal Code which makes defamation a criminal offence and which has clearly been used largely to silence the voices of human rights defenders.

The following groups endorse this statement:

1. Alliance of Independent Journalists Indonesia (AJI), Indonesia
2. Asian Centre for Human Rights (ACHR)
3. Asian Forum for Human Rights and Development (FORUM-ASIA)
4. Cambodian Human Rights and Development Association (ADHOC), Cambodia
5. Cambodian League for the Promotion and Defense of Human Right (LICADHO), Cambodia
6. Centre for Human Rights and Development (CHRD), Mongolia
7. Friends' Association for Rural Reconstruction (FARR), India
8. Globe International, Mongolia
9. The Indonesian Human Rights Monitor (IMPARSIAL), Indonesia
10. Indonesia's NGO Coalition for International Human Right Advocacy - Human Rights Working Group (HRWG),

Indonesia

11. Indonesian Human Rights Committee for Social Justice (IHCS), Indonesia
12. INFORM Human Rights Documentation Centre (INFORM), Sri Lanka
13. Informal Sector Service Center (INSEC), Nepal
14. Judicial System Monitoring Programme (JSMP), Timor Leste
15. Korean House for International Solidarity (KHIS), South Korea
16. Law and Society Trust (LST), Sri Lanka
17. National Alliance of Women Human Rights Defenders (NAWHRD), Nepal
18. Odhikar, Bangladesh
19. People's Solidarity for Participatory Democracy (PSPD), South Korea
20. People's Watch, India
21. Philippine Alliance of Human Rights Advocates (PAHRA), Philippines
22. Sudhanthra, India
23. Tanggol Kalikasan, Philippines
24. The Observatory (FIDH-OMCT)
25. Think Centre, Singapore
26. Women's Rehabilitation Centre (WOREC), Nepal
27. World Forum for Democratization in Asia (WFDA)

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<http://www.fidh.org/Asian-civil-society-condemns-the-conviction-of-Mr>