



OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
Cambodia Country Office - Phnom Penh - Cambodia



## Joint Statement

**International Labour Organization & Office of the United Nations High Commissioner  
for Human Rights, Cambodia Country Office**

### **United Nations welcomes reinvestigation of murder of trade union leader**

*18 August 2009* - The Office of the United Nations High Commissioner for Human Rights (OHCHR) and the International Labour Organization (ILO) welcome the decision of the Court of Appeal yesterday to order further investigation into the murder of trade union leader, Chea Vichea. It now seems beyond doubt that there is insufficient evidence to maintain the charges against Born Samnang and Sok Sam Ouen. The two men's earlier conviction for the murder had been heavily criticized for its reliance on a retracted confession obtained under duress, for the lack of concrete evidence against the men and for disregarding witness testimony indicating that the men could not have committed the crime. The charges against the men should now be dropped, allowing the police to resume the search for those really responsible for shooting Chea Vichea in January 2004.

The case has raised wider questions about the ability of the Cambodian justice system to administer justice in accordance with international standards and the willingness of the authorities to combat extra-judicial killings and impunity. The miscarriage of justice perpetrated against Born Samnang and Sok Sam Ouen has allowed the real murderers to escape justice for more than five years now. At the same time, OHCHR and ILO urge the courts to review the conviction of Thach Saveth for the murder of Ros Sovannarith, since there are equally persuasive reasons to doubt the safety of this conviction.

International bodies, including the ILO's Committee of Experts and Committee on Freedom of Association and, most recently, the Committee of Economic, Social and Cultural Rights, have criticized the Cambodian authorities' response to the murders of three trade union leaders in Cambodia in recent years. In line with the recommendations of these international bodies, ILO and OHCHR now encourage the Cambodian authorities to undertake thorough, transparent and independent investigations to determine who really killed Chea Vichea, Ros Sovannarith and Hy Vuthy. Speedy and impartial investigations of these cases are essential to preventing the killings having a continued chilling effect on trade union development.

It is to be hoped that the action of the Appeal Court yesterday will mark a renewed effort by the Cambodian authorities to end impunity in Cambodia, paving the way for independent, representative and responsible trade unions to develop in the country.

END

*Background information follows*

## Background Information

### **Continuing impunity and injustice in response to the killing of trade unionists**

The assassination of Chea Vichea, President of the Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC) in broad daylight in central Phnom Penh on 22 January 2004 had, and continues to have, a chilling effect on the exercise of the right to freedom of association and expression in Cambodia. The response of the judiciary and the police to the killing has sparked a controversy which continues to this day to undermine the rule of law in Cambodia, strengthen the culture of impunity and further diminish public confidence in an already weakened justice system. On the one hand, the authorities have perpetrated a series of miscarriages of justice in prosecuting the wrong men for these killings; meanwhile, the real killers remain at large and unpunished.

### **Case One: Conviction of Born Samnang and Sok Sam Ouen for the murder of Chea Vichea**

The Phnom Penh municipal court convicted two men, Born Samnang and Sok Sam Oeun, of the killing after a shoddy police investigation. There are strong reasons to doubt of the validity of the convictions. The initial investigating judge had dismissed the case for lack of evidence, but he was removed and the case forced to trial. The men were convicted on the basis of a retracted confession, disregarding defence witnesses and evidence suggesting that the men could not have been responsible. Heng Pov, the police chief who conducted the investigation has since been convicted and imprisoned on multiple counts of murder, fraud and intimidation.

In April 2007, the Court of Appeal upheld the convictions and confirmed the sentences of 20 years imprisonment, disregarding the deficiencies at the first trial.

In June 2008, the United Nations High Commissioner for Human Rights, through her country office in Cambodia, submitted to the Supreme Court, as *amicus curiae* or “friend of the court”, a legal analysis document drawing attention to several fundamental breaches of international human rights law by the lower instance courts.<sup>1</sup>

On 31 December 2008, the Supreme Court of Cambodia ordered the release of Born Samnang and Sok Sam Oeun on bail, but they remained under judicial supervision. Their provisional release was welcomed by both the ILO and OHCHR as an important step towards ensuring the safety of trade union leaders and upholding the right of freedom of association in Cambodia. The Court of Appeal was ordered to re-examine the case.

On 17 August 2009, the Court of Appeal conducted a short hearing to formally order the reinvestigation of the case against Born Samnang and Sok Sam Ouen. Bail for the men was extended.

### **Case Two: Conviction of Thach Saveth for the murder of Ros Sovannareth**

Ros Sovannareth, FTU's President at Trinuggal Kormara factory, was shot dead by two men on a motorbike in Phnom Penh on 7 May 2004. His murder came less than four months after the virtually identical murder of Chea Vichea. In February 2005, Thach Saveth was found guilty of the murder of Ros Sovannareth, a trade union leader, in May 2004. There were similar irregularities in the police investigation, which was again led by Heng Pov. On 18 February 2009, the Appeals Court upheld the Phnom Penh municipal court's conviction of Thach Saveth. The case is a mirror image of the Born Samnang/Sok Sam Ouen case. The ILO has publicly expressed its strong hope that an appeal will be swiftly passed to the Supreme Court for the release of Thach Saveth.

### **Case Three: Unresolved murder of Hy Vuthy**

Hy Vuthy, FTU's President at the Suntex factory, was shot dead on his way home from work on 24 February 2007. The police investigation failed to make any progress and was eventually closed. The killers remain at large.

---

<sup>1</sup> In July 2007, the Constitutional Council ruled that the international human rights treaties, since they are guaranteed by article 31 of the Constitution, form part of Cambodian law. The Supreme Court, like all Cambodian Courts, is therefore bound to ensure that the fair trial provisions in the treaties are followed and breaches committed by lower courts are remedied.

### **Response of United Nations bodies**

The killings and threats have been addressed by the ILO supervisory bodies. The ILO conducted a direct contacts mission to the country in April 2008. The mission concluded that the Cambodian judiciary was plagued by serious problems of capacity and a lack of independence, that the conviction of Born Samnang and Sok Sam Oeun had been upheld in a trial marked by procedural irregularities, including a refusal to entertain evidence of their innocence and that no concrete steps had been taken by the Government to ensure a meaningful and independent review of the cases. It also noted that no progress had been made in the investigation respecting Hy Vuthy. These conclusions accorded with similar conclusions of two successive Special Representatives of the Secretary-General for human rights in Cambodia, Mr. Peter Leuprecht and Professor Yash Ghai in numerous reports to the Human Rights Council and the former Commission on Human Rights.<sup>2</sup>

The ILO Committee on Freedom of Association, in its 351st report, reiterated the contact mission's finding that the Government had taken no concrete steps to ensure a meaningful and independent review of the cases and deplored its failure to implement the Committee's numerous recommendations (para. 252).

In May 2009, the United Nations Committee on Economic, Social and Cultural Rights, in its observations on Cambodia's initial report on implementation of the International Covenant on economic, Social and Cultural Rights, associated itself with the ILO findings and recommendations and urged the Government to ensure that trade union members were able to exercise their rights free from fear and intimidation.

---

<sup>2</sup> See for example E/CN.4/2005/116, para. 22 et seq; E/CN.4/2006/110; A/HRC/4/36, para.44; A/HRC/7/42, para. 56. See also the SRSG's report on "Continuing patterns of impunity" available on the OHCHR Cambodia website: <http://cambodia.ohchr.org>.