

JOINT STATEMENT
End Criminalisation of Unionists

December 24, 2018

We, the undersigned civil society groups, strongly condemn the conviction of six prominent independent trade union leaders by the Phnom Penh Municipal Court on December 11, 2018.

The six union leaders – Ath Thorn, Chea Mony, Yang Sophorn, Pav Sina, Rong Chhun and Mam Nhim – were convicted on charges of instigating intentional acts of violence with aggravating circumstances, intentionally causing damage with aggravating circumstances, threats to destroy property following an order, and blocking public traffic during a minimum wage protest in Phnom Penh in December 2013 and January 2014. Each of the six union leaders received a two-and-a-half-year suspended sentence and were ordered to pay, collectively, 35,000,000 riel (approximately US\$8,600) in compensation for two civil parties, one of whom withdrew his claim for compensation during court testimony.

At trial, prosecutors failed to produce any evidence to establish that the six had committed the crimes charged, nor were any witnesses produced to prove the accused had acted violently during the protests. The six unionists were initially charged with committing the violence but were actually convicted of having instigated these acts. The change in charges was never disclosed to the accused or their lawyers, depriving them of the chance to effectively challenge and refute the prosecution's case. Importantly, no evidence was submitted to prove that the six union leaders had instigated any of the acts with which they were charged. Further, none of the actual perpetrators of violence or damage were named or charged.

The charges stem from protests that took place along Veng Sreng Boulevard in late 2013, when Cambodian garment and footwear workers took to the streets to demand an increase in the minimum wage to \$160 per month. Four people were killed, 38 were injured, and one person is still missing. Twenty-three union leaders, activists and workers were arrested after military police began firing at workers protesting on Veng Sreng Boulevard in early January 2014.

All six union leaders were released on bail since being charged in 2014, but their trial did not happen until December 7, 2018. Prime Minister Hun Sen had ordered the Ministry of Labour and Vocational Training and the Ministry of Justice to end outstanding cases against union leaders by the end of 2018, largely as a result of international pressure on the government to respect labour rights and improve labour relations.¹ It is common in Cambodia for criminal charges to be left outstanding for years. This tactic serves to intimidate, silence and deter the activities of independent civil society leaders because there is a constant threat of prosecution.

We note that Article 357 of the Code of Criminal Procedure requires that the facts in a judgment be clear and beyond reasonable doubt, whilst Article 38 of the Cambodian Constitution and Article 351 of the Code of Criminal Procedure provide that the accused is entitled to the benefit of the

¹ <https://www.khmertimeskh.com/50553936/end-court-cases-against-union-leaders-pm/>

doubt. Article 24 of the Criminal Code further states that no person shall be criminally responsible except for his or her own conduct.

In the absence of any evidence submitted to court, we do not understand how the court decided to convict these six union leaders on charges that were not even the subject of the trial.

While the delivered sentences do not require the six convicted leaders to go to prison, they face imprisonment on these charges if they commit any other felony or misdemeanour within the next five years – a period of time that coincides with the next national elections in 2023. As the criminal charges stem from independent trade union activity, we are concerned these suspended sentences will be used to imprison the convicted union leaders if they engage in any protest action over the next five years. Moreover, under Article 20 of the Law on Trade Unions, a person is considered ineligible to be a leader of a trade union if they have been convicted of any criminal offence, leaving open the possibility that these leaders may be forced out of their positions as a result of these convictions.

These convictions are another example of the oppression faced by independent union leaders in Cambodia. Moreover, the convictions signal that freedom of association and independent trade unionism remains under direct threat in Cambodia. *“Workers should not be obstructed from exercising their rights to freedom of association and collective bargaining through criminalisation stemming from legitimate union activity,”* said **Tola Moeun**, Executive Director of Center for Alliance of Labor and Human Rights (CENTRAL).

These convictions and suspended sentences against these key independent trade union leaders will likely be used by the government to dissuade any union protests over the next five years. In this sense, the judgment can be viewed as a ploy by the Cambodian government to appease the international community and, in particular the European Union, which has just launched a review of Cambodia’s ‘Everything But Arms’ trade deal with the EU based on the government’s disregard of the human rights obligations enshrined in the agreement.

“Prime Minister Hun Sen is up to his old tricks: calling for a trial against union leaders in a case that laid dormant for five years can only lead to a farce of a trial and a wrongful conviction,” said **Brad Adams**, Asia Director at Human Rights Watch. “The EU, US and other foreign governments should consider these convictions a clear blow against independent trade unions and labour rights, and not some indication of Cambodian government leniency. This trial was a charade from the start.”

We urge the Cambodian government to guarantee fundamental rights and permit the reopening of civil society space in order to allow genuine freedom of association for the Cambodian people and to ensure that independent trade unions can freely operate in the interests of their members. Moreover, we call for the convictions against these six union leaders to be immediately quashed.

