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ការិយាល័យនៃឧត្តមស្នងការអង្គបណ្តុះបណ្តាលសិទ្ធិមនុស្សប្រចាំកម្ពុជា



OHCHR statement on the case of Tout Saran

30 March 2009

On 20 March 2009, Mr. Tout Saran was convicted by Kampong Thom Provincial Court of the illegal confinement of Ms. Tim Norn. He was sentenced to three years in prison and fined the sum of 2,500 US\$. Three others, Men Vannak, Hour Sarath and Thorn Rithy, were convicted *in absentia* in the same case, receiving prison sentences ranging from three to five years.

Tout Sarorn was arrested on 18 March 2008 and has been in prison since. At the time of arrest, he was a commune chief in Pongro commune, Baray District, affiliated with the Sam Rainsy Party (SRP). The arrest took place in the lead-up to the 27 July 2008 elections, a period when a considerable number of opposition party members, often under a combination of intimidation and inducements, changed their allegiance to the Cambodia People's Party (CPP). Tim Norn, who had been an active women's leader in her commune affiliated with the SRP, joined the CPP in this context. Her alleged illegal confinement by the four convicted men was supposed to have taken place on 16 and 17 February 2008, when she was considering switching political allegiance.

OHCHR has examined this case closely, including through discussions and interviews with all parties concerned both in Phnom Penh and Kompong Thom, with a view to gaining a full and objective understanding of the facts. It has been able to find no credible evidence to support the allegation that Ms. Tim Norn was illegally held or abducted by Mr. Tout Saran or any other person.

As a contribution to the investigation, OHCHR has shared its findings with the court in Kampong Thom and in November 2008 with the Supreme Court, at the time when the latter was examining Tout Saron's bail request. It has also brought its concerns to the attention of provincial and senior CPP officials.

The conclusion that there is no credible evidence to support the charges of illegal confinement seems to be confirmed by OHCHR's observation of the trial at the Kompong Thom Provincial Court on 20 March 2009. The prosecution failed to present convincing corroborated evidence that any crime had been committed. The prosecution case relied principally on the uncorroborated statement of Ms. Tim Norn. Three written witness statements obtained by the police provided merely circumstantial support and defence lawyers were not given an opportunity to challenge these written statements in court. Other potentially exculpatory evidence, including witness statements, seems to have been ignored. Notwithstanding the shortcomings of the prosecution case, the Court saw fit to convict the men.

OHCHR believes that the conviction of Tout Saran and the three other men is a miscarriage of justice and that the court appears to have decided this case not on its merits but under political influence. This case highlights the importance for the credibility of justice, of the need for all parties to respect its independence, as provided for by the Constitution, the laws of the Kingdom and its international human rights obligations.

Tout Saran has been in prison for one year for a crime that he did not commit. He may decide to appeal. If he does, it would be incumbent on the Court of Appeal to re-examine the case in light of all evidence available and in full accordance with fair trial standards in order to ensure that this miscarriage of justice is not perpetuated.

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