This statement is endorsed by:

1. Building and Wood Workers Trade Unions Federation of Cambodia (BWTUC) – [Cambodia]
2. Independent Trade Union Federation (INTUFE) – [Cambodia]
3. Cambodian Food and Services Workers Federation (CFSWF) – [Cambodia]
4. Independent Democracy of Informal Economy Association (IDEA) – [Cambodia]
5. Labor Rights Supported Union of Khmer Employees of Naga World (L.R.S.U) – [Cambodia]
6. Cambodia's Independent Civil Servants Association (CICA) – [Cambodia]
7. Building and Wood Workers' International (BWI-Asia Pacific Regional Office)
8. International Labor Rights Forum (ILRF) – [United States of America]
9. Clean Clothes Campaign (CCC)
10. Maquila Solidarity Network (MSN) – [Canada]
11. Cambodian Youth Network (CYN) – [Cambodia]
12. Cambodian League for the Promotion and Defense of Human Rights (LICADHO) – [Cambodia]
13. CamASEAN Youth's Future (CamASEAN) – [Cambodia]
14. Youth Resource Development Program (YRDP) – [Cambodia]
15. Cambodian Development and Human Rights Association (ADHOC) – [Cambodia]
16. Committee for Free and Fair Elections in Cambodia (COMFREL) – [Cambodia]
17. Mother Nature Cambodia (MNC) – [Cambodia]
18. Sahmakum Teang Tnaut (STT) – [Cambodia]
19. Center for Alliance of Labor and Human Rights (CENTRAL) – [Cambodia]
20. Coalition of Cambodian Farmers Communities Association (CCFC) – [Cambodia]
21. People Center for Development and Peace (PDP Center) – [Cambodia]
22. Equitable Cambodia (EC) – [Cambodia]
23. Cambodian Center for Human Rights (CCHR) – [Cambodia]
24. Persatuan Sahabat Wanita Selangor (PSWS) – [Malaysia]
25. Serikat Pekerja Nasional (SPN) – [Indonesia]
26. Federasi Serikat Buruh Garmen Kerajinan Tekstil Kulit dan Sentra Industri Serikat Buruh Sejahtera Indonesia (FSB GARTEKS SBSI) – [Indonesia]
27. Gabungan Serikat Buruh Independen (GSBI) – [Indonesia]
28. Serikat Buruh Sejahtera Indonesia 1992 (SBSI 1992) – [Indonesia]
29. Local Initiative for Occupational Health and Safety Network Indonesia (LION Indonesia) – [Indonesia]
30. Schone Kleren Campagne – [Netherlands]
31. Platzforma – [Moldova]
32. American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) – [United States of America]
33. Workers Rights Consortium (WRC)
34. Public Eye – [Switzerland]
35. FEMNET e.V. – [Germany]
36. Lembaga Informasi Perburuhan Sedane (LIPS) – [Indonesia]
37. INKOTA-netzwerk e.V. – [Germany]
38. Workers Assistance Center, Inc. – [Philippines]
39. China Labour Bulletin – [China]
40. Landelijke Bediendencentrale – National Verbond voor Kaderleden – [Belgium]
41. Collectif Ethique sur l'etiquette – [France]
42. Jobs with Justice – [United States of America]
43. Global Labor Justice
44. Asia Floor Wage Alliance (AFWA)
45. Globalization Monitor – [Hong Kong]
46. Trade Union Rights Centre (TURC) – [Indonesia]

47. Labour Behind the Label – [United Kingdom]
48. The Trade Union Solidarity Centre of Finland (SASK) – [Finland]
49. Workers Hub for Change (WH4C) – [Malaysia]
50. Malaysians Against Death Penalty and Torture (MADPET) – [Malaysia]
51. Committee for Asian Women (CAW)
52. The Development Group for Alternative Policies – [United States of America]
53. Fair Action – [Sweden]
54. Pro Ethical Trade Finland – [Finland]
55. National Free Trade Union – [Sri Lanka]
56. Women’s Centre Sri Lanka – [Sri Lanka]
57. Centre National de Coopération au Développement – [Belgium]
58. Solidar Suisse – [Switzerland]
59. Karnataka Garment Workers Union (KOOGU) – [India]
60. Garment Labour Union – [India]
61. Asian Transnational Corporations Monitoring Network (ATNC Monitoring Network) – [Hong Kong]
62. Worker Empowerment – [Hong Kong]
63. Labour Action China – [Hong Kong]
64. Hong Kong Women Workers’ Association (HKWWA) – [Hong Kong]
65. Service Union United PAM – [Finland]
66. FAIR Social Cooperative – [Italy]
67. Solidarity Network Independent Trade Union – [Georgia]
68. SETEM – [Spain]
69. Hesperian Health Guides – [United States of America]
70. People’s Health Movement – [United States of America]
71. Human Rights Watch
72. Parti Sosialis Malaysia (PSM) – [Malaysia]
73. Konfederasi Serikat Nasional – [Indonesia]
74. Konfederasi Pergerakan Rakyat Indonesia (KPRI) – [Indonesia]
75. Textile Garment Workers Federation – [Bangladesh]
76. Korean House for International Solidarity (KHIS) – [South Korea]
77. Labour Education Foundation (LEF) – [Pakistan]
78. Electronics Industry Employees Union, Southern Region – [Malaysia]
79. Workers Education Centre – [India]
80. Center for Public Health and Environmental Development (CEPHED) – [Nepal]
81. Environics Trust – [India]
82. Hazards Campaign – [United Kingdom]
83. People’s Training and Research Centre (PTRC) – [India]
84. Students and Scholars Against Corporate Misbehaviour (SACOM) – [Hong Kong]
85. European Work Hazards Network (EWHN)
86. Scottish Hazards – [United Kingdom]
87. Stichting NetWerk – [Netherlands]
88. Hong Kong Teaching and Research Support Staff Union – [Hong Kong]
89. Ecumenical Institute for Labour Education and Research (EILER) – [Philippines]
90. Worker’s Initiative – [India]
91. Hong Kong Christian Industrial Committee – [Hong Kong]
92. No Chains
93. Labor Education and Service Network – [Hong Kong]
94. Retail, Commerce and Clothing Industries General Union – [Hong Kong]
95. Youth Labour Union 95 – [Taiwan